first, whether there is sufficient legal confirmation of the wife; and secondly, whether on the whole proof we are to believe her evidence?

I agree with your Lordship that the evidence of the witnesses who saw the co-defender with his arms round the defender's waist is important, as laying the foundation for what follows. Then in March 1879 and July 1879 there are two acts of adultery libelled and spoken to by the defender, which are certainly sufficient if her story is corroborated. Now, I think that there is most important corroboration of these two acts in what followed. What took place in September 1879 does not amount to an act of adultery. But everything took place preparatory to such an act, which was only interrupted by the husband; and there cannot be a more complete corroboration than that the parties were about to commit adultery but were interrupted and prevented from completing the act. There is therefore sufficient corroboration of the two acts libelled. Nothing more is necessary to satisfy the law if we believe the evidence.

Now, for my own part, I have very little doubt of the truth of the evidence. I have little doubt that Mrs Ramsay is speaking the truth. It is a delicate matter in some circumstances undoubtedly, where there may be collusion, but in the present case there is no appearance of collusion. On the whole matter I cannot doubt that we should adhere to the Lord Ordinary's interlocutor.

Lord Mure—I am of the same opinion. I am entirely satisfied that the story of the defender is to be relied on and is sufficiently corroborated in law.

Lord Shand—I am quite of the same opinion, and I think the case a clear one. I have no difficulty whatever in coming to the conclusion that the Lord Ordinary is right, and even in the absence of the co-defender's additional evidence I should have affirmed the judgment, but I think he has rather confirmed that conclusion than otherwise.

The questions are two—Is the wife to be believed? and is she sufficiently corroborated in law to make out the case? I see no reason to doubt what she says. It is a most natural account. When she is suddenly charged with adultery she denies it, but she afterwards makes a full admission. That is what generally occurs, and what naturally occurs, in such cases. There is no evidence of collusion. If there had been, that would have raised a different sort of case. But it is not a case of the husband leading the wife to fall; and on the whole matter I have no hesitation in believing the wife.

But then there is the second question—Is she sufficiently corroborated in law? Now, here also I think that there never was a clearer case. The corroboration is not of adultery indeed, but of acts of familiarity—of great familiarity; and the corroboration is not the less valuable because the co-defender admitted everything up to the point when full guilt became apparent, and then denied; for Mr Trayner was obliged to concede that on the 19th of September the co-defender was about to assail the defender's virtue. I have therefore no doubt about the case on this branch also.

The Court adhered.

Counsel for Reclaimer (Co-defender)—Trayner—Shaw. Agents—Beveridge, Sutherland, & Smith, S.S.C.

Counsel for Respondent (Pursuer)—Moncrieff—Watt. Agents—Foster & Clark, S.S.C.

Tuesday, July 20.

SECOND DIVISION.

[Sheriff of Midlothian.

BEATTIE *v.* PRATT.

Process—Sheriff—Competency of Application to Interdict a Threat to Inhibit.

Inhibition being a diligence which can only competently issue under authority of the Court of Session, a Sheriff has no jurisdiction to suspend or interdict such diligence.

Question—Whether a threatened inhibition on the dependence of an action about to be raised can be interdicted in the Court of Session?

Opinions (per Lord Justice-Clerk and Lord Ormidale) that where malice and oppression can be instantly verified, an application to interdict the threatened use of diligence is competent.

On 25th December 1879 George Pratt, plasterer in Edinburgh, made a written offer to G. Beattie & Sons, architects in Edinburgh, to execute the plaster-work of certain new tenements which were being erected at Tynecastle, for the sum of £119 for each tenement. On 31st December Messrs Beattie "on behalf of the proprietors" accepted the tender as regarded two tenements. The specification referred to in the offer and acceptance provided that the work should be executed in a perfect, substantial, and workmanlike manner, and should be to the entire satisfaction of the proprietors and the architect. Pratt proceeded with the work and at its completion applied to Messrs Beattie for payment. This was refused on the ground that the work had not been done in a substantial and workmanlike manner. The statement of Messrs Beattie, who were pursuers and appellants in this process of interdict, on that subject was as follows:—"(Cond. 3) The defender proceeded with the execution of the work mentioned in the said contract, but he failed to do so to the satisfaction of the pursuers. The pursuers frequently complained of the untradesmanlike and insufficient manner in which the defender was executing the said work, and informed the defender that unless he complied with his contract by executing the work in a tradesmanlike manner they could not certify his account with a view to his obtaining payment of instalments from the proprietor Mr James Sinclair, 52 Morrison Street, Edinburgh." On 4th June 1880 Pratt wrote to Messrs Beattie as follows—"Unless my account is paid this afternoon you will be served with a summons, and I will inhibit you without further intimation, as I will submit no longer to your unnecessary delay. My agent is Mr Sutherland, Hanover Street, with whom you can address yourselves." Messrs Beattie handed this letter to their agents, Millar, Robson, & Innes, S.S.C., who

