holding that no contravention of the section libelled on had been proved.

The Procurator-Fiscal took a Case for the opinion of the High Court of Justiciary. The facts set forth in the Case were:—"That the respondent is the tenant of premises in Leith Street, Edinburgh, known as 'The Grand Cafe,' or 'The Grotto,' which are not licensed by the Magistrates under the above-named section of the Police Act.

"That the premises are open nightly (except on Sundays) from seven till twelve o'clock. That admission is obtained by the payment of sixpence at the door, in return for which a ticket is given, entitling the holder of it to one refreshment, such as a cup of coffee or chocolate, a glass of lemonade, cakes, buns, &c.

"That if no refreshment is taken, the sixpence is not returned, and if further refreshment is desired, fourpence additional is charged for every refreshment after the first.

"That the refreshments are served by waiters in a large room provided with small tables and chairs, and capable of accommodating upwards of 200 persons.

"That pieces of music are played at intervals during the evening, the performers being stationed on a raised platform or stage at one end of said room, and that on the occasion libelled there were three performers, viz., two men playing violins, and a woman playing a pianoforte. That between two and three dozen persons entered the premises between 9·30 and 11 o'clock p.m. on the date libelled; and about 100 persons entered after 11 o'clock.

"The previous convictions libelled were proved in ordinary form."

The question of law for the opinion of the High Court was—"Whether the facts proved amounted to a contravention of the 287th section of the Edinburgh Municipal and Police Act 1879?"

At advising—

Lord Justice-Clerk—I am of opinion, very clearly, that we have nothing stated in the Case which makes the place kept by Beaumont amount to an "entertainment" in the sense of the statute so as to require a licence. It is not a place where there is a performance in the proper sense of the word, and nothing seems to have gone on there which is not *bona fide*. I am of opinion, then, that the case fails in that no place of entertainment has been kept open by Beaumont in the sense of the statute.

Lords Young and Craighill concurred.

The Court dismissed the appeal.

Counsel for Appellant — Comrie Thomson. Agents—Millar, Robson, & Innes, S.S.C.

Counsel for Respondent—M'Kechnie. Agent —Robert Emslie, S.S.C.

Wednesday, July 18.

FIRST DIVISION.

LARGUE *v.* URQUHART.

(*Ante*, 12th May 1881, vol. xviii. p. 491.)

Law-Agents Act 1873 (36 *and* 37 *Vict. c.* 63), *sec.* 21—*Law-Agent's Hypothec.*

A law-agent's right of hypothec does not now cover payments made by him to another agent for conducting business on behalf of the client.

Agent and Client—Factor or Law-Agent—Disbursements—Lien.

Where disbursements were made by a law-agent who was acting both as law-agent and factor—*held* that had different persons been acting as law-agent and as factor, it would have fallen upon the factor to make these particular disbursements; and therefore that they did not fall within the right of lien as law-agent.

The circumstances out of which this case arose are narrated in a previous report, 12th May 1881, *ante*, vol. xviii. p. 491. On 27th February 1883 the Lord Ordinary (Kinnear) approved of a report by Mr Baxter, W.S. (to whom the accounts had been remitted). The pursuer (Largue) having reclaimed, the Court on 27th June 1883 pronounced the following interlocutor:—"The Lords having considered the reclaiming-note for the pursuer against Lord Rutherfurd Clark's and Lord Kinnear's interlocutors of 28th June 1881 and 24th February 1883, Appoint the pursuer to state in writing his objections to the defender Mr Adamson taking credit for the sums claimed by him under the head of management and legal expenses, and the defenders to answer the same; the said written objections and answers to be lodged in eight days each."

In obedience to this interlocutor objections were lodged for Largue, to which answers were returned by Urquhart and others. The first item objected to was—

I. —"1877, Dec. 6. By paid Mr Morison, S.S.C., pursuer's expenses in reclaiming-note, £19, 16s. 10d.

The objections to it were—"1st, That Mr Anderson had no authority from the defender Mr Urquhart to make the payment; 2d That being a cash advance it does not fall within the preference of Mr Adamson as law-agent on which the defenders found; and 3d, That it is not a payment for which Mr Anderson has a preferable claim as in a question with the pursuer under the agreement referred to in the 5th and 6th articles of the pursuer's condescendence."

Answered for Urquhart and others—"(1) That the defender Adamson had authority from the defender Urquhart to make the payment; (2) That it was a disbursement properly made in the ordinary course of the defender Adamson's law agency, or at least in the ordinary course of his factory; and (3) that it is a preferable claim within the meaning of the contract constituted by the letters of 29th June 1878."

