

Lords were of the opinion of the above interlocutor. I likewise doubted whether the parties intended any more than to reserve to the father a power to provide his sons *ad libitum*, but I own the last part of the clause is very strongly expressed, and the Lords could not find any way of extricating it so as to answer the parts of the clause, and make it consistent with law, other than by the above decision.

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*FORUM COMPETENS.*

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No. 1. 1735, July 11. RAMSAY *against* THOMSON.

THE Lords found the action here competent, notwithstanding of his having obtained sentence in the Justice-Court, as had been found 13th December 1672, Murray *against* French, (DICT. No. 10. p. 2917;) but found the nullity of the bill competent to the defender, but remitted to the Ordinary to hear how far the debt can be astricted even against this defender.

No. 2. 1736, Feb. 17, 21. LEGGAT *against* DUNCAN.

THE Lords found the decret null as *a non suo domino*, and repelled the answer of *communis error*, in respect of the reply that such error could not make the defender contumacious; and here there was no instruction of the debt, other than the decret in absence holding the defender as confessed, upon which no diligence followed against the defender, who lived many years after.—21st, The Lords refused a bill without answers, and adhered.

No. 3. 1737, June 29. TRAN and HIS CREDITORS *against* WEIR.

THE question being, Whether the Commissaries of Glasgow or Hamilton were the proper Court for confirming Tran's testament? the creditors had applied to the Commissary Court of Glasgow, upon which the Commissary of Hamilton gave out an inhibition to the Commissary to proceed; and upon his contempt they presented a bill of advocacy; and the first question was, Whether, since the late act of Parliament against forcing parties to confirm, it be competent to the Commissary of Glasgow to hinder the creditors or their principal to confirm where they please? and the Lords found it not competent.

No. 4. 1752, Feb. 20. FITZGERALD and EGAR *against* BONTEIN.

IN February 1740-1 Fitzgerald Egar and others had a ship and cargo seized in Jamaica by the naval officer and condemned by a Court of Admiralty, one-third to the King's use, one-third to the Governor, and one-third to the seizure maker, and sold; but this condemnation was reversed on an appeal to the King in Council, who ordered a new trial of the cargo, but the ship or value thereof to be restored, "whereof the Governor or Com-