has been carried out so that effect can be given to it. The words in question—sub-section 3 of section 12—are found only in a procedure clause, which regulates proceedings, but which is not the appropriate place for creating rights—especially rights so important as those here alleged. For if the claim applies at all, it will apply to all entail petitions of every kind, and in many cases very great difficulties and anomalies would arise. But still further, and what perhaps is more material, the words of the statute, instead of *in terminis* conferring a new right or new rights, refer back to rights as previously existing. I therefore concur in thinking that this sub-section 3 of section 12 does not confer any right on Sir Herbert Eustace Maxwell to take up his father's petition.

Lord Shand—I concur. It must be kept in view that, prior to 1875 at least, the heir in possession had nothing but a faculty to charge. If he desired to raise a debt against the future heirs he might record his vouchers under the Montgomery Act, but if he did not do that, then he must carry through to decree his petition under the Rutherfurd Act. In this state of the law I think section 11 of the recent statute was intended to confer a valuable power of bequeathing or conveying by express terms what was formerly an intransmissible right. But it is said that sub-section 3 of section 12 confers a right on the next heir apart from conveyance to be sisted in the petition and to complete it. That section, however, is qualified by the words "according to their respective rights and interests," and cannot be held to confer a new right. The existing evil was that when the petitioner died his petition necessarily lapsed—a most inconvenient result in such cases as feuing applications, or for current improvments, or for the application of consigned money. In many such cases the heir of entail may have a right to be sisted under this sub-section.

Lord President—I am of opinion that the whole of section 12 relates to procedure. That opinion is based on the introductory words, which give this Court a power to vary by Act of Sederunt. With regard to the observation of Lord Ormidale, I agree that it is quite possible that everything contained in section 12 is not subject to alteration by the Court. For instance, we could not apply sub-section 3 to cases excepted by the statute from its operation where consents are required. But sub-section 3 merely gives a right to be sisted to persons who have otherwise a right and interest to be sisted. As to section 11, it is true, as Lord Deas has said, that it is not necessary in disposing of this minute to give an opinion on it. But the point has been argued, and I shall therefore repeat what I said during the argument, that if the word "expressly" is to be taken as meaning "specially," the section proceeds on an inaccurate use of language. An express conveyance is opposed to an implied conveyance, and a special conveyance is opposed to a general conveyance.

The Court adhered.

Counsel for Reclaimer—Kinnear—Blair. Agents—Hunter, Blair, & Cowan, W.S.

Counsel for Respondent — Lee — Moncrieff. Agent—John Latta, S.S.C.

Wednesday, July 18.

FIRST DIVISION.

SPECIAL CASE—SINCLAIR AND FLETCHER'S TRUSTEES.

Teinds—Interim Locality—Relief—Bona fides.

In a claim of relief by an overpaying heritor against an underpaying heritor, under an interim scheme of locality—*held* (1) that the fact that the underpaying heritor had, for upwards of forty years before the claim was made, ceased to be an heritor in the parish, was not a good defence; and (2) that a plea of *bona fide* consumption could not be maintained in defence, although based on a finding by a Lord Ordinary in a process of augmentation in 1708, "that the said lands, in respect of the writs produced, and that they were never in use of payment, could not be made liable in any part of the stipend"—this finding not having been brought under review, but having had effect given to it in the decreet of locality finally pronounced, by which no part of the stipend was allocated on the said lands.

This was a Special Case presented by the trustees of the late Sir John Gordon Sinclair of Murkle and Stevenson, Baronet, of the first part, the trustees of the late General Fletcher Campbell of the second part, and Andrew Fletcher of the third part. The question for the judgment of the Court was as to a claim of relief by the first party against the second and third parties for overpayments of stipend from 1808 to 1833. These overpayments had been made by the first party in consequence of the lands of Wester Monkrigg, in the shire of Haddington, not having been localled on. In 1808 the second parties acquired right to the lands of Wester Monkrigg, and in 1825 they conveyed them to the third party, Mr Fletcher. In 1833 Mr Fletcher sold the lands.