II. — "Jan. 30. By paid Scott Moncrieff & Wood their account in *Allan* v. *Urquhart and Brown*, £90, 4s."—commencing May 7, 1877, ending June 28, 1878.

"This is the account said to have been incurred to Messrs Scott Moncrieff & Wood in the said action of reduction and payment, and the pur-

suer objects to its being allowed on the grounds —1st, That Mr Adamson had no authority from Mr Urquhart to employ Messrs Scott Moncrieff & Wood in defending said action, and that in point of fact he did not employ them, and at all events did not employ them on the footing of their being paid by Alexander Brown's executor, their employers being Messrs Redfern, Alexander, & Co. of London, the mortgagees on Alexander Brown's estates; 2d, That Mr Adamson was not legally bound to pay the account to Messrs Scott Moncrieff & Wood; That in point of fact he did not pay the account; And 4th, That even if he had paid the account, such payment does not fall within the preference founded on by the defenders, and was not a payment for which Mr Anderson has a preferable claim as in a question with the pursuer under the said agreement."

Urquhart and others answered—"The defenders concur in stating—(1) That the defender Adamson had authority from the defender Urquhart to employ, and did employ, the defenders Messrs Scott Moncrieff & Wood in defending the said action, and reference is made to the preceding preliminary observations, and the documents printed in the appendix hereto, with the explanation that Messrs Redfern, Alexander, & Co. had at one time also employed Messrs Scott Moncrieff & Wood; (2) that as an employer, and, *separatim*, as a factor for a principal furth of Great Britain, the defender Adamson was legally bound to pay the said account; (3) that he has thought it proper meanwhile to refrain from paying said account; but (4) that it is an obligation properly incurred in the ordinary course of his law agency, or at least in the ordinary course of his factory, and is a preferable claim within the meaning of the contract constituted by the letters of 29th June 1878."

III.—"By paid them" (*i.e.*, Messrs Scott Moncrieff & Wood, W.S.) "their account in *Urquhart* v. *Largue*, £44, 19s. 3d."—commencing December 5, 1877, ending June 29, 1878.

"It is objected to on the grounds—1st, That the defender Urquhart did not instruct Mr Adamson to give authority to incur the account; 2d that Mr Adamson was not legally bound to pay the account; 3d, that in point of fact he did not pay the account; and 4th, that even if paid, such payment was not within the preference founded on by the defenders, and was not a payment for which Mr Adamson on a sound construction was intended to have or has a preferable claim in a question with the pursuer under the said agreement."

Urquhart and others answered—"Admitted that this account was incurred with reference to said action of reduction. As regards the pursuer's specific objections thereto, all the defenders concur in stating—(1) that the defender Urquhart did instruct the defender Adamson to give authority to incur the account, and (2, 3, and 4) they here hold as repeated, *brevitatis causa*, their answers to objection 2.

IV.—"By paid Scott Moncrieff & Wood, W.S., their account in *Petition of D. Brown for recal*, £32, 0s. 11d."—commencing May 16, 1877, ending March 30, 1878.

"The defender Mr Urquhart had no right or title to employ Mr Adamson to conduct the proceedings under the petition for recal; and in point of fact he did not instruct Mr Adamson to employ Messrs Scott Moncrieff & Wood to do so; 2d, Mr Adamson was not legally bound to pay the account; 3d, in point of fact he did not pay the account; 4th, if he had paid it, it was not a payment for which he is entitled to take credit as being a preferable claim in a question with the pursuer under the said minute of agreement; and 5th, the said account, if incurred on the employment of Messrs Urquhart and Adamson, or either of them, was so incurred on their part in bad faith, and in furtherance of proceedings carried on against the interests of the said David Brown, whose name they were using."

Urquhart and others answered—"All the defenders concur in stating—(1) that in point of fact Mr Urquhart did instruct Mr Adamson to employ Messrs Scott Moncrieff & Wood to conduct the proceedings in question; (2, 3, and 4) they hold as here repeated, *brevitatis causa*, their answers to objection II.; and they concur in stating (5) that the defenders Urquhart and Adamson had grounds for taking the proceedings in question. Denied that such proceedings were taken in bad faith, and averred that they were adopted on the advice of counsel, after careful consideration, as the most proper course to bring to a satisfactory termination the litigation referred to in objections I. and II."

V.—"By paid periodical interest on factor's cash account, £20, 9s. 11½d."

"The interest is objected to—(1) as not falling within any preference claimed by the defenders; and (2) its amount will fall to be adjusted in reference to the findings of the Court on the other objections."

