

1759. *June 27.*ROBERT MILLER Merchant in Cumbernauld *against* ROBERT SAWERS Shoemaker.

No 233.
An Admiral-depute having determined a mercantile question, not maritime, between parties residing at a distance from the sea, the Court granted warrant to cite the Admiral-depute, and his constituent, to appear in Court; but, upon reading his deputation, the cause was suspended, on the ground that the defender did not reside within his jurisdiction.

SAWERS being charged on a decret of the Admiral-depute of Quarrelshore, to make payment of the price of some leather he had bought from Miller, obtained letters of suspension on these grounds :

1mo, That this is not a maritime or sea-faring cause, and to such causes the Admiral's jurisdiction is limited by the act 16th Parl. 1681; consequently the decret charged on is null :

2do, Although the High-Admiral and the Judge-Admiral may, by consuetude, have acquired a jurisdiction in mercantile matters, not maritime; yet that the Admirals-depute have no jurisdiction in matters not maritime :

3tio, The office of Admiral-depute is purely ministerial, to take care of wrecks, &c. not judicative :

4to, The suspender does not live within this Admiral-depute's territory.

Answered for Miller; *1mo*, That the act 1681 does not restrict the Admiral's jurisdiction to maritime causes; it only establishes an exclusive jurisdiction to the High Court of Admiralty, and prohibits other judges from judging in such cases.

2do, By uninterrupted practice, Admirals-depute have a cumulative jurisdiction in mercantile causes, not maritime.

3tio, Such jurisdiction as the Admiral has, he may delegate to his deputes, and that their office is not only ministerial, but likewise judicative, is implied in the act 1681, which statutes and declares, That the decreets and acts of the inferior courts of Admiralty shall be subject to review and reduction of the High Court of Admiralty.

It appeared to the COURT a novelty, for an Admiral-depute to determine, *in foro contentioso*, betwixt persons residing at a distance from the sea, and in a question not maritime; They therefore sisted process, and granted warrant for citing the Admiral-depute, and his constituent, to appear in Court, and to answer to such questions as should be put to them. But upon reading this admiralty-deputation, it appeared, that the suspender did not live within the territory therein described; and therefore

'THE LORDS suspended the letters.'

Act. *Baillie.*

Alt. *David Dalrymple*, for the suspender.

J. C.

Fol. Dic. v. 3. p. 352. Fac. Col. No 188. p. 336.