ADVOCATION.

1607. *February* 24. LATHOKER *against* LORD OLIPHANT.

LATHOKER charged Oliphant upon a decreet of the Commiffary of St Andrew's, to pay to him the price of certain farms, whilk the faid Oliphant fufpended, *alleging*, That the decreet was null, as given *fpreto mandato judicis*, in fo far as the judge was difcharged by an advocation, and notwithftanding thereof proceeded.—Againft this reafon it was *excepted*, That the raifer of the advocation paft in effect from it ; becaufe, after the raifing thereof, the party had compeared in diverfe diets of the procefs, and given in defences and eiks ; and fo, in effect, had confented in the judge.—It was *anfwered*, That nothing could take away the advocation, but the exprefs renunciation of the party ; and therefore, feeing the judge had contemned the Lords command, the compearance of the party, after the advocation, and the judge difcharged, could not make his proceedings lawful. —In refpect whereof, the LORDS repelled the allegeance, and found the reafon of the fufpenfion relevant.

Fol. Dic. v. 1. p. 27. *Haddington, MS. No* 1327.

1611. *November* 19. LORD SANQUHAR *against* CHRICHTON of Ryhill.

AN action being purfued by my Lord Sanquhar before the fheriff depute in Nithfdale, againft William Chrichton of Ryhill, for cutting of the faid Lord's green wood.: The fame was advocated to the LORDS directly againft the tenor of the act of Parliament anent cutting and deftroying of woods.*

Fol. Dic. v. 1. p. 28. *Haddington, MS. No* 2300.

1613. *July* 18. JAMES CRANSTON *against* Sir GEORGE HOME.

THE LORDS found a decree or retour null, *ope exceptionis, quia* led *poft inhibitionem judicis*, or after advocation.

Fol. Dic. v. 1. *p.* 27. *Hope,* (ADVOCATION.) *MS. v.* 2. *folio* 173.

* Lord Kames has miftaken the import of this cafe.