being Mr Arrat's ordinary lawyer, could not object the nullity of the form of the bills he had granted Mr Arrat, that they bore annualrent and penalty, although the bills were written by Mr Arrat the drawer.—Adhered, 7th December, by President's casting vote.

ADVOCATION.

No. 1. 1734, July 24. MONRO *against* M'MILLAN.

THE Lords found a cause within 200 merks could not be advocated even upon iniquity, but remitted to the Ordinary to remit the cause with such instructions as he shall find proper.

No. 2. 1750, July 26. JAMES URE *against* BUCHANAN.

THE Lords found, that in processes in the Sheriff-Court under L.12 sterling, as we cannot advocate, so we cannot remit with instructions; and therefore Strichen having remitted this cause with instructions, we altered and remitted to the Sheriff to proceed as he should think fit.

*** We gave the same interlocutor in an advocation 30th November 1750, Thomson against Vallange, of a sum under L.12, as we did 26th July last, Ure against Buchanan. We recalled the remit with instructions, and recommended to him to refuse the bill of advocation *simpliciter*.

ALIMENT.

No. 1. 1734, July 12. COUNTESS of WEMYSS *against* HER CHILDREN.

THE Lords found no aliment due for the children.

No. 2. 1736, Feb. 4. VANS *against* VANS.

THE Lords found, that the whole pay must be accounted for without any abatement for the aliment, as had been before judged in the case of Lord Kimmergham's creditors and daughter. Royston and I differed, because an officer's pay is in construction of law alimentary, and for that reason alimentary; and therefore, though a father alimenting *præsumitur* to do it *ex pietate*, which will even preponderate the presumption *debitor non præsumitur donare* in the case of a common debt, which was Lord Kimmergham's case, yet a father uplifting an alimentary provision of his bairns, and accordingly alimenting, is presumed to do it out of their proper fund.

THE Lords found Patrick Vans's pay uplifted by his father as administrator-in-law did not bear annualrent, in respect he alimented him; and I think the judgment right, but how does it tally with the former one of 4th February last?—29th June.

No. 3. 1736, Feb. 13. CREDITORS and CHILDREN of FALCONER.

MR MERCER, the trustee for the daughter, having got no payment, we were pretty unanimous that he should be preferred upon each subject in his proper order, and that