

any additional report he might think desirable, in regard to the objection.

Professor Rankine accordingly made a second report, in which he stated that in considering the state of the Clyde at low water it was necessary to distinguish between the boundaries of the main stream and the boundaries of the whole expanse of water in the estuary. At low water the main stream is bounded on the south by the low-water mark. On the north it is bounded by a chain of sandbanks, beyond which at low water lies a body of water forming no part of the main stream, and receiving at low water no part of the waters of the Clyde.

The question arose whether the true *medium filum* was to be taken as the middle line of the main stream, or as the middle line of the whole expanse of water covered at low tide.

The Court were of opinion that, looking to the character of the Clyde at Port Glasgow, which was that of a river in its estuary, and also looking to the nature of the question—the division of a piece of shore ground, valuable just because it adjoined a navigable river—the true *medium filum* was the centre of the whole expanse covered by water at low tide.

Agent for Pursuer—William Mason, S.S.C.

Agents for Defenders—Adam & Sang, S.S.C.

Tuesday, July 18.

SCOTT v. THE CLYDE NAVIGATION TRUSTEES,
AND OTHERS.

Process—Suspension and Interdict—Contractor—Arbitration. Circumstances in which a note of suspension was passed, and interim interdict granted, to try the question, Whether the Trustees of the Clyde Navigation were entitled to avail themselves of the clause in a contract for building a new dock, giving them power, under certain circumstances, to enter upon possession of the works, and prosecute them to completion at the contractor's expense.

This was a reclaiming note against an interlocutor in the Bill Chamber pronounced by the Lord Ordinary (MACKENZIE), passing a note of suspension and interdict at the instance of William Scott, contractor in Govan, against the Trustees of the Clyde Navigation, and Robert Bruce Bell and Daniel Miller, civil engineers in Glasgow.

The note of suspension and interdict craved their Lordships "to suspend the proceedings complained of, and to interdict, prohibit, and discharge the respondents, the Trustees of the Clyde Navigation, from taking possession of the work at present being executed by the complainer at Salter's Croft, on the river Clyde, in the harbour of Glasgow, or any part thereof, or of any materials upon the ground, or of any plant or machinery, or erections thereon; as also from carrying on any of the said works by themselves or by their servants, and from re-letting the said works or any part thereof, and from doing any other acts professing or bearing to be in terms of article 11 of the contract entered into between the said Trustees of the Clyde Navigation and the complainer on the 18th and 29th days of June 1869; and from impeding or interfering with the complainer in any manner of way in executing or completing the said works, or otherwise; or at least to interdict, prohibit, and discharge the said respondents from doing any of

the acts above specified, or any other acts purporting to be in terms of said article 11 of the said contract, unless and until it shall have been determined by a duly qualified and competent arbiter that a case entitling the said respondents, the Trustees of the Clyde Navigation, to act upon the said 11th article of the said contract has arisen; and further to interdict, prohibit, and discharge the said respondents from referring or submitting to the respondents, Robert Bruce Bell and Daniel Miller, as arbiters named in the said contract, any question or dispute arising between them and the complainer in regard to the said article 11th of said contract, or the rights and powers competent to the respondents under the said article, or in regard to the method to be followed by the complainer in mixing and applying the cement or cement-mortar to be used by him in constructing the brick invert specified in said contract, or in regard to the mode or system of draining the works embraced in said contract, along the course of their construction; and from referring or submitting any such questions or disputes to any other of the arbiters named in the said contract than John Frederick Bateman, Esq., civil engineer, London, and also to interdict, prohibit; and discharge the respondents, Robert Bruce Bell and Daniel Miller, from acting as arbiters in any question under the said 11th article of the said contract, and in particular from acting as arbiters to decide whether the complainer has been guilty of any such suspension of the works connected with the invert of the graving dock at Salter's Croft, to which the said contract relates, or of any other act or omission in connection with the said invert, as to warrant the other respondents, the Trustees of the Clyde Navigation, in acting upon the said 11th article of the said contract; and also from acting as arbiters in regard to any questions or disputes in regard to the method to be followed by the complainer in mixing and applying the cement or cement-mortar foresaid, or draining the said works during their construction; or to do otherwise in the premises as to your Lordships shall seem proper."

