

[HEARD 22nd—JUDGMENT 26th March, 1849.]

WALTER MALCOLM, Writer, in Edinburgh, Assignee, of the
heir and disponee of James Thomson, *Appellant*.

THOMAS MANSFIELD, and Others, Trustees for and Partners
of the Northern Reversion Company, *Respondents*.

Inhibition—Record.—An error in the entry upon the record of letters of inhibition, used on the dependence of an action for a specific debt, in regard to the amount of the debt, is fatal to the validity of the inhibition.

I
N the month of May, 1830, James Thomson raised and executed letters of inhibition on the dependence of an action against Anstruther. The letters proceeded on this recital :
 “ Whereas it is humbly meant and shewn to us, by our lovite,
 “ James Thomson, writer to our signet, that he has raised and
 “ intended action, before the Lords of our Council and Session,
 “ at his instance, against Captain Robert Anstruther of Third
 “ part, concluding that the said Captain Robert Anstruther ought
 “ and should be decerned and ordained, by decret of our said
 “ Lords, to make payment to the complainer of the sum of
 “ 1,271*l.* 19*s.* 7*d.* sterling, being the balance due to the com-
 “ plainer, by the said Captain Robert Anstruther, on account-
 “ current between them, composed of business charges per-
 “ formed by the complainer, and payments made by him to the
 “ said Captain Robert Anstruther on the one side, and sums
 “ received by the complainer on account of the said Captain
 “ Robert Anstruther on the other, conform to account-current
 “ between them, commencing on the first day of August, 1827

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“ and ending on the fifth day of October, 1828, and to a con-
 “ tination of the said account-current, commencing on the said
 “ fifth day of October, 1828, and ending on the 15th day of
 “ May, 1829, on which last account the said balance of
 “ 127*l.* 19*s.* 7*d.* sterling, arises due to the complainer, with the
 “ legal interest thereof, from the said 15th day of May, 1829, and
 “ thereafter during the non-payment of the same ; together with
 “ the sum of 100*l.* sterling, or such other sum, more or less, as
 “ the said Lords should modify as the expenses of process to
 “ follow thereon, besides the dues of extracting the decret to
 “ be pronounced therein, as the said summons shown to the
 “ said Lords of Council and Session hath testified ; and the
 “ said Captain Robert Anstruther, knowing perfectly that the
 “ complainer will obtain decree against him in the said action,
 “ for payment of the above sums of money, and is to suit all
 “ manner of execution against him for the payment thereof.”

Upon this recital the will of the letters gave authority to charge the debtor not to do any act “ to the hurt and prejudice
 “ of the complainer, anent the implementing and fulfilling to
 “ the complainer the decree to be obtained at his instance, in
 “ the said depending process, and payment making to him of
 “ the whole sums to be therein contained.”

These letters were entered upon the record of inhibitions, but in the entry there was a discrepancy between it and the original letters, in regard to the amount of the debt for which inhibition was used. The entry upon the record made the recital of the letters state that Thomson had “ raised and in-
 “ tended action before the Lords of our Council and Session,
 “ at his instance, against Captain Robert Anstruther of Third
 “ part ; concluding, that the said Captain Robert Anstruther
 “ ought and should be decerned and ordained, by decret of our
 “ said Lords, to make payment to the complainer of the sum of
 “ 1,221*l.* 19*s.* 7*d.* sterling, being the balance due to the com-
 “ plainer, by the said Captain Robert Anstruther, on account-

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“ current between them, composed of business charges per-
 “ formed by the complainer, and payments made by him to the
 “ said Captain Robert Anstruther, on the one side, and sums
 “ received by the complainer, on account of the said Captain
 “ Robert Anstruther, on the other, conform to account-current
 “ between them, commencing on the 1st day of August, 1827,
 “ and ending on the 5th day of October, 1828, and to a con-
 “ tinuation of the said account-current, commencing on the said
 “ 5th day of October, 1828, and ending on the 15th day of
 “ May, 1829, on which last account *the said balance of*
 “ *1,271l. 19s. 7d.* sterling arises due to the complainer, with the
 “ legal interest thereof, from the said 15th day of May, 1829, and
 “ thereafter during the not payment of the same; together with
 “ the sum of 100l. sterling, or such other sum, more or less,
 “ as the said Lords should modify, as the expenses of process
 “ to follow hereon, besides the dues of extracting the decret
 “ to be pronounced therein, as the said summons shewn to the
 “ said Lords of Council and Session hath testified.” The out-
 set of the subsumption was, “ And the said Captain Robert
 “ Anstruther, knowing perfectly that the complainer will obtain
 “ decree against him in the said action *for payment of the above*
 “ *sums of money*, and is to suit all manner of execution against
 “ him for payment thereof,” &c., and the will that the debtor
 was charged not to do any act “ to the prejudice of the complainer
 “ anent the implementing and fulfilling to the complainer, the
 “ decree to be obtained at his instance, in the said depending
 “ process, and payment making to him of the whole sums to be
 “ therein contained.”