Urquhart and others answered—"The interest in question has been calculated as at 29th June 1878, the date down to which your Lordships have held that the defender Adamson's preferable claims fall to be stated."

VI.—"By paid Mr Adamson's business account, £129, 11s. 6d."

"This account, beginning 2d October 1876, and ending as at June 29, 1878, is for business said to have been performed by Mr Adamson on the employment of the defender William Urquhart, trustee and executor of the late Alexander Brown. 1st, The greater part of this account was not incurred on the employment or by the authority of the said William Urquhart; and in any view it would have been *ultra vires* of Urquhart, *qua* executor of Alexander Brown, to have incurred it as a charge on the executry estate. 2d, A considerable portion of it, amounting to £44 or thereby, is for business connected with the petition and relative procedure at the instance of David Brown for recal of the curatory, and for this the said John Adamson had no legal authority. He was not employed by the said William Urquhart to conduct the said business, or if he lent himself to the proceedings, he did so in the knowledge that David Brown was insane, and for the purpose of defeating the said David Brown's interests, and putting an end to the claims which David Brown's curator had made against the said William Urquhart, and which claims were ultimately successful. 3d, The remainder of the said business account is objected to as follows, viz., one portion, amounting to £42 or thereby, relates to the said case of *Allan* v. *Urquhart and Brown*, which if incurred, was incurred solely on

the responsibility and in the interests of the said mortgagees Redfern, Alexander, & Company; and another portion, amounting to £20 or thereby, relates to the said case of *Urquhart* v. *Largue*, mentioned in condescendence 5, and to the pursuer's claims against Mr Urquhart, and if incurred, was for work done towards defeating those claims against which there was admittedly no just defence."

Answered for Urquhart and others—"All the defenders concur in stating—(1) That the whole of this account was incurred on the employment of the defender Urquhart *qua* trustee and executor of Alexander Brown, but they maintain that the particular capacity in which it was incurred by Mr Urquhart has no bearing on the present question; (2) that the defender Adamson was employed to conduct the proceedings in question by the defender Urquhart, who, as already mentioned, had good grounds for taking these proceedings; and (3) that as regards the first portion of the account here objected to, the defender Urquhart was the employer of the defender Adamson; and as regards the second portion, relating to the case of *Urquhart* v. *Largue*, the defenders beg to point out that the present pursuer was not successful therein. The pursuer's averments to the effect that accounts which in point of fact were incurred by the defender Urquhart ought not to have been incurred by him are irrelevant."

Argued for the pursuer—The interlocutor of the Lord Ordinary of 11th January 1881, adhered to on 12th May 1881, had decided nothing except that any preference of Mr Adamson's claims was to be considered as at 29th June 1878, the date of the letters constituting the agreement between the parties. At that date Mr Adamson had no preferable claims except such as were covered by the lien or hypothec which he had as a law-agent over his client's title-deeds. Now, a law-agent had no lien or hypothec in respect of cash advances—*Christie* v. *Ruxton*, 24 D. 1182; *Paul* v. *Dickson*, 1 D. 867; Begg on Law Agents, 2d ed. p. 216. The first disbursement now objected to was just a cash advance, which might have been properly made, but was not covered by an agent's lien—*Kemp* v. *Young*, 16 S. 500. As regards the accounts mentioned in the second, third, and fourth objections, these were incurred not to Mr Adamson but to his town agents. No doubt under the law as it formerly stood, these accounts would have been covered by Mr Adamson's lien, on the ground that Mr Adamson would have been personally liable in payment thereof—*Walker* v. *Phin*, 9 S. 691; *Kemp* v. *Young*, 16 S. 500; but a change had been effected by the Law Agents Act of 1873, which rendered the country agent no longer liable to the town agent for payment of the latter's account—36 and 37 Vict. c. 63, sec. 21. As regards the fifth objection, the interest to be allowed would of course depend upon the fate of the other objections. As regards the sixth objection, a part of Mr Adamson's business account had been improperly incurred, and ought not to be allowed as in a question with the pursuer. In consequence of the production of two powers of attorney by Mr Urquhart in favour of Mr Adamson, dated 6th December 1876 and 10th August 1877, the pursuer departed from his objections in so far as they rested on the alleged want of authority on the part of Mr Adamson to incur any of the accounts in question.

