

1777. *February 22.* WILLIAM PURDIE and OTHERS, Proprietors of Houses in Stephenlaw's Close, *against* PROCURATOR-FISCAL of GUILD COURT of EDINBURGH.

THESE Proprietors, having obtained a judge and warrant from the Dean of Guild of Edinburgh, were proceeding in their buildings, when they were stopt by an interdict pronounced by the Dean of Guild, at the instance of the Procurator-Fiscal. An advocation having been applied for by them, the bill was past, 25th July 1776; but, the letters not being expedite, the diet for comparence elapsed: the reason of this was, that a communing intervened, and the affair lay over till February 7, 1777. But the communing being at an end, Purdie, and the other builders, were desirous to proceed in their building, and to have the advocation discussed; but, in doing this, the Procurator-Fiscal, who acted only for the public, declined to take any step, leaving them to proceed as they should be advised. The question came to be, What method was to be followed by them to bring forward the question? It was proposed, *first*, That they should expedite the letters of advocation, and either warn the defender in the inferior court, *apud acta*, or execute it against him as a summons. The objection was, neither of these things were now competent,—the day of comparence being long ago lapsed. It was proposed, *secondly*, That they should apply, by petition, for a warrant to discuss upon the bill: it was objected,—Such application was incompetent; being only competent at the instance of the person against whom the advocation was obtained, and who was entitled to the *induciæ*. It was proposed, *thirdly*, That they should apply by a new bill of advocation, setting forth the former; and, this being past, that they should expedite the letters, and proceed in common form. They chose the second method, and this day, (22d February 1777,) applied, by an intimated petition, to have the reasons of advocation discussed upon the bill.

The Lords were divided; but at last, "Finding no sufficient reason to go against the established form, *viz.* That such application is competent only at the instance of the person against whom the advocation is obtained,—they refused the petition."

ADVOCATION. See also JURISDICTION.

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## ALIMENT.

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1778. *March 7.* M'CULLOCH *against* M'CULLOCH.

THE decision, 111, *New. Coll.* No. 44, That a mother is entitled to an aliment from her eldest son, *super jure naturæ*, was this day confirmed, in the case,