having considered the mutual minute and production therewith tendered at the bar, allows the same to be received and marked, but refuses to hold the said production as a true copy of the letter No. 6–7 of process, alleged to have been mislaid, until the same be certified by the parties themselves to be a true copy of, and held by them as equivalent to, the said letter."

After some further procedure, judgment was given against Steuart, who now appealed, objecting to the interlocutor of 10th October 1866, that the Sheriff-Substitute, by the Sheriff Court Act 1853, sec. 4, ought then to have appointed a meeting for closing the record, and to the interlocutor of 27th February 1867, that only eight days adjournment was lawful.

BIRNIE, for appellant, cited *Kessack* v. *Garden*, 27th February 1869 7 Macph., 588.

MACKAY, for respondent, was not called on.

LORD PRESIDENT—We must not encourage irregularities; at the same time, the way in which this point presents itself leaves little doubt of what we should do. The first interlocutor is admitted to be quite correct. The next is that under date 10th October, and it is said to be irregular. It is said that what the Sheriff-Substitute ought to have done was to appoint a meeting. I am not prepared to hold that an interlocutor was necessary for the appointment of a meeting, and if the Sheriff-Substitute appointed a revisal when the parties were before him, it appears to me to have been sufficient. Now there is nothing on the face of the interlocutor of 10th October to shew that the parties were not present, so we must assume that they were, and what the Sheriff-Substitute did was this. He had before him a condescendence and defences and an allegation of a counter claim in the defences. He was satisfied that the pursuer's own record was sufficient, but he felt that the defender's statement required an answer. He accordingly ordered it to be answered within ten days. I cannot say that was incompetent. It was a limited and proper exercise of his power of ordering a revisal. Well then, this order is implemented, and the Sheriff appoints a meeting and an adjourned meeting in terms of the statute. It is said that the adjourned meeting was held at too distant a date, but whether that was the case or not the parties appeared at it, and what was done was not of consent, for the purpose of defeating the provisions of the statute, but on the motion of the present appellant. That there was an irregularity at that meeting in ordering revised papers is no doubt true, but the party now complaining is the very man who proposed it. If the irregularity had affected the jurisdiction of the Sheriff-Substitute, that would have been a different matter, but this is not a case of that kind. It is merely a question of the regularity of process; and though a party may make such an objection, and get the irregular proceeding set aside from the time when the irregular proceeding took place, we are not bound to listen to a party who has himself been the cause of the irregularity. The case of *Kessack* is quite distinct. Nothing was done there of consent, or on the motion of one of the parties, but all by the Sheriff-Substitute himself disregarding the statute. The Sheriff dismissed the action; but that was a mistake. Accordingly the appellant was the defender, who contended that he was entitled to expenses. The pursuer, on the other hand, contended that though there was an error, the Sheriff was not entitled to dismiss the action. The Court gave effect to the argument of the respondent, and remedied the whole matter by recalling and remitting to the Sheriff to take up the case at the point where the irregularity commenced. But neither the pursuer nor the defender was there to blame. This is a contrast to that case, and I am against listening to the complaint of a party in the circumstances of the appellant.

The other Judges concurred.

Agents for Appellant—Maitland & Lyon, W.S.
Agent for Respondent—Alexander Morison, S.S.C.

Saturday, Oct. 16.

SECOND DIVISION.

STEWART *v.* PAROCHIAL BOARD OF KEITH.

*Poor—Assessment—*8 *and* 9 *Vict., c.* 83, § 37—*Deductions—Surcharge—Suspension—Declarator. Held,* (1) that in calculating the deductions allowed by the 37th section of the Poor Law Act, "rates, taxes, and public charges," must be stated at their actual amount, and not upon an estimate. (2) That the probable annual average cost of repairs, insurance, and other expenses," may be covered by a percentage. (3) Circumstances in which held that a ratepayer who complained of the amount of assessment imposed upon him had failed to prove that he had not been allowed the deductions to which he was entitled under the 37th section of the statute. (4) Held that suspension is the proper and only remedy against a surcharge.

