An adjudication is no more than a right in security for payment. If my debtor is not infeft, I must take his author's procuratory and infeft myself on it, and upon that obtain charter of resignation from the superior. The next creditor will do the same as to the reversion, so that the precept will never be exhausted.

ELLIOCK. A sasine is a good right, *quoad* the granter; but, if not registered, is not good *quoad* extraneous persons.

KENNET. The son might have conveyed either the whole or a part of the precept; but this has not been done. An assignation of a precept will not do for establishing an infeftment of annualrent.

GARDENSTON. If we hold that it is not in the power of a man, having a personal right, to grant a disposition which may be made real, the consequences would reach far.

COALSTON. One having a personal right may denude himself totally or *qualificate*: If so, why may he not grant a right of annualrent. If Robert Watt had granted a disposition in security, and infeftment had been taken on the precept, it would have been good; why might he not also have granted an infeftment of annualrent?

BARJARG. A disposition in security is different from a disposition of an annualrent.

MONBODDO. A right to a precept of sasine is a personal right: it may be divided like a real right; it is assigned in right of the person having the real right. The example of an adjudication is in point: it is a redeemable right in security, by the operation of the law, as much as an infeftment of annualrent is a redeemable right by the operation of the party.

PRESIDENT,—observed that the fact has been imperfectly stated; for that the disposition and infeftment bore earth and stone, as being an absolute disposition of lands.

The Lords altered and preferred Mitchell; but remitted to the Lord Ordinary, (Kennet,) to hear parties upon the point of registration.

Act. J. Douglas. *Alt.* J. Grant.

1767. *July* 17. ALEXANDER MARTIN *against* ROBERT WATT.

JURISDICTION.

The Court of Session found not competent to try a question between two custom-house officers, concerning the division of a seizure.

[*Supplement*, 5—495.]

BARJARG. The question might have been determined in Exchequer; but I think it may also be determined in this Court.

GARDENSTON. We have enough to do of our own, without interfering with the business of another court. It is *pars judicis* to stop where an action is incompetent, although the parties be willing to proceed. This I learnt from Lord Arniston when I first came to the bar.

JUSTICE-CLERK. There is a foundation in common law for the action: the one party has chosen a jurisdiction, that of the Sheriff, and the other party has acquiesced, and has brought the cause to this Court.

PRESIDENT. The distribution of the revenue belongs to the Court of Exchequer: what can more relate to the revenue than the arbitrary division of seizures, according to the regulations of the Court of Exchequer.

ALEMORE. The seizure goes to the informer: if the division of it has been taken under the cognizance of Exchequer, this Court ought not to interfere; but, if the Exchequer has left the division to be adjusted by the parties, the jurisdiction of the Exchequer will not be exclusive.

JUSTICE-CLERK. I recollect that disputes of this kind have been often determined in the Treasury Chamber of Exchequer. I was moved by the party having brought this trifling affair before the Sheriff without any objection on the part of the defender; but this is no good *ratio decidendi.* I would keep the line of jurisdiction separate.

PITFOUR. The declaring of seizures belongs to the Exchequer. Shall we snatch at the opportunity *(an rapienda est occasio,)* to take upon us an inferior part of jurisdiction, that of dividing the seizures when declared.

COALSTON. This a suit, and an account concerning forfeitures. There is a remedy in Exchequer, and that remedy is daily used. This court ought to take no cognizance of it.

The Lords found the action not competent, and altered Lord Elliock's interlocntor. They also found no expenses due.

Act. G. Buchan Hepburn. *Alt.* G. Wallace.

1767. *July* 17. GEORGE GILLENDERS *against* JOHN BIRTWHISTLE.

PROMISSORY-NOTE.

Recourse was sustained against the indorser of a Promissory-Note, though the strictness of negotiation on bills was not observed.

[*Faculty Collection, IV.* 292; *Dictionary*, 12,258.]

AUCHINLECK. A promissory-note does not admit of proper diligence. Here demands for payment were made.

COALSTON. In England, promissory-notes are the same as bills. This man was an Englishman, and supposed the promissory-notes in question to be the same as bills. The provision of recourse strengthens the supposition—but I do not think that the same strict negotiation is necessary in promissory-notes as in bills. The equitable powers of the Court might be interposed were there supine negligence in this case. I cannot but lament that the English law, as to promissory-notes, does not extend to Scotland.

JUSTICE-CLERK. Promissory notes are not entitled to the privileges of the statute, but they are entitled to some privileges—they must be negotiated. I felt a disposition for the cause of the stranger, but there is not any *mora* in this case sufficient to relieve him. Promissory-notes are not yet in the same state in Scotland as they are in England.