The ministers of Haddington obtained a decreet of augmentation in 1797, another in 1807, and a third in 1826. The augmentation of 1797 was paid under interim schemes of locality, prepared on 9th July 1800, until 3d July 1816, when new interim schemes, applicable also to the augmentation of 1807, were made up and approved of. And on 6th March 1830 both these schemes of 1800 and 1816 were superseded by a new interim locality, embracing the augmentation of 1826 as well as the two previous augmentations. These interim localities were appointed in ordinary form to be the rule of payment of the stipend until final decreets of locality should be adjusted, and by them no part of the stipend was allocated on the teinds of the lands of Wester Monkrigg. Schemes of locality of the stipends awarded by the said augmentations were on 22d November 1861 approved as final, and by the final schemes there was allocated on the lands of Wester Monkrigg certain amounts of stipend. By the interim localities there were allocated upon the lands of Stevenson, in the parish of Haddington, which belonged from 1808 to 1833 to Sir John Gordon Sinclair, an amount of stipend considerably in excess of what would have been allocated had the lands of Wester Monkrigg been allocated upon,

and in excess of what was actually allocated upon them by the said final schemes.

It appeared that the liability of the lands of Wester Monkrigg for stipend was the subject of litigation in a process of locality of the stipend of the parish of Haddington, modified in 1650, which process of locality commenced in the year 1707, and terminated in a decree of locality pronounced on 8th February 1710. In the process appearance was made for various heritors, and among others for Patrick Hepburn, then proprietor of Wester Monkrigg, and also for Robert Hepburn, then proprietor of the lands of Bearford and Easter Monkrigg; and a litigation took place between them and other heritors as to the liability of their lands for stipend. The procurator for the said Patrick Hepburn of Wester Monkrigg craved absolvitor, in respect his lands were kirk lands feued out *cum decimis inclusis* before the Act of Annexation, as appeared by the writs produced, and that they were never in use of paying any part of the stipend; and, on February 17, 1708, Lord Fountainhall (Ordinary) pronounced an interlocutor, whereby he found that "the said lands, in respect of the writs produced, and that they were never in use of payment, could not be liable in any part of the stipend." The said judgment was not brought under review, and effect was given to it in the decreet of locality finally pronounced, by which no part of the stipend was allocated upon the said lands. In 1835 objections were taken to this exemption of the lands of Wester Monkrigg, and by a judgment of the House of Lords, of date 1844, the plea of *res judicata*, which had been sustained by the Court below in consequence of the judgment of the Court in 1708, was repelled. Thereafter the claim for exemption of the lands from stipend in respect of their being held *cum decimis inclusis* was departed from as being no longer pleadable.

The questions for the decision of the Court were:—"(1) Are the second or third parties, or either and which of them, bound to recoup to the first parties the sum of stipend overpaid by the predecessor of the first parties, and unpaid by the second and third parties, during the period between 1808 and 1825? (2) Is the third party bound to recoup to the first parties the sums of stipend overpaid and unpaid as aforesaid during the period between 1825 and 1833?"

The first party argued—It is of no moment that the lands of Wester Monkrigg do not now belong to the parties against whom the claim is made; such a claim as this is personal and does not run with the lands. It was settled that the title which an overpaying heritor must produce in such a claim as this is a confirmation or a special assignation—*Weatherstone* v. *Lord Tweeddale*, November 12, 1833, 12 S. 1. It is settled by the case of *Weatherstone* that pleas of prescription and *bona fide* consumption can never be sustained where there has been none other than interim localities—*Haldane* v. *Ogilvie*, November 8, 1871, 10 Macph. 62.

The second and third parties argued that they were not liable, in respect—(1) That during the period of their possession the said lands were exempt from liability for stipend by a subsisting judgment of the Court; (2) That the whole rents of the said lands, stock and teind, were received and consumed in *bona fide*; (3) That as they had ceased to be heritors in the parish of Haddington for more than forty years all claims against them in that capacity were prescribed—*Cuthbert* v. *Waldie*, January 24, 1840, 2 D. 447, and *Magistrates of Montrose* v. *King's College of Aberdeen*, quoted in note thereto, and *Lord Blantyre* v. *Lord Wemyss*, May 22, 1838, 16 Shaw 1009.

At advising—

Lord President—The second parties to this case, the trustees of the late General Fletcher Campbell of Salton, bought the lands of Wester Monkrigg, and obtained a conveyance with entry to the lands at Martinmas 1808. They were infeft in these lands, and they held them as part of the trust-estate down to the year 1825. But in that year, in compliance with the directions of the trust-deed, they conveyed them along with other lands, under the fetters of an entail, to the present Mr Fletcher of Salton. From that time he was the owner of the lands of Wester Monkrigg, as heir of entail in possession, until 1833, when Wester Monkrigg was again sold under the powers of a private Act of Parliament.