The Lord Ordinary, on 5th July 1871, passed the note, and granted interdict as craved, in terms of the second or alternative part of the prayer of the note, and in terms of the remainder of the prayer of the note which follows the said alternative part. The note appended to this interlocutor will explain the circumstances of the case, and is as follows:—

"*Note.*—The complainer is the contractor for the construction of a graving-dock and other works on the Clyde, for the Trustees of the Clyde Navigation, in terms of a contract and relative specification and plans. That contract contains a clause empowering the Trustees to take the works out of the hands of the complainer in the event of his neglecting to conduct the works with due diligence, or neglecting to complete them in a workmanlike manner. It is further thereby declared, that in all cases of defective description or ambiguity in the specification, the matter shall be referred to the engineers, Messrs Bell and Miller, whose decision shall be considered as correct, and be binding upon all parties, and also that the contractor shall furnish the said engineers with a description of the arrangements which he proposes for carrying out the works, and must modify and alter the same as directed by them, and carry out the works in accordance with their directions.

The contract further provides that in the event of any dispute arising on any point relating to the works, or to time, or to any matter whatever arising out of the contract or specification, the same shall be submitted to the final sentence of Robert Bruce Bell and Daniel Miller, the engineers of the Clyde Trustees, by whom the specification and plans were prepared, or either of them, whom failing, of John Frederick Bateman, C.E., London.

"An important part of the work consists of a brick invert or inverted arch of $4\frac{1}{2}$ rings of brick-work, which is to be made perfectly water-tight. By the specification it is provided: 'The cement mortar for the brick-work and pointing to be composed of one part of Portland or Calderwood cement to one part of sand, ground together for not less than a quarter of an hour under the edge stones of the grinding-mill. It must be used immediately after being made into mortar.' In regard to lime mortar, the specification provides that the mixture of dry lime, sand, and ground mine-dust is 'to be placed under the edge stones and mixed with water for not less than 15 minutes for each delivery, and shall then be immediately sent down in boxes for the use of the works.'

"With respect to pumping and draining, the specification provides that the excavation must be carried on to an increased depth at one or more points, so that the water may be drawn off by a steam-engine, and that 'the whole of the works must be kept dry and free from water during the course of their construction.'

"The complainer avers that he repeatedly informed the engineers Messrs Bell and Miller that if the cement mortar was made conform to specification, that is, if the materials were ground with water for 15 minutes under the edge stones of the grinding-mill, so as to make cement mortar, its binding power would be materially destroyed, and that the brick invert could not be properly constructed or made water tight, but that they desired him to adhere to the specification. The brick invert, after being constructed, as the complainer avers, with cement-mortar prepared in terms of the specification, at a cost exceeding £5000, has been condemned by Messrs Bell and Miller as not water tight, and therefore insufficient, and a reference has been entered into between the complainer and the Clyde Trustees, by which they submitted to the decision of Mr Bateman, *First*, the amount of the loss arising from the improper construction of the invert, and *Second*, the question whether such loss falls to be borne by the Clyde Trustees, or by the complainer. Messrs Bell and Miller as arbiters first named in the contract, consent to this reference; and it is averred by the complainer that the Clyde Trustees have intimated to them that the Trustees hold them responsible in the event of its being found that the insufficiency of the invert was due to defects in the specification, and not to any failure of the complainer duly to execute the invert, in terms thereof. The complainer avers that the insufficiency of the invert is exclusively owing to the directions given in the specification for the preparation of cement-mortar, which Messrs Bell and Miller compelled him to adhere to, notwithstanding his remonstrances and intimations that these directions would not produce good and sufficient cement-mortar, and would prevent a water-tight invert being constructed.

"After this submission was entered into, the complainer proceeded with the removal of the defective invert with a view to its reconstruction;

and he applied to Messrs Bell and Miller for distinct explanations or instructions as to the mode in which the cement-mortar for the brick work should be prepared. He also requested them to give him instructions with reference to the mode to be followed in keeping the works dry during their progress, as they had refused to sanction the plan for that purpose which he had submitted to them. The complainer alleges (and his statements appear to be supported by the copy correspondence produced by him) that, notwithstanding repeated requests made during a period of several months, that he should be allowed to mix the cement-mortar by hand, Messrs Bell and Miller persistently refused to allow this; and give him any explanations or instructions, and merely informed him that the cement-mortar must be prepared in terms of the specification, and that he must construct, as he was bound by his contract to do, a water-tight invert; and in regard to the drainage of the works, that he was bound to keep them free from water, and that they would give their opinion upon any plan which he might submit to them.