Observed, that the mode of imposing the assessment forms part of the duty of the Board, with which the Court will not interfere if a just conclusion has been reached.

Mr Stewart of Auchlunkart brought an action of suspension of a threatened charge for £70, 3s., being the amount of poor's assessment imposed upon him by the Parochial Board of Keith for the year 1866-67. This assessment in the parish of Keith is imposed according to the first mode authorised by the 34th section of the Act 8 and 9 Vict., c. 83, viz., one-half on the owner and the other half on the tenants. The deductions allowed under the 37th section of the statute are calculated by allowing 5 per cent. off agricultural and 20 per cent. off urban subjects. The suspender's annual value was stated by the Board at the sum of £1443, 11s. 3d., and, making the allowance of 5 per cent., he was assessed on the sum of £1371, 9s. 9d. It afterwards appeared that the suspender's annual value according to the valuation roll was £1523, 11s. 3d. The assessment amounted to £70, 3s. Mr Stewart complained that this was a surcharge, and that he had not got the benefit of the deductions to which he was entitled under the 37th section of the statute. These he stated as follows:—

"Those deductions from the annual value of the complainer's property which ought to have been allowed, according to the 37th section of the Act, are as follows:—

County rates, including prison, police, lunatic asylum, and rogue-money, .	£34	18	3
Cess, ...	6	0	0
Carried forward,	£40	18	3

Brought forward,	£40	18	0
Minister's stipend,	22	0	0
Schoolmaster's salary,	6	0	0
Bishop's teinds,	1	18	0
Estimated allowance for maintaining lime-kilns and other buildings at the lime quarry of Blackhillock in their actual state,	40	0	0
Repairs of farm-houses, buildings, drains, fences, ditches, &c., and similar obligations prestable under leases,	75	0	0
Insurance of buildings, &c., value £2800, at 4s. per cent., and 1s. 6d. of duty,	7	14	0
Road-money,	9	0	0
Total,	£242	10	3

"The complainer is ready and willing to prove that these sums form in point of fact actual and proper deductions from his rent, and he has offered to do so; but the Parochial Board of Keith declines to receive evidence of such allegations, and holds that the 37th section of the statute is satisfied by a uniform deduction of 5 per cent. He hereby repeats his offer to prove the said deductions. He is ready to do so in any manner that the Court may think expedient."

The suspender further stated—"The system of allowing a uniform deduction is contrary to the Poor Law Act, and is productive of injustice to the complainer. To allow all owners the same deduction as the complainer, irrespective of the facts entitling to specific deductions, is to evade the Act when seeming to obey it, and to give a benefit to those suffering small deductions at the expense of those suffering large deductions. The very same sum must be paid in name of poor-rates, when a uniform deduction of 5 per cent. is allowed. Deducting 5 per cent. reduces the sum assessed by one-twentieth part, but, in order to compensate for this, the rate must be increased by one-twentieth part." And he pleaded "the Parochial Board of Keith were bound to allow the complainer those deductions from the annual value of his property which are provided for by the 37th section of the Poor Law Act, and were not entitled to give a slump and random deduction of 5 per cent. to cover all these deductions, which, under the said section, ought to be specified and established by evidence. A slump sum and uniform deduction of 5 per cent. is an evasion of the said 37th section, in respect that the practical result is the same as if no deduction whatever were made. The said method of granting a slump and uniform deduction is illegal, and contrary to the Poor Law Act, and, being injurious to the complainer, the threatened charge ought to be suspended."