The question we have to determine regards the liability of the owners of these lands to account for certain under-payments, or rather no-payments, which they made under interim decrees of locality in subsistence during the whole of that period from 1808 to 1833. It appears that the first of the processes of augmentation to which those localities had reference was pronounced upon the 8th February 1787. There were other two augmentations that followed upon that; and the interim localities were established first of all under the first of those, and latterly under the joint processes. But there is no doubt that these interim localities were the subsisting rule of payment of the minister's stipend during the whole of this period from 1808 to 1833. It was not till a considerably later date that the final scheme of locality was approved of by the Court. Now, under these interim schemes the proprietor of Monkrigg paid no stipend at all, and the consequence of course was that the burden of paying the stipend fell upon the other heritors in the parish; and it is matter of admission in this case that the first party or their predecessors, in consequence of the lands of Wester Monkrigg paying no stipend, had to pay more than their own shares, as the matter was finally adjusted, by £81, 9s. 3d., being £44, 3s. for the period between 1808 and 1825, and £37, 6s. 3d. for the period between 1825 and 1833. Of course these sums will bear interest, but we need not trouble ourselves with these details in answering the questions put to us in this case.

Now, the reason why the proprietors of Wester Monkrigg paid no stipend was that there was an erroneous impression that the proprietor of these lands held his lands upon a title *cum decimis inclusis et nunquam antea separatis*; but this was afterwards, in 1835, found to be an entire mistake. The title as a *cum decimis inclusis* title was clearly invalid in law; and the consequence is, as the first party contends, that the proprietors of Monkrigg for the period now in question must reimburse the first party of that portion of the stipend which they ought to have paid, and which he paid in their place.

Now, it appears to me that, apart from any

specialty in the present case arising from subsequent proceedings in the beginning of the last century, which have been referred to, the application of the doctrine established in *Weatherstone* v. *The Marquis of Tweeddale* is very clear. This is just a case where an interim locality has been adjusted as the immediate rule of payment. There is reserved to all parties to fix in the ultimate accounting, when the final decree of locality comes to be made up, what are their rights and liabilities. It is in vain to say that anybody who is underpaying or not paying—a party I mean who is escaping from paying under an interim scheme of locality —when he ought to have paid, is in the meantime consuming his teinds in *bona fide*, so as to afford him a defence in the ultimate accounting. The principle of the case of *Weatherstone* v. *The Marquis of Tweeddale* is as clear as possible against that. The Lord Ordinary in that case was Lord Moncreiff—a great authority in teind law—and he found distinctly in his interlocutor that "prior to the final decreet of locality in 1827 there was no standing final locality posterior to that for which decreet was given in 1778, in respect that the decreet which had been pronounced in 1789 was effectually set aside as to all parties by the reduction at the instance of the Earl of Lauderdale, and the entirely new scheme of locality prepared under it in 1793; and in respect that that new locality never was finally approved of, finds that where payments of stipend are made under interim decreets of locality there is an implied judicial contract among all the parties that when the legal obligations of the heritors shall be determined by decreet, their several interests shall be adjusted from the commencement of the process or processes, according to the true state of their rights and obligations, and that the claims of relief thus arising cannot be affected by the length of time during which the settlement of a final locality may have been delayed." Now, that judgment was adhered to by the Inner House, and Lord Balgray, who was a very great authority in teind questions, states his opinion of the nature of an interim scheme of locality thus:—"As to the nature of an interim locality, it is a temporary arrangement, introduced, *inter alia*, for the convenience of the minister. It fixes nothing irrevocably as to questions of accounting among the heritors themselves. A heritor paying in virtue of an interim locality does so under the legal warrant of this Court, whereby he is authorised to look forward to redress if he overpays."

Now, to say that it is a sufficient foundation for *bona fide* perception and consumption during the prevalence of an interim scheme of locality that the heritor believes he has a good title to the teinds which exempt from payment, is to set aside that doctrine altogether.

It follows of absolute necessity, from the doctrine thus announced by those two eminent judges, that there can, under an interim scheme of locality be no *bona fide* perception or consumption of that portion of the teinds which ought to have gone to the minister.

