

' THE LORDS found the advocaion not competent ; and therefore refused the bill.' No 235.

Act. Lockhart. Alt. Advocatus. Clerk to the Bills.
J. C. Fol. Dic. v. 3. p. 351. Fac. Col. No 19. p. 34.

1765. February 8. CAMPBELL against MONTGOMERY.

No 236.

IN a question respecting the legality of a seizure made at sea, an objection was made, that the cause being maritime, was exclusively cognizable by the Court of Admiralty.—THE LORDS repelled the objection.

Fol. Dic. v. 3. p. 352. Fac. Col.

. This case is No 89. p. 7359.

1768. July 16. HAIG, DAES and Company against CAMPBELL.

No 237.

THE Admiral-depute of Alloa having pronounced decree for the price of some Norway logs, the defender advocated the cause on the ground, that inferior Courts of Admiralty have no jurisdiction in causes purely mercantile.

Inferior Admirals not competent to causes purely mercantile.

Answered for the pursuer ; The act 1592, c. 160. was only intended for repressing extraordinary and oppressive clauses in grants of Admiralty. The act 1681, c. 16. though it has been denominated the great charter of the Court of Admiralty, is not the measure of its jurisdiction. It relates only to the private jurisdiction enjoyed by that Court in maritime causes. The connection of maritime and mercantile causes had naturally led the High Court of Admiralty to judge in both, long before that statute. That jurisdiction has been uniformly exercised, as far back as the practice can be traced, and it has been supported by several decisions.

If the jurisdiction of the High Court of Admiralty extends to mercantile causes, that of inferior Admirals, derived from the same authority, though limited in territory, must be equally extensive in kind. And the decision 27th June 1759, Miller *contra* Sawyers, No 233. p. 7514. proceeded on the ground, that the defender did not live within the territory of the Admiral-depute, as fixed by his commission.

Replied, The jurisdiction of the High Court of Admiralty, derived from statute, relates to maritime causes only. Its jurisdiction in mercantile causes took its rise from custom, and cannot be carried farther than that custom has gone, or extended to inferior Admirals, who have not been in the practice of exercising it, as appears from the decision, Miller *contra* Sawyers, which shows, that,

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in 1759, it seemed a novelty to the Court, for an inferior Admiral to judge in causes not maritime.

For illustrating the point, the defender referred to Balfour; p. 629. c. 83. and 634. c. 100.—See APPENDIX.

‘ THE LORDS found, That the Admiral-depute had no jurisdiction in this case, and therefore sustained the declinature, assolizied the defender, and found the pursuers liable in expenses.’

Reporter. *Auchinleck.*Act. *Crosbie.*Alt. *Armstrong.*

G. F.

Fac. Col. No 73. p. 317.

No 238.

An arrestment was objected to as used in Edinburgh by virtue of a precept of the Admiral-depute of Leith, the objectors insisting, that he had no jurisdiction in Edinburgh. The jurisdiction was sustained, it being proved, that the Admiral-depute was in the custom of exercising his jurisdiction over the inhabitants of Edinburgh.

1772. March 5. JAMES CRAIG against ROBERT & JOHN JAMIESON.

In a competition between these parties, as creditors to Alexander Skinner, baker in Leith, an exception being taken to the validity of an arrestment used by Jamiesons, in the hands of some persons residing in Edinburgh, upon a depending action which they had brought against Skinner, before the Admiral-depute of Leith, and, by virtue of his precept; and Craig, the objector, claiming the sum *in medio*, which was due upon an open account, in virtue of an indorsation from the common debtor, posterior to the arrestment, the LORDS, “ before answer, ordered a condescendence to be given in of the Admiral-depute of Leith’s jurisdiction, and exercise thereof, particularly over the inhabitants of the town of Edinburgh, and of the use of his judging in mercantile causes, not strictly maritime.”

A condescendence was accordingly given in, stating in the entry, that no power or jurisdiction conferred on the city of Edinburgh, has been more universally understood and acknowledged than this; that the admiralty jurisdiction of the Lord Provost and Magistrates of Edinburgh, which has been always exercised by their depute, called the Admiral, or Admiral-depute of Leith, and by two resident Bailies in Leith, called Admirals-substitute, extends over every place subject to the jurisdiction of the Lord Provost, as Sheriff of Edinburgh, and the liberties thereof.

And, as to the city of Edinburgh in particular, it being an incontrovertible maxim in law, that no judge can act *extra territorium*; whence it must necessarily follow, that the jurisdiction of every court must extend over that territory where it is authorised to judge; so, it is an admitted fact, that the Lord Provost, Magistrates, and Town Council of the city of Edinburgh, and their deputies, have, in their character of Admirals, a power to sit and judge, not only within the town of Leith, and shore thereof, but also within the city of Edinburgh itself, as appears by a charter from James VI. dated at Whitehall, 3d April 1616, and specially confirmed by another, granted by Charles I. In pursuance of which powers, it appears from the diet-books of the Admiralty.