have any interest, or be present during the trial; and a conviction is sufficient which neither directs forfeiture of the fish nor prescribes to whom the penalties shall be payable.

John Hanvy and William Orr, fishermen in the employment of James Buchanan, fish merchant, Ayr, were charged before a Justice of the Peace Court, sitting at Irvine, with contravention of the Salmon Fisheries Act 1868, in that during a weekly close time they took two Salmon in the district of the Irvine and Garnock rivers. The complaint was brought at the instance of James Stirrat, junior, secretary of the Dalry Garnock Angling Club, with concurrence of the Procurator-Fiscal at Irvine; and the proceedings took place under the Summary Procedure Act. On conviction, they were each adjudged to pay a modified penalty of five shillings, and one shilling for each salmon, and one pound ten shillings and two pence of expenses. Appeal was taken to the Circuit Court.

Lees, for the appellants, argued—The complaint does not set forth any right or interest in the private complainer. The complainer must have some interest, and must prosecute in person, as the proceedings are of a criminal nature, and to allow of the oath of calumny being administered to him. The occupier of the fishery should have been charged, and not his servants. There is no direction to whom the penalties are to be paid, as prescribed in the Act, when the complaint is brought by a private prosecutor. The conviction does not adjudge the salmon to be forfeited, as directed in sec. 15. Authorities cited, *Herbert*, 2 Irv. 346; 2 Hume 128; *Blair*, 4 Irv. 545; *Ferguson*, 4 Irv. 196; *Morton*, 5 Irv. 356.

D. Crichton for the respondent, replied,—The Act does not require the prosecutor to appear personally, or to have any interest. The proceedings are only quasi-criminal. It is not essential that the conviction should adjudge forfeiture of the salmon, nor declare to whom the penalties are to go. Authorities cited, *Raper*, 3 Irv. 529; *Tough*, 4 Irv. 366; *Morton*, 5 Irv. 356.

The Court repelled the pleas for the appellant, holding the complaint had been properly brought, and the terms of the conviction sufficient, and that the penalties were recoverable by the usual officer of Court when it was not specified to whom they were to go.

Agent for the Appellants—William D. M'Jannet, Solicitor, Irvine.

Agent for the Respondent—W. S. N. Patrick, Solicitor, Dalry.

Thursday, September 30.

INVERARY.

(Before Lord Deas.)

H. M. ADVOCATE *v.* M'DONALD.

Relevancy — Indictment — Aggravations—Narrative. Objection to the relevancy of an indictment, that the narrative did not support the aggravations charged in the major proposition, *repelled.*

The panel was charged with culpable homicide, with an alternative charge of assault to effusion of blood and serious injury of the person. The narrative set forth, that on a certain day the panel did, at a certain place, "wickedly and feloniously attack and assault the now deceased Robert Easton," and after giving details, concluded with the words "his (*i.e.*, deceased's) face being cut and bleeding, and blood being effused on the brain."

W. F. Hunter, for the panel, argued—The aggravations of assault charged in the major, on the ground of their not being supported by the statements in the minor, are irrelevant. The words "his face being cut and bleeding, and blood being effused on the brain," denote a state of the face and of the brain not on the face of the libel due to the acts of the panel, and which might have existed prior to the alleged assault. The sense would have been the same had these words occurred at the commencement instead of the conclusion of the narrative.

Deas, A.-D., replied for the Crown.

The Court repelled the objection, holding that the narrative, though ungrammatically expressed, evidently meant to connect the injuries to the face and brain of deceased with the assault committed by the panel.

The case went to trial, and resulted in a unanimous verdict of "Not proven."

Agents for Panel—M'Ilwraith & Swan, Writers, Greenock.

COURT OF SESSION.

Friday, October 15.

FIRST DIVISION.

STEUART *v.* HARPER.

Sheriff—Sheriff Court Act 1853—*Process.* An irregular order was pronounced in a Sheriff-court process, on the defender's motion. The case went on, and was decided against the defender, who appealed on the ground of the irregularity. Appeal *dismissed,* the appellant having himself been the cause of the irregularity.

Harper brought an action against Steuart in the Sheriff Court of Banffshire. On 18th July 1866, the Sheriff-Substitute (Gordon) pronounced this interlocutor:—

"*Banff,* 18*th July* 1866.—Having heard parties' procurators—Finds that a record is necessary, and appoints the pursuer to condescend, and the defender to lodge defences, in terms of the Act of Parliament."

Defences were lodged on 8th October. These interlocutors were then pronounced;—

"*Banff,* 10*th October* 1866.—The Sheriff-Substitute appoints the pursuer to answer the defender's separate statement of facts within ten days from this date.

"*Banff,* 12*th December* 1866.—The Sheriff-Substitute appoints parties' procurators to meet with him in terms of the statute, and assigns first calling at twelve o'clock noon.

"*Banff,* 27*th February* 1867.—As craved and consented, continues the enrolment till next court-day.

"*Banff,* 28*th March* 1867.—The Sheriff-Substitute having considered the motion made by the defender's procurator at the bar, that in respect he has large additions to make to the defences, and that parties be allowed to revise their respective papers on separate papers—Allows both parties to revise accordingly, as craved and consented to, within ten and ten days from this date: Further,