The second and third parties here have founded very much on *bona fides* under a final decreet of locality, and have cited the cases of *The Magistrates of Montrose* v. *King's College, Aberdeen*, and *Cuthbert* v. *Waldie;* but the best answer to that argument is to be found in the note of the Lord Ordinary in the first of these cases. He, fortunately, happens to be the same Lord Ordinary who decided *Weatherstone* v. *The Marquis of Tweeddale*, and the distinction which he draws between *bona fides* as applicable to the payments or non-payments under a final and *interim* scheme is well worthy of attention, for it is stated in a very few words. He says:—"In the debate the pursuers relied mainly on the late decision in the case of *Weatherstone* v. *The Marquis of Tweeddale.* But it is clear from the reports of that case that it depended in the material point" (that is, the point in question) "entirely on the fact that the payments had all been made under interim decrees of locality. Now, in the rubrics given in both reports it is precisely so stated." "It is so expressly in the Lord Ordinary's interlocutor and note; and in the opinions of all the Judges the point is laid expressly on the peculiarity of an interim decreet, as implying that an ultimate adjustment is to take place in contrast with the nature and effect of a final decreet."

It appears to me, therefore, that it is quite settled law that under-payments made under an interim scheme of locality will, when the final adjustment comes to be made, subject the underpaying heritor to a claim at the instance of the over-paying heritor, and that he cannot defend himself on the principle of *bona fide* consumption.

But then it is said that there is more in this case, and that the peculiarities of this parish and lands of Wester Monkrigg are such as to take it out of the rule of the case of *Weatherstone* v. *Tweeddale.* Now, what is the history of this parish as regards localities? There was a locality in dependence at the commencement of last century, and in that locality the proprietor of Wester Monkrigg brought forward what he called a *decimis inclusis* right, and insisted that upon that ground he should be exempt from payment of any stipend; and we find that Lord Fountainhall pronounced an interlocutor whereby he found that "the said lands, in respect of the writs produced, and that they were never in use of payment, could not be liable in any part of the stipend."

Now, the first observation to be made on that interlocutor, as it is called, is, that it is not a judgment of the Lord Ordinary in any proper sense of the term. It is merely a finding pronounced in the course of the preparation of the final scheme of locality. It is an intimation of the opinion of the Lord Ordinary, but it has no judicial force or effect according to the forms of process then in existence until it comes to be brought before the Court when the final scheme of locality is approved of. Under our present forms of process a judgment pronounced by the Lord Ordinary in the course of preparing a locality may be brought under review, because it is a proper interlocutor, and accordingly it is constantly the subject of a Reclaiming Note to one of the Divisions. But at the time we are dealing with—the commencement of last century, and for more than a century after that—all that a Lord Ordinary could do in a process of locality was to express his opinion *ad interim*, and then in the end to make a report to the Court, and report then to the Teind Court. The Commission for the Plantation of Kirks and Valuation of Teinds then for the first time pronounced any judgment when they approved of the scheme of locality adjusted as a final scheme.

Well, then, in the second place, observe what is the opinion that Lord Fountainhall intimates here. It is, that in respect of the writs produced, Wester Monkrigg could not be liable for any part of the stipend. Is that sustaining a plea to the effect that the proprietor of Wester Monkrigg has a title to his teind of the nature of a title *cum decimis inclusis et nunquam antea separatis?* I certainly do not so believe. An heritable right to his teinds was quite sufficient to justify that opinion of Lord Fountainhall, because, as it is shewn, it was not necessary in allocating the stipend at that time to go against heritors having heritable rights at all. There was sufficient free teinds in the hand of the titular without going against the heritors possessing heritable rights; and the mere possession of an heritable right to his teind, which the proprietor of Wester Monkrigg had, was quite sufficient to justify this opinion of Lord Fountainhall. Then, when the Court in approving of the final scheme of locality in 1710 gave effect to this opinion of Lord Fountainhall, how can they possibly be supposed to have been sustaining a title *cum decimis inclusis et nunquam antea separatis?* They had no occasion to direct their attention to any such question, and they do not find in this opinion of Lord Fountainhall that such a question was raised, and therefore the only judicial act in the matter—the only proper judgment—namely, that approving the final scheme of locality—had it not in contemplation to determine any question as to *decimis inclusis* right at all.

