

heat of a dispute, over a glass, and severely wounded him in the head; and Mair having brought an action of damages directly before the Court against Shand; and it being objected that the action was of a criminal nature, and not competent before this Court in the first instance,—the Lord Elliock, Ordinary, 26th February 1777, found so, and dismissed the process. But, on advising a reclaiming petition and answers, the Lords were of a different opinion; sustained their jurisdiction, and found the action competent before them even in the first instance. This cause returned in reviewing the Ordinary's interlocutor giving damages. The Lords, in conversation, seemed to doubt their former interlocutor.

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1778. *July* . The JUDGE-ADMIRAL *against* SIR LAURENCE DUNDAS.

WHETHER the jurisdiction of the Judge-Admiral, Mr Philp, extends over the Islands of Orkney and Zetland, was debated in memorials betwixt him and Sir Laurence Dundas, but not yet determined.

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1778. *November 14.* FERGUSON, &c. Writers at Ayr, *against* DALRYMPLE and KEEPERS of the REGISTER of SASINES for that shire.

THE Keeper of the Register of Sasines at Ayr, having notified his resolution to raise the fees of registration, rather according to the value of the subject in the sasine, than the length and quantity of writing, the writers at Ayr remonstrated against it, but in vain; whereupon, in March last, they petitioned the Court: and answers having been given in for the keeper of the register, wherein he past from his intention, and agreed that the fees should be continued as formerly, the Lords ordained that it should be so, and gave the expense of the application.

They seemed inclined to have done so, whether the keeper had consented or not.

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1776. *March* . FORSYTHS *against* SHANK.

MARITIME causes cannot be advocated from the High Court of Admiralty; but it often comes to be matter of dispute, what are maritime causes,—what not?

AN action of damages was brought before the Judge-Admiral against certain defenders. It set forth, that they, having freighted a ship belonging to the pursuer, to bring timber from Gottenburgh, &c. had under that cover imported in

her prohibited goods ; and that, on this account, the ship had been condemned in the Exchequer :—therefore concluding for damages. The Judge-Admiral assoilyied. 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.”

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## JURY.

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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.”

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