

1779. *June 25.* DAVID PATTILLO, *Suspender, against* SIR WILLIAM MAXWELL and OTHERS.

JURISDICTION.

Power of Review inherent in the Court of Session not excluded by the Comprehending Act.

[*Dictionary*, 7386.]

COVINGTON. The commissioners do not specify the grounds of their sentence.

HAILES. I formerly doubted, and I still doubt of that incontrollable Parliamentary power vested in the commissioners; but although we should hold that, in matters of opinion, their judgment cannot be reviewed, yet in matters of mathematical demonstration it may: and if they choose to find that a person falls under the statute, who demonstratively does not, I cannot suppose that they act under the statute,—their decree cannot make a man taller or younger than the statute requires.

GARDENSTON. Approved of the distinction between judgments in matters of opinion and judgments in matters of demonstration.

JUSTICE-CLERK. The suspender must show that he does not fall under the statute.

PRESIDENT. It is dangerous to limit legal remedies: he who applies by suspension, must verify his reasons; but he cannot verify them while he remains a prisoner.

On the 25th June 1779, “The Lords remitted to the Lord Ordinary to pass the bill;” altering Lord Ankerville’s interlocutor.

*Act.* A. Crosbie. *Alt.* J. M’Laurin.

*N. B.*—Lord Ankerville gave judgment, contrary to his own opinion, in consequence of what he understood to have been the sense of the Court in other cases.

1779. *June 29.* JAMES GOOD *against* CHRISTIAN SMITH.

INDEFINITE PAYMENT.

The creditor, in an account, of which a part was prescribed, was found entitled to impute partial payments, in satisfaction of articles of his account, three years preceding the date of such payment; though these articles were part of those which had fallen under prescription.

[*Faculty Collection*, VIII. 158; *Dict.* 6816.]

MONBODDO. The statute 1579 is a most beneficial statute, and the Court has done well in applying it to the case of tradesmen’s accounts; but I have a