Upon the 17th of June, 1830, Thomson obtained decree in his action for 1,271l. 19s. 7d., as the amount of the debt for which inhibition had been used.

In a ranking and sale of Anstruther, the debtor's, lands the Appellant, as in right of Thomson, claimed to be ranked and preferred in respect of the inhibition and decree, for a debt of 1,271l. 19s. 7d.

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The Respondents objected to the Appellant's claim that the inhibition was void in respect of its not being duly recorded.

On the 23rd January, 1830, the Lord Ordinary (Robertson), pronounced the following interlocutor, to which he added the subjoined note, "Having considered the revised minutes of
 " debate, finds that the letters of inhibition on which the claim-
 " ant, Walter Malcom, claims a preference in the present
 " ranking and sale, have not been duly recorded ; and, therefore,
 " that no preference over any of the other creditors can be
 " founded on the said letters of inhibition, and remits to the
 " common agent to rectify the order of ranking accordingly ;
 " Finds the said Walter Malcom liable in the expenses of this
 " discussion ; appoints an account thereof to be given in, and,
 " when lodged, remits to the auditor to tax the same and to
 " report."

To this interlocutor the following note was subjoined:—
 " The inhibition in this case proceeded on the dependence of an
 " action, concluding for payment of the sum of one thousand
 " two hundred and *seventy*-one pounds, nineteen shillings and
 " sevenpence sterling, conform to a certain account-current. The
 " letters of inhibition are correct, and in every way conformable
 " to the conclusions of the action. As entered upon the record,
 " however, the inhibition describes the action as concluding for
 " the sum of one thousand two hundred and *twenty*-one pounds,
 " nineteen shillings, and sevenpence, instead of one thousand
 " two hundred and *seventy*-one pounds, nineteen shillings, and
 " sevenpence ; and this is said to be conform to the account-
 " current, ' on which last account the *said* balance of twelve
 " ' hundred and *seventy*-one pounds, nineteen shillings, and
 " ' sevenpence sterling, arises due to the complainer, with the
 " ' legal interest,' and the sum of 100*l.* of expenses. It is then
 " subsumed that the complainer will obtain decree for payment
 " ' of the *abore* sums of money,' and that the defender, accord-
 " ing to common form, intends to alienate his heritage in de-

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“ fraud of the debt. The Act 1581, cap. 118, expressly de-
 “ clares, that ‘ all letters of interdiction and inhibition, with the
 “ ‘ executions thereof, the said Sheriff-clerks shall insert in their
 “ ‘ registers.’ The question here is, whether the letters of inhi-
 “ bition have been duly recorded, the sum for which the
 “ action concludes, and to which extent the diligence is raised,
 “ being erroneously described as 1,221*l.* 19*s.* 7*d.*, instead of
 “ 1,271*l.* 19*s.* 7*d.*? If this be considered a material error in
 “ stating the conclusions of the action, it does not appear to the
 “ Lord Ordinary that the defect can be held as cured by the
 “ reference to an account-current to which the conclusion is
 “ said to be conform, when in fact, as stated, it is disconform to
 “ the extent of 50*l.*; nor by the statement that the complainer
 “ will obtain decree for payment of the *above sums* of money,
 “ which surely cannot mean both the 1,221*l.* and 1,271*l.*, and
 “ which is in no way identified with either sum. These discre-
 “ pancies only make the blunder, which is undoubtedly a cle-
 “ rical error, the more palpable. The question is, whether
 “ the letters have been duly and properly ‘ insert in the register,’
 “ or whether there be not a material discrepancy ?