"It is in these circumstances that the present application is made for interdict to prevent the Clyde Trustees from taking the work out of the complainer's hands, under the eleventh article of the contract, on the ground of delay in proceeding with the works, until it has been decided by arbitration, in terms of the contract, that a cause has arisen entitling them to do so; and to prohibit Messrs Bell and Miller from acting as arbiters in that arbitration.

"In the answers lodged for the respondents (answer 11) it is stated that 'the specification does not prescribe that the cement and sand are to be mixed with water in the mill for 15 minutes, as the complainer supposes. The time during which it is to be mixed with water is left to the skill and judgment of the workmen. It may be so mixed for a longer or shorter period, as the quality and quantity of the ingredients in the mill may render requisite.' It is to be regretted that this explanation was not given in answer to the former requests by letter of the complainer and his agents, because, if this is the meaning which Messrs Bell and Miller attach to the specification, the specification is, to say the least, ambiguous, and requires explanation, and that explanation the engineers were bound by the contract to give immediately on being asked to do so. The complainer's agent, immediately upon the answers being lodged, wrote to the agents of the Clyde Trustees that he was, in consequence of this explanation, ready to proceed with the rebuilding of the brick invert, and that if it had been given earlier the works would have been resumed immediately after the reference to Mr Bateman. Notwithstanding this the Clyde Trustees, in their answer to that letter, reserve all their rights under the contract, including, it is supposed, the right to avail themselves of the provision in the eleventh article of the contract against the complainer, in consequence of his alleged delay in proceeding with the invert.

"The question whether Messrs Bell and Miller are, in the circumstances alleged by the complainer, disqualified from acting as arbiters under the contract, in regard to the delay in proceeding with the construction of the brick invert and the drainage of the works, is attended with much difficulty. The Lord Ordinary is aware that

engineers appointed as arbiters in a contract for the construction of works stand in a position different from ordinary arbiters. But the position of Messrs Bell and Miller is, in the circumstances averred by the complainer, peculiar. If these gentlemen have not, by their refusal to give the explanations and instructions required by the complainer under the contract, been the cause of the delay in the execution of the works, they have so mixed themselves up with the matter in dispute that they cannot but have a strong bias against the complainer. They are, according to the complainer's statement personally interested, to a serious extent in the question now falling to be decided by arbitration under the contract, and that personal interest is of a kind which could not have been within the view of the parties when the contract was entered into. In their refusal for months to give the necessary explanations and instructions to the complainer they have also committed themselves to a construction of the contract, and of their duty under it, adverse to him on the question to be submitted. Further, and this the Lord Ordinary considers an important element, they are not the only arbiters named in the contract, as Mr Bateman is also nominated, and there is no objection whatever to him as arbiter. Having regard to these considerations, the Lord Ordinary is of opinion that interim interdict should be granted, and that the Note should be passed to try the question.

"The case of *Trowsdale v. The North British Railway Co.*, 2 Macph. 1334, and 4 Macph. 31, was referred to by the respondents, but the circumstances of that case are materially different from the present."

Those parts of the contract and specification between Mr Scott and the Clyde Navigation Trustees, important to the present case, are as follows:—"In all cases of defective description or ambiguity in the said plans or specification, the matter shall be referred to the said engineers, Messrs Bell and Miller, whose explanation or determination shall be considered as correct, and shall be binding upon all parties. . . . *Tenth*, The whole of the works herein specified shall be entirely completed to the satisfaction of the said engineers within thirty months from the 9th day of April 1869. The only departure which may be allowed from this shall be in the event of an extension of time being granted under articles 13, 14, and 15 hereof, in which case the time of completion shall be correspondingly extended. *Eleventh*, Should the contractor fail to have the whole of the works forming this contract completed and handed over to the Trustees for their occupation within the time specified in article 10, or in the event of an extension of time being granted, as provided for in articles 13, 14, and 15, by the extended date so fixed; and should the said engineers be of opinion that there is no prospect of the works being completed in a reasonable time thereafter; or should the contractor allow the works, during any portion of their progress, to be suspended; or should he neglect to conduct the works with due diligence, or in a proper and workman-like manner, in accordance with the true intent of the specification, or refuse to attend to the directions of the said engineers to work according to their instructions: in any of these cases the Trustees shall have power to suspend all further advances of money to the contractor on account of this contract; and the Trustees shall have power, after fourteen days'

written notice from the said engineers to the contractor, which notice shall be delivered to the contractor, or left at his office, forthwith and without any farther notice or judicial authority to take possession of the works, of all materials upon the ground, and all plant and machinery of every kind, and erections thereon; and to employ men, and procure additional material and plant, and to carry on the work by themselves or by their servants or others, until the completion of the works; or the Trustees may re-let the works, or any part thereof.

