

No 21. A petition reclaiming against this judgment, was refused by the Court without answers.

Lord Ordinary, *Halles.*

*Act. Macleod.*

S.

*Fol. Dic. v. 4. p. 142. Fac. Col. No 24. p. 45.*

1784. February 12. LAWSON against MAXWELL.

No 22.

A PERSON afflicted with a paralytic disorder was brought from Scotland to London, and put under the care of Maxwell, a surgeon, who attended him for ten months. He became insane, returned to Scotland, where he was attended by another surgeon, and died six months after. Maxwell claimed preference for his account of medicines and attendance during the ten months, as being a privileged debt. *Urged*, This privilege extends only to medicines furnished on deathbed, which term the law limits to 60 days preceding death. Besides, the debt was contracted in England, where there is no such legal privilege. THE LORDS rejected the claim of preference, chiefly, as it appears, on the last ground.

*Fol. Dic. v. 4. p. 142. Fac. Col.*

*See PRESUMPTION, DIV. 2.*

\* \* \* This case is No 92. p. 4473, *voce* FOREIGN.

1789. February 3.

No 23.

Wages, or a yearly salary to the overseer of an extensive distillery, found not a privileged debt.

WILLIAM RIDLEY against The CREDITORS of JAMES HAIG.

WILLIAM RIDLEY was employed, with a salary of L. 300 per annum, as overseer in an extensive distillery carried on by James Haig.

After Haig's bankruptcy, the trustee on his sequestrated estate having, in consequence of particular instructions from the creditors, made payment of a term's wages to the farm-servants, and also to those who had been employed for domestic purposes, Mr Ridley claimed a preference, in the same manner, for a year's salary. He

*Pleaded*; No reason surely can be given, why an ingenious artisan or mechanic should not have the same indulgence which has been given to those employed in the meaner and less profitable business of cultivating land, and even to such as have been retained perhaps for the purposes of domestic luxury and extravagance. If, in general, the privilege be an encroachment on the just rights of other creditors, it ought to be done away; but if, on the other hand, it is founded on the wisest and most equitable grounds, by securing to those who commonly have no other support, that livelihood which their industry has earned, while it tends to prevent those illegal combinations that would other-

wise take place on a bankruptcy, between masters and servants, to the great prejudice of the creditors at large, the law ought to be the same, wherever the same inducements occur.

No 23.

*Answered* ; Those privileges which stand in the way of a rateable distribution of the effects belonging to a bankrupt, being a deviation from the common rules of law, and, in general, taking their origin from limited and imperfect notions of commercial utility, have of late been justly restrained within the narrowest bounds. Unless authorised by such a train of decisions as cannot be departed from without shaking the public security, the tendency of our Courts, of late years, has uniformly been to discourage all claims of this sort.

The preference here demanded, so far from deriving any support from former precedents, is quite inconsistent with the daily practice. Although servants employed in husbandry have been, by inveterate custom, allowed to receive their wages before all the other creditors, the same privilege was lately, by a solemn decision, refused to mechanics and artisans. And in England, where every requisite encouragement is held out to industry and manufactures, it has never been thought expedient to break through the rule of law in favour of servants of any description ; 23d January 1779, *Melville contra Barclay*, No 20. p. 11853. ; 31st January 1781, *Whyte contra Chrystie*, No 21. p. 11853.

It was *urged* as a circumstance favourable to Mr Ridley's claim, that the proceeds of the spirits falling under his superintendance were much more than sufficient for his payment.

The interlocutor of the COURT was as follows :

" THE LORDS, on the report of Lord Monboddo, and having advised the informations for the parties in this cause, they sustain the defence, and assoilzie ; reserving to the pursuer to rank on the bankrupt-estate, in the same manner as the ordinary creditors."

A reclaiming petition was afterwards offered for Mr Ridley, in which, without endeavouring to obtain an alteration of the judgment on the point of law formerly argued, he maintained, that, in consequence of certain proceedings between him and the trustee, he was entitled to recover his salary, without any deduction.

This petition, with the answers, was remitted to the Lord Ordinary.

Lord Reporter, *Monboddo*. Act. *Hope*. Alt. *Maconochie*. Clerk, *Orme*.

C.

*Fol. Dic. v. 4. p. 142. Fac. Col. No 57. p. 101.*

1802. May 15.

SHEDDAN and OTHERS *against* GIBSON.

UPON the death of George Haldane, Esq; of Gleneagles, mournings were furnished to his widow, daughters, and servants, by Archibald Gibson, merchant in Edinburgh, who, in a process of multiplepoinding brought by the exe-

No 24.  
Widow's  
mournings  
are a privi-  
leged debt  
upon the  
funds of the  
deceased.