

No 394.

. Forbes also reports this case.

ALEXANDER YOUNG and James Man, seamen, and present box-masters to the incorporation of seamen in Prestonpans, gave in a petition, craving a warrant to get up from the Commissary-clerk of Edinburgh, a principal bond, that through mistake had been incompetently registered in the Commissary books there, upon restoring the extract, in order to register in the books of Session, that unquestionable diligence might be used thereon. The desire of which petition, the Lords refused; because, albeit decreets in matters not consistorial before the Commissaries have been quarrelled as contrary to the instructions 1666, in a competition betwixt two adjudications, a posterior was preferred to a former, proceeding upon a decret obtained before the Commissary of Inverness; and lately, in the case betwixt Weir of Blackwood and Cochran of Kilmarnock, *supra*, an arrestment laid on by a commissary-precept was cast; yet registations in their books, which are decreets of consent, are not quarrellable; but on the contrary are warranted by the act 19th, Parl. 23. James VI, where the prices of their registration are taxed and set down; act 177th, Parl. 13th, act 7th, Parl. 21st, James VI., allowing execution to pass upon them; and the act 38th Parl. 1685, discharging registration without the jurisdiction where the party dwells, which insinuates nothing against the competency of the Commissaries for registration of writs against persons living within their bounds.

Forbes, p. 73.

1743. December 16. SHERIFF-CLERKS *against* COMMISSARIES of Edinburgh.

No 395.

IN a ranking of the creditors of Govan of Cameron, a diligence being objected to, as proceeding upon a bond registered in the Commissaries' books, which was said to be an incompetent court; the Lords found, That the Commissaries had no power to pronounce decrees in absence in causes purely civil for any sum above L. 40 Scots, but that they had a power of registering bonds, bills, contracts, and obligations, for whatever sums granted, and of authenticating tutorial and curatorial inventories, and an act of sederunt, of date 17th December 1748, was made to that effect.

Fol. Dic. v. 3. p. 363. Kilkerran. Rem. Dec.

. This case is No 27. p. 7310., and No 281. p. 7561.