

No 248.

Some of the Judges thought the bill of advocation competent. The sea voyage (it was observed) was completed when the vessel arrived at Grangemouth, so much so, that it was necessary to unload her in part before she could proceed to Port Dundas. But the question at issue relates entirely to a matter which occurred afterwards, in which the Admiral has no privative jurisdiction, as it does not extend over canals for inland navigation.

A majority were, however, of opinion that the character of an action depended wholly on the libel, and could not be altered by the nature of the defences; and that as an action for recovery of freight was purely maritime, the bill should be refused as incompetent.

THE LORDS remitted to the Lord Ordinary to refuse the bill.

Lord Ordinary, *Eskegrove*.  
R. D.

Act. *Hay*.

Alt. *Hutchison*

*Fac. Col. No 64. p. 146.*

1798. *June 15.*

GEORGE KINCAID, *against* ALEXANDER GLEN and Co., and WILLIAM GLEN.

No 249.

A maritime cause cannot be removed by suspension from the High Court of Admiralty to the Court of Session, until a final decree has been pronounced.

GEORGE KINCAID brought an action for freight before the High Court of Admiralty, against Alexander Glen and Company, and William Glen.

The Judge-Admiral pronounced an interlocutor, deciding certain branches of the cause, and allowing a proof as to the remaining points.

The defenders, conceiving that a proof at large should have been allowed, brought a reduction of this interlocutor, and at the same time complained of it by a bill of suspension.

The pursuer *contended*, That the cause not being exhausted by the interlocutor of the Judge-Admiral, these proceedings were irregular, being in reality of the nature of an advocation from the Court of Admiralty, which was specially prohibited in maritime causes by 1681, c. 16.

THE LORD ORDINARY "refused the bill, as incompetent."

In a reclaiming petition, the defenders

*Pleaded*; The statute 1681 allows suspensions and reductions, not merely of decrees, but of "acts" of the Court of Admiralty. These last clearly comprehend every interlocutory order; and indeed it would be multiplying litigation very unnecessarily, to continue a cause before a judge, who has made a radical mistake at the entrance of it.

THE LORDS refused the petition, without answers.

Lord Ordinary, *Meadowbank*.  
R. D.

For the Petitioners, *George Fergusson*.

Clerk, *Menzies*.

*Fac. Col. No 83. p. 190.*