

No 22.
the subject in
dispute below
L. 12 in va-
lue.

found, That the crop must be divided, without recompence to the sower for his labour.—In an advocacy, the LORD ORDINARY having refused the bill, in respect the subject in dispute, viz. the corn, was under L. 12 Sterling in value, the LORDS altered that judgment, as the dispute involved a question of right, and was not limited to the value of the crop. *Fol. Dic. v. 3. p. 21.*

1780. *March.*

TOMLIE, Petitioner.

No 23.

If the sum is below L. 12, the Lords cannot advocate, even with consent of parties. *Fol. Dic. v. 3. p. 20.*

1784. *December 16.*

WILLIAM HAMILTON and JOHN REID, *against* The CLERKS in the High Court of Admiralty.

WILLIAM HAMILTON and John Reid, instituted in the High Court of Admiralty, an action for the profits of a mercantile adventure, in which the Judge pronounced several interlocutors in favour of the defenders.

No 24.
Advocation,
from the
High Court
of Admiralty,
competent,
in mercantile
causes, at any
time before
extract.

After the last of these had become final, the pursuers applied, by a bill of advocacy to the Court of Session; but the Clerks in the Court of Admiralty refused to transmit the process until they obtained payment, or a composition for their dues of extract; and

Pleaded: Though with regard to sentences pronounced by other Judges, it has been held, that advocacy is competent at any time before extract, November 1766, Wright against Taylor,* the law is different in questions depending before the Court of Admiralty. As in cases strictly maritime, which are the proper subject of that jurisdiction, the sentences of the Judge can be set aside only by reduction; so it has been found, that even in those of a mercantile nature, the parties, by voluntarily resorting to that tribunal, have subjected themselves to all the peculiarities attending it, as in the case of Cairns against Jackson; Fount. 24th January 1699:† A decision which ought to be followed to the effect, at least, of securing to the officers of that Court their just emoluments, especially where the attempt to advocate comes from the pursuer in the original action.

Answered: By submitting their cause to the decision of the Judge-Admiral, in a case like the present, parties, it is true, confer jurisdiction on a Judge otherwise incompetent. But they do not, at the same time, convert a cause purely mercantile, in which the Judge-Admiral is possessed only of the ordinary powers, into one of a maritime nature, in which his proceedings can be brought under review by reduction alone. It was from not attending to this obvious distinction,

* The case probably meant is Wright and Graham, No 20. *supra*.

† Fountainhall, v. 2. p. 37. See JURISDICTION.