

Art. 14 & 15. They Yearly <sup>about Candlemas</sup> strike fairs for Regulating the  
 price of Victual which is commonly the Standard of counting for a Tuler's Intromission with  
 the price of the Minor Land, and in other consistorial cases. All Rights of the Crown Act 7 Jac. 1. c. 13. b.  
 Commissaries were once found Competent (30 January  
 1629 Roushinge contra M. Flovain) and After ward Jacompe  
 tent (8 December 1673 Wright & Hamilton contra Voille)  
 Judges of Gutory Accounts.

Two parts of the profits of all summons, sentences, gran  
 tsumpts, Registrations, Confirmations and Extracts belong  
 to the Commissaries, and a third goes to the Clerk, he  
 always finding paper, ink wax and writing Chambers,  
 Kings Instruct Art. 25.

A Commissary, tho he have a Deputee, ought to be  
 Qualified to discharge the Office himself, and to Judge ac  
 cording to law; because he must direct and answer for  
 his Deputee 14 Feb. 1666 Arch Bishop contra Commissary  
 of Glasgow. Commissaries and their Clerks must reside  
 in their Commissariats Under the pain of deprivation;  
 Unless they obtain Liberty from their Bishops upon  
 Grievous Occasion to do otherwise, Kings Instruct Art. 17. 22  
 Feb. 1666 Arch Bishop contra Commissary of Glasgow.

The Commissaries of Edinburgh have, besides the  
 Ordinary Diocesan power Competent to other Commissaries  
 an Universal transiendental and privative power, whereby  
 they Confirm the testaments of Scottish Men dying abroad,  
 or having no fixed Residence; are in prima instantia Judges  
 of Divorce, Declarators of Nullity of Marriage, questions  
 of Bastardy and Actions of Adultery, when they  
 have a Connection with the lawfulness of Marriage,  
 or Adultery. For the Superior Commissaries may Judge  
 in Actions for Adultery, the Commissaries of Edin  
 burgh only are Competent to Divorce for Nonachae.  
 rone Act 6 Parl. 20 J. 6 Kings Instruct Art. 2. They also  
 are and Judges competent to the Consistorial Jurisdiction created by parliaments during  
 in the first Instance the Decree the sentences of other  
 Commissaries Act 6 Parl. 20 J. 6 Exclusion of the Lord  
 of Session 23 July 1629. Harris contra Lord Drum  
 harrig. But then the Commissaries of Edinburgh Judge <sup>with</sup>

of the Dispensation of a Suit of Divorce. 18 December 1680 Lady Githy Supplicat contra C. Githy.

With subordination to the Lord of Session, who, being the Kings  
 Great Consistory, May Reduce or suspend their Decrees and  
 Advocate cause from them Act 6 Parl. 20 J. 6. Decrees of su  
 perior Commissaries cannot be Reduced by the Commissa  
 ries of Edinburgh Unless the Reduction be pursued within  
 Year and Day, if the party is Major within Scotland. And  
 the sentence of such an Superior Commissary may be put to  
 Execution, Notwithstanding of a libelled Reduction thereof be  
 fore the Commissaries of Edinburgh, Kings Instruct Art. 16.  
 But the Commissaries of Edinburgh tho they be a Collegiate  
 body cannot Reduce their own Decrees tho being the sovereign  
 privilege of the Lord of Session to Reduce their own Decrees  
 which is Judged to no Superior Judge Except to the high  
 Admiral Act 16 Parl. 3 Art. 2.

Commissaries have less Criminal Jurisdiction than  
 any other court. But the Commissaries are Competent  
 to Judge Adultery in order to Divorce, and any Commissary  
 May try Injuries Verbal or Real Injuring scandal: which  
 they May punish by Inflicting not only pecuniary pain, but  
 also Ecclesiastical Censures, as the penance of standing at the  
 Church door to Expiate the offence, or Rather to Restore  
 the party to his former so a Decree of the Commissaries  
 for slander and Defamation Ordering the Offender to make  
 an Acknowledgement before the Congregation and to pay  
 100 pound to the party and as much to the poor, used for 1666  
 5 Feb. 1669 Doan contra Bothwell.

Again any Commissary is Authorized to Judge persons  
 who Deforcethe officers in the Execution of his process  
 and May punish them as law prescrib'd for Deforcethe officers  
 of Arms, except as to the loss of the Deforcethe Officers  
 without prejudice to the person Concerned to pursue for it  
 before the Judge Competent, Kings Instruct Art. 13.

The Commissaries of Edinburgh are Equal to the  
 Judges of the prerogative Courts of the Arch Bishops of  
 Cantorbury & York in England, so called because these Arch  
 Bishops in prerogative Jur have power to Judge there  
 of Estates fallen by will or abintestate throughout their  
 whole provinces, where the person Deceased had good to  
 the Value of a hundred Mark or above out of the King