

April 29. 1830. increased. Not only does the number of links in the chain increase the number of questions to be tried, but makes each question more difficult. The judgment of the Court below was only given by a majority of one Judge; the Lord President and the Lord Justice-Clerk were in the minority. This circumstance relieves me from the embarrassment which I otherwise should have felt when advising your Lordships to reverse the judgment of the Court of Session.

I humbly move your Lordships, that the interlocutor pronounced in the Court below be set aside, and that this case be sent back to the Court of Session, with directions to that Court to reduce the service of heir to Alexander Inglis, which has been obtained by the respondent.

The House of Lords accordingly 'ordered and adjudged, that the interlocutor complained of be reversed; and it is further ordered, that the cause be remitted back to the Court of Session, with instructions to the said Court to reduce the general service.'

*Appellant's Authorities.*—3. Ersk. 8. 36.; 3. Stair, 5. 8. 25.; 4. 35.; 3. Bank. 5. 1. 4. 21.; 3. Ersk. 8. 63. 78. Rollock, July 1636, (1. Brown's Synop. 217.) Duncan, Feb. 9. 1813, (F. C.); 2. Craig, 13. § 47.

*Respondent's Authorities.*—3. Ersk. 8. 63. 65.; 2. Bank. 326.; 3. Stair, 5. 35. 42.; 1503, c. 94. Carmichael, Nov. 15. 1810, (F. C.) Cuninghame, Feb. 27. 1812, (F. C.)

SPOTTISWOODE and ROBERTSON—RICHARDSON and CONNELL,—  
Solicitors.

No. 22. JAMES THOMSON, Appellant.—*Wetherell—Wilson.*

THOMAS FORRESTER, Respondent.—*Lushington—Dundas.*

*Landlord and Tenant.*—On a question of fact, relative to a tenant's liability for a year's rent, the House of Lords, (affirming the judgment of the Court of Session), held the tenant not to be liable.

June 18. 1830.

2D DIVISION.  
Lord Mackenzie.

FORRESTER held a lease of a farm from Balfour of Leys, (whose factor loco tutoris was James Thomson), for nineteen years from Whitsunday and Martinmas 1797. Among the subjects let were a mill and orchards; and from these Forrester was to remove at Whitsunday 1816, but not from the arable lands until the ensuing Michaelmas. Nearly five years after a settlement with Forrester, and his removal from the farm, a claim was made upon him by Thomson for the value of the fruit of the year 1816; and in an action the Sheriff of Perthshire and the Lord Ordinary

decerned against him; but the Court of Session remitted to an accountant to report on the question, how many crops' rent had actually been paid for the orchard and fruit thereof. It appeared from the report, that Forrester had not got the fruit of the orchard crop 1797; and thus, counting crop 1816, only had the number of crops (nineteen) stipulated for by the lease. Evidence was also produced, that a person authorized by Mr Thomson had been paid by Forrester for the crop of 1816. The Court therefore altered, and assoilzied Forrester, with expenses. Thomson appealed; but the House of Lords, without requiring the respondent's Counsel to be heard, affirmed the interlocutor, with L. 50 costs.

JAMES CHALMER—SPOTTISWOODE and ROBERTSON,—Solicitors.

WALTER NEWALL and JOHN INMAN, Appellants.  
*Lushington.*

No. 23.

COMMISSIONERS OF POLICE OF DUMFRIES, Respondents.  
*Spankie—Alderson.*

*Public Police—Statute.*—Held, (reversing the judgment of the Court of Session), that a clause in the Police Act of Dumfries, authorizing the Commissioners to remove obstructions, did not warrant them, for the purpose of widening the entrance to a street, to remove a tenement which did not encroach on or obstruct the line of the other houses.

BANK-STREET in the town of Dumfries runs off at right angles from the High-street, and leads to the White-sands, where cattle and other markets are held. At the corner which it forms with the High-street, Newall and Inman had an area on which stood a tenement of houses facing both the High-street and Bank-street. Adjoining to this tenement was a small area or garden, enclosed by a stone wall built in a line with the wall of the tenement, and running along Bank-street. At the opening next the High-street, Bank-street is only fifteen feet wide, but gradually widens as it approaches the cattle-market, where it is above forty feet wide. Newall and Inman's area and tenement did not project into or form any encroachment or irregularity on the street itself; but much inconvenience was occasioned by the narrowness of the entry from the High-street into Bank-street, it being frequently crowded to excess.

June 21. 1830.

2D DIVISION.  
Lord Cringletie.

By the Dumfries Police Statute, Commissioners are empowered to order 'the proprietors of all houses and other buildings 'fronting any of the streets or roads of the said town, encroach-