Then it is said that under this first decreet, which is assumed to have determined that the proprietor of Wester Monkrigg had *decimis inclusis* right, there has been *bona fide* possession ever since. There is no doubt there was possession in *bona fide* of the entire teinds of the lands of Wester Monkrigg by the proprietor of these lands for ninety years after this final locality was approved of. There is no doubt about that, and nobody is seeking to disturb that possession. It is possession under a final decreet of locality, and it is not brought in question in this case in any other form. But, then, when the new augmentation came to be awarded in 1797, and when under that and subsequent decreets of augmentation interim schemes of locality came to be prepared, these were attended with the usual consequences. Whatever your rights may be, you, the heritors of this parish, are not to be prejudiced by paying under these interim schemes, because it remains to be subsequently adjusted and settled who are the heritors truly liable for the stipends, and in what proportions. That is the condition on which every interim scheme of locality is approved of and made a rule for interim payment of stipend, and that is just what has now been done. These interim schemes have come to an end, and a final locality has been approved of; and it is now found that this gentleman, who was the proprietor of Wester Monkrigg in 1710, had no right to his teinds beyond the mere ordinary heritable right, and that none of the proprietors of Wester Monkrigg from that time forward have ever had any higher right than that, and accordingly they fall to be localled upon for the future, as the proprietor himself admits.

Well, if that is to be so for the future, why is it not to be for the past while the interim schemes have been in subsistence. Oh! because I have possessed in *bona fide.* But that is distinctly over-ruled in the case of *Weatherstone* v *The Marquis of Tweeddale*, and the circumstance that the party advanced this *decimis inclusis* right more than half a century ago will not in the slightest degree prevent the application of that rule, because nobody ever admitted his right, and, above all, nobody ever admitted his right of a *decimis inclusis* title when there came to be any question as to whether or not he should pay any part of the stipend.

It seems to me, therefore, that the specialties of this case do not in the slightest degree prevent the application of the general rule which was settled in the case of *Weatherstone*, and which has been acted on ever since in adjusting the over-payments and under-payments under an interim scheme.

I am therefore for answering the first question by finding that the second parties, who were proprietors of the estate of Wester Monkrigg in the period from 1808 to 1825, are bound to reimburse the first parties all the sums of stipend admittedly overpaid by them during that time; and, in answer to the second question, that the third party (Mr Fletcher), who was owner of the estate from 1825 to 1833, is bound to be reimbursed.

Lord Deas—I am entirely of the same opinion. It is quite fixed in our law and practice that in order that a minister may have the means of livelihood while the process of locality is going on, and which [often lasts for a great number of years, he is entitled to demand an interim scheme; and it is equally well settled in our law and practice that the result of that is, that when the final locality comes to be adjusted those heritors who have been overpaying under that interim scheme are entitled to be reimbursed by those heritors who have been underpaying under it. No doubt these processes sometimes last for a very long period of years, and therefore there may be something like a hardship felt by the underpaying heritors when the demand comes to be made upon them at the end of that long period by the overpaying heritors. But I am not aware that it makes any difference in that claim of relief whether the interim scheme has been in process for a short period of years or for a long period; and no case has been referred to in the very able and elaborate pleadings at the bar in which that relief was refused. As regards any specialties in this case, I think there are none to prevent the application of that general rule. Looking to the exposition which your Lordship has given, both of the law and of the fact and specialties in this case, I think it would be quite superfluous in me to say any more than what I have said—that I entirely concur with the view stated by your Lordship.

Lord Mure—I am of the same opinion. I think it is perfectly settled now by the decision in the case of *Weatherstone* v. *The Marquis of Tweeddale*, and by the same eminent judge in the other case mentioned in the course of the argument, that payments of this sort, made under the interim scheme, are to be adjusted by the final scheme, and that when there is an underpayment it must be paid, and when an overpayment it must be reimbursed. On the other hand, where over-payments have been made

under final decreets, they do not admit of being adjusted in the same way. I do not think that in this case there can be any application of the doctrine of *bona fide* perception and consumption.

Lord Shand—I am of the same opinion. One cannot help feeling as questions of this kind present themselves that cases of hardship must frequently arise from the long interval of time that elapses between the granting of the interim and final decreets of locality, and the omission, it may be, on the part of the heritor who is underpaying, to keep that in view and provide funds for his liabilities—cases in which, as we find here, the interest on the over-payments is almost three times the amount of the principal sum itself. At the same time, it is not to be forgotten that the remedy against such evils lies in the hands of the heritors themselves; for the parties who are nterested in such questions, or those who represent them in the profession, have the means of avoiding these hardships by taking steps to have the final locality adjusted on its proper basis and according to the true legal rights of the parties without undue delay. It is well that, the rule being fixed, the profession should see that this is the only way by which they can avoid hardships of this kind, and that the remedy is within their own power.

