May 26, 1814.

JUS RELICTÆ.—RES JUDICATA.

Glover's debt must affect the *jus relictæ*, and to reverse the interlocutors, so far as they were inconsistent with this declaration.

Judgment

Judgment accordingly.

Agent for Appellants, CHALMER.
Agents for Respondents, CLAYTON and SCOTT.

SCOTLAND.

APPEAL FROM THE COURT OF SESSION.

SCOTT and Co.—*Appellants.*
M'INTOSH—*Respondent.*

May 25, 1814.

MILITIA BALLOT.—INSURANCE.

WHERE a militia ballot was illegally conducted, it was held, that an insurance against the consequences of militia ballots did not bind the insurers to protect the insured against any consequences of such irregular ballot, as it imposed no real obligation to serve or provide substitutes, and as the insurers had a right to avail themselves of the non-liability of the assured.

THE Respondent, in January, 1808, insured with the Appellants against the consequence of any militia ballot for the county of Inverness that might take place between the time of the insurance and the 1st of September following. The premium was paid on the 2d, and the insurance was considered as then effected, though the paper called a policy was not delivered till the 11th. The Deputy Lieutenants

proceeded to ballot on the 5th, but having misconceived the provisions of 44 Geo. 3, cap. 54, and 47 Geo. 3, cap. 71, the militia-acts then in force, they estimated the number of men liable to the ballot in the 10th district, where the Respondent resided, at nearly 10 times its proper amount; in consequence of which, every man liable to the ballot was actually drawn. The insurers refused to pay, and an action was brought against them for performance and damages. The Court of Session decided against them, on the ground that the Respondent was not answerable for the mistake of the Deputy Lieutenants. From this decision the insurers appealed.

May 25, 1814.

MILITIA BALLOT.—INSURANCE.

There was another similar appeal, *Scott v. Macdonald.* The circumstances in both were exactly the same, except that in the one case the person drawn served by substitute, in the other personally.

Lord Eldon (Chancellor.) There was enough in the papers to show that the Appellants had passed from the objection founded on the policy, as it was called, being dated the 11th, some days after the thing called a ballot had taken place.

May 26, 1814.

Suppose the ballot had been regular, if one who was really exempt, without taking any steps to make that exemption available, or giving the insurers the means of doing so, provided a substitute, or served personally, he was afraid such an action as this could not be supported, since the underwriters had a right to his non-liability. Now this thing called a ballot was not a legal proceeding, and imposed no obligation on any body; and in

May 26, 1814. case of any attempt to give effect to it, the Court of Session might, on bill of suspension, give the proper relief.

MILITIA BALLOT.—INSURANCE.

Judgment. Judgment of the Court below *reversed*.

Agent for Appellants, GRANT.
Agent for Respondent, CHALMER.

IRELAND.

IN ERROR FROM THE EXCHEQUER CHAMBER.

LOVELAND, on demise of MACNAMARA - - - - } *Plaintiff in error.*
LYNCH—*Defendant in Error.*

June 1, 1814. IN a certificate of conformity under the Popery Act, 2 Anne, cap. 6, it is not necessary to pursue the precise words of the statute, the terms of the act being fully satisfied if the fact be sufficiently certified. Thus, where a certificate was questioned on the ground that it did not state in these precise words,—*that the party had* CONFORMED,—it was held that the certificate, though the word *conformed* was not in it, was sufficient, since it clearly enough certified the fact.

POPERY LAWS.—CERTIFICATE OF CONFORMITY.

Ejectment in Exchequer, T. T. 1792. EJECTMENT by Plaintiff Loveland against Defendant Lynch, in the Court of Exchequer in Ireland, T. T. 1792. The Defendant claimed to be entitled to the premises in dispute, (lands of Mackinish, &c. situate in the county of Clare,) under a