from intention, but what the testator meant by using them.

We are not trammelled in Scotland by any obligation to read this word "money" in a restricted sense; and I gather from the case of *Byrom* (L.R., 16 Eq. 475) that it is matter of regret with the English Courts that they are fettered in this respect with a train of decisions. With us the word "money," like the Latin "pecunia," may signify only coined money, or may cover all the pecuniary resources of the man who uses it. A settlement which should bequeath "all the money in my purse," "in the till," "in the house," would probably be confined to coined money; while the words, "I leave all my money to build an hospital," or, as here, "I direct all my money to be divided equally among my children," would, if used as a general testamentary expression, carry the *universitas* of the testator's personal estate. In the present case the meaning is not to my mind doubtful. As the word occurs in the principal deed, it is manifestly intended to apply to the *universitas* of the testator's personal estate, although it is afterwards qualified in regard to the goodwill of the business; and the word as used in the codicil, referring back as it does to the passage in the principal deed, is both clear in itself and adds force to the construction of the original clause. The settlement is said to be holograph of the testator, and I entertain no doubt as to the sense in which he used these terms.

Lord Ormidale—[*After referring to the points which it has not been considered necessary to report*] —What the expression used by the testator, "all money I shall leave," must be held to comprehend, is to my mind attended with more difficulty. Its true solution must depend upon what can be gathered from the will of the testator, read in all its parts, as to his intention. Looking at the matter in this light, I have come to the conclusion that the Lord Ordinary is right. The word "money" as used by the testator cannot be held to comprehend his heritable estate, or even his moveable property, so far as corporeal, for he has otherwise provided in regard to these portions of his estate. But in regard to money deposited in bank, or debts outstanding due to him, I am inclined to think that it was the intention of the testator that they should be comprehended by the expression "all money I should leave." In any other view he must be held to have died intestate *quoad* some part of his estate—a result which is always, if possible, to be avoided, especially in such a case as the present, where it was manifestly the object and desire of the testator to dispose of his whole means and estate.

I am therefore of opinion that on this point the Lord Ordinary is right; and this view of the matter appears to me to be supported by the authorities referred to at the debate, and especially the cases of *Prichard* v. *Prichard*, Dec. 8, 1870, L.R., 11 Eq. 232, and *Langdale* v. *Whitfield*, 4 K. and J. 426.

Lord Gifford—I agree with the Lord Ordinary in thinking that by his will and codicils the late David Thomson validly and effectually disposed of the whole estate, heritable and moveable, of every description belonging to him at the time of his death.

I think it plain that the testator by the expression "all money that I should leave" meant his whole moveable estate excepting the business and stock, which he specially bequeathed to his two sons John and James. It is, no doubt, true that the word "money" may have a limited and restricted meaning, but I think it evident that it has the widest possible meaning in the present will. The testator begins by directing his debts to be paid "from any funds I might leave," thus implying that all his funds were to be under the management of the trustees named in the will. He then specially leaves his heritable property, feu-duties, and furniture to his widow in liferent while she remains his widow, and then to be divided amongst his children, share and share alike; and he directs that "all money that I should leave, wherever deposited," shall be divided amongst his wife and children, share and share alike. The first codicil directs "that my daughter Mary's share of everything I leave" be paid to her at the rate of £30 a-year. I think the expression "everything I leave" refers back to the former bequests in her favour, which the testator here describes as her share of "everything I leave." This shows that the settlement was a universal one, and that by the word "money" the testator meant his whole property not specially disposed of. The same inference appears to follow from other clauses in the deed — for example, from the provision in the last codicil, or *P.S.*, where the testator directs that his wife shall "receive the interest of all the moneys left by me up to the time of the division of the same." I entertain no doubt therefore that the settlements include the whole estate of the deceased, leaving nothing to the operation of intestacy.

The Court therefore adhered to the Lord Ordinary's interlocutor, in so far as regarded the question relating to the import of the term "money."

Counsel for Pursuers (Reclaimers)—M'Laren—J. P. B. Robertson. Agent — H. B. Dewar, S.S.C.

Counsel for Defenders (Respondents)—Kinnear—Millie. Agent—William Paterson, Solicitor.

Saturday, December 20.

FIRST DIVISION

[Lord Adam, Ordinary.

MACKENZIE *v.* THE BRITISH LINEN COMPANY.

Process — Proof — Commission — Evidence (Scotland) Act 1866 (29 *and* 30 *Vict. c.* 112), *sec.* 2.

