

stone? He is willing to lose his vassal altogether. The statute seems only to have in view the case of persons possessing an estate and not entering.

PRESIDENT. By the feudal law, there must be an investiture. Personal rights it regards not, but supposes to be erroneous: as long as a man continues in the feudal right or investiture, he is the vassal of the Crown, and every sub-vassal must go to him. Should Lord Dunmore's trustees give up their bargain at this day, Lord Elphinstone would come to have the total right, and no new infestment would be necessary to complete his title. [This supposes Lord Elphinstone to be alive; that however does not vary the argument.] Should the Court of Exchequer have occasion to do diligence for feu-duties, the diligence would go against Lord Elphinstone. With respect to the opinion of lawyers, I have only to add, that Sir George M'Kenzie speaks of charging superiors: that is proper, because that term implies the king's vassal in the feu-right.

ALVA. My difficulty is, that here there is a decret of tinsel of superiority extracted.

PRESIDENT. The case was not explained to the Lord Ordinary, (Covington,) who pronounced that decret. Now, the parties themselves have told us enough to show that the decret is good for nothing; and as we are not here interponing our authority of course, but in a new case, of which the clerk to the bills has seen no example, we are not bound by an erroneous decret.

On the 14th December 1776, "The Lords refused the bill."

*Act. J. M'Laurin. Alt. Absent. Reporter, Alva.*

1776. December 18. JAMES STEEL *against* JAMES THOMSON.

#### ADVOCATION.

Advocation found competent, although the sum sued for was under L.12, as the matter involved a question of right.

[*Fac. Coll. VII, 339; Dict., App. No. I, Advocation, No. 1.*]

GARDENSTON. The advocation is competent, because it is not for a sum, but for a removing, that the action was brought. At the same time, there is, as to the merits, no ground to complain as to the removing; for there was no completed bargain.

On the 18th December 1776, "The Lords found the advocation competent;" altering Lord Elliock's interlocutor.

*Act. Mat. Ross. Alt. A. Wight.*