wrote to Mr Sutherland stating that their clients were not liable for Pratt's account, as they only acted as agents for the proprietor Mr Sinclair, and that the reason for which they refused to certify the account was the untradesmanlike manner in which the work was done. This letter concluded thus—"As regards the threat to inhibit, we consider it quite unwarranted, and we do not think that you approve of such a step. If Mr Pratt is serious in insisting in his claim as against our clients, and wishes security, the amount will at once be consigned in bank; and if after this offer should inhibition or arrestment be used our clients will hold Mr Pratt and all concerned liable in all loss and damage which they may thereby sustain." Mr Sutherland replied that provided £150 were consigned in bank in their joint names, "on condition that as soon as the amount due to Mr Pratt be ascertained the consigned fund to the extent of the sum due him will be paid over to him, inhibition will not be used, but otherwise my instructions are to serve a summons and use all diligence at once." Messrs Millar, Robson, & Innes replied as follows:—"Dear Sir,—We have your letter of this date. The amount you mention (£150) will be consigned on Monday forenoon in your and our joint names, and as soon as the amount, if any, due by our clients to Mr Pratt is ascertained, the consigned fund to the extent of that sum will be paid over to him. Of course it is understood that in respect of this consignation no inhibition or arrestment will be used at Mr Pratt's instance against our clients." To this letter Mr Sutherland sent this reply:—"Dear Sirs,—I have your letter of this date. If I am to understand by it that notwithstanding the consignation Messrs George Beattie & Son are to plead no liability for Mr Pratt's work I cannot agree to the proposed arrangement. What is required is that the consigned sum to the extent of the amount which may be due to Mr Pratt for the work done by him will be applied in payment of that amount when it has been ascertained. As I have already mentioned, unless the consignation is made on this footing, and a copy of the deposit-receipt furnished to me before two o'clock on Monday, my instructions are peremptory to serve an action and inhibit and arrest, and this will be done on Monday afternoon. If you agree to the footing now mentioned, my client agrees not to use inhibition or arrestment against Messrs Beattie & Son in respect of the work in question." Thereupon on 7th June Messrs Beattie presented a petition in the Sheriff Court for interdict against the threatened use of inhibition. The prayer of the petition was as follows—"To interdict the defender and all others acting under or for him or by his instructions from using inhibition or arrestment or other diligence against the pursuers in security of any debt alleged to be due by the pursuers to the defender, or on the dependence of any proceedings which may be instituted at the defender's instance against the pursuers for the purpose of constituting the said alleged debt, and to grant interim interdict, and to find the defender liable in the expense of this application and procedure to follow thereon, and to decern."

They pleaded, *inter alia*—"(1) The threatened proceedings at the instance of the defender are, in the circumstances condescended on, nimious and oppressive, and the pursuers are entitled to interdict against the same."

Pratt pleaded—"(1) The defender having an absolute right to use inhibition or arrestment on any action that may be raised by him against the pursuers, the present application is incompetent. (2) The action being incompetent and groundless, the defender is entitled to absolvitor with expenses."

The Sheriff-Substitute (HAMILTON) on 8th June recalled the interim interdict which he had granted pending discussion. He added this note:—"On further consideration, and after hearing parties, it does not seem to the Sheriff-Substitute that there is here any threatened wrong for which interdict is the proper remedy."

The pursuers appealed. On 17th June the Sheriff (DAVIDSON) dismissed the appeal, adding this note—

"*Note.*—This is certainly a novel proceeding, and the Sheriff is not able to hold it a competent application. If, notwithstanding the most reasonable offer of the pursuers, as exhibited in the letters produced, the defender chooses to use arrestment or inhibition, as he threatens to do, the remedy for the pursuers is an instant application to the Court, with an offer to consign the amount claimed, on which probably arrestment or other diligence would be immediately recalled. Besides that the pursuers would of course have their remedy of damages."

