directly applicable here, and that there exist cogent reasons for refusing the present suspension. In the case of *Meek* the complaint was not directed, as here, against the whole system of assessment in the parish, but merely against the particular estimate, or mode of estimating the value of the property of the complainers. It was therefore not difficult to determine that matter, and to leave the subject of the actual money relief for readjustment among the rate-payers. But were the Lord Ordinary to adopt the views pressed upon him on the part of the complainer here, it must follow as a necessary result that the whole assessment for the year 1866–67 must be subjected to readjustment. No other course could, with justice to other rate-payers, be proposed. But is this to be allowed now, when the only consequence of refusing the suspension is to leave the present assessment to take effect meanwhile, as in former years, while the complainer is still free to adopt other measures adequate for the determination of the question which he has here raised, and at the same time free from the objections to which this particular form of process is open? The Lord Ordinary thinks otherwise, and that there are strong grounds on which to decline to sustain this process."

The complainers reclaimed.

J. C. SMITH (with him GIFFORD) maintained that suspension was a competent form of bringing the question before the Court, and that that was the form of action invariably adopted. He referred to the following cases—*Edinburgh and Glasgow Railway Co.* v. *Meek*, 10 Dec. 1864, 3 Macph. 229; *Glasgow Gas Light Co.* v. *Adamson*, 23 March 1863, 1 Macph. 727; *Edinburgh and Glasgow Railway* v. *Hall*, 19 Jan. 1866, 4 Macph. 301.

W. A. BROWN (with him CLARK) answered—The authorities quoted apparently support the competency of the action, but it does not appear from the reports that the objection was taken in the pure form in which it arises here. In these cases, the parties were apparently willing to try the question in a suspension, but here the respondents objected because that would be a highly inconvenient course. In *Tod* v. *Mitchell*, 26 Jan. 1858, 20 D. 445, where this objection was raised purely, the Court had laid down the principle of law applicable adverse to the suspender. But this question did not depend so much upon abstract considerations of law as on the circumstances of the case. The complainer had waited to the very last moment before taking his objection, and was not entitled to bring a suspension, and thereby impose a penalty upon future rate-payers, after the greater part of the assessment of the parish had been collected and paid for the relief of the poor. Moreover, the objections which the complainer was entitled to make up to the 5th of February were, in virtue of the 40th section of the Poor Law Amendment Act, mere errors or surcharges, not objections cutting at the principle of the assessment.

At advising—

LORD COWAN would have liked to have heard some of the cogent reasons referred to by the Lord Ordinary in his note. He says that it must be a necessary result of adopting the argument of the complainer that the whole assessment for the years 1866–67 must be subjected to readjustment, but no such thing happened, and that view had been properly passed from by the respondents. What was conclusive to him in the matter was, that while a great many cases had been quoted in which such questions had been tried by suspension, the respondents had not been able to lay their hands upon one in which a suspension had been imposed. He expressly reserved his opinion on the merits, and it might be that the pleas of acquiescence and homologation maintained by the respondents would throw out the action, but these questions could be competently tried in a suspension.

LORD NEAVES—Under the old law illegal assessment would be competently corrected by suspension, so far as the suspender was affected by the error; and the Act of 1845 studiously reserved to rate-payers the rights competent to them under the old law.

LORD JUSTICE-CLERK concurred.

The Court accordingly remitted to the Lord Ordinary to hear parties on the merits.

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

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

Tuesday, October 27.

NOTE FOR THEODORE RICHARD SCHWEITZER.

Diligence—Warrant to Arrest—Sheriff Officer—Messenger-at-Arms. There being no messenger-at-arms to put a warrant of arrestment into execution, authority granted to a sheriff officer to execute the diligence.

This note stated that the petitioner had obtained decree against the Earl of Orkney for a certain sum, with power to arrest, and prayed for warrant to a sheriff-officer to put the warrant into execution. The note stated that there was no messenger-at-arms resident in Orkney. The nearest was at Caithness, which was at a considerable distance, and there might be considerable delay. Under the recent Act, a sheriff-officer might serve a summons but not a diligence. The Court granted the authority prayed for.

Counsel for the Petitioner—Mr Pattison.

Agent—William Mason, S.S.C.

Thursday, October 29.

FIRST DIVISION.

LONGWORTH *v.* YELVERTON.

Jurisdiction—Foreign—Reduction—Status—Reconvention. A domiciled Irishman brought in the Court of Session a declarator of freedom and of putting to silence against an Englishwoman, who then brought against him a declarator of marriage. The actions were conjoined. Decree of declarator of marriage was pronounced by the Court (reversing the judgment of the Lord Ordinary), but the decision was reversed in the House of Lords. The Englishwoman then brought in the Court of Session a reduction of the judgments of the Lord Ordinary and of the House of Lords, on the ground that these Courts had no jurisdiction to pronounce then. Action *dismissed*, in respect that the defender was not now, or at the date of raising the action, subject to the jurisdiction of the Scotch Courts. *Opinion*, that the Courts of the country in which the parties are domiciled, will not be bound by any judgment of this Court and the House of Lords, which these tribunals can be shown to have had no jurisdiction to pronounce.