This interlocutor was pronounced:—

"Find and declare, in answer to the first question, that the second parties are bound to reimburse the first parties the sum of stipend overpaid by the predecessor of the first parties, and unpaid by the second parties, during the period between 1808 and 1825; and, in answer to the second question, that the third party is bound to reimburse the first parties the sum of stipend overpaid by the predecessor of the first parties, and unpaid by the third party, during the period between 1825 and 1833; and decern," &c.

Counsel for First Parties—Mackintosh—Asher. Agents—Mackenzie & Kermack, W.S.

Counsel for Second Parties—Kinnear—Pearson. Agents—Gibson & Strathearn, W.S.

Wednesday, July 18.

FIRST DIVISION.

[Lord Curriehill, Ordinary.

JARVIE *v.* WHITE AND OTHERS.

Issue — Reduction—Fraud, Facility, and Essential Error.

Terms of issues adjusted for the trial of a reduction of a *mortis causa* deed of settlement on the grounds of fraud, facility, and essential error.

This was an action of reduction at the instance of Nedrick Jarvie, rope-spinner, Stobcross Street, Glasgow, of a deed of settlement which bore to be executed by Mrs Robina Jarvie or White. The defenders were Alexander White, the husband of the testatrix, and John and Alexander White, his sons by a former marriage, and others.

The pursuer averred, *inter alia*—"(Cond. 8) The said pretended deed of settlement was prepared by Mr Low, of the firm of Howie & Low, writers, Glasgow, who was then acting as agent of the defender the said Alexander White, on the employment and instructions of the said Alexander White. Neither Mr Low nor anyone on his behalf ever received any instructions, either written or verbal, from the said Mrs White, or indeed ever saw her. No draft of the said pretended settlement was submitted to the said Mrs White, and it was not read over to her, and she was in such a weak state of health, both in body and in mind, that she could not have understood it supposing it had. Neither was the draft nor the principal shown to, or read to or by, any of her relatives, though two of them were residing in the same house with her in Arran from the time she went to Arran till she returned home. At the date of the said deed of settlement the said Mrs White was not of a sound disposing mind, and was, from mental and physical weakness, incapable of writing or signing her name, and incapacitated from giving directions in regard to her affairs or the disposal of her estate after her death. The testing clause states that the said pretended deed was subscribed at Glasgow on the 21st June 1873. Mrs White was not at Glasgow on that day. If the pretended deed was signed by her at all (and the pursuer avers it was not), it was signed at Arran on a different day. The defender, the said Alexander White, after procuring Mrs White's signature to the pretended deed (assuming her alleged signatures thereto to be genuine), took it back to Glasgow, got the testing clause filled in, and then it was kept locked up till Mrs White's death, and she never had the opportunity of seeing it, and never knew of its existence. (Cond. 9) Even on the assumption that at the date of the said pretended deed of settlement the said Robina Jarvie or White was not so mentally weak as to make her wholly incapable of executing a settlement, she was yet so weak and facile in mind as to make her easily imposed on, liable to circumvention, and incapable of resisting importunity; and the said pretended deed (assuming her alleged signa tures thereto to be genuine) was procured from her by the defender the said Alexander White taking advantage of her said weakness and facility and obtaining the said deed from her, to her prejudice and lesion, and to the prejudice and lesion of the pursuer, by fraud and circumvention and undue influence, or one or other of them, on the part of the said Alexander White. (Cond. 10) Assuming that the said Robina Jarvie or White was capable of understanding the said pretended deed of settlement, and that her alleged signatures thereto are genuine, the pursuer alleges that the said pretended deed was signed by her under essential error as to its nature and effect, induced by fraudulent representations in regard to, or fraudulent concealment of, its true meaning and effect on the part of the defender the said Alexander White."

The issues, as approved of by the Lord Ordinary, were as follows:—"(1) Whether the signatures 'Robina White' to the deed No. of process are not the geniune signatures of the deceased Mrs Robina Jarvie or White? (2) Whether the said