“ The case of Henry v. Pearson, 9th March, 1838, cannot
 “ rule the present. There the question was, whether the omis-
 “ sion of the will of the letters, and certain other formal parts
 “ thereof, invalidated the registration? and the Court, after a
 “ report upon the state of the practice, held that it did not.
 “ An act of sederunt was afterwards passed, 11th December,
 “ 1838, for remedying the practice in time to come. But the
 “ present is not a case as to which there can be any practice
 “ alleged. The objection does not rest on the omission of
 “ words of style, but on a disconformity in the amount of the
 “ sum for which the diligence is used between the letters and
 “ the record. On this there can be no *practice*, and if the
 “ disconformity be material (the matter being of the very essence
 “ of the debt) no *practice* could cure the defect. Neither

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“ can the argument of the claimant derive any aid from the
 “ case of Tofts, November, 1772, *Mor.* 6970, where there was
 “ no disconformity between the record and the letters of inhi-
 “ bition, but where the conclusion of the action, being one of
 “ count and reckoning, was for a general random sum, and the
 “ inhibition was used conform thereto, and so recorded.

“ The case of *Lowe v. Jeudwine*, 10th March, 1815, seems,
 “ on the other hand, almost conclusively in point. There an
 “ inhibition on the dependence was stated on the record to
 “ have been raised on an action concluding for payment of the
 “ amount of a judgment of the Court of King’s Bench, stated
 “ to be 12*l.* instead of 12,000*l.* No doubt the omission of the
 “ word ‘ thousand’ created a larger discrepancy than the use of
 “ the word ‘ twenty’ in place of the word ‘ seventy’ in this case.
 “ But the due insertion of the instrument in the register is a mat-
 “ ter absolutely required by the statute. This is not a question
 “ of degree, or of construction as to what was meant. It was
 “ no doubt as well known in the case of *Lowe*, that the party
 “ meant to say, as he ought to have said, 12,000*l.* in place of
 “ 12, as in this case he meant to say, as he ought to have said,
 “ 1,271*l.* in place of 1,221*l.* No person can say that the sum
 “ of 50*l.* is in the eye of law immaterial; and if there be a
 “ material blunder, surely it is a bad reason for sustaining the
 “ instrument in a competition of diligence, that the blunder is
 “ palpable on the face of that instrument itself. The Lord
 “ Ordinary, therefore, conceives that the objection to the re-
 “ cording of the inhibition must be sustained. The analogous
 “ cases as to recording instruments of sasine, *M’Queen v.*
 “ *Nairne*, 23rd February, 1824; *Dennistoun v. Speirs*, 16th
 “ November, 1824; *Stewart v. Lord Fife*, 20th February, 1827,
 “ strongly support this view.”

On the 8th July, 1846, the Court adhered to this interlocutor. Against these two interlocutors, the appeal was taken with the leave of the Court below in terms of the statute.

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Mr. Turner and *Mr. A. McNeill* for the Appellant. The inhibition here bore upon the face of it that it had been used on the dependence of an action, its efficacy therefore depended, not on the amount that might be stated in the letters, but upon the amount which might be recovered by the decree in the action. The preamble of the Act 1581, cap. 118, by which the registration of inhibitions is required, is, “To the effect that
“ every one of our sovereign lord’s lieges may know and un-
“ derstand the condition and quality of the person with whom
“ he contracts on this head, whether he be subject and thrall
“ to interdiction and inhibition, or be at his own freedom and
“ liberty to contract.” The statute in the terms which it uses for accomplishing this object of notice to the world is very general. The “letters of interdiction and inhibition with the
“ execution thereof, the said Sheriff-clerks shall insert in their
“ registers.” No particular mode of registration is pointed out, a reasonable construction therefore, holding that if the substance of the letters appear upon the Register, the letters should be available, would answer all that the Legislature had in view; and this seems to have been the view taken by the Court below, for in *Henry v. Pearson*, 16 *Sh.* 827, an inhibition was sustained, although there were various omissions and abbreviations in the record, one of them an omission of the whole will of the letters, the unanimous opinion of the Court being, that “from
“ the earliest period the literal insertion in the register of the
“ whole inhibition and execution was not in practice held to be
“ necessary.” And in *McLellan v. Allan*, *Mor.* 4967, an inhibition, in which two bonds were mentioned, was sustained, although the register made mention of only one.

