supported by a statute, which the complainer said applied to his case. If the Admiral had dismissed the complaint, Chalmers might have resorted to the appellant jurisdiction in this Court. Instead of that, the Admiral referred Chalmers to the Lords of the Admiralty, who have no jurisdiction. He would not so much as allow to the complainer the common law security of keeping the person of the apprentice within the country. Here was a *denegatio justitiæ* on a demand founded on the law of the land. If Chalmers's plea was good, his apprentice had the same security against being pressed that any member of this Court has. If we had any doubt as to the competency of this advocation, the consequence would be, that, if the matter had been once brought before the Admiral, and if the Admiral had left it to the determination of the Lords of the Admiralty, *we* could give no redress for any wrong whatever. Is this a *maritime* or *sea-faring* cause because the violation of a contract of indenture is said to have happened in the Road of Leith? It is said that the offence charged is piracy, wherein the Admiral has an exclusive primary jurisdiction. But this is a mistake: the ground of complaint is not for the seizure but for the detaining of the apprentice after a contract of indenture was produced. Liberty is a common law-right: it is neither maritime nor sea-faring.

COVINGTON. The privative jurisdiction of the Admiral is under a double limitation,—as to place and as to offence. If the nature of the crime is maritime, the Court cannot advocate.

KAIMES. This cause is neither maritime nor mercantile; it is an application to the Judge-admiral for restoring a man to his liberty. The cause came before that judge because the *person* of the apprentice was at sea. But whether the cause was maritime or mercantile, or neither, is of no moment; a judge must act: *here* the judge declined to act, and left judgment to private men.

BRAXFIELD. I am clear that this is none of the cases in which the Judge-admiral has a privative jurisdiction.

On the 19th June 1778, "The Lords remitted to the Ordinary to pass the bill;" repelling the objection as to competency.

Act. Ch. Hay, H. Erskine, A. Crosbie. *Alt.* Ilay Campbell and King's Counsel.

Reporter, Stonefield.

1778. *June* 25. JOHN and JAMES WILSONS *against* HENRY LOCHEAD.

PROCESS.

Proceedings in absence before expiry of the *inducia*.

[*Faculty Collection, VIII.* 38; *Dictionary,* 12,003.]

BRAXFIELD. I am for observing forms, but so that material justice be not hurt. The first judgment was erroneous, for the party was not in Court. It

is admitted that, on an application to the Inner-house, matters would have been set to right. That was as well done by enrolling again. The second decreet was valid though the first was erroneous: *utile per inutile non vitiatur.*

KAIMES. The decreet, taken before the days of compearance, was null and void. It is said that a man is not bound to attend in Court after decreet. This is a mistake, for a pursuer is not bound to call his summons on the first day. The defender must either wait the pursuer's time or put up protestation.

MONBODDO. As the cause was called when not in Court, an application to the Court would have been improper.

JUSTICE-CLERK. It is no impeachment of form what has been done *here.* The interlocutor, signed before the parties were in Court, is to be considered merely as a useless, unmeaning piece of paper.

On the 25th June 1778, "The Lords repelled the reasons of reduction;" altering Lord Alva's interlocutor.

Act. R. Cullen. *Alt.* Ilay Campbell.

1778. *June* 26. ROBERT, &c. GRIERSONS *against* Mr JOHN EWART.

GLEBE.

Import of arable lands in the statute 1663, c. 21.

[*Faculty Collection, VIII.* 39; *Dictionary,* 5162.]

WESTHALL. Manse, &c. and glebe, are distinct rights: formerly ministers had only right to a manse if there was a vicar's or parson's manse in the parish: if there was a glebe in the parish, they had right to it: if there was none, none could be designed. The Act 1663, copying a rescinded statute, 1649, made a general provision for ministers. The practice has been, to set aside half an acre for manse, garden, &c. I have never seen such designation disputed.

BRAXFIELD. When split, new designations of manse and glebe are made. The practice has been to set apart four and a half acres in all. But when a minister has been in long possession of a manse, &c. the presumption is, that his predecessor was in possession before the Act 1663. If he was in possession of less than half an acre for manse, and had four acres of glebe, I do not think that he could claim any more. Supposing the manse to be more than half an acre, and the glebe only three acres, the minister would still be entitled to have his glebe made up to four acres: the want here is in the glebe, not in the manse ground. As to the fisher's road there is a servitude, and a deduction must be allowed on that account: As to the other road parties are not agreed, and the thing is a trifle.

KENNET. If the minister has four acres of glebe, he can ask no addition: he