The pursuers appealed to the Second Division, and argued—The threatened inhibition would be a nimious and oppressive proceeding, amounting in law to malice. The respondent had already in the consignation which the appellants had offered a guarantee that he would be paid whatever might be found due. That made him more secure than any inhibition on the dependence of an action would make him. Doubtless the ordinary right of a pursuer was in good faith to use legal diligence on the dependence, but here it was plain that the inhibition would, if used, be at once recalled, and damages would be due for its use. On the principle, therefore, that where a wrong is threatened, which if committed would ground an action of damages, a Court will interfere to prevent its being committed, interdict ought to be granted. The cases of *Dickson* v. *Hotchkis & Tytler*, March 6, 1815, F.C.; *Duff* v. *Bradberry*, May 19, 1825, 4 S. (N.E.) 23; *Souter* v. *Gray*, Feb. 4, 1826, 4 S. (N.E.) 430; *Tatnell* v. *Reid*, Feb. 2, 1827, 5 S. 258 (N.E); *Dove* v. *Henderson*, Jan. 11, 1865, 3 Macph. 339; *Weir* v. *Otto*, July 19, 1870, 8 Macph. 1070—were instances of equitable interference by the Court with what in ordinary circumstances would be the just right of litigants.

Argued for respondent—It is not competent to interdict a creditor from arresting in security of his debt. A person has an absolute right to use lawful diligence subject to a claim of damage if it be used in a nimious and oppressive manner. —*Brodie* v. *Young*, Feb. 19, 1851, 13 D. 737; Macfarlane on Issues, 179; *Wolthekker* v. *Northern Agricultural Company*, Dec. 20, 1862, 1 Macph. 211.

At advising—

LORD ORMIDALE—Mr Pratt, the respondent in this appeal, undertook in December last to execute

the plaster-work of a tenement of houses on ground belonging to Mr George Sinclair in the neighbourhood of Edinburgh. The appellants were the architects under whose superintendence the tenements were to be built, and according to the usual practice in such matters Mr Pratt could only get payment for his plaster-work from the proprietor Mr Sinclair on his producing a certificate by the architects of its being properly executed.

About the beginning of June, on the respondent Pratt applying to the appellants as the architects for payment of his plaster-work, they informed him that the work had not been executed according to contract, and that until it was so they were not entitled to grant the certificate requisite before Mr Sinclair could be called on to make the required payment. This led to the further correspondence set out in the printed papers.

It will be observed that on the 4th June the appellant's agents, in consequence of a demand for payment of the respondent's account, wrote the respondent's agent, stating that the reason why they as the architects had not certified the respondent's work in order that payment might be made was that the work was being executed in a very unworkmanlike manner; and they added—"If Mr Pratt is serious in insisting in his claim as against our clients" (the architects), "and wishes security, the amount will be at once consigned in bank, and if after this offer inhibition or arrestment should be used, our clients will hold Mr Pratt and all concerned liable in all loss and damage which they may thereby sustain." In answer to this letter the respondent's agent wrote next day, Saturday 5th June, that he was authorised to say "that provided £150 be consigned in bank to-day in joint names, on the condition that as soon as the amount due to Mr Pratt be ascertained the consigned sum to the extent of the sum due him will be paid over to him, inhibition will not be used, but otherwise my instructions are to serve a summons and use all diligence at once." To this somewhat peremptory demand the appellants' agents immediately replied that the £150 "would be consigned on Monday forenoon in your and our joint names, and as soon as the amount, if any, due by our clients to Mr Pratt is ascertained, the consigned fund to the extent of that sum will be paid over to him. Of course it is understood that in respect of this consignation no inhibition or arrestment will be used at Mr Pratt's instance against our clients." This being, in any view that I can take of it, all the respondent could reasonably ask, the controversy ought to have then terminated. But no. The respondent's agent wrote the same day (5th June) that if he was to understand "that notwithstanding the consignation Messrs George Beattie & Son are to plead no liability for Mr Pratt's work, I cannot agree to the proposed arrangement;" and the letter concluded with an intimation to the effect "that unless the consignation is made on this footing and a copy of the deposit-receipt furnished to me before two o'clock on Monday my instructions are peremptory to serve an action and inhibit and arrest, and this will be done on Monday afternoon." I cannot help thinking that this intimation was in its tone and terms very much of the nature of an attempt to concuss the appellants into terms which they were not bound to accede to, for I am unable to understand what fair or legitimate object the respondent could have had in insisting on the appellants acknowledging their liability for his account. The consignation was surely as good, and indeed it was better security than inhibition and arrestment. That consignation was to be made was intimated by letter of the appellants' agents of 5th June to the respondent's agent, and by the same letter it was also intimated that out of the consigned money the respondent's claim would be paid on the liability of the appellants being ascertained. It is obvious that the threatened inhibition and arrestments could give the respondent no more.

