No. 2. 1737, Jan. 21. COMPETITION CREDITORS OF GOVAN OF CAMERON.

THE question was about summary registrations in the Commissary books where there is no special consent to registrate in their books.—We found the Commissaries not competent. 2dly, In respect of *communis error* we sustained the diligence in this case, and we thought there was nothing in the objection that the precept was in the assignee's name, and so the assignation was not produced at raising the inhibition;—and we appointed an act of sederunt to be made for preventing erroneous registrations in Commissary books in time coming. (See No. 8.)

No. 3. 1737, Jan. 27. CRAWFURD, *Supplicant.*

THE Lords granted the letters of horning at the petitioner's instance against the persons named to deliver the records of the admission of notaries to the petitioner, but would not grant horning against all and sundry as was sought in the petition.

No. 4. 1738, Nov. 18. LORD REGISTER *against* MR BUCHAN.

THE Lords found that the Lord Register cannot call from Mr Buchan for these records of commissions in order to give extracts, and therefore refused his petition, but prejudice to him and his successors, if these registers are not kept in places of safe custody, to apply to have them put in a place of more safe custody.

No. 5. 1738, Dec. 16. SHERIFF-CLERK OF STIRLING *against* THE HEIRS OF THE FORMER CLERK.

THE Lords found that the defender is not obliged to be at the expense of making up inventories of the records; but if the petitioner insist to have an inventory, find that the defenders by themselves or others authorized by them ought to attend the making of these inventories.

No. 6. 1739, Dec. 21. LORD CLERK REGISTER, *Supplicant.*

THE Lords ordained the record of sasines and minute-book to be put in the Register-house; but as to the 600 scrolls not booked nor mentioned, they ordained them to be booked by themselves, with this declaration, that the Lords did not thereby authorize them as authentic, but reserved the objections of all parties having interest as accords, and ordered this petition and deliverance also to be inserted in the same book and before these scrolls, with a note also subjoined to them to the same effect.

No. 7. 1745, Jan. 25. DARLING *against* KENNAN.

AN inhibition in March 1665 which had been produced in process in this Court about 1674 remained in Court all this time, and was attested duly by the clerk to

have been registered: Being now quarrelled as not being to be found in the record, we thereupon found it void and null. The party reclaimed and alleged that the records of inhibitions in that county were amissing from 1621 to April 1665, in which period this was executed. That the clerk's attestation is a *præsumptio juris* that it was booked, and no challenge to it in this Court before now. Yesterday we ordered the lawyers on both sides to look at the records and to be heard, and this day they reported what they had observed, and thereby it appeared the books extant were rather a collection of old schedules found in the office than a book of record, and was not all signed by the clerk-register, and many leaves still blank, and several different books of the same period of time;—therefore we refused the bill and adhered.

No. 8. 1748, Dec. 16. COMMISSARIES OF EDINBURGH *against* SHERIFF-CLERKS.

THIS day we again had under consideration a question we determined in 1737, and then resolved to make an act of sederunt on it, which was then prevented by a petition from the Commissaries, viz. Whether bonds, contracts, &c. can be registrate in the Commissaries books without a consent to registrate specially in their books, and whether bills could be there registrate? It was admitted that by the original commission and their instructions there could be no such registration without a consent to registrate in their books; and the question was whether the usual general clause "any Judges books competent" included their books? and it carried by a good majority, that they might be registrate there on that general clause. There were only three or four against it, *inter quos ego*. What seemed to move the Court was an averment not contradicted, that before 1654 clauses of registration were always special enumerating all the different Court books in which the writing could be registered *et inter alios* the Commissaries, and in that year the style first varied, and the general clause was substituted, which therefore must be understood as large as the special clause was wont to be, since the granter had no interest to oppose it, and the frequent registration in the Commissary books proved the general opinion. I again thought that the general clause meant no Court books but what were competent to that subject before, which I thought also the meaning of the act 1681 anent bills; and whereas it was said that by "competent" was meant all Courts competent to give an extract whereon horning might follow, I observed that that gloss would authorize registrating *extra territoriam* in every Sheriff's books in Scotland contrary to the act 1685, because I had no doubt that one might prorogate the jurisdiction of a Sheriff in whose jurisdiction he did not reside. I noticed also that by the same argument the Commissaries would be competent to the execution of all bonds contracts, &c. containing such a clause, for the same reason that we found a decreet-arbitral in London must be governed by the law of Scotland because of a consent to registrate in our books, (Ouchterlony against Francis Grant,) and appealed to the Commissaries instruction 1563 making them Judges to all contracts, &c. registrate in their books, and a decision 27th March 1627, Irving against Young, (DICT. No. 25. p. 7309.)

The President said that if this consequence would follow he would be against the Commissaries, for that would plainly take off the limitation of their jurisdiction to L.40,