The respondents averred that the system of intimating deductions adopted by the Board had been in operation prior to and since the passing of the Poor Law Act, with the approval, or at least the aquiescence, of the suspender, who had never until the present action was raised called it in question. They further stated that the suspender was the only heritor complaining. For the particular year brought under suspension, the respondents maintained that the suspender had got a deduction of upwards of £150, the assessor having by mistake understated his annual value by £80. The respondents objected to the competency of the suspension, and the Lord Ordinary (JERVISWOODE) sustained this plea. His interlocutor was afterwards recalled by the Court, and the competency of the suspension sustained. In the meantime, however, the suspender brought an action of Declarator, the material conclusions of which are as follows:—

"Therefore it ought and should be found and declared, by decree of the Lords of our Council and Session, that the assessment of £70, 3s. imposed by the said Parochial Board of said parish of Keith on the pursuer, as owner of certain lands and heritages in said parish, for relief of the poor of said parish, for the year from Whitsunday 1866 to Whitsunday 1867, under alleged authority of the Act 8 and 9 Victoria, chapter 83, being 'An Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in Scotland,' was invalid and illegal, inasmuch as the said Parochial Board failed to allow the pursuer deduction from the annual value of his lands and heritages of the probable average annual cost of the repairs, insurance, and other expenses necessary to maintain his said lands and heritages in their actual state, and the rates, taxes, and public charges payable in respect of the same, as provided for by the 37th section of the said Act: And it ought and should be found and declared, by decree foresaid, that the said Parochial Board is bound to allow the pursuer all deductions which are so provided for; and, more particularly, is bound to allow to him deduction from said annual value of his lands and heritages of county rates, including rates for prisons, police, lunatic asylum and rogue-money, cess, minister's stipend, shoolmaster's salary, bishop's teinds, expense of parochial buildings, repairs of farm-houses, buildings, drains, fences, allowance for maintaining lime-kilns and other buildings at the pursuer's lime-quarry at Blackhillock in their actual condition, and other payments prestable under obligations in leases granted by the pursuer or his authors, insurance of buildings and road-money, and all other public and parochial burdens and payments levied on the pursuer, or of one or more of said deductions authorised by said 37th section of the said Act, all as the amount of these deductions shall appear and be actually ascertained in the course of the process to follow hereon: And it ought and should be found and declared, by decree foresaid, that the said Parochial Board is not entitled to state, and the pursuer is not bound to accept, a slump deduction or abatement from the annual value of his said lands and heritages, as offered by the said Parochial Board for said year, at the rate of 5 per centum on said value, as in full to him of all the deductions above set forth, and provided for by the said 37th section of the said Act: And further, it ought and should be found and declared, by decree foresaid, that the said Parochial Board is not entitled to grant to all owners of lands and heritages in the said parish a slump and uniform deduction from the annual value of their lands and heritages at the said rate of 5 per centum, or at any other slump and uniform rate, without having regard to the true amount of said statutory deductions in point of fact, and that the procedure of the said Board to that end is illegal, and against the provisions of the said statute: And, in like manner, as regards the assessment for relief of the poor of said parish, imposed on the pursuer for the year from Whitsunday 1867 to Whitsunday 1868, and all assessments imposed or to be imposed on him for each and every year or years subsequent to

said last-mentioned year, it ought and should be found and declared, by decree foresaid, that the said Parochial Board is bound to allow to the pursuer deductions from the annual value of his said lands and heritages of the nature and to the extent above set forth, applicable to the year first above-mentioned, and which are here held as repeated: And it ought and should be found and declared, by decree foresaid, as regards these assessments, that the said Parochial Board is not entitled to state, and the pursuer is not bound to accept, a slump deduction or abatement from the annual value of his said lands and heritages at the rate above-mentioned, or at any other slump and uniform rate, to be fixed arbitrarily by the said Parochial Board: And further, it ought and should be found and declared, by decree foresaid, that the said Parochial Board is not entitled to grant to all owners of lands and heritages in the said parish a slump and uniform deduction from the annual value of their lands and heritages, at any rate or rates to be fixed arbitrarily or at random by the said Parochial Board.

