But the whole is referred to, & the Form is, to do so in every Libel: By such an Act it is so enacted, as in & by said Act, to which the Party proponent craves Leave to refer, may, & doth appear. If the other Party had given in a Plea in answer to the Libel, he might have recited the part of the Statute on which he relies; but that would have been form only, for whether he did, or not, the Judge was unquestionably bound, to determine, upon Consideration of the whole Statute, taken together.

What the Appellants Motive was for bringing this Suite, I apprehend is quite immaterial for your Lps to enquire. Whether She had 6 or 7 Years Experience of this Gentleman, before she desired to get rid of him, as was represented by one of the Gentlemen; or whether She ever cohabited with him, for one Hour, as her Husband, non Constat, nor can it make the least difference in the Question.

It signifies as little, whether any indirect means were used, to impose upon her at the Time, or whether she was induced to take the Step, She has now done, by any subsequent Unkindness; the Single Question, is, wh? the Case is within the Reach of the Act of Parl?

If it is, the Consequence is not to be avoided; the Marriage is absolutely null & void, & either Party, on application to the proper Court, has a right to have it declared so; And the Case, put by one of the Gentlemen, as a matter of Doubt, whether if a Man under Age, had obtained a Licence, by swearing himself to be of full Age, & should afterwards bring a Suite of Marriage, as having been under Age, at the time the Licence was granted, & not having had the Consent of his Parents or Guardians, the Court would in that Case, & at his Suite, pronounce the marriage to be void, has been determined; the Statute is express, & the Judge could not avoid pronouncing the Marriage null; however culpable the Party bring? the Suite, in that Case might be, & however liable to Punishment for his Injury.

But the Party bringing this Suite is liable to no such Objection; She was drawn in during her Minority, to engage in a Contract, concerning the Legality of which, she is advised, there are, at least Great Doubts, which it, most certainly, highly concerns her to have cleared up; for if it be a good marriage, it is her Duty to go & live with her Husband; if it be not a good Marriage, it would be a Crime for her to cohabit with him, & She has a right to dispose of herself in any other way.

The Gentlemen have not offered to make it a Question, whether the several Facts stated in the Libel, would have constituted a legal Marriage, if they had passed in any part of England: It will not admit of a Question: but they rely solely on the Exception, by which it is provided "That nothing in this Act contained shall" "extend to that part of Great Brittain, called Scotland." And insist, that this is as plain a Declaration, as Words can make, that this Act of Parl? is not applicable to any Marriage performed, or pretended to be performd in Scotland, between any Persons whatsoever; & this is the single Question between us. In determining upon which your Attention will naturally be directed in the first Place to the Letter, & the plain unentrovertd Intention of the Statute, & the Exception.

The Words of the Statute are, "That all Marriages solem-
" nized in any other Place, than a Church or public "
" Chapel, where Banns have been usually published, unlys "
" by special Licence from the Abp of Canterbury, or that "
" shall be solemnized without Publication of Banns, or "
" Licence, from a Person having Authority to grant it, & "
" all Marriages solemnized by Licence, where either of the "
" Parties not being a Widower or Widow is under the "
" Age of 21, without the Consent of the Father or "
" Guardian of the Party under Age, shall be null & "
" void, to all Intents & Purposes."

The Words of the Exception are, "That nothing in this "
" Act contained shall extend to Scotland." It does not say, to any marriages solemnized or performed in Scotland, which is the manner in which all the other Exceptions are worded: Viz. "That it shall not extend to "
" the Marriages of any of the Royal Family; nor to "
" any Marriages amongst Quaker, or amongst Jews, "
" nor to any Marriages solemnized beyond the "
" Seas" But "That nothing in the Act contained shall "
" extend to Scotland".

Now is not the obvious, Grammatical Meaning, of these Words, that it shall not be the Law of Scotland; That Scotland, i.e. the Kings Subjects inhabiting that Part of the Island, shall not be bound to the Observance of the Rules prescribed in this Act, for solemnizing Marriage; but the Law, there, relative to that Contract, shall remain the same as it was, before this Act was made.

What then was the Intention of the Statute?

It is clearly expressed in the Preamble; "Whereas "
" great Mischiefs, & Inconveniences, have arisen from "
" clandestine Marriages, for preventing them of, be it "
" Enacted &c".

What Clandestine Marriages are within the view of the Statute, is expressd in the subsequent Parts of it: