

her prohibited goods ; and that, on this account, the ship had been condemned in the Exchequer :—therefore concluding for damages. The Judge-Admiral assailed. The pursuer brought a bill of advocation, which, being passed, came to be discussed before Lord Covington.

The point debated was the competency of the advocation.

Against the competency was urged the Act 1681 ; the decision, 111 *New (Faculty) Coll.*, No. , *Steven* against *Erskine*, p. 49.

Had the question been concerning the freight, the cause would undoubtedly have been acknowledged to be maritime ; but, being for damages arising from the breach of a contract, it was contended not to be so. But, in answer, it was alleged that every cause arising from a maritime contract was truly maritime ; as every action arising from a seizure was a revenue cause, and belonged to the Exchequer. See *Martin* against *Watt*.

On the other hand, was pleaded a decision observed by Fount., 21st February 1694, *Rowan* against *Darling* ; another observed by Kilk, p. 300 ; and at any rate it was insisted, That, even should the advocation be thought not competent, still it was competent to remit with an instruction.

This last was disputed. It was held to be equally incompetent to remit with an instruction, as to advocate. See Fount., 7th February 1693, *Robertson*.

“ The Lords dismissed the advocation as not competent.”

JURY.

THERE is no law expressly declaring clergymen, ministers of the gospel, incapable of passing upon an assize, unless by analogy, from the statute 1584, c. 133. In a service of mort-ancestry, before the Magistrates of Edinburgh, 19th November 1776, David Dickson, as heir to his brother John Dickson of Kilbucho ; the claimant petitioned for a warrant to summon a jury, in which several clergymen, ministers of Edinburgh, were named. The bailies, after advising with their assessor, Professor Wallace, pronounced this interlocutor : —“ In respect the persons suggested as jurymen, by the petitioner, are not liable to pass upon any assize ; therefore refuse the petition, but remit the brieve to the knowledge of an assize to be named in common form.”