No doubt in *Lowe v. Jeudwyn*, 10th March, 1815, *F. C.* 340, the inhibition was declared void, because of an omission in the record, but there the diligence was used in security of a debt already ascertained by decree of an English Court, and the error in the record was a mis-statement of the date of that decree,

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and of the amount of the debt ascertained by it, to the extent of stating it to be 12*l.*, instead of 12,000*l.* Moreover, the decision of that case may very well be rested upon the other grounds which were taken in it, and which were sufficient of themselves for its disposal. But even if that decision were rested upon the error in the record, the case was totally different from the present, for there was nothing on the record to show what the nature of the error was, or even whether there had been any error at all,—while here, although the amount of the debt was stated, the letters at the same time intimated that they had been used upon the dependence of an action, and that the amount must therefore be regulated by the result of that action, and the amount was so stated as to shew that 1,221*l.* 19*s.* 7*d.* had been used instead of 1,271*l.* 19*s.* 7*d.* In fact the statement of any amount was mere surplusage. In the case of the Creditors of Tofts, *Mor.* 6970, an inhibition was sustained, although no sum was specified, because it was upon the dependence of an action, and in the case of Brereton, 2 *Sh.* 713, the same result occurred, although the summons, on the dependence of which the inhibition had been used, had been amended after the diligence was raised, to the effect of changing the character in which the party was liable.

Some argument by analogy may likewise be drawn from the English cases under the Act for the Registration of Annuity Deeds. In *Ince v. Everett*, 6 *Term Rep.* 545, the security was upon a term of sixty-two years, but in the memorial entered upon the register, the term was mentioned as sixty-one years, and the consideration, which was 280*l.*, was in the memorial stated to be 250*l.*, yet the deed was sustained, although by the statute the consideration is one of the things required to be inserted in the memorial, in this respect differing from the statute for the registration of inhibitions, which does not prescribe any particular form of registration. In *Wyatt v. Barwell*, 19 *Ves.* 438, clerical mistakes as to the names of the

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parties in the enrolment of an annuity deed was held not to vitiate the annuity.

In *Knight v. Lake*, 2 *Bing. New Ca.* 72, in the head of the memorial, which should have been “person or persons for whose life or lives the annuity or rent-charge is granted,” the words “life or lives,” were omitted, yet this was not held to vitiate the enrolment. In *Nash v. Godwin*, 1 *Bar. & Ad.* 634, the Annuity deed was no doubt held to be void, because while it stated the bond to be for 237*l.* the memorial stated it at 257*l.*; but there the memorial did not afford any means for ascertaining which was the correct sum. In the present case that is not so, for the record, by speaking of “*the said sum of 1,271*l.* 19*s.* 7*d.**,” shewed that the previous sum should be that amount, and not 1,221*l.* 19*s.* 7*d.*

At all events, if the inhibition is to be affected by the error in the registration, it can only be to the effect of reducing the amount for which it is to be a security from 1,271*l.* 19*s.* 7*d.* to 1,221*l.* 19*s.* 7*d.* In *Dunbar v. Cor. of Dunbar*, *Mor.* 3699, where there were lands lying in different jurisdictions, and inhibition was recorded only in one jurisdiction, the inhibition was sustained as effectual in respect of the lands lying in the jurisdiction within which it was recorded.

Mr. Stuart, Mr. B. Andrews, and Mr. Anderson, for the Respondents, cited *Lowe v. Jeudwine* ut supra, and *McQueen v. Nairne*, 2 *Sh.* 637, *Dennistoun v. Speirs*, 3 *Sh.* 285, and *Stewart v. Fife*, 5 *Sh.* 384,—cases which occurred in regard to the registration of sasines.

LORD CHANCELLOR.—My Lords, it appears to me that this is a case in which, having heard the arguments of the learned counsel for the Appellant, your Lordships will entertain no doubt that the appeal should be dismissed. The question depends entirely upon the construction to be put upon the Scottish Act of Parliament of 1581, cap. 118, and we can look

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at nothing but that Act to guide us in coming to a conclusion. The only question therefore is, whether the requirements of that statute have been complied with in this instance. The Act, after providing that interdictions and inhibitions shall be registered, provides “which letters of interdiction and inhibition, with the execution thereof, the said sheriff-clerks shall insert in their registers,” and then it provides “that no interdiction or inhibition to be raised and executed hereafter, be of force, strength, or effect, to any intentions, but the same be null and of none avail, except the same be duly registered, as said is.” Well, then, according to that provision, letters of interdiction and inhibition are to be registered, and if they are not duly registered as is provided there, the Act says they shall be of no avail.