It was in this state of matters that the present application for interdict was made to the Sheriff, praying that the respondent should be interdicted from using inhibition and arrestment as threatened. The Sheriff-Substitute at first granted interim interdict, but afterwards recalled it, and the Sheriff-Principal adhered to his Substitute's interlocutor to that effect, and further dismissed the appellant's application with expenses, adding in a note that "if notwithstanding the most reasonable offer of the pursuers, as exhibited in the letters produced, the defender chooses to use arrestment or inhibition as he threatens to do, the remedy for the pursuers is an instant application to the Court, with an offer to consign the amount claimed, on which arrestment or other diligence would be immediately recalled."

The respondent, however, strenuously maintained at the debate that it is absolutely incompetent in any circumstances to interdict the threatened use of inhibition and arrestment; and that when they are wrongfully and injuriously used, the only remedy, besides an action of damages to the injured party, is to apply for their recall and loosing. This contention raises a question of great importance and wide application. The use of inhibition and arrestment may be productive of the most serious injury to the mercantile credit and interests of the party against whom they are used, and it might frequently happen that reparation for such injury could not be obtained. I am reluctant, therefore, to hold that the use of the diligences of inhibition and arrestment may not when threatened be interdicted, just as the use of other diligence. A suspension of a threatened charge is, in varying circumstances, of constant occurrence. And to say that it is the right of all the lieges to use at their own risk inhibition and arrestment does not appear to me to amount to anything, for it is also their right so to use any other diligence, such, for example, as poinding and imprisonment following on a charge of payment. But in place of waiting till the charge has been given and poinding executed, or the debtor imprisoned, the whole mischief resulting from such proceedings when wrongful may be, and, as I have already remarked, frequently is, prevented by a suspension of a threatened charge. And although a charge does not expressly in its terms comprehend inhibition as it does arrestment, and although therefore the suspension of a threatened charge does not expressly strike at the use of inhibition as it does of arrestment, it must in reality do so, for according to the usual practice and style the suspension prohibits, or at least may and very often does prohibit, all execution whatever in payment or security of the debt in dispute.

If, indeed, an interdict is not competent against the threatened use of inhibition and arrestment,

it is of course incompetent altogether so far as that species of diligence is concerned, for it would be obviously inapplicable after the diligence has been used. It is only intended, and can only be used, to prevent an illegal or wrongous act being carried into effect. Now, it is indisputable, I think, that the use of inhibition and arrestment as threatened in the present instance would be wrongful and injurious. The only legitimate object the respondent could have in using inhibition and arrestment was to secure payment of his claim after its amount should be ascertained, and that object would be attained as effectually, if not more so, by the consignation.

