

After Bishops were deposed of their Jurisdiction of Commissariots, Instructions for Regulating the proceedings of Commissaries and their Members of Court given to them by their superiors the Bishops, attested and subscribed as fitting by Sir John Middel of Durbetoun and Sir John Baird of Newbath Lords of Session, who had been Commissaries of Edinburgh, were Authored and Enjoyned by King Charles the second 21 January 1666. And Recorded in the Forerint Books of the Session 20 february thereafter, and printed with other Acts of Forerint prefixed to the Lord Stairs first Volume of Decisions.

Much ground of Complaint having been given by Procurator Fiscal forcing poor Widows and Orphanes to forswear Testaments by Charges of horning, these Courts were in the Year 1689 Declared to be one of the great Grievances of the Nation. Which was redressed by a Law Discharging Charges of horning to Confirm Testaments, Except at the Instance of the said Children Nearest Affin or Bloods Act 26 Feb. 2 Parl. W. 3. M.

By the last abolishing of Prelacy in the Year 1689 Act 3 Feb. 1 Parl. W. 3. M. The power of Naming Commissaries their Clerks and Procurator Fiscal is returned to the King.

Some Causes or Matters and powers Confidtorial are Common to all Commissaries superior and inferior within their respective Districts as the Confirmation of Testaments, Seandal, Ad homines against Wilful Perjurers whose Marriage is not Contravened; Matters Civil referred to both not Exceeding the Value of 40 pound 6 Feb. 1624 Godwin contra M. hough 16 January 1628 Lord Lindsay contra Lady Aiton. Kings Instructions 1666 Art. 1. The de praesent they dont observe this limitation. And a Commissaries Decree for 120 pound of house Mail referred to both of party was sustained: in respect it was for three term of a house Mail, and each term being 40 pound the Matter was considered as three several heads or toties in libellis, Albeit some

of which a writ bearing consent to Registration in the Books of Session as in any other Judges Books in Scotland
 7 December 1610 J. Kennedy contra Kennedy

Continued in one Summons 18 January 1628 Lord Lindsay contra Lady Aiton. This Ordinarily the Lords find, that the Ecclesiastical Judge might determine Civil Matters referred to both Exceeding to 100 Marks 18 June 1639 Richardson contra Macwell. Commissaries are also Competent to Judge causes wherein their Jurisdiction is prorogated or submitted to by the parties d. Kings Instruct Art. 1.

Registration in the proper Commissary Court books of writs concerning Matters Confidtorial, is sustained as Competent 16 January 1706 Young to Man supplicants. But writs touching Matters not Confidtorial cannot be Registered in Commissary Books, tho the Grantor dwells within the Bound of the Commissariat 23 June 1705 Matthias Supplicant contra Commissary Clerk of Edinburgh 18 Feb. 1703 Weir of Blackwood contra Forban of Kilmarnock & other Perjurers of Perth. and bearing consent to Registration in the Commissaries Books pay 6s Registered in the Books of Session, had Pract. 10 Feb. 1611 Forst contra M. Drum. But was Commissioners were found not to be proper Judges to an action of transferring of a contract in the possession of the Contractor here, altho the Contract was Registered in the Commissaries books Conform to a Clause in the Contract consenting to such Registration 28 November 1621 L. Greenock contra

But a Commissary is Judge to an action of transferring of his own Decree, and may Judge in Actions pursued by heirs of any person deceased, Altho he may not Judge in Actions against persons as heirs to those deceased 18 January 1628. Vasmeth contra Rithson and Spottwood Prath. Jd. Commissariat.

Commissaries are not to stay process in the Principal cause, upon an offer of Improbation of the Execution, Kings Instruct art. 8. But May Judge and try such falsehood of their officers Execution of summons before them objected Juridictor and by way of Exception M. S. offers on Act 64 Parl. 674.

Commissaries may Direct precepts Discharging any temporal Judge to proceed in causes Confidtorial, and May issue forth Inhibition of titles great or small Upon sight of the Parties titles Kings Instruct Art.