"SPECIFICATION.— . . . *Mortar*—The mortar shall be composed of ground lime, sand, and ground mine-dust, in the following proportions:—One part of ground lime by measure, one half-part ground mine-dust by measure, and one part sand by measure. The materials shall be filled into box measures at their respective heaps, and brought forward upon the mixing platform, and mixed in a dry state, and discharged upon the covered platform before the mortar mills. The dry mixture is then to be placed under the edge-stones and mixed with water for not less than fifteen minutes for each delivery, and shall then be immediately sent down in boxes for the use of the works. No more lime must be mixed than can be used up in one day. Any mortar mixed on a previous day must be removed from the works at the inspector's orders.

. . . *Cement-Mortar*—The cement-mortar for the brick-work and pointing to be composed of one part of Portland or Calderwood cement to one part of sand, ground together for not less than a quarter of an hour under the edge-stones of the grinding-mill. It must be used immediately after being made into mortar. . . . In the event of any dispute or misunderstanding arising between the Trustees, or any of their servants, and the contractors, on any point relating to the works, or as regards the prices of the works in relation to the contract sum and rates in the said schedule, or as to the settlement of accounts, or as to time, or any other matter embraced under the said specification, or as to any other matter whatever arising out of the contract, the same shall be and are hereby submitted and referred to the amicable decision, final sentence, and decree-arbital of the said Robert Bruce Bell and Daniel Miller, or either of them, whom failing, of John Frederic Bateman, Esq., civil engineer, London; and the decree or decrees arbitral, interim or final, of the said arbiters, or either of them, shall be final and binding on all parties."

Against the interlocutor of the Lord Ordinary, passing the note, the Trustees reclaimed.

Solicitor-General (CLARK) and ASHER, for them.
WATSON and BALFOUR, for the respondent.

At advising—

LORD PRESIDENT—This is a question of great importance to the parties, and of some delicacy. We are under the disadvantage of having to read a contract for making a dock without the aid of the evidence of experts, or other means of instructing the Court. But still it devolves upon us to say whether the Trustees of the Clyde Navigation are, in the circumstances which have occurred, entitled to avail themselves of the provisions of article 11 of the contract, to oust the contractor, take possession of the works, and carry them on to completion at the contractor's expense. That is always a very stringent remedy—a very useful and necessary remedy in some cases—but the parties availing themselves of it must always be prepared

to show that they are in the position contemplated by the clause. The circumstances here are peculiar. The contractor had built an "invert," or inverted arch, which requires very careful workmanship. The "invert," after being completed, or nearly so, was condemned by the engineer. The contractor acquiesced in the condemnation, alleging that the imperfection was not ascribable to him, but to the specification and the instructions which he had received from the engineers. This raised an important question between the contractor and his employers, the Clyde Trustees. The latter proposed that the question should be referred, not to their own engineer, but to Mr Bateman. This was a very proper course, to invoke the assistance of a man very eminent in his profession, and entirely unconnected with the matter in dispute. As soon as the reference was adjusted the contractor was called upon, as had been agreed, to proceed in the removal of the objectionable work, and the erection of a new one. A question then arose, at first sight of little importance, but which turns out to lie at the root of the whole dispute. The contractor says that one at least of the causes of the imperfection of the "invert" was the bad quality of the cement mortar, arising from the way in which he was compelled to prepare it by the specification. He asks the engineers to state whether the one which he has acted upon is the true reading of the specification or not, and if it is, to be relieved of the obligation to prepare the mortar in that particular manner. This is very clearly brought out in the correspondence. On the 23d February last Mr Scott writes to the engineers—"You are aware that, in accordance with your desire, Portland cement was not used in the works, and that, also according to your desire, and in spite of all my objections and remonstrances, the Calderwood cement, with an equal quantity of sand, was mixed with water in the cement mortar-pan for fifteen minutes before being used in the building of the brick invert. I want to be distinctly informed whether it is still your desire that this mode of mixing the cement mortar should be continued, and if not, what other mode you wish me to adopt. If the system hitherto followed is not 'the manner specified,' I have to request you to state what, in your judgment, that manner is. The specification is your own production, and you should have no difficulty in telling me what I ask as to its meaning." The engineers say in answer—"As to the mortar, it is your part to manipulate it properly, and there is nothing in the specification that puts any difficulty in the way of making good cement mortar, and it only requires proper manipulation to do so. We deny that we have ever given you any instructions regarding the mixing of this mortar, except to make it in terms of the specification, and we have no intention of allowing any departure from this." This is not a very satisfactory answer to the question whether the system hitherto pursued is, according to their opinion, in terms of the specification and meets with their approval. It is said in argument that a contractor ought to have no difficulty in understanding the specification. It may be so, and after evidence I may be convinced that it is so. For my part, speaking as a lawyer, and not as an engineer, I should have had the greatest difficulty in ascertaining whether the materials are to be mixed with water while being ground, and for how long. The matter is brought under the notice of the Trustees, before the refer-