I am therefore very clearly of opinion that an application to interdict the use of inhibition and arrestment is a perfectly competent proceeding if made to the competent Court; and the respondent has not either in the record or at the debate stated any objection to the jurisdiction of the Sheriff to entertain the application if it had been otherwise and in itself competent. His sole objection was, that an application for an interdict against the threatened use of inhibition and arrestment, however wrongful, nimious, and oppressive, was absolutely incompetent to whatever Court it might be made. I cannot for myself sustain such an objection. But I fear that there is another objection to the competency of the appellant's application, which is more formidable, and that is, that it was made to a Court—the Sheriff Court—which had no jurisdiction to entertain it. I have been unable to find any authority or precedent to the effect that the Sheriff has jurisdiction to entertain such an application. But there is what appears to me to be precedent and authority to the contrary. There is the Sheriff Court Act of 16th August 1838, which by its 19th section makes it competent to the Sheriff to suspend diligence and stay execution "on a decree of registration proceeding on a bond, bill, contract, or other form of obligation registered in any Sheriff Court books, or in the Books of Council and Session, or any others competent, or on letters of horning following on such decree, for payment of any sum of money not exceeding £25." It is true that the terms of this enactment may be said not to comprehend the use of inhibition and arrestment, but the important matter which it undoubtedly indicates is, that a suspension or stay of the execution of diligence is as a general rule incompetent in the Sheriff Court, and accordingly that a statutory enactment was necessary to render it competent to a very limited and qualified extent. There is also the case of *Thom* v. *The North British Bank* (8th June 1848, 12 D. 1254), where it was decided that application by petition to the Sheriff praying that the holders of a bill of exchange for £2500 should be interdicted from assigning, endorsing, or otherwise disposing of it, or recording the protest, or raising diligence against the petitioners upon it, was in effect a suspension, and therefore incompetent in the Sheriff Court. Such was the result arrived at by the Court after full agreement, and although the petitioners offered to restrict their prayer for interdict to the effect merely of interdicting the respondents from assigning and endorsing the bill. That the application would, however, have been competent if made to this Court—that is to say, to the Lord Ordinary officiating in the Bill Chamber—there is no reason to doubt; and Lord Medwyn accordingly remarks that—"Were this petition to be sustained as competent, it would be making void the use of the Bill Chamber altogether. It (interdict) is no doubt a most useful process in the Inferior Court to settle summary questions in a summary manner. But this is not a possessory question; it is rather an attempt to rescind the endorsation of a bill. I am clearly of opinion that the application is incompetent."

Having regard, then, to these considerations, I feel myself very reluctantly, as regards the present case, compelled to hold that a suspension or interdict of the use of diligence, except to the limited statutory extent before alluded to, whether it be a charge of horning or the use of inhibition or arrestment, is incompetent in the Sheriff Court, and therefore that on this ground, which I think it is *pars judicis* to notice, the Court has no alternative but to dismiss the present appeal. And unless I hear more than I can at present anticipate, I would not give the respondent any expenses.

Lord Gifford—I concur in the result reached by your Lordship, that the present appeal should be dismissed and that the interlocutor of the Sheriff refusing to grant the interdict craved should be affirmed. I concur also with your Lordship on the ground upon which you have rested your judgment, that the application for interdict was incompetently presented in the Sheriff Court. I think it is quite clear that the Sheriff Court had no power and no jurisdiction to grant the interdict which is prayed for in the present petition. The prayer of the petition is expressed in the broadest and most unqualified terms. The prayer is to interdict the defender George Pratt "from using inhibition or arrestment or other diligence against the pursuers in security of any debt alleged to be due by the pursuers to the defender, or on the dependence of any proceedings which may be instituted at the defender's instance against the pursuers for the purpose of constituting the said alleged debt, and to grant interim interdict." Nothing could be more wide than this prayer. It applies to every debt and any debt which the defender may allege to be due to him by the pursuers, of whatever amount. It applies to all proceedings which the defender may institute in any Court, including of course the Court of Session; and it applies to inhibition, arrestment, or other diligence of whatever kind. No doubt a special alleged debt is condescended on in the statement annexed to the petition, but no proposal was made to amend or limit the prayer, and the appellants' counsel insisted for interdict in the general terms craved as applicable to all diligence in security on the dependence of any action whatever. Now, no action has yet been raised by the defender of any kind against the appellant. What the statements in such action may be we cannot tell, nor what its precise conclusions may be, for to this hour no summons has been brought. There is as yet no dependence. It is material to observe, however, that the diligence in security which it is sought to interdict is inhibition and arrestment on any dependence. Now, inhibition can only issue under the Signet, and under the control of the Supreme Court; and that raises the question whether a Sheriff has jurisdiction to stop the

issue of a diligence which can only competently issue under the authority of the Supreme Court, or jurisdiction to interdict a litigant from applying to a Supreme Court for diligence which the Supreme Court can alone issue? Now, I agree that the Sheriff Courts have no jurisdiction to do this. As inhibition can only issue under authority of the Supreme Court, I think the Supreme Court alone has jurisdiction to stop its own warrants or to suspend its own diligence. No doubt to certain limited effects the Sheriff Court by special statute can suspend diligence or execution on certain decrees of registration where the sum does not exceed £25; but this exception only strengthens the rule that to suspend or stay diligence issuing from the Supreme Court the Supreme Court itself in the Bill Chamber must be resorted to. The case referred to by your Lordship of *Thom* v. *The North British Bank* seems conclusive that the Sheriff Court is incompetent to deal by interdict with the negotiation of or the diligence upon an ordinary bill of exchange for £2500. In that case the application for interdict was refused as incompetent and as being in effect simply a suspension.

