

1766. November 22.

WILLIAM WRIGHT and MARY GRAHAM, his Mother-in-law.

It being objected to the competency of an advocation, that the process was finished before the Sheriff by a decree; and, therefore, that a suspension was the only competent remedy: The objection was repelled upon the ground of utility, an advocation being a more easy remedy than a suspension, and equally susceptible of being remitted with an instruction. An extract indeed must bar advocation, because after extract the cause cannot be remitted:

Fol. Dic. v. 3. p. 20. Select Dec. No 250. p. 322.

No 20.
Advocation competent after decree, if before extract. See No 7.

1775. July 6.

EUPHAN CUNINGHAM against ROBERT CUNINGHAM.

In a question between these parties, respecting the reparation of some houses upon a farm, the Judge Ordinary having repelled the defender's plea against his being bound to repair the houses, which the pursuer, in obedience to an order of Court, estimated at L. 6 : 19 : 11 Sterling, the defender applied to this Court for an advocation of the cause, or a remit, with instructions to assoilzie him from the article in question. And the LORD ORDINARY, officiating on the bills, having refused the bill, but remitted to the Sheriff, with this instruction, that he assoilzie the complainer from the pursuer's claim, respecting the reparation of the houses; the pursuer reclaimed, insisting that the bill, and procedure thereon, was incompetent, the article disputed being only L. 6 : 19 : 11 Sterling. The bill of advocation respected no other point in the process; and, by 20th Geo. II. c. 43. no cause can be advocated for a sum below L. 12: And the practice, in some cases, of remits upon bills of advocation, in causes for smaller sums, was found to be erroneous in a case decided 24th November 1767, Auld and Company against Wilson*.

'The Court remitted to the Lord Ordinary to refuse the bill of advocation, as incompetent.'

Ast. G. Clerk.

Alt. Tytler.

Clerk, Tait.

Fol. Dic. v. 3. p. 20. Wallace, No 177. p. 94.

No 21.

In a claim for a sum below L. 12, a bill of advocation cannot be received, even to the effect of remitting with instructions. See No 18.

1776. December 18.

STEELE against THOMSON.

Two persons being proprietors *pro indiviso* of a meadow, a verbal agreement passed, by which the one let the ground to the other for three years, who laboured it, and reaped a crop of oats; the other refusing, in respect the bargain had never been formally completed, the Sheriff, in a process brought before him,

No 22.

Advocation found competent, as involving a question of right, altho

* Not found.—Examine General List of Names.