

established by the regulations in Parliament 1672, can never be thought to confer an exclusive right ; and in fact, since then that court has in several cases exercised jurisdiction over the Orkneys.

No 340.

Replied, The term of Justice-General used for signifying the Justice over the whole kingdom, denotes not any greater power, but extent of territory. The regulations 1672 only appointed the office of Justiciar-General to be exercised by commissioners, without impinging on the King's power of granting other particular rights, either heritable, or for a special occasion. The argument would equally exclude both. But by act 39th, Parl. 1693, it is declared that their Majesties might grant Commissions of Justiciary for such times as they should think fit, and there appears such a commission in the records of Chancery, dated 4th July 1682. There are no expressions in the act 1672 importing a limitation of the prerogative ; nor can it be supposed any such thing was intended in that reign, wherein an act past, 1681, declaring that the King might by himself, or any commissioned by him, take cognizance of any cause he pleased.

THE LORDS found, That the office of Justiciary was subordinate to the High Court of Justiciary, and not a separate or distinct jurisdiction from the Stewartry or Sheriffship entitled to any separate recompence.

Fol. Dic. v. 3. p. 364. D. Falconer, v. 1. No 229. p. 316.

1748. *January 23.*

The DUKE of GORDON and CARMICHAEL of Balmedy, *against* The KING's
ADVOCATE.

No 341.

UPON the claim of David Carmichael of Balmedy, heritable Bailie of the regality of Abernethy, by grant from the family of Douglas ; and, on the claim of the Duke of Gordon, Bailie of regality of Spynie, by grant from the bishop of Murray ; the LORDS found, That a Lord of regality might lawfully make an heritable Bailie, and also that a bishop might make an heritable Bailie, subsequent to the act of annexation, by which bailiarities of church regalities prior to it were made valid. Whereas it was pleaded, churchmen who were liferenters could not make heritable Bailies.

Fol. Dic. v. 3. p. 364. D. Falcoder, v. 1. No 231. p. 319.

1748. *January 27.* The DUKE of GORDON *against* The KING's ADVOCATE.

No 342.

UPON the claim of the Duke of Gordon for the heritable bailiary of Kinloss, which had been validly constituted by the abbot, and having fallen into the King's hands by forfeiture after the act of annexation, had been again granted