

ter, and he in 1703 raised reduction of that decret, but went no further, and no more stipends were demanded till 1740; that that Minister's relict sued Mr Rigg for the stipends from 1718 till the Minister's death in 1738;—and Drummore found him liable. But we in respect of his infestment *cum decimis inclusis*, and that no demand had been made from 1703 till 1740, sustained his defence of *bona fide* possession. 3d July We altered and repelled the *bona fides*, and found Mr Rigg liable, unanimous except Justice-Clerk,—because the defender's charters though *cum decimis inclusis* contained a *reddendo* for the tithes, and an obligation to relieve of the King's annuity, and the Minister had two hornings in 1688 and 1695, and there was some evidence of possession before 1700. —(5th February.)

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### BURGH OF BARONY.

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No. 1. 1734, Dec, 7. EARL WIGTON *against* BAILIES of KIRKINTILLOCH.

THE Lords found the jurisdiction of the Bailies of the Town not exclusive of the jurisdiction of the ordinary Court of the Barony held by other Bailies appointed by the Baron.

The Lords adhered. My reason was, that the Bailyary was to the Baron's own head burgh, where he should hold his Courts and have his prison, and consequently his Baron Bailie must have jurisdiction there. I instanced the case of Sheriffs and Magistrates of Edinburgh, and in that point there is no difference betwixt jurisdictions given by the King and given by the subjects, as appears by the decision Lord Colvill *against* Town of Culross in 1666.\* I also instanced the case of the Canongate, where the Town-Council chose their own Bailies, and the Regality and Baron Bailie sat jointly with them in all causes concerning the inhabitants of the Burgh.

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### BURGH ROYAL.

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No. 2. 1735, Feb. 7. LATE MAGISTRATES of STIRLING *against* PRESENT.

THE Lords adhered, in respect the pursuers were Magistrates and Councillors at the time of the election.

No. 3. 1735, June 13. CARNEGIE, &c. *against* BAILIES of FORFAR.

THE Lords appointed them to be summoned to answer. The reason was, that they were the King's Bailies and should refuse no man, and the President said they must answer summarily.

\* Dict. No. 6. p. 7296.