The question, therefore, is whether the letters of inhibition in this case have been duly registered. From the letters it appears that the error was in making the record 1,221*l.* instead of 1,271*l.* The inhibition as recorded runs thus:—“Whereas, it is humbly meant and shown to us by our lovite James Thomson, writer to our signet, that he has raised and intended action, before the Lords of our Council and Session, at his instance, against Captain Robert Anstruther of Third part, concluding that the said Captain Robert Anstruther, ought and should be decreed and ordained, by decret of our said Lords, to make payment to the complainer of the sum of 1,221*l.* 19*s.* 7*d.* sterling, being the balance due to the complainer, by the said Captain Robert Anstruther, on account current between them, composed of business charges performed by the complainer, and payments made by him to the said Captain Robert Anstruther, on the one side, and sums received by the said complainer on account of the said Captain Robert Anstruther on the other, conform to account current between them, commencing on the first day of August, 1827, and ending on the 5th day of October, 1828, and to a continuation of the said

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“ account current, commencing on the said 5th day of October,
 “ 1828, and ending on the 15th day of May, 1829, on which
 “ last account the said balance of 1,271*l.* 19*s.* 7*d.* sterling arises
 “ due to the complainer, with the legal interest thereof, from
 “ the said 15th day of May, 1829, and thereafter during the
 “ non-payment of the same, together with the sum of 100*l.*
 “ sterling, or such other sum, more or less, as the said Lords
 “ should modify, as the expenses of process to follow thereon,
 “ besides the dues of extracting the decret to be pronounced
 “ therein, as the said summons shown to the said Lords of
 “ Council and Session hath testified, and the said Captain Robert
 “ Anstruther, knowing perfectly that the complainer will obtain
 “ decree against him in the said action for payment of the
 “ above sums of money, and is to suit all manner of execution
 “ against him for payment thereof, he, in manifest defraud,
 “ hurt, and prejudice of the complainer, intends,” &c. The
 writ then proceeds, according to the usual form of inhibitions,
 the object of the diligence being set forth to be that of pre-
 venting the debtor from alienating his lands in defraud and to
 the hurt and prejudice of the complainer, anent the imple-
 menting and fulfilling to the complainer the decree to be ob-
 tained at his instance in the said depending process and pay-
 ment making to him of the whole sums to be therein con-
 tained. The result, therefore, is that it recites that the amount
 to be recovered, or expected to be recovered, is 1,221*l.*, that is
 a recital of the actual payment to be made, and of the amount
 of the claim made in the suit.

My Lords, it is said that in this there is no obscurity, and
 nothing inconsistent with the inhibition itself, because it goes
 on to say “ conform to the account current between them, com-
 “ mencing on the 1st day of August, 1827, and ending on the
 “ 5th day of August, 1828, and to a continuation of the said
 “ account current commencing on the said 5th day of October,
 “ 1828, and ending on the 15th day of May 1829, on which

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“ last account the *said* balance of twelve hundred and *seventy-*
 “ one pounds”—there the right sum being inserted—but the
 said balance is 1,221*l.*; it is a palpable contradiction, a palpable
 error, palpable upon the face of it—and thus the last sum is
 the erroneous sum, and not the first. It states that the sum is
 1,221*l.*, and subsequently speaking of the *said* balance, calls it
 1,271*l.*; there is no ambiguity in that. To make anything of
 this variance in the different parts of the record, it ought to
 appear that 1,221*l.* is a clear error, and that 1,271*l.* is the sum
 that ought to be recorded—whereas it is the reverse; 1,221*l.* is
 evidently the sum intended to be expressed as the amount of
 the claim, and 1,271*l.*, as placed on the record, would appear to
 be an error. Upon the face of the document there is an inhibi-
 tion to the amount of 1,271*l.*, and upon the face of the record,
 which professes to be a record and copy of the inhibition, the
 amount is confined to 1,221*l.* Then, that being so, the Act of
 Parliament has not been complied with, because, if we look to
 the record, we are misinformed as to what is the amount of the
 sum, and whether the Act be wise or not wise, or hard or not
 hard, is not the question. The question is, has the Act of
 Parliament been carried out? Is that a sufficient record of the
 inhibition? The inhibition itself being an inhibition for 1,271*l.*,
 is it properly described and stated upon the record, when it is
 stated to be an inhibition for 1,221*l.*? My Lords, if you had
 nothing to guide you but a reference to the Act of Parliament,
 I should think you would find it extremely difficult to come to
 a conclusion that according to the Act, that was a record of the
 inhibition; and then the record not being in conformity with
 the inhibition, the Act says it shall be void altogether.