ence to Mr Bateman, and again immediately thereafter, on the 10th March, the contractor brings up the matter again—"I must once more repeat my request for specific instructions as to the mode in which you wish the cement mortar to be mixed. You are aware that hitherto the cement and sand, in the proportions specified, have been mixed with water in the cement mortar-pan for 15 minutes, before being used in the building; and you know the unfortunate results which have followed, which, as formerly explained, I believe to be attributable to the mode of mixing. It appears to me that it would be most unwise to resume this system of mixing the cement mortar. In this state of matters, it is necessary to adopt some other mode of mixing the cement mortar; and as I have failed since the stoppage of the works to get any specific or intelligible information or instructions from you in this matter, I have now to intimate that I propose hereafter to make the cement mortar in the following manner." Then he proceeds to describe an entirely different method. That is objected to, and the matter comes to a stand still. There are certain other subjects of dispute between the contractor and the engineers. There is one, viz., the arrangements for drainage, about which I do not profess to be able to say who is right and who is wrong. Surely it is not a very difficult thing, if this question about the mortar were settled, for the contractor and the engineers to make some arrangements about the drainage. But the mortar stands out as the great difficulty put forward by the contractor. Until this is settled he says he cannot go on. The engineers will not say one thing or another—that he is to continue the former method of preparing the mortar, or that they will allow any other. I hold that they were under obligation to tell him what was according to their view the proper mode of mixing the mortar, conform to the terms of the specification. I arrive at this conclusion with greater certainty and satisfaction, because when they were put to it, they have no difficulty in stating the proper construction. When the trustees come into Court, they made this statement, no doubt under advice of their engineers:—"The specification does not prescribe that the cement and sand are to be mixed with water in the mill for 15 minutes, as the complainer supposes. The time during which it is to be mixed with water is left to the skill and judgment of the workmen. It may be so mixed for a longer or shorter period, as the quality and quantity of the ingredients in the mill may render requisite." If that statement had been made by the engineers to Mr Scott he would have been bound to go on, for his difficulty would have been put an end to. But he was not told that till he came into Court. He has had no opportunity of meeting this statement judicially. Extrajudicially, he thinks it right to make a statement in a letter by his agent of 27th June—"This is the first time that any such explanation of the meaning of the specification has been given. Had such an explanation been given sooner the works would have been resumed immediately after the reference to Mr Bateman was entered into, and had the engineers adopted and acted upon such an interpretation from the beginning, the invert might never have been condemned." He goes on to state that Mr Scott is still of opinion that mixing with the hand is the best method of preparing the cement—but he does not stand upon that. He proceeds—"If, however, your clients are deter-

