

1782. *March 8.* JAMES MARGETSON, Esq. *against* The PROCURATOR-FISCAL and CLERK of the HIGH COURT of ADMIRALTY.

CONSUETUDE.

Dues exigible by the Officers in the Court of Admiralty in questions of Prize.

[*Faculty Collection, IX. 70 ; Dictionary, 3110.*]

GARDENSTON. The right that was in the Crown is gone ; but the plea *here* is, that the Admiral may bring back that right in another shape, and charge whatever he pleases. There is no inveterate usage to sanctify such a demand.

HAILES. The claim is singular, and supported by singular arguments. It is said that great sums have been given *voluntarily* in the Commissary Court, and therefore, that something of the same nature ought to be *exacted* in the Court of Admiralty : that the prizes are valuable, and therefore, that high demands may be made. By the same rule, if Commodore Johnston had had the good fortune to bring in his prizes to the Frith of Forth, and pursued for condemnation in our Court of Admiralty, the Judge might have awarded L. 10,000 to himself and his clerk, because the prizes were valuable, and could afford the expense. The fancy of equalizing the fees in Scotland to those of England is also singular. I suppose that, by the same rule, our agents are to charge *by the hour* like London attorneys.

MONBODDO. An appeal is made to the practice in England : I should be well pleased if Judges with us were paid as in England ; but that is not the case.

BRAXFIELD. I should wish that the Judge-admiral were provided otherwise than he is,—by a salary, rather than by perquisites ; but we cannot make any establishment for him. He can draw no more than according to usage.

PRESIDENT. It was ill-judged to suffer this cause to appear in a court of justice, as if the claim had been founded on legal principles.

On the 8th March 1782, “ The Lords remitted, with this instruction, that the Judge-admiral give up the bond of caution.”

Act. Henry Erskine. *Alt.* J. Monro.

Reporter, Kennet.

N. B.—Mr John Monro told me, that his name was used without his knowledge, in the memorial, and that he endeavoured, as much as in him lay, to prevent the Judge from insisting in the cause, but in vain.
