

statutory words. I do not therefore say that in a charge of having unlawful carnal connection with a girl under the age of sixteen anything more need be stated than the place and date of the offence. Indeed, it is difficult to see that more than this would be useful, because the crime consists in the physical act of connection, which does not need to be described. But an attempt to have unlawful carnal connection may be made in many ways, and it is not to be assumed that everything which in a moral sense may be called an attempt to seduce falls within the scope of the enacting words. If there is a physical attempt, although not by violence such as would constitute an assault with intent, the case is tolerably clear, but the case is not so clear when the object is sought to be accomplished, for example, by an offer of money, or verbal seduction by word or letter, or it might be by the offer or payment of money made through a third person. It is therefore very necessary that the person charged with what is termed an attempt to have unlawful carnal connection should have fair notice of the *species facti* which are intended to be proved against him, that he may be prepared to defend himself. As such notice has not been given in this libel, I concur in holding the objection taken to its relevancy to be well founded.

The Court held the libel irrelevant, and the diet was, on the motion of the Advocate-Depute, deserted *pro loco et tempore*.

The panel was afterwards tried and convicted at the High Court on a libel setting forth the *modus* of the offence.

Counsel for H. M. Advocate—Wallace, A.-D.—Grierson. Agent—R. Blair, P.-F. of Renfrewshire.

Counsel for Panel—M'Clure. Agent—Murray, Writer, Greenock.

## COURT OF SESSION.

Wednesday, January 6, 1886.

### FIRST DIVISION.

#### ASSETS COMPANY, PETITIONERS.

*Bankruptcy—Discharge—Discharge of Trustee—Funds Vesting in Bankrupt Prior to his Discharge Unknown to Trustee.*

A bankrupt was discharged without composition, and his trustee was also discharged. It was subsequently discovered that certain funds had, unknown to the trustee, been vested in the bankrupt prior to the sequestration, and of the existence of which the trustee had not become aware. The Court, on the application of creditors, remitted to the Lord Ordinary on the Bills to appoint a meeting of creditors for the election of a trustee on the sequestrated estate with the usual powers.

On 31st October 1878 the estates of Messrs Matthew & Thielmann, and Thomas Matthew and Robert Hardie, the individual partners of that

company, were sequestrated, and James Wyllie Guild, chartered accountant, Glasgow, was elected trustee.

On 5th September 1884 Mr Guild, having duly observed all the procedure required by the Bankruptcy Statutes, was duly exonerated and discharged of his office of trustee.

By last will dated 30th August 1871 John Robertson Stewart, of the city of Victoria, Vancouver's Island, British Columbia, gave and bequeathed to the said Robert Hardie the sum of £1000. The testator died on 17th September 1873, and the legacy vested in the said Robert Hardie at that time. Owing to a deficiency in the testator's estate the amount actually available in respect of this legacy was only £405, 14s. 5d., which sum was at the date of this petition lying in bank on deposit-receipt. At the date of Mr Guild's discharge he was not aware of the existence of this legacy, which had not been disclosed by the bankrupt.

The liquidators of the City of Glasgow Bank were creditors on the estate of Matthew & Thielmann for £34,984, 10s. 9d. By the City of Glasgow Bank Liquidation Act 1882 (45 and 46 Vict. c. 152) the whole assets of the City of Glasgow Bank were vested in the Assets Company (Limited), who were thus in right of the claim against Hardie's estate, and accordingly on 30th November 1885 they presented the present petition with a view to have distribution made of the funds which had been discovered.

The prayer of the petition craved the Court to order intimation to Mr Guild, and to Hardie, and to remit to the Lord Ordinary on the Bills to appoint a meeting of Hardie's creditors for the election of a trustee, and to appoint such meeting to be advertised in the Gazette, &c.

Authority—*Trappes v. Meredith*, Nov. 3, 1871, 10 Macph. 38.

The Court remitted to the Lord Ordinary to proceed in terms of the prayer of the petition.

Counsel for Petitioners—G. Wardlaw Burnet. Agents—Cairns, M'Intosh, & Morton, W.S.

Thursday, January 7.

### FIRST DIVISION.

[Lord M'Laren Ordinary.]

THE EDINBURGH HERITABLE SECURITY COMPANY (LIMITED) v. MILLER (STEVENSON'S TRUSTEE).

*Bankruptcy—Trustee—Heritable Security—Personal Liability of Trustee.*

A trustee in bankruptcy with a view to the benefit of the estate wrote to bondholders secured over certain of the bankrupt's heritable properties proposing "to adopt" the subjects over which they were secured "as assets in this sequestration" and to pay up arrears of interest on the loans, on condition that a balance of loans still unadvanced by them should be advanced, and that the loans should not be called up before a certain date. This being agreed to,