My Lords, that being so, the case of *Lowe v. Jeudwine*, is
 precisely and identically the same thing. There an action was
 brought in the Court of King's Bench here for the sum of 12,000*l.*,
 for which a judgment was obtained, upon which an action
 was raised in the Court of Session, and an error arose in the

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record of the inhibition, it being stated as 12*l.*, leaving out the thousand—that was only an error as to the sum; but what was the result of that? Why, the same argument was used before the Court, that nobody could be deceived by it, that you might go to the document to find it out, and, therefore, that the record was not void on account of its being erroneous by a misdescription; however, that did not succeed, as the decision was, that in respect of the informality in the registration of the inhibition it was bad. That was one ground of the decision. The fact that there were other grounds is quite immaterial for this case; the only use to be made of the case is, to show the judgment upon the particular point; the judgment upon that particular point was, that there was a departure from the inhibition itself, that it was very apparent that it was not a record of the inhibition, as a substantial part varied; and, therefore, that substantial departure from the inhibition was fatal to the record, and there was an end of it. What the other circumstances were, whether there was a fatal error, or whether there was an inaccuracy, in other respects, matters not; that was the only point as affecting the record for which it was cited; there was no inconsistency in the record beyond that, but that was an omission in the record itself.

My Lords, this is a different case from that of *Henry v. Pearson*. The Court afterwards disapproved very much of the practice in the registering of the document, which they seemed wholly to have passed over in that particular case, and the Court of Session subsequently took care, by an order, that that should not occur in future. Whether there was a deviation, an altering, not by anything contradictory, but by omissions, I cannot discover. Seeing, however, what the Court said, and what the Court did, in that case, I cannot doubt that if there had been any contradiction or inconsistency, which there is in this case, they would not have supported the inhibition. They seem to have been quite reconciled with the principle on which

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it ought to be regulated. At the same time it would appear that they did not consider that point in that case.

But in this case, looking to the record, there is an inhibition for a sum which may, or not, exist; there might be twenty more different sums. How is the party to know? The record gives one sum, 1,221*l.*, while the inhibition is 1,271*l.*; the record does not agree with the thing to be recorded, and the Act of Parliament requires that it should. There are no means of getting out of the difficulty which the Act of Parliament imposes; and this decision of *Lowe v. Jeudwine*, seems to me to be quite conclusive upon the point. This is a case of construction, where the English Law and English Acts of Parliament throw no light upon the matter.

Under these circumstances, my Lords, I shall move your Lordships that the interlocutor appealed from be affirmed with costs.

LORD BROUGHAM.—My Lords, I do not think it necessary to trouble your Lordships with any lengthened observations, after the very satisfactory opinion which has just been given by my noble and learned friend. I have had no doubt about this case throughout the whole of the argument, as I have thrown out from time to time, and except with reference to the future, it seems totally unnecessary therefore to enter further into the matter than to say that we must attend to the words of the Act of Parliament; and that we are not to take lax and vague views induced and created by laxity of practice. My Lords, I must say, with all due respect to the practice of the Courts of Scotland, that a certain degree of laxity of practice prevails among very clever and ingenious men no doubt. It therefore becomes highly necessary that we should support a judgment which has proceeded upon a strict, vigorous, and just rule of law, namely, that of upholding the manifest words of the Act of Parliament.

My Lords, if I had had any doubt whatever upon the sub-

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ject before, which I had not, the case of *Lowe v. Jeudwine* is not to be got over; it matters not whether it was decided entirely upon this point, it certainly is an authority upon this point, because this is one point upon which it turned. Therefore, I entirely agree with my noble and learned friend in advising your Lordships that this appeal should be dismissed with costs.

Ordered and Adjudged, That the Petition and Appeal be dismissed this House, and that the interlocutors therein complained of be affirmed, with costs.

LAW, HOLMES, ANTON, and TURNBULL—G. and T. W.
WEBSTER, Agents.