

No 318. put upon the poor's roll, to enable them to have the merits of their cause fairly discussed.

Lord Ordinary, *Balmuto.*
Alt. *Oswald.*

A&S. *Robertson.*
Agent, *D. Lister.*

Agent, *Jo. Tausse.*
Clerk, *Pringle.*
Fac. Col. No 6. p. 12.

No 319.

A party is not prevented from again reclaiming, although the Court have already twice given their opinion upon the cause; once on the report of the Lord Ordinary, and again upon a petition against that judgment.

1802. *March 5.*

LENNOX, Petitioner.

It was objected to the consideration of the petition of Agnes Lennox, that there were already two concurring and subsequent interlocutors in the cause. The case was this:

The Sheriff of Edinburgh had decerned in favour of the petitioner, in an action against James Black.

Black advocated; and Lord Glenlee, Ordinary on the bills, (14th November 1801,) having advised with the Lords, remitted to the Sheriff, with instructions to alter his interlocutor.

On advising a petition and answers, the Lords (16th February 1802) "adhered."

The petition reclaiming against this judgment was opposed, because the Court had already twice given their opinions upon the question; and although, according to the forms of process, only the last interlocutor was signed by the Lord President, the other was equally a decision pronounced upon the deliberation of the whole Judges.

But it was found competent to discuss the merits of the petition, as the first judgment was held to be an equivalent only to an interlocutor of the Lord Ordinary.

This question had formerly occurred, and was heard at considerable length, in the case of Ballantine against Waugh, 17th February 1801, (See APPENDIX,) where the first interlocutor was pronounced on the report of the Lord Ordinary in the Outer-House; but the objection was waved. The Court were there much divided upon it.

The petition of Lennox was discussed, and refused on the merits, without answers.

Lord Ordinary, *Glenlee.*

For the Petitioner, *Dickson.*
Clerk, *Gordon.*

Agent, *Geo. Fordyce.*

Fac. Col. No 33. p. 68.

1803. *February 10.*

YOUNG against MITCHELL.

No 320.

An interlocutor pronounced upon a short representation, al-

MICHELL YOUNG, painter in Edinburgh, raised a summons against Andrew Mitchell, his late partner, concluding, "that he was owing to the pursuer the sum of L. Sterling, contained in an account." The blank was afterwards