

After hearing counsel, it was
 Ordered and adjudged that the interlocutors complained
 of be affirmed.

1797.

LIDDERDALE
 v.
 DOBIE.

For Appellant.—*W. Grant, Thomas M'Donald.*

For Respondents.—*Sir J. Scott, Wm. Tait.*

WM. ROBERTSON LIDDERDALE, Esq.,	.	<i>Appellant;</i>
MUNGO DOBIE, Writer and Messenger,	.	<i>Respondent.</i>

(Et e contra.)

House of Lords, 10th March 1797.

DAMAGES FOR ILLEGAL AND OPPRESSIVE PROCEEDINGS.—Circumstances in which a party who had filed an indictment of perjury in England against a party in Scotland, and afterwards obtained sentence of outlawry against him, was held liable in £300 damages, and £740 of expenses, and £200 for costs of appeal.

This was an action of damages raised by the respondent, residing in Dumfries, for certain oppressive and illegal proceedings adopted by the appellant, arising out of the purchase of the lands of Castlemilk town, made by him in 1777.

For one half the year the appellant resided in Dumfriesshire, the other half in London.

Part of the price of the lands had been paid by him to the seller's creditors, for whom the respondent acted as factor or trustee.

It was stated, that when only the balance of £767 remained unpaid, that the respondent came to London and made affidavit that the appellant was indebted to the respondent in the sum of £1030, upon a decree of the Lords of Session. Upon which a bill being filed, the appellant was arrested and held to bail for that sum for a week, until bail was found accordingly. The appellant defended this action, and in consequence of the respondent not being able to prove or produce the decree mentioned in the declaration, he was non-suited.

The appellant having then preferred an indictment for July 19, 1786. perjury in England against the respondent, the grand jury found the bill, and a warrant, signed by Lord Mansfield, was issued to apprehend the said Mungo Dobie.

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The appellant carried the warrant to Scotland, and procured one of the justices of peace of Dumfries-shire to indorse it. The appellant had read the warrant to several persons, by way of injuring and ruining the respondent's character. He was apprehended and brought before the justice of peace, who, in consequence of there being no witness to prove the signature of Lord Mansfield, discharged the prisoner. Notwithstanding, the appellant proceeded to have the respondent outlawed in England. Sentence of outlawry being pronounced in 1788.

On these proceedings the present action of damages was raised, and a proof led by the pursuer, to show that the appellant was actuated by a desire to ruin his character.

Feb. 9, 1791.

The Court, upon the report of Lord Rockville—"The Lords find the charge of perjury, exhibited by the defender against the pursuer before the court of England, founded upon certain proceedings in the Court of Session, was groundless and oppressive, the sum truly due by the defender upon the 3d May 1785, having been at least equal to the amount sworn to by the pursuer; but find, that in the present situation of matters, while the sentence of outlawry remains in force against the pursuer in England, the Court cannot with propriety give redress, and therefore supersede further proceedings in this cause till proper steps are taken for obtaining a reversal of that sentence."

Feb. 14, 1793.

The sentence of outlawry having been afterwards reversed, in absence of the appellant, the Court thereafter found the respondent entitled to damages, and modified the same

Mar. 3, 1795.

to £300, and decerned therefor; and having advised the state of expenses for the pursuer, decerned against the defender in £740 of expenses.

Against these interlocutors the present appeal was brought by the appellant, and a cross-appeal by the respondent, in so far as the damages awarded were inadequate.

After hearing counsel, it was

Ordered and adjudged that the original and cross-appeals be dismissed, and that the several interlocutors therein complained of be affirmed. And it is further ordered, that the appellant in the original appeal do pay, or cause to be paid to the respondent in the said appeal, £200 for his costs, in respect of the said appeal.

For Appellant, *Sir J. Scott, J. Campbell.*

For Respondent, *W. Grant, W. Garrow.*