

1779. *March 10.*MOIR *against* JACKSON.

No 243.

THE LORDS found, that, processes against underwriters for insurances at sea being causes strictly maritime, advocations thereof were incompetent.—See APPENDIX.

Fol. Dic. v. 3. p. 352.

1780. *July 5.*HENRY RITCHIE and Others *against* JAMES WILSON and Company.

No 244.
Jurisdiction of the Court of Session, in the first instance, in a question of insurance on a ship, sustained. See Moir *against* Jackson, No 243. *supra*, and Clark *against* Robertson, No 246. p. 7532.

A SHIP belonging to Wilson and Company, which was insured by Ritchie and other underwriters, having been taken by the enemy, the owners brought an action, in the first instance, before the Court of Session, for recovery of the insured value. The Court repelled all the defences then offered by the underwriters; but when a reclaiming petition and answers came to be advised, the defenders insisted on this new objection, that a question relative to insurance of a ship, being of a maritime nature, ought in the first instance to be judged by the Admiralty Court. THE LORDS having appointed a hearing in presence on this point, it was

Pleaded by the Objectors: Prior to act 1681, cap. 16. the jurisdiction of the High Court of Admiralty was not accurately defined; Stair, b. 2. tit. 2. § 5; but this statute has declared it to be exclusive in all causes maritime. Nor have the articles of the treaty of Union in any degree diminished the extent of this jurisdiction; Steven *contra* Officers of State, No 235. p. 7515.; Edmonstone *contra* Jackson, No 28. p. 7112.; though Mr Erskine insinuates a doubt in this matter, which he founds on a case in the Court of Justiciary in 1723; whereas, in fact, no judgment was given in that cause; and it appears from Lord Royston's* Manuscript Notes on Mackenzie's Criminals, in what manner Mr Erskine has been led into a mistake in this particular.

The powers of this Court are more extensive than those of the English Admiralty. If it can be shown, that the contract or fact which has given rise to the action took place within the body of any county in England, this will exclude the cognizance of their Admiralty Court. In Scotland, on the other hand, the Admiral's territory is less limited than that of the other supreme courts, his jurisdiction being only confined by the nature of the causes to be judged; Cormack *contra* Tait, No 229. p. 7512.

If then questions relative to policies of insurance on ships be maritime causes, that they fall under the exclusive jurisdiction of the Admiralty Court, in the first instance, is not to be doubted. Nor can the maritime nature of such con-

* In the Advocate's Library.