The Second Division having remitted the Suspension to the Lord Ordinary after sustaining its competency, the two actions were combined. In the conjoined actions, after a variety of procedure, the Lord Ordinary (MURE), before whom the cases had come to depend, pronounced the following interlocutor:—

"18*th February* 1869.—The Lord Ordinary having heard parties' procurators, and resumed consideration of the conjoined actions, with the minute for the pursuer No. 28 of process, and relative vouchers—Finds that in calculating the deductions proper to be made in estimating the annual value of lands and heritages, with a view to their assessment under the 37th section of the Act 8 and 9 Vict., cap 83, the rates, taxes and public charges must be taken at the sums actually payable for the year of valuation, and not on any annual average; and that, besides deducting the sums actually payable for such rates, taxes and public charges, parochial boards are bound to estimate and deduct 'the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state:' Finds that, in estimating the deductions proper to be made from annual value in imposing an assessment for the poor for the year 1866–67, the Parochial Board of the parish of Keith made no distinction between deductions in respect of rates, taxes and public charges payable out of lands and heritages, and deductions in respect of the probable annual average cost of the repairs, insurance, and other expenses necessary to maintain such lands and heritages in their actual state; but resolved to impose, and did impose, an assessment on the annual value of lands and heritages, other than houses, within the said parish, subject to a slump deduction of 5 per cent. to cover 'public burdens, repairs and insurances,' being the same percentage of deduction as that fixed by the Board to be allowed, 'in lieu of public burdens and contingencies,' prior to the passing of the Poor Law Amendment Act in 1845: Finds it sufficiently instructed, by vouchers produced by the pursuer with the minute No. 28 of process, that the sums paid or payable by him in respect of rates, taxes and public charges on his lands in the parish of Keith for the year 1866–1867, amount to £80, 1s. 1d.: Finds that the rental on which the pursuer was assessed for the poor for the said parish of Keith for the said year, as stated by the Parochial Board, amounted to £1443, 11s. 3d.: Finds that a deduction of 5 per cent. on the said rental did not amount to a sum sufficient to meet the rates, taxes and public charges payable by the pursuer, in respect of his lands and heritages in the said parish; and was therefore insufficient to cover the probable annual average cost of the repairs, insurance and other expenses, if any, necessary to maintain the pursuer's lands and heritages in their actual state; and all rates, taxes and public charges payable in respect of the same: Finds, in these circumstances, that in imposing the assessment for the poor on the pursuer's lands and heritages in the parish of Keith for the year 1866–1867, payment of which is now sought to be recovered from the pursuer, the Parochial Board have not complied with the directions of the 37th section of the statute: And, before further answer, remits to Mr Peter M'Bey, land valuator, Woodside, Elgin, to consider and report, and that *quam primum*, what amount of deduction is proper to be made from the valuation of the pursuer's lands and heritages in the parish of Keith, in order to cover the probable annual average cost of the repairs, insurance and other expenses, if any, necessary to maintain such lands and heritages in their actual state, And reserves in the meantime all questions of expenses.

"*Note.*—On further consideration, the Lord Ordinary is confirmed in opinion that the finding of Lord Kinloch in the case of *Hall*, January 14, 1866, relative to the principle on which rates, taxes and public charges are to be dealt with by parochial boards in estimating the annual value of lands and heritages, with a view to their assessment under section 37 of the Poor Law Amendment Act, proceeds upon a sound construction of the Statute. And as vouchers are now produced by the pursuer sufficient to instruct that the sums paid or payable by him in respect of rates, taxes, and public charges in the parish of Keith for the year 1866–1867, amount to more than a deduction of five per cent. on the annual value of the pursuer's lands and heritages in that parish, the Lord Ordinary is constrained to hold, in the view he takes of this case, that the requirements of the 37th section of the Statute 8 and 9 Vict., cap. 83, relative to deductions, were not complied with by the Parochial Board in laying on the assessment on the pursuer's lands and heritages for the year 1866-1867. In order, therefore, to enable him to ascertain what are the deductions proper to be made to cover the probable annual average cost of repairs, insurance, and expenses necessary to maintain the pursuer's lands and heritages in their actual state, and so to work out the conclusions of the actions, the Lord Ordinary has, before further answer, made a remit to a man of skill to report, which was the course adopted in disposing of the case of *Hall* and others, where similar questions have been raised."

