

1768. July 27. HAIG, DAES, and COMPANY *against* JOHN CAMPBELL, Writer in Stirling.

JURISDICTION.

Inferior Admirals have no jurisdiction in Mercantile Causes.

[*Fac. Coll. IV.* 317 ; *Dictionary*, 7517.]

PITFOUR. The Act 1681 relates to the prorogating jurisdiction in *maritime* causes. *Mercantile* remain upon the ancient footing. *There* the jurisdiction may be prorogated ; but I doubt whether the Admiral may pronounce decret in absence when the party does not appear. Thus, in a like case, *Captain Lewis Grant against The Creditors of Drumakill*, 1739, decret was allowed in this Court. In like manner, by Act of Sederunt, the commissaries were prohibited from giving decreets in absence for above L.40 Scots.

COALSTON. I am of the same opinion as to the meaning of the Act 1681 ; but, if the Admiral has a cumulative jurisdiction, what necessity of a prorogation ?

[At the second hearing :]—I am now satisfied that, before the Act 1681, the Admiral had a jurisdiction solely in *maritime* causes. There is a decision in *Balfour* which finds that the inhabitants of boroughs ought to be pursued before their magistrates, not before the Admiral.

AUCHINLECK. The Admiral Court was none of the original courts in this nation. It related to matters concerning shipping. Any thing more was an encroachment. The High Court of Admiralty has been in use to judge, *of consent*, in matters mercantile ; but the deputies carry the matter further. At this rate there may be Admirals in every village.

MONBODDO. There is no evidence of the practice of the Admiral to pronounce decreets in mercantile causes, when his jurisdiction is not prorogated.

KENNET. In the case of *Thompson and Tabor*, admiral-precepts in mercantile causes were held good. If the Admiral had no jurisdiction unless prorogated, these diligences would have been void ; for there could not, in the nature of the thing, be any prorogation.

PRESIDENT. I would sustain the defence in this case, where the depute-admiral is alone concerned. I would not establish supernumerary courts of justice in every corner of the country.

On the 16th June 1768, the Lords “sustained the defence, and found expenses due.”

On the 27th July 1768, having advised a petition and answers, “they adhered.”

Act. A. Crosbie. *Alt.* D. Armstrong. *Rep.* Auchinleck. As to expenses, *Diss.* Coalston, Pitfour, Monboddo.