

THE LORDS were of opinion, that the Judge-Admiral, in causes mercantile, and not maritime, exclusive of any other jurisdiction, could not grant warrant for imprisonment until caution were found *judicio sisti et judicatum solvi*; and therefore past the bill.

No 230.

Reporter, *Shewalton.*Act. *Philp.*Alt. *Lockbart.**D. Falconer, v. 2. No 159. p. 183.*

* * * The like was decided, British Linen Company against Clarkson, No 14. p. 2054, *voce CAUTIO JUDICIO SISTI ET JUDICATUM SOLVI.*—See No 232. *infra.*

1752. *June 6.*A. *against B.*

THIS day the Lord Elchies, Ordinary on the bills; reported a bill of suspension of a decree of the Judge of the High Court of Admiralty, laid upon this ground, that the decree was *a non suo judice*, being for a balance due upon an inland bill.

THE LORDS 'remitted to the Ordinary to refuse the bill of suspension.'

In reasoning upon this case, it was observed, that no doubt had even been made of the Judge-Admiral's jurisdiction in the case of foreign bills, as in some sort concerning the sea; a reason, which, it is true, does not apply to inland bills: Yet, even as to these, the constant practice of the Court of Admiralty had been to judge in inland bills; as the Admiral, though he has no exclusive jurisdiction, but in matters properly maritime, has yet a cumulative jurisdiction in matters mercantile; and it was by some of the LORDS remembered, that judgments of the LORDS had proceeded in a competition of arresters before the Admiral, in the hands of the debtor in an inland bill, where the objection made to the jurisdiction was repelled.

Fol. Dic. v. 3. p. 353. Kilkerran, (JURISDICTION.) No 3. p. 300.

No 231.
The Court of Admiralty competent to grant decree for a debt due by an inland bill.

1755. *January 9.*ROWAND *against* FREEMAN.

THE Judge-Admiral cannot exact caution *judicio sisti et judicatum solvi*, in a mercantile cause, but only in such as are maritime.

Fol. Dic. v. 3. p. 352. Fac. Col.

No 232.

* * * This case is No 10. p. 2043., *voce CAUTIO JUDICIO SISTI ET JUDICATUM SOLVI.*

1759. *June 27.*ROBERT MILLER Merchant in Cumbernauld *against* ROBERT SAWERS Shoemaker.

No 233.
An Admiral-depute having determined a mercantile question, not maritime, between parties residing at a distance from the sea, the Court granted warrant to cite the Admiral-depute, and his constituent, to appear in Court; but, upon reading his deputation, the cause was suspended, on the ground that the defender did not reside within his jurisdiction.

SAWERS being charged on a decret of the Admiral-depute of Quarrelshore, to make payment of the price of some leather he had bought from Miller, obtained letters of suspension on these grounds :

1mo, That this is not a maritime or sea-faring cause, and to such causes the Admiral's jurisdiction is limited by the act 16th Parl. 1681; consequently the decret charged on is null :

2do, Although the High-Admiral and the Judge-Admiral may, by consuetude, have acquired a jurisdiction in mercantile matters, not maritime; yet that the Admirals-depute have no jurisdiction in matters not maritime :

3tio, The office of Admiral-depute is purely ministerial, to take care of wrecks, &c. not judicative :

4to, The suspender does not live within this Admiral-depute's territory.

Answered for Miller; *1mo*, That the act 1681 does not restrict the Admiral's jurisdiction to maritime causes; it only establishes an exclusive jurisdiction to the High Court of Admiralty, and prohibits other judges from judging in such cases.

2do, By uninterrupted practice, Admirals-depute have a cumulative jurisdiction in mercantile causes, not maritime.

3tio, Such jurisdiction as the Admiral has, he may delegate to his deputes, and that their office is not only ministerial, but likewise judicative, is implied in the act 1681, which statutes and declares, That the decreets and acts of the inferior courts of Admiralty shall be subject to review and reduction of the High Court of Admiralty.

It appeared to the COURT a novelty, for an Admiral-depute to determine, *in foro contentioso*, betwixt persons residing at a distance from the sea, and in a question not maritime; They therefore sisted process, and granted warrant for citing the Admiral-depute, and his constituent, to appear in Court, and to answer to such questions as should be put to them. But upon reading this admiralty-deputation, it appeared, that the suspender did not live within the territory therein described; and therefore

'THE LORDS suspended the letters.'

Act. *Baillie*.

Alt. *David Dalrymple*, for the suspender.

J. C.

Fol. Dic. v. 3. p. 352. Fac. Col. No 188. p. 336.