The Board reclaimed against this interlocutor, and, after argument, the Court, on advising that reclaiming note, held that there was a distinction between the two kinds of deductions allowed by the 37th section of the statute; that the public burdens, taxes, &c., could not be made the subject of calculation or estimate, but must be taken at their actual amount, whereas the annual average costs of repairs, insurance and other expenses might be so estimated. The Court thereafter pronounced the following interlocutor:—

"*Edinburgh*, 20*th March* 1869.—The Lords hav-

ing heard counsel on the reclaiming note against Lord Mure's interlocutor of 18th Feb. 1869—Recall the interlocutor reclaimed against in so far as it remits to Mr M'Bey: Before further answer, allow the suspender to prove his averments in the sixth reason of suspension, as to the alleged probable amount of the repairs, insurance, and other expenses, if any, necessary to maintain his lands and heritages in the parish of Keith in their actual state for the year from Whitsunday 1866 to Whitsunday 1867, and to the respondents a conjunct probation,—reserving all questions of expenses; and appoint the proof to be taken by one of the Judges of this Division, on a day to be afterwards fixed."

The proof having been taken last session before the Lord Justice Clerk (PATTON), the conjoined processes came before the Court with the proof.

GIFFORD and J. C. SMITH, for suspender, argued that the import of the proof was that the suspender had not received a sufficient amount of deductions. The 5 per cent. allowed by the Board was exhausted by the amount of the public burdens and taxes, nothing being left for the annual average cost of repairs, which for upwards of 30 agricultural possessions must be considerable. It was quite true that in the Valuation Roll the annual value of the suspender's property was stated at the sum of £1523, 11s. 3d., but the complainers had deliberately stated that sum in the schedule of assessment at the sum of £1443, 11s. 3d., and they were not now entitled to fall back upon the Valuation Roll. Further, the Valuation Roll was of no value, because it was prepared under the Valuation Act, which dealt with real rent, whereas the Poor Law Act dealt with annual value. Further, the system pursued by the Board of allowing deductions by percentage was arbitrary and illegal. They were bound to deal with each individual case when called upon to do so, and the pursuer was entitled to have it declared that the Board's mode of assessment was for all time coming illegal.

CLARK, SHAND and W. A. BROWN, for respondents, answered—The import of the proof is that the suspender has got the benefit of a larger amount of deductions than he is entitled to. It has been established that the tenants under the suspender have to execute all repairs themselves, and, that being so, the suspender paying nothing for repairs, he is not entitled to charge any deduction under that head. But assuming that he is, his valuators have overstated the amount, and the true valuation shows that he had not been over-assessed. Even taking his valuations to be correct, the difference between the deductions allowed and the deductions claimed was so trifling that the Court would not interfere to disturb the assessment. It was clear from the 38th and 40th sections of the statute that what alone the suspender could complain of was a surcharge. The Board were authorized to prepare a list of the persons liable to be assessed and the amount of their assessment, and that roll stood subject to no other challenge on the part of the suspender except that he had been over-assessed, a question which he might competently bring before the Court by a suspension. That being so, the declarator must be dismissed as well as the suspension refused. The pursuer was not entitled to ask the Court to declare how the assessment was to be imposed—that was a matter for the consideration of the Board, and of the Board only. The only thing of which the pursuer could complain was a surcharge, and the proper remedy for getting that was a suspension, which had been brought, not a declarator, which was unnecessary.

