Civil Jurisdiction is 2ly Either Cumulative or privitive. Vid. Vol. 2 pag. 668. Cumulative and Concurring Jurisdiction, is that which Different Judges, who exclude one Another by prevention, may separately Excercise within their Respective Districts. Sheriffs Ste=arts Baillies of Royalty and Regality, Magistrates of Burghs, and Justices of peace, have a Cumulative Civil Jurisdiction within their proper territories by first Citing the Defender l. 7 ff de Judiciis. Nelis in alio Judicio quam ubi Caepta terminetur l. 30 ff de Ju=diciis Aut Continentia Causae Dividatur l. 10 C. Eod. The King being Supreme Magistrate of the Kingdom and Intrusted with the whole Executive power of the Law, No Court whatsoever can have any Jurisdiction, Unless it some way or other De=rive it from the Crown. And before Establishing the College of Justice, when Judicatures for trying of right and property were Not fixed, it was Lawfull to the King at his pleasure to hear and Determine Any Matter that Came before him Act 27 Parl. 5 J. 3. And there is a Kings Decision Extant in our old Law Book, Stat. David 2 Cap. 16. Which is agreable to the Civil Law l. 41 ff de Haered. Instit. l. 3 ff de his qui Inte=stam. Delent. And to the opinion of the Doctors, Peregrin. de Jure Fisci lib. 1 Tit. 2 n. 33. But tho in old time our Kings (as also those of England) did in person often Determine Causes between party and party: Yet at this day our Kings seem to ha Delegated their Whole Judicial power to the Judges of their several Courts who have thereby Gained a Known and Stated Jurisdiction Regulated by Certain and Established Rules, which cannot be Altered without an Act of Parliament Coke 2 Ins 103. 4 Inst. 71. 72. 73. Hawkins pl. Cr. lib. 2 Chap. 1 s. 3. Rog Atherley. Britannick Constit. Chap. 1 Sect. 2 & 31. And it is Fi=tly so ordered: because if the Judicature were Lodged or Vested in the King, his Majesty would be often both Judge and party, as when pleas or Controversies arise between the King and his Subjects; and if the Judgement should happen to be Erroneous or Illegal, there could be No Appeal to a Superior Judge, to Reexamine or Redress the Error or Grievance. It is true the privy Council of Scotland having become Jealous that the Sheriffs Baillies of Regallity and other Ordinary Magistrates were Remiss and did not their duty in Restrain=ing field Conventicles and Ecclesiastical Disorders, gave Commissions to Military officers and other Gentlemen to Judge Jointly with these ordinary Magistrates in such Matters, by whom Many of the Lieges were put to death Summarly without Legal trial. And this being Com=plained

If in this manner a writ of priviledge lies for an officer of this court at westminster that is sued in any other court than where he attends or serves his cause to his own court. Coke 2 Inst. 551. 18 Edw. 3. Stat. 5. Finch 321.

Complained of as a Breach of the prerogative; to Legitimate the Granting such Commissions and keep the hereditary Judges in Awe, a law was made in the Year 1681, Declaring that no grant of Jurisdiction or office Conferred by the King on any Subject hin=dered his Majesty by himself or his Commissioner to take the cog=nizance or Decision of any Causes he pleased notwithstanding of any Jurisdiction bestowed by him or his predecessors Act 18 Parl. 3 Ch. 2. As if the Kings granting such Jurisdictions and offices to his Subjects, had not been privative of his own Jurisdiction. But the Employing officers of the Army as Judges or the Imposing them where there were hereditary offices and Jurisdictions is Reckoned in the Claim of Right as a Grievance contrary to Law. And the Act of Parliament asserting a Cumulative Jurisdiction in the King was in the Year 1690 Rescinded and An=nulled Act 28 sess. 2 Parl. W. & M. Privative Jurisdiction in Sir George McKinzie's opinion (Inst. lib. 1 Tit. 2 s. 5) is Ex=ercised by the Lords of Session in Judging Declarators of property, Actions Approving the Tenor, Cessiones Bonorum &c. But that power of the Lords is Not an Instance of priva=tive, but of Supereminent Jurisdiction. For we properly call privative Jurisdiction a power of Judging appropri=ated to One, who Excludes others, and takes from their Cogni=zance what other ways would Naturally fall under it. Thus Rectors in some Universities, and Chancellors in others are priviledged to try the causes of professors Students and other Members of the University. Authent. Habita C. Ne filius pro Patre

Dd. ad d. Auth. ut Christinaeus vol. 5 Decis. 34. 35. 36. Voet. comm. ad Tit. ff de Judiciis N. 109

~~[illegible]~~. The Lords of Session only and No inferior court can Judge Civil causes of Members of the Col=ledge of Justice Act 39 in fin. Parl. 6 Q. M. Act 42 in fin. Parl. 11 J. 6 McKenzie observ. on d. Act 39 & d. Act 42. 23 Feb. 1687 Colledge of Justice contra Town of Edinburgh. For their Attendance on the Session, exempts them from other courts. But in a Reduction before the Commissaries of Edinburgh of a Decreet of an Inferior Commissary who was an Advocat, and called in the Reduction only pro More; Such a Judge was Not Allowed to Claim Advocation upon the priviledge of a Member of the Colledge of Justice. 12 July 1687 Callender contra Bowie.

Because he was no more concerned therein than the Clerk Register is in Reduction of a Decreet of Session

And for Criminal Causes Members of the Colledge of Justice may be pursued before Inferior Judges McKenzie observ. on d. Act 39 Parl. 6 Q. M. Paul. Voet. de Statutis Sect. 7 Cap. 3 n. 16. The Barons of Exchequer have a privative Jurisdiction in Bus=iness Concerning his Majesties Rents and Casualties Act 59 Parl.