No. 14. 1737, July 10, 19. MR DUNCAN FORBES of Culloden.

MR DUNCAN FORBES of Culloden's letter from the King nominating him President was presented, and two questions occurred,—first, Whether by the act 1579 any trial of the President was necessary, because he could not be considered as an ordinary Lord; for the first institution is of 14 ordinary Lords and a President; 2dly, Whether the act of sederunt 1674 extended to the admission of a President, because the King approved of it only as the trial of the ordinary Lords. Next it only concerned such Lords as should be presented in order to trial; and in fact Sir George Lockhart was admitted without any trial, and the going to the Outer-House is an improper form of trial of a President; but the Lords thought that in both these, ordinary Lords are only stated in opposition to extra ordinary Lords, and they thought the President's seat was one of the ordinary seats, and that there is no other form of trial but the one prescribed by the act of sederunt 1674 which must extend to him, and our last President North-Berwick was admitted in that manner, and the Lords then found that it was the form of trial necessary; and therefore Mr Forbes being called in he was sent to the Outer-House with Lord Strichen.

No. 15. 1737, NOV. 18, 29. ALEXANDER ROSS *against* SIR H. HAMILTON.

THE question was, Whether this Court had jurisdiction to try this forgery of the note, since the note bears to be granted in France to a French woman not within the jurisdiction? The Lords, in respect there was no judicial demand upon the note, and the creditor is not subject to the jurisdiction of the Court; therefore they found that they could not try the forgery, and ordered the bill to be given up to Mr Ross. 29th November, Refused a reclaiming bill without answers.

No. 16. 1738, Jan. 10. SINCLAIR *against.* M'LEOD of Cadboll.

See Note of No. 2. *voce* APPRENTICE.

No. 17. 1738. July 27. PROCURATOR-FISCAL of the ADMIRALTY-COURT *against* M'KENZIE of Corrie.

THE question, Whether the Judge-Admiral could try this without a Jury was first stirred by Arniston, who still thought he could not? but it carried otherwise by a great majority, since it could not infer limb or fame.—21st July. *Vide* 26th July.

On advising the proof betwixt the parties concerning oppression in seizing and carrying of nets and herrings, the question occurred, Whether *testes singulares* upon different acts of oppression could be conjoined to make a complete proof, since here (except in one fact) there were not two concurring witnesses on any of them? and the Lords by a good majority sustained the proof. Arniston *(inter alios) renit.* because he said he did not think this a generic crime;—and on the 27th we found the letters orderly proceeded.—(26th July.)

No. 18. 1738, NOV. 28. TOWN of LANARK *against* COMMISSARY HAMILTON.

THE Lords six to five adhered to the Ordinary's interlocutor, and found the Commissary must hold his ordinary Courts at Lanark, but prejudice to him upon extraordinary

emergency to hold Courts *pro re nata* elsewhere in his jurisdiction. *Renit. inter alios* Drummore, Kilkerran, Arniston, *et me.*

No. 19. 1739, Dec. 12. COMMISSARY CLERK of LAUDER *against* THE COMMISSARIES OF EDINBURGH.

THE Lords upon memorials for the Commissaries of Edinburgh complaining of our naming a Commissary for Lauder during a vacancy, because they said they had a power of confirming testaments in time of vacancies, and answers for Mr Winram; the Lords would not determine concerning the validity of the Commissaries of Edinburgh's confirmations in case of vacancies; though several of us thought they had no such power, and that it is contrary to the act 1609; but we first found that we had jurisdiction to appoint a Commissary, *renit.* President *et* Milton; next we agreed that we should name one in this case,—*renit.* as to the last point Arniston.

*** The case 3d November 1742, Christie, here referred to, is mentioned in the Notes thus:

UPON the doubt of the Commissary of Stirling, the Lords authorized the petitioner to officiate as Commissary till the vacancy be duly supplied as they did before in the case of Commissary of Lauder in December 1739, the Commissaries of Edinburgh opposing.

No. 20. 1739, Dec. 21. CAPTAIN CAMPBELL, &c. *against* ELIZABETH CAMPBELL, &c.

See Note of No. 2. *voce* ARBITRIUM BONI VIRI.

No. 21. 1741, Jan. 27. KING'S COLLEGE OF ABERDEEN.

IN this case the Lords had great difficulty on whom the trust devolved, on the other trustees declining or being at such a distance that they could not execute it. We seemed unanimous that it was not in this Court. The President inclined to think that the College had a sort of natural interest, but upon Arniston observing that the trust devolved to the Crown, the President seemed to go into it. But then it was observed, that were the money consigned the Court could order to be lent that it might not lie idle. They granted warrant to the petitioners to uplift the money, they giving their bond, binding not them and their successors in office, but them and their heirs conjunctly and severally, to report to this Court in six months the security taken by them for the money, to be recorded in the books of Session.

No. 22. 1741, Feb. 13. TOWN of HAMILTON *against* EARL of HYNDFORD.

THE Lords found, that the Sheriff could not remove the Sheriff-Court from Hamilton to Rutherglen. My only difficulty was, whether the Sheriff had power over the prison and Court-House of the Regality? Arniston was clear, that in all cases the Sheriffs have such power, yea even over Barons prisons where there are such, and the other Lords seemed to be of the same opinion; and as 200 years possession is, at least in this case, a strong argument for his power in time coming, I was for the interlocutor.—9th December 1740.—13th February, The Lords adhered.