

1778. February 10. GRIZEL BARTHOLOMEW *against* PETER CHALMERS.

JURISDICTION.

Jurisdiction of the Admiral-court.

[*Fac. Coll.*, VIII. 25; *Dict.* 7521.]

KAIMES. The cause is competent before the Admiral, for it is mercantile, but it is not a maritime cause, so as to authorise the Judge-admiral to require caution *judicatum solvi*.

HAILES. The jurisdiction of the Admiral, extended by the Act 1681 to increase the power of the Duke of York, while the Court of Session was diminished, has, by some strange accident, been extended still more by practice. It is in vain to look back: things settled ought not to be moved. But, as to the interpretation of the words "maritime and *sea-faring* causes," we have no practice to prevent us from inquiring into their proper signification. The epithet *sea-faring* is uncouth, and oddly applied; yet I cannot suppose that it is applicable to the *persons* who are *sea-faring*:—*that* would enlarge the original jurisdiction of the admiral beyond all reasonable bounds. The word, therefore, must be understood of *causes*; and, in that view, I cannot see how *this* should be a *seafaring* cause,—it relates to the private property, or venture, of a sea-captain, begun to be intromitted with on shipboard—continued to be intromitted with at land—the subjects sold, converted into other goods, and shipped. At the same time, I doubt how far the defender can profit by his plea against caution *judicatum solvi* in the Admiral-court; for he seems so unwilling to come to a clearance, and to be of so uncertain residence, that I think he might, *ex nobili officio*, be obliged to find caution in this Court *judicatum solvi*.

GARDENSTON. One of the first causes I was concerned in was before Lord Arniston,—very like this. He heard me with great patience, and then at once gave the cause against me,—pronouncing it to be *maritime*.

BRAXFIELD. The Admiral-court is competent *here*, but not privative in the first instance. The cause is mercantile: the admiral has gone too far.

On the 10th February 1778, "The Lords found, That this was not a maritime cause in which the Admiral can demand caution *judicatum solvi*, advocated the cause, and remitted to the Ordinary;" altering Lord Gardenston's interlocutor.

*Act.* Claud Boswell. *Alt.* W. Robertson.