

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.