

that the determination, quoted on the other side was given, from which indeed it would not merely follow, that the clerks in the Court of Admiralty could not be compelled to deliver, without a composition, the papers lodged in actions of a commercial nature, but that the remedy, by advocacy, was there altogether inadmissible.

THE LORDS found, 'That the clerks in the Court of Admiralty were obliged, without any composition, to transmit the process to the Court of Session.'

Lord Reporter, *Ankerville.*

A&t. *Geo. Fergusson.*

Alt. *Solicitor-General Dundas.*

*Fol. Dic. v. 3. p. 20. Fac. Col. No 184. p. 289.*

*Craigie.*

1795. February 14.

ROBERT M'INTOSH, *against* ANNE MARIA BENNET and JOHN B. WILLIAMSON.

MACINTOSH brought an action before the Sheriff of Edinburgh, against Mrs Bennet and Williamson, concluding for L. 21 : 14s. besides expence of process.

The Sheriff having found the defenders liable for L. 9 : 2s. Sterling, and L. 1 : 10s. of expences, and the expence of extracting the decree, they presented a bill of advocacy, which the Lord Ordinary refused as incompetent, because the sum awarded, exclusive of expences, did not amount to L. 12 Sterling.

In a reclaiming petition, the defenders contended, That the act 1663, c. 9. prohibited advocations only where the sum, *concluded for in the libel*, did not amount to 200 merks; and that the 20th Geo. II. c. 43. § 38. made no alteration on that statute, further than augmenting to L. 12 Sterling, the sum required to render this mode of review competent; Stair, b. 4. tit. 37. § 4.; *Fol. Dic.* vol. 3. p. 20. 11th February 1761, Marquis of Lothian against Oliver and Fair, No 19. *supra*; 11th December 1791, Roberts against Duncan\*.

On advising the petition, with answers, it was

*Observed.* That as the right of bringing a cause under review belongs, in all cases, equally to the pursuer and defender, it must be the sum in the libel which ascertains the competency of an advocacy; for otherwise a pursuer, in consequence of an inferior judge awarding him a sum under L. 12 Sterling, might be deprived of this mode of redress, although what he sued for, and was by law entitled to, greatly exceeded that amount.

The Court found the bill of advocacy competent.

Lord Ordinary, *Henderland.*

A&t. *Hagart.*

Alt. *Connel.*

*Davidson.*

*Fol. Dic. v. 3. p. 20. Fac. Col. No 157. p. 360.*

\* In this case, not collected, the decision was similar to that in the case of M'Intosh against Bennet.

An advocacy is competent where the libel concludes for more than L. 12 Sterling, although the sum awarded should be less.