1746. *July* 31.

THOMAS OGILVIE of Coul *against* CAPTAIN CHARLES HAMILTON of COBHAM'S Dragoons.

No. 37.

ON a complaint against a Captain in the army, one Hamilton, for his seizing and disposing of the complainer's tenants' cattle, furniture, &c. and turning them out of possession on pretence that these tenants had been in the Rebellion, the Lords ordered the complaint to be served on the Captain, and him to answer five days after service, and prohibited any further intromission in the meantime; and no answers being put in, they found him guilty of a contempt, and granted warrant to commit him to prison till he should find caution at the sight of the Sheriff to answer the complaint, and to pay what damages should be awarded.

1747. *July* 21.

COMMISSARIES of EDINBURGH *against* The COMMISSARIES of DUNKELD.

No. 38

THE parishes of Cramond, Aberlady, and Abercorn, found to be within the jurisdiction of the Commissaries of Edinburgh, and not in that of the Commissary of Dunkeld, though they were thought to be in the diocese of Dunkeld. (See DICT. No. 279. p. 7558.)

1747. *July* 22. JOHN BLAIR *against* HUGH BLAIR of Borgue.

No. 39.

MARRIAGE,—declarator of nullity thereof on the head of idiotry may be tried before the Commissaries of Edinburgh, and without any inquest or brieve of idiotry. (See DICT. No. 280. p. 7561.)

1747. *December* 3. MORISON of Craigleith *against* STEWARTS.

No. 40.

A DEBTOR to a minor (whose father and administrator-in-law was abroad) in L.1000 sterling, heritably secured, offered payment, and because he could not discharge, presented a suspension and offered to consign. The minor's friends at the same time found a proper debtor to borrow the money. The

No. 40. Court thought there was no necessity to appoint a *curator bonis*, and that they could directly authorise the minor to discharge and renounce the former security, the money being at the same time re-employed on sufficient security, and therefore remitted to the Ordinary on the bills to enquire into the sufficiency of the new security. (This was Lord Royston's heir, son to Colonel Stewart.)

1748. *January* 6. CAVERS DOUGLAS'S CASE.

No. 41.

UPON the claims given in pursuant to the late act for abolishing heritable jurisdictions, and for giving our opinion touching the value of them, we found in the case of Cavers Douglas, that in respect of a private act of Parliament in 1633, proceeding on his own petition, whereby his Sheriffship was declared redeemable by the creditors for L.20,000 Scots, he therefore could claim no more. But in our report to the King in Council, we also reported our opinion touching the value of it, by the same rule that we valued other heritable Sheriffships, if it had not been so redeemable.

1748. *January* 7. EARL of MORTON'S CASE as to LANGTON.

No. 42.

LANGTON had been part of the regality of Morton, but had been sold off *cum privilegio regalitatis*, and charters granted in these terms by the Crown, and since purchased back by the family of Morton. We found, that the alienation dissolved the regality, and that the *privilegium regalitatis* could not pass with the lands to the purchaser without a new erection, and that Earl of Morton's purchasing them back could not revive again the regality as to these lands.

1748. *January* 12. A. *against* B.

No. 43.

WE determined two general points on which many claims depended, after full hearings at the Bar and memorials; viz. 1*mo*, That the positive prescription was sufficient to sustain all heritable jurisdictions, whether Sheriffships or regalities, though granted after the acts of James II. in 1455;