At advising—

LORD BENHOLME—We have here to deal with two processes, or rather with conjoined processes of suspension and declarator. I shall first announce my views on the first, and that will go a great length towards disposing of the second. In order to ascertain the merits of the suspension it is necessary, in the first place, to inquire into the duty of the Parochial Board in laying on the assessment for the relief of the poor. The Poor Law Act says that they are to make up a roll of all the persons liable to be assessed, and the amount of the assessment. That the statute declares, and I do not see that any additional duty is imposed upon them. It may be true that when the sum so assessed is challenged by suspension, it may be necessary for the Court to inquire into and ascertain the data by means of which that sum was reached. But if it turns out that the sum is not more than the party was bound to pay, then we must dismiss the suspension. In this case two things are to be considered: (1) The amount of the gross value on which this gentleman was assessed; (2) the true amount of deductions. It appears to me that the gross value must be taken from the Valuation Roll, The words of the Valuation Act are quite distinct. Mr Smith's ingenious argument upon real rent has no weight with me, because by a subsequent section (41) it is provided—(*reads*). That is an answer to Mr Smith's argument. I think it clear, from this provision of the statute, that the gross value is to be taken from the Valuation Roll, but that is not to interfere with the deductions allowed under any other statute, as, for example, the deductions under the Poor Law Act, with which we are now dealing. But then the deductions are not to affect the gross value. Then that being the case, we know now that the Valuation Roll states the suspender's annual value at £1523; and the question is, whether there has been any surcharge. By some mistake or other, the assessor does not seem to have gone to the Roll, but the result is that the suspender has got the benefit of £150 of deductions; for we must take the £80 into view when he says there has been a surcharge. I am clearly of opinion that he has got sufficient deductions. I place more confidence in the opinions of those humble valuators, the small tenants, who are cognisant with the subjects, than on the larger ones. It is unnecessary to go into the details of the proof. That exhausts the suspension, for what we have to ascertain is whether there has been surcharge. In regard to the declarator, I think it was a mistake from the beginning; it is not the way in which the question ought to be tried. The declarator seems to have been brought from some idea that the suspension was incompetent; but if suspension was the proper remedy, it was the only one. We are always very chary of maintaining declarators as to Acts of Parliament. (*Reads conclusions of declarator.*)—After what I have said, this is out of place. The pursuer says "that the Parochial Board is not entitled to state, and the pursuer is not bound to accept, a slump deduction," &c. I don't think we have anything to do with that. The Board is entitled to impose the assessment as they think fit. I am not prepared to dictate or suggest to the Parochial Board any rule upon this subject. Any attempt on the part of the Court

a priori to say how the duty of the Board should be discharged would be in my opinion wrong.

LORD NEAVES—I entirely concur. There are some of these declaratory conclusions that we would require to be careful about adopting, for they could not be entertained without having all the ratepayers here. I think the statute gives us the true criterion. If any ratepayer thinks this has been a surcharge, let him say so. He is not entitled to get behind the scenes. In imposing the assessment the assessor must in some way or other proceed on the Valuation Roll, and the suspender is presumed to know the Valuation Roll for it is made up at his sight. The true deductions here, I think, are less than those given. As to the rest, it just comes to this, that the statute must be observed. There is no use in our declaring that. If by any means the assessor arrives at a sound conclusion, we cannot interfere with the manner in which he reaches it.

LORD COWAN—I have formed the same opinion on the same grounds; and as your Lordships have already so fully stated these views, I shall not detain the Court by recapitulating them. The only view in which the declarator would be justifiable, would be if the Court held the suspension incompetent. But the duty of the suspender was to have brought a reclaiming note and not a declarator.

The respondents were found entitled to expenses, subject to deduction of one-third.

Agents for Suspender—Maitland & Lyon, W.S.

Agent for Respondents—Alexander Morison, S.S.C.

Wednesday, Oct. 20.

SMITH *v.* DICK AND OTHERS.

Parent and Child—Declarator of Bastardy—Presumption—Onus—*Repute.* Circumstances in which *held* that the pursuer of an action of declarator of bastardy had discharged the *onus* lying upon him to overcome the legal presumption of legitimacy and had established the illegitimacy of a party deceased.