mined upon continuing the use of the grinding mill, Mr Scott will comply with their desire, but should his fears be realised, the responsibility must rest with the Clyde Trustees, and not with him. He will now, therefore, proceed at once with the rebuilding of the brick invert, using the grinding mill for the cement, unless your clients should authorise him to mix it with the hand." I cannot help thinking that Mr Scott is entitled to the credit of sincerity in making this statement. What further investigation may show of the true motives of parties I shall not anticipate. With the information before me I am inclined to believe that if the contractor had had the explanation given him which is now stated by the Clyde Trustees in their answers, he would have been ready to go on. The question before us is whether the works are to be allowed to go on in the meantime, or whether the trustees are to be entitled, under article 11 of the contract, to oust the contractor, and take the works into their own hands, at his expense? I am not prepared, by refusing this note of suspension, to put this power into the hands of the Trustees. I do not think they have justified their position so as to entitle them to act in this very stringent way. It is not clear that the cause of the stoppage of the works was the misconduct and delay of the contractor. What I propose to do is to grant interim interdict, not exactly in the terms of the Lord Ordinary's interlocutor, but to prevent the respondents proceeding under article 11 from taking possession of the works. The Lord Ordinary's interlocutor seems to imply that the engineers are in some degree disqualified from acting as arbiters. It is premature and unnecessary to decide that at present. If we prevent the Trustees from acting on article 11, the work will proceed as if no dispute had arisen, and under the supervision of the engineers. Questions may then arise; but I should hope for the sake of the parties and the public that the parties, especially Mr Scott and Messrs Bell and Miller, will not continue in a hostile attitude, but will endeavour to combine to carry on the works, affording each other every facility. In the meantime, I do not see my way to allow the Trustees to take the work out of the contractor's hands.

The other Judges concurred.

The following interlocutor was pronounced:—
"Recall the interlocutor of the Lord Ordinary, and remit to the Lord Ordinary in the Bill Chamber of new to pass the note, and to grant interdict *ad interim* against the respondents' proceeding under the 11th section or head of the contract between them and the complainer to take possession of the works in course of construction by the complainer under the said contract, or of the materials, plant, machinery, and erections on the ground of the said works, or to carry on the said works by themselves or others.

Agents for Respondents and Reclaimers—Webster & Will, S.S.C.

Agent for Complainer and Respondent—T. J. Gordon, W.S.

Tuesday, July 18.

SELIGMANN v. FLENSBURG STEAM SHIPPING COMPANY.

(*Vide ante*, p. 507.)

Process—Jury Trial—Verdict—Damages—Notarial

—*Petition under the Merchant Shipping Act, 1854, § 514.* Held that interest upon a claim of damages only runs as a general rule from the date when the verdict is applied, but that this is open to exception where the application of the verdict has been groundlessly delayed by the defendant.

A petition having been presented under the 514th section of the Merchant Shipping Act of 1854, with a view to bringing forward all parties claiming or entitled to participate in the maximum sum of damages allowed by that Act in the case of collision at sea, and to secure the defenders against any further claims being made upon them, held that, in the circumstances, the petition was needless, and that its presentation should not stop the currency of interest against the defenders.

In this case, the Flensburg Steam Shipping Co. having failed to get the verdict set aside and a new trial granted, on the ground that the jury had not apportioned the damage, or given any indication in their verdict that the sum assessed was divisible between the owner of the ship and the owners of the cargo, they presented a petition to their Lordships, setting forth the facts of the case, and that £4360, the amount assessed by the jury, was the maximum sum for which they were liable in respect of the collision to the owners of the 'Flora,' and all parties interested either in the goods, merchandise, or other things on board thereof at the time she was sunk.

They then stated "that by the 514th section of the 'Merchant Shipping Act, 1854,' 17 and 18 Vict, c. 104, it is provided that in cases where 'any liability has been, or is alleged to have been, incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats, or goods, and several claims are made or apprehended in respect of such liability . . . it shall be lawful in England or Ireland for the High Court of Chancery, and in Scotland for the Court of Session, and in any British possession for any competent court, to entertain proceedings at the suit of any owner, for the purpose of determining the amount of such liability, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject matter; and any proceeding entertained by such Court of Chancery or Court of Session, or other competent court, may be conducted in such manner, and subject to such regulations as to making any persons interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the Court thinks just.' That the petitioners are ready to consign in Court the said sum of £4360, in order that the same may be distributed amongst the various persons entitled thereto, in accordance with the provisions of the foresaid statute. That the owners of the cargo on board of the said ship 'Flora' at the time of the collision—which cargo was, it is believed, of the value of £13,000 or thereby—threaten and intend, as the petitioners apprehend, to claim and take proceedings against them in respect of the loss of the said cargo in consequence of the said collision, and it is necessary that the petitioners should make the present application."

The prayer of the petition was as follows:—