

in the Act 1663, Against Protections, that court is not mentioned. Yet I think they may, for they are a sovereign court, and a committee of Parliament, and it is inherent in every judicatory to have a power to explicate their own jurisdiction, and make it effectual.—*2do*, It was debated,—seeing the Act 1672 requires two officers of state, two prelates, two barons, &c. to be a *quorum*,—if there be three officers of state present, and but one baron, if one of the officers of state may be computed a baron, (being likewise of that rank and degree, though not so named in the Act of Parliament,) to make up and supply a *quorum*.—*3tio*, A disposition to lands and teinds has been sustained in that court as sufficient to pursue a valuation of teinds, they producing a seisine *cum processu*. But I speaking with the King's advocate anent this custom, he condemned it as illegal, seeing a real right should be produced *in initio, ad fundandam litem* for valuing of teinds. Vol. I. Page 133.

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1681. February 26. RIDDEL of HAINING against ELLIOT.

THE case of Riddel of Haining and Elliot was much agitated. One accused of theft had found caution, under the pain of 5,000 merks, to answer at the court kept by the Commissioners of the Borders; and he not appearing, and thereupon they having found by their decret that the bond was forfeited:—of this decret there was a suspension passed by the Lords of Session. Whereupon a complaint was given in to the Lords of Privy Council by the Commissioners of the Borders, that their commission, flowing upon the broad seals of both kingdoms, conform to the 2d Act, Parl. 1612, they were not accountable to the Scotch Council.

The Lords of Council found not themselves judges competent to the decreets of these Commissioners, but found their determinations ultimate, and not to be revised by any but by his Majesty and the Parliaments of the two nations.

Then, against the Lords of Session, it was ALLEGED, for the Commissioners, That the matter was no ways civil but criminal, and so fell not within the compass of the Session's cognizance.

The President and other Lords, waving that question anent the interfering of jurisdictions, found the letters orderly proceeded in Haining's favours, and repelled the reasons of suspension. Which was tacitly to assume a power of judging these decreets. See 3d October 1677, *Rutherford*. Vol. I. Page 134.

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1681. The POOR of the WEST KIRK, or St Cuthbert's, against JANET WILLIAMSON.

February 22.—THE Poor of the West Kirk parish against Janet Williamson being heard in presence; the Lords found the discharge of the same date with the bond, declaring the sum in that bond was the Poor's money, (though it was blank in the creditor's name,) to be of the nature of a back-bond, and so *pars obligationis*; and therefore preferred the Poor (Mr James Elies, their treasurer's name, being now filled up therein,) to the said Janet, the arrester for Alexander Sked's debt: to which Alexander the said bond was delivered blank; and he, being then treasurer to the said Poor, and their debtor, filled up the name