This is an action of declarator of bastardy at the instance of William Ebenezer Smith of the city of Aurora in the county of Kane and state of Illinois in the United States of America, against the known relatives of the late Mrs Janet Wilkie or Smith. The Crown is also called as *ultimus hæres* of the deceased. The conclusions of the action are as follows:—"Therefore it ought and should be found and declared, by decree of the Lords of our Council and Session, that the now deceased Janet Wilkie or Smith, sometime wife of the also now deceased Henry Smith, photographic artist in Edinburgh, was a bastard or natural child of the now deceased Helen Galt, thereafter Wilkie, daughter of the late David Galt or Gaat, carter, Grange Loan, Edinburgh; and that the said Janet Wilkie or Smith was not the lawful child of the also now deceased Robert Wilkie, weaver, sometime residing in Kay's Court, Crosscauseway, Edinburgh, and thereafter in New Street there; and that she had no right or title to any of the legal, civil, or other rights which would have been competent to her had she been the lawful child to the said Robert Wilkie; and that having predeceased her husband, the said Henry Smith, without issue, the conveyance in a general disposition and settlement executed by the said deceased Henry Smith upon the 14th day of November 1860, and recorded in the books of Council and Session upon the 21st day of February 1868, whereby he gave, granted, and disponed to and in favour of the said Janet Wilkie or Smith, and her heirs and assignees whomsoever, heritably and irredeemably, his whole heritable and moveable estate of every description has lapsed and become inoperative and ineffectual; or otherwise it ought and should be found and declared, by decree foresaid, that the conveyance contained in the said general disposition and settlement was revoked, recalled, and cancelled, by a codicil thereto annexed, executed by the said Henry Smith on 8th February 1868, and recorded along with the said general disposition and settlement, in the books of Council and Session, of the date foresaid." The pursuer made the following averments as to the status of the said Janet Wilkie or Smith: "(3) The said Janet Wilkie or Smith died on 2d February 1868 (six days before her husband), without leaving lawful issue. She was the illegitimate daughter of Helen Galt or Gaat, daughter of the late David Galt or Gaat, carter, Grange Loan, Edinburgh, and was born there in or about the month of February 1821. Her father's name was Anderson, a mason or marble cutter, in Edinburgh, who absconded at the time of her birth and has not since been heard of. At the time of the said birth the said Helen Galt was unmarried, and resided in family with her father, David Galt, in a small cottage at Grange Loan, near Edinburgh. The said ——— Anderson and Helen Galt were never married, and never lived together as habit and repute married persons. The said child was always known and reputed to be the illegitimate daughter of the said Helen Galt, and was never legitimated by the subsequent marriage of its said parents. (4) In the month of September 1821, the said Helen Galt was engaged by the late Thomas Ireland, accountant, Edinburgh, who was then residing at Blackford farmhouse, to act as nurse for his son, George Ireland, who was born on the 9th day of September in that year. The said Helen Galt continued in the employment of the said Thomas Ireland in that capacity for upwards of two years. It was well known at that time that she had recently given birth to the said illegitimate child, and that it was procreated between her and the said ——— Anderson, while no lawful marriage subsisted between them. After leaving Mr Ireland's service, the said Helen Galt was, for the period of one year, engaged as a general house servant in Watson's Hospital. (5) On the 27th day of April 1824, and about three years after the birth of her illegitimate child, the said Helen Galt was married to Robert Wilkie, weaver, Shoemaker's Close, Edinburgh, at that time a widower, and her child thereafter resided in family with them, and went by the name of Janet Wilkie. She was not the child of the said Robert Wilkie, however, and was born during the life of Isabella White or Wilkie, his first wife, who died upon the 25th day of August 1821, about six months after the birth of the said Janet Wilkie or Smith. The said Helen Galt or Wilkie had no children by her said husband, and she was not married after his death. Her illegitimate daughter, the said Janet Wilkie or Smith, has no 'heirs or assignees,' and the conveyance in the said general disposition and settlement has lapsed and become inoperative and ineffectual, in consequence of her having predeceased her husband, the said Henry Smith, without leaving lawful issue. (6) The defender, the