

Since the Union of the two Kingdoms repeated as inconsistent with the Articles thereof 6 A. cap. 3. The power of Making is of little consequence, since the King cannot raise Money to carry it on without the Consent of the Estates. But as for Making peace the case is quite Different, since on a good or bad peace depends the safety of a whole Kingdom; as hath been too often Experienced. And therefore these two prerogatives which are Commonly joined together, widely differ in their Consequences. It lies in the peoples breast whether they will contribute to the War, the King is pleased to enter into of his own Accord, and by refusing their Concurrence, have it in his power to prevent the Mischiefs that an unjust or unwise War may occasion. But how shall they hinder the Effects of a pernicious peace, concluded without their Knowledge? See Rapin Eloyard Hist. of Engl. vol. 2 part 1 Book 5 Differ on the Government of the Anglo-Saxons pag. 182. For Making War the King hath the sole Disposal of all Forts, Towns & Garrisons Act 5 Parl. 1 sess. 1 Ch. 2. And in the opinion of Sir George Mackenzie (Observ. on d. Act 5) maye Garrison a private Mans house having towers pinnacles or battlements. But that Author (Observ. on Act 33 Parl. 11 J. 3) owns, that the prerogative should not be used, except where the having a Garrison in such a place is absolutely Necessary for Maintaining the peace of the Country: And even then the proprietor is to get Reparation or payment if he was put to hire one then house for himself: as all persons concerned in a ship at sea in a storm, are to contribute for repairing the loss whose goods were thrown over board to lighten and preserve it.

All heretors between 60. 16. (under which Designation the Lord of Justiciary 2 March 1683 in the case of the Marquis of Pittorby brought heretors by the Court) called fowble Men, the posse, or posse comitatus, that is all who were able to put on Armour and fit for War, being obliged by the Ancient Law, to assist the King in his War, for suppressing any foreign Invasion, just time

troubles, Insurrections, or for any other service where his Majesty's honour, Authority or Magnificence might be concerned, they were called out upon Occasions heretors and Armed to receive ^(i. e. General Officers or Officers of the Host) shawings, and to serve in the host by Letters patent under the privy seal, called Letters of Bailie, ^(i. e. Letters of Justice) to raise horse fides or to be used for Advertising the Country, Directed to Sheriffs Bailiffs of Royalty and other Officers, charging them to warn the heretors within the Bounds of their Jurisdiction. Which Sheriffs and Bailiffs were followed by persons founding the Kings horse for raising the subjects, thence termed out heretors Act 56 Parl. 13 J. 2 Act 90 Parl. 13 J. 3. It doth not Excuse a heretor of land in the Country from the Duty of Attending the Kings host, that he is Burgess of a Royal Burgh bearing shaw and lot within the Burgh. Because within town they are not heretors for their land in the Country 3 March 1680 John Dodol of Monflic. But it is sufficient to justify a heretors absence from the host, that his whole lands are heretors Act 3 March 1680 William Hoddert. Videlic point, who are understood to be heretors in the Construction of Law, De Bates 11 December 1682 Patrick Gargison of Bowalloun and others. In the Year 1663 the Parliament of Scotland offered also to the King 22000 foot and 2000 horse Armed and furnished with 40 days provision proportioned on the shires to be in Readiness, at his Majesty's call, to March to any part of Scotland England or Ireland, against foreign Invasion or just time Insurrection, or for any other service of his Majesty Act 26 Parl. 1 sess. 3 Ch. 2: Which at the time was the ground ledly, Much Excepted against in the Parliament of England, as if our Parliament had thereby designed to Authorize Invaision of them. This Number of horse and foot was Modelled and trained in Military Discipline, under the Name of the Militia, Commanded by Colles held chosen by the King, and called together by proclamation issued by the privy Council of Scotland Act 2 sess. 1 Act 1 sess. 30 Parl. 2 Ch. 2. The Constitution of the Militia