

Chalmers complained by bill of advocation: Napier objected that the cause was maritime, and the bill incompetent; but the Lords were of a different opinion; they thought the cause not maritime. It is not the place where a crime is committed, or where the ground of action arises, which makes a cause maritime or not maritime; the criterion is the nature of the case itself. In this they were unanimous. The point was well treated, both in the papers of this cause, and of another betwixt the same Captain Napier and one Walker at Fountain-bridge, for impressing a man above 55 years of age. This last received no decision, the affair having gone off.

In the case of Chalmers, some of the Lords, particularly Lord Kaimes, thought the interlocutor of the Judge-Admiral a *denegatio justitiæ*, and that thereby the question, about the cause being maritime or not, was superseded.

See a very early case in the Books of Sederunt.

1778. *March 5.* JANET SCOTT *against* WILLIAM OLIVER.

JANET Scott having pursued William Oliver, before the Justices of the Peace of Roxburghshire, for the aliment of a bastard child, of whom, as she alleged, he was the father; the Justices decerned for the aliment: which Oliver suspended, *inter alia* denying the jurisdiction. The Lord Stonefield, Ordinary, turned the decret into a libel; and although this in some sort evaded the question about the jurisdiction of the Justices, yet, in a reclaiming petition, the point having been argued, the Lords disregarded the objection, and held, from practice, the jurisdiction to be sufficient.

WHERE petty delicts are tried by inferior judges, without a jury, the Lords of Session have power to review the sentence by way of suspension: but, if there was a verdict of a jury, the suspension must go to the Justiciary. This seems to be the criterion. So thought, 4th December 1764, in a suspension brought by a woman banished furth of Scotland for three years by the Sheriff of Lanark for theft.

1778. *July* . MAIR *against* SHAND.

THE Lords have sustained their own jurisdiction in actions for damages, in the first instance, for *verbal injuries*, and also for injuries of a *mixt nature*, *verbal and real*, also in the first instance, (for, in the second instance, there can be no question.) But Shand having thrown a punch-bowl at Mair in the

heat of a dispute, over a glass, and severely wounded him in the head; and Mair having brought an action of damages directly before the Court against Shand; and it being objected that the action was of a criminal nature, and not competent before this Court in the first instance,—the Lord Ellick, Ordinary, 26th February 1777, found so, and dismissed the process. But, on advising a reclaiming petition and answers, the Lords were of a different opinion; sustained their jurisdiction, and found the action competent before them even in the first instance. This cause returned in reviewing the Ordinary's interlocutor giving damages. The Lords, in conversation, seemed to doubt their former interlocutor.

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1778. *July* . The JUDGE-ADMIRAL *against* SIR LAURENCE DUNDAS.

WHETHER the jurisdiction of the Judge-Admiral, Mr Philp, extends over the Islands of Orkney and Zetland, was debated in memorials betwixt him and Sir Laurence Dundas, but not yet determined.

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1778. *November 14.* FERGUSON, &c. Writers at Ayr, *against* DALRYMPLE and KEEPERS of the REGISTER of SASINES for that shire.

THE Keeper of the Register of Sasines at Ayr, having notified his resolution to raise the fees of registration, rather according to the value of the subject in the sasine, than the length and quantity of writing, the writers at Ayr remonstrated against it, but in vain; whereupon, in March last, they petitioned the Court: and answers having been given in for the keeper of the register, wherein he past from his intention, and agreed that the fees should be continued as formerly, the Lords ordained that it should be so, and gave the expense of the application.

They seemed inclined to have done so, whether the keeper had consented or not.

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1776. *March* . FORSYTHS *against* SHANK.

MARITIME causes cannot be advocated from the High Court of Admiralty; but it often comes to be matter of dispute, what are maritime causes,—what not?

AN action of damages was brought before the Judge-Admiral against certain defenders. It set forth, that they, having freighted a ship belonging to the pursuer, to bring timber from Gottenburgh, &c. had under that cover imported in