This ground alone is sufficient for the determination of the present appeal, and I am rather averse to go further and to express any opinion upon what may properly be called the merits of the application. I cannot help saying, however, that I regard the question raised as one of very great difficulty, and I agree with the Sheriff-Principal in thinking the application a novel proceeding. There may be special cases where *ab ante* an alleged creditor may be interdicted from using inhibition or arrestment in security upon the dependence of an action which he has raised; but I think it would require something very special and very peculiar, and something capable of instant verification, to interdict diligence in security upon an action which has not yet been raised. I do not see how the Court are to ascertain what the true nature and terms of the action will be, and how they are to fix by anticipation what shall be the conditions upon which diligence on the dependence shall be interdicted. The statutory provisions also which entitle the pursuer of any action to obtain as a matter of course and as his absolute right warrant of arrestment upon the dependence, and warrant of inhibition upon the dependence, rather point in the direction of the Sheriff-Principal's observation that instant recal, with or without consignation or caution, is the true remedy, with an action of damages if the diligence has been used wrongfully, oppressively, or maliciously. But on all these questions I decline giving any opinion, as their decision is not necessary for the disposal of the present case.

Lord Justice-Clerk *—I agree entirely with Lord Ormidale's opinion. I should not have been prepared to affirm, as a general proposition, that a competent Court cannot stop by interdict the threatened oppressive and malicious use of diligence. Of course the cases are rare in which malice and oppression can be instantly verified so as to operate by way of interdict. But the malicious use of diligence is as clear a wrong as any other illegal act, and for that reason the man who uses it is liable in damages, which no man can be who only uses a legal right. The cases quoted to us were entirely misunderstood and misapplied. They were cases which decided that the use of diligence to be the ground of an action of damages must be alleged and proved to be malicious, and that therefore the man who maliciously uses it does not use but abuses his legal right. This I think clear, although of course the cases are rare in which the malicious and oppressive intent can be instantly proved. I should have been inclined to hold in the present case that the intent was sufficiently established. No excuse has been stated for the threat of using inhibition when full security by consignation had been offered. But I fear there is no doubt, on the grounds stated by Lord Ormidale, that the Sheriff cannot interpose to stop procedure of any kind, especially diligence which takes place under an action in the Supreme Court.

I think we should adhere, and am inclined to give no expenses to either party.

Lord Young, not having been present at the debate, did not deliver any opinion.

The Court adhered.

Counsel for Appellant — Asher — Jameson. Agents—Millar, Robson, & Innes, S.S.C.

Counsel for Respondent—Trayner—Strachan. Agent—W. Sutherland, L.A.

Tuesday, July 20.

FIRST DIVISION.

CITY OF GLASGOW BANK LIQUIDATION—(*LIQUIDATORS' REMUNERATION CASE*)—JAMIESON AND HALDANE *v.* ANDERSON AND OTHERS.

Public Company—Liquidation under Supervision—Remuneration of Liquidators.

The total debts, secured and ordinary, of a banking company of unlimited liability which was being wound up under the supervision of the Court were £12,855,560, 3s. 6d. Of the ordinary debts £8,928,214, 10s. 5d. were paid during the first year and a-half of the liquidation, £7,396,940 being paid during the first year; and during the whole period secured debts to the amount of £1,724,342, 2s. 6d. were also paid. In these circumstances the Court allowed remuneration to the liquidators at the rate of three-eighths per cent. on the ordinary debts paid during the first year, and of a half per cent. on those paid in the remaining half-year.

Public Company — Liquidation — Apportionment of Remuneratian among Liquidators.

In the liquidation of a company, where there are several liquidators, there is a presumption for equality in the apportionment of the remuneration: Circumstances in which the remuneration was divided unequally.

This was the sequel of the case reported March 19, 1880, *supra*, p. 483. In terms of the inter-

*This opinion was read by Lord Ormidale in the absence of the Lord Justice-Clerk.