The B. L. Coy. charged A B on a bill for £70 bearing to be drawn by him and C D on E F, and endorsed by them to the company. A B suspended, on the ground that his signature on the bill was a forgery, not having been written by him or by his authority. E F was in custody at Inverness on a charge of having forged the signature. A proof

being necessary, the B. L. Coy. moved to have it taken on commission at Inverness, instead of before the Lord Ordinary, on the ground that the saving of expense, the amount at stake being trifling, and the company having no security for recovering their expenses if successful, as the note had been passed without caution, amounted to such "special cause" as required to be shown under sec. 2 of the Evidence (Scotland) Act 1866. The motion was opposed mainly on the ground that this was especially a case where it was desirable for the Judge (who should moreover be one of experience) to see and hear the witnesses (of whom E F was an essential one) examined. The Lord Ordinary (Adam) having *refused* the motion, on a reclaiming note, the Court unanimously *adhered*, reserving expenses.

Counsel for Complainer (Respondent)—Rhind. Agent—W. Officer, S.S.C.

Counsel for Respondents (Reclaimers)—Gloag. Agents—Mackenzie & Kermack, W.S.

Saturday, December 20. *

FIRST DIVISION.

[Lord Craighill, Ordinary.

(Before Seven Judges.)

MARSHALL *v.* THE SCHOOL BOARD OF ARDROSSAN.

School—Schoolmaster—Retiring Allowance—Review of School Board's Resolution where there has been Dismissal for Fault.

Held (by a majority of seven Judges—*diss.* the Lord Justice-Clerk (Moncreiff) and Lord Ormidale—*rev.* Lord Craighill, Ordinary) that though upon a construction of the Education (Scotland) Act 1872 and the Parochial and Burgh Schoolmaster's (Scotland) Act 1861, the resolution of a School Board dismissing a schoolmaster for fault is final and not subject to review, a court of law has jurisdiction to inquire into the facts and circumstances which preceded that resolution, with a view to the question of the schoolmaster's right to a retiring allowance.

Averments in a claim for a retiring allowance by a schoolmaster against a School Board, who had dismissed him for fault, which, inasmuch as they amounted to a case of oppression and persecution at the instance of the School Board, were *held* relevant to be remitted to probation.

Opinion (*per* the Lord Justice-Clerk) that if a schoolmaster is *de facto* dismissed for fault by a School Board, his right to a retiring allowance is *eo ipso* precluded under the above-cited Acts, and that no review of the Board's resolution is competent.

* Decided December 10, 1879.

Observations (*per curiam*) on the cases of *Robb* v. *The School Board of Logiealmond*, Feb. 5, 1875, 2 R. 417, and *Morison* v. *Glenshiel School Board*, May 28, 1875, 2 R. 715.

School—Decree against a School Board.

Observed per Lord Deas, that a School Board being a corporation, any form of action which is appropriate against an individual in regard to a purely civil action will be equally so against them.

Process—Act 48 *Geo. III. cap.* 151, *sec.* 15—*Leave to Appeal to House of Lords from Interlocutory Judgment.*

Circumstances in which a petition for leave to appeal to the House of Lords against an interlocutor sustaining the relevancy of an action was *refused* on grounds of expediency.

Charles Marshall, who had been a teacher since 1835, became in 1850 schoolmaster of the parochial school of Ardrossan, which under the Education Act of 1872 became the "Saltcoats Public School." He brought this action against the School Board of the parish of Ardrossan, by whom he had been dismissed, and concluded for decree of declarator that he was entitled to payment of "retiring allowance, the amount whereof shall not be less than two-third parts of the amount of the salary pertaining to the office of teacher of the said public school at the date of the pursuer's removal therefrom, . . . to be paid in all respects in like manner with the salary pertaining to the said office," or alternatively for £2500 in name of damages and compensation. There was a further conclusion for reduction, if necessary, of all minutes and resolutions by the defenders in reference to the question of the pursuer's retiring allowance.

The pursuer averred, *inter alia*—"(Cond. 3) . . . The first elected School Board of Ardrossan contained several persons who were from various causes hostile to the pursuer, especially Mr Barr, the chairman thereof. The pursuer, under great difficulties, and in the face of adverse influences, devoted his energies to the diligent discharge of his duties as teacher of the said public school, so far as approaching age and other circumstances beyond his control permitted. From the first the Board entered on and continued a course of persistent and progressive injustice towards the pursuer—they thwarted, harassed, and oppressed him, both by neglect of their duties, and by positive acts. They depreciated his ability and vilified his character at their public meetings and in correspondence with the Education Department, and they made repeated attempts to remove him from his office as teacher, as subsequently detailed.

"(Cond. 4) In 1874 the Board applied for a special report, under section 60 (2) of the Education Scotland Act 1872, with a view to the removal of the pursuer, and though the report so obtained . . . was directly opposed to the removal of the pursuer, they actually proceeded, in the face of said report, to pass a resolution removing the pursuer from his said office. But the Board of Education refused to sanction this illegal and unjust deliverance, which accordingly fell to the ground.

"(Cond 5) Early in 1875 the Board again applied for a special report under the said section of the Education Act, with the same view. As