

No. 2.

1674. *January 20.* JACOBSON *against* The EARL of CRAWFORD.

Milliad Jacobson, master of the ship called the Hope of Bridges, having made shipwreck upon the coast of Fife, where the Earl of Crawford is heritable Bailie, his depute caused gather what could be had of the wreck, and did declare the same as wreck, to belong to the Earl by his infestment, as being infest in the regality with the Admiralty within the bounds thereof. The stranger gave in a supplication to be heard against the decret confiscating his goods, being no enemy, upon pretence of shipwreck, contrary to the law of nations, and the particular law of this kingdom, by the statute of King Alexander, declaring, "That when any thing comes alive to shore, the goods shall be restored to the true owners, if they can be known;" according to which the Lords of Session found that an ox coming alive to land, the goods were not confiscated as shipwreck. It was answered for the Earl of Crawford, that by the law of most nations, and by the custom of the Admiralties of Scotland, shipwreck did always confiscate the goods to the Admiral; *2do*, That there was a far later statute, declaring, "That stranger's ships broken upon our coast, should have restitution of their goods, where they observed the like law upon their coasts," and offered to prove, that in Flanders shipwreck is confiscated, albeit the owners be alive.

The Lords found that this act of Parliament behoved to rule the case, and granted commission to either party here, or in Flanders, to adduce witnesses for proving the custom there.

*Stair, v. 2. p. 254.*

No. 3.

1677. *July 27.* The DUKE of YORK *against* The EARL of ARGYLE.

There being a pursuit before the Court of Admiralty, at the instance of the Procurator-fiscal against the Earl of Argyle, bearing, "That his Royal Highness the Duke of York, as Admiral of Scotland, hath good right by the said office of Admiralty, to all wreck befalling within the rivers, lochs, ports, or seas within his Majesty's dominions of Scotland, and particularly to a ship sunk near the Isle of *anno* 1588, being one of the Spanish Armada, which then intended to these kingdoms, and yet the Earl of Argyle intends to recover the said ship, appropriate her to his use," and concluded, "that the said Earl ought to be to desist and cease therefrom;" whereupon there was a bill of advocation to the Lords, for calling this cause from the Court of Admiralty, his being Lord Admiral, and this pursuit being to his Highness' behoof, to be determinated in that Court: Whereupon the cause was advocated, with consent of both parties, and a diet assigned to hear the same in the whole Lords. It was alleged for the Earl of Argyle, that he ought to be discharged from this pursuit, because he produces a right from James Duke