

No 3. had joined issue on the fact, that they were employed in a smuggling trade; they had redeemed their vessel from the officers of the revenue, without waiting the event of a trial; and the cargo had been actually condemned in the Court of Exchequer. Here the parties impressed positively denied their having been concerned in a smuggling trade. An action for penalties, instituted in the Court of Exchequer on that ground, had been dismissed, upon the public prosecutor's entering a *noli prosequi*; and their vessel and cargo had been released, by order of the Commissioners of the Customs, as having been unduly seized.

Captain Napier, however, maintained, that acts of smuggling could not only be established by trial in Exchequer, but might be the subject of proof in the Court of Session, and offered to bring a proof.

Observed on the Bench; The carrying on of a smuggling or contraband trade has been justly found to deprive a person of his immunity from being impressed; but single acts of smuggling, committed by persons usually employed in lawful commerce, ought not to be attended with such a penal consequence. Besides, after a party's being acquitted of that charge in the proper court, it cannot be renewed against him in another.

A bill of suspension had been presented by the parties impressed, which was reported.

“ THE LORDS passed the bill ”

Reporter, *Lord Alva*. For Brodie, &c. *Crosbie*. For Captain Napier, *Solicitor-General*.
C. *Fol. Dic. v. 3. p. 310. Fac. Col. No 29. p. 50.*

No 4. 1782. February 6. CHALMERS against NAPIER..

IN a question between these parties, the LORDS found, *imo*, That by act 13th Geo. II. c. 17. a ship-carpenter, equally with any landsman, is exempted from being impressed for two years after he goes to sea; and,

2do, That a protection granted by the Lords of the Admiralty, is not the only mode of ascertaining a party's right to this statutory exemption.

Reporter, *Lord Alva*. For Chalmers, *Henry Erskine*.
For Captain Napier, *Solicitor-General*.

C. *Fol. Dic. v. 3. p. 310. Fac. Col. No 28. p. 49.*

1793. June 26.

JAMES TURNBULL and MALCOLM M'DONALD against SIR GEORGE HOME, Bart.

No 5. A PERSON bred to the sea, who afterwards binds himself apprentice to a trade, may be impressed:

Fac. Col.

* * This case is No 13. p. 599.

See APPRENTICE. See APPENDIX.