

THE SUBSTANCE OF A JUDGMENT.

THE case of the schr. Little Joe, Fairweather, master, taken by the Liverpool Packet, Freeman, a private ship of war, belonging to Liverpool Nova-Scotia.

Sentence,——5th February, 1813.

Dr. CROKE,——

THIS vessel and cargo have been condemned as American property, and the claim of the master and the owners of the Liverpool Packet has been rejected. It now remains for the court to decide to whom they of right belong.

Three Allegations have been given in, one on the behalf of his Majesty, another for Sir John Coape Sherbrooke, Lieutenant Governor of this Province, and a third by the Agents to the Receiver General of Droits.

Upon these Allegations two distinct questions arise.

The first is, whether his Majesty is intitled to this prize in right of his crown and royal prerogative, or as a droit and perquisite of Admiralty.

If this prize should be decreed to be a droit of Admiralty, then arises the other question, who is intitled to receive and to have the custody of it, on behalf of his Majesty.

In both cases the property would ultimately center in the King, but it is important to determine *in which capacity*. Because his rights *jure corone* and the droits of Admiralty, are perfectly distinct, they rest upon different foundations, and travel through different roads. The King, who is originally the owner of all property taken in war, has granted certain portions of it to the Lord High Admiral, and which he now reserves again to himself upon appointing commissioners to execute the office. With respect to those perquisites, his Majesty now stands precisely in the place of the Lord High Admiral. The King's title upon these different grounds is kept as separate as if the rights were vested in different persons. In the High Court of Admiralty, and in the Courts of Appeal, upon every occasion where they appear, they are set up in opposition to each other, and are contended for by the respective officers of the Crown; and they are always most attentively discriminated in the decisions of those Tribunals. Whatever therefore may accidentally