Argued for the defenders—The sole question was whether the accounts and disbursements now objected to were or were not preferable claims within the meaning of the letters of 29th June 1878. At that date the pursuer had no preferable claim, the inhibitions (the competency of which, moreover, was denied) not having been followed up by any decree of adjudication—2 Bell's Comm. (M'Laren's ed.) 138-9. The pursuer had, in any case, by withdrawing the inhibitions and summons of adjudication, voluntarily abandoned any preference which he might otherwise have secured. What he got in return was an acknowledgment that Urquhart was truly indebted as executor in certain sums, which however were not to be paid till the Ceylon estate was realised. It was only the balance, if any, of the proceeds of the Banff properties that was to be paid to the pursuer after meeting Mr Adamson's preferable claim. The pursuer now wished to read the words "preferable claim" as if there had been added the words "under a law agent's lien or hypothec." But at common law Mr Adamson had a larger preference, as a factor acting under a power of attorney which empowered him to sell the subjects in question and receive the purchase money. This gave him a right to retain the money in payment of his whole claims and cautionary obligations—Ersk. iii. 4, 21; 2 Bell's Comm. (M'Laren's ed.) pp. 110 and 111; *Wight's Trustees* v. *Allan*, 3 D. 243. The pursuer's own statements in the summons and in the condescendence showed his recognition of the fact that Mr Adamson was a factor as well as a law-agent, and entitled to a factor's lien. On the assumption, however, that Mr Adamson was entitled to no more than a law-agent's lien, the pursuer's objections were unfounded. I.—This was a reasonable and ordinary disbursement of a law-agent, and therefore covered by his lien—2 Bell's Comm. (M'Laren's ed.) 107; Lord Cunningham's note in *Kemp* v. *Young*, 16 S. 500; *Inglis & Weir* v. *Renny*, 4 S. (N.E.) 118. II. III. and IV.—No doubt the Law Agents Act had relieved country agents of personal liability to town agents, but it contained no enactment altering the common law as to a country agent's lien, and it had not been shown that such lien rested exclusively on the personal liability of the country agent. In the present case, however, Mr Adamson was acting, not merely as a country agent, but as a factor for a principal furth of Great Britain, and as such was personally liable to the town agents whom he employed. VI.—It was irrelevant to allege that any part of Mr Adamson's business account was improperly incurred. The sole question was whether the account had been incurred by the client—*Palmer* v. *Lee*, 7 R. 651—and this was now admitted.

At advising—

Lord President—The arrangement which was made upon 29th June 1878 by the letter of Adamson and by the answer of Allan & Soutar, the agents for the pursuer, must be held to be a compromise of a litigation arranged between the agents of the parties.

It now appears quite clearly that Adamson was at the time factor for Urquhart, and was acting in that capacity when the arrangement was en-

tered into, but there is no evidence of this circumstance having been communicated to Largue or his agent, or of its having in any way been incorporated into the settlement. I therefore read this agreement as one made by the law-agents of the parties, and I think the general import of it is very clear. The defender of the action of reduction allows decree to pass on his receiving an engagement from Urquhart as executor of Alexander Brown for £126, 2s. 4d., with interest, and an understanding by the agent that he will retain out of Brown's estate and pay to Largue £35, and these sums are to be paid on the realisation of Brown's estate in Ceylon, and the inhibition and adjudication are to be withdrawn to enable the Banff property to be sold. This inhibition would have given Mr Largue a preference, and he consented to waive his rights on the understanding that when the sale of the Ceylon estates took place the proceeds after payment of Adamson's "preferable claim" were to be devoted to the settlement of his claims. Now, the question comes to be, What is meant by Mr Adamson's "preferable claim?"

I think that nothing else is intended but his claim as law-agent, and I cannot understand this claim to mean anything else than such as would depend upon his right of lien. The agreement so read is quite intelligible and appropriate in the circumstances, because Adamson's claim as factor was not preferable to Largue's, and therefore it was most natural that when they came to divide the proceeds of the sale of the property in Ceylon the claim of Mr Adamson was to be liquidated first, and thereafter the inhibiting creditor was to be ranked in the same way as if he had gone on with his diligence. That was the result of the agreement, and it is somewhat curious that the date selected was that of the agreement to sell, and not the date of the inhibition—but that is a matter of no great moment in the present case as the date cannot affect the nature of the claim.

We now therefore come to consider the objections on the footing that Adamson can only claim for those amounts which were disbursed, and for those expenses which were incurred by him in his capacity as law-agent.

It is important to keep in mind that Adamson was also acting as factor for Urquhart, and the question comes to be whether these disbursements were made in his capacity of factor or as law-agent, because if these payments were made as factor they do not fall under the character of preferable claims, but if made as law-agent they undoubtedly do. In which of the two characters then were these disbursements made? Perhaps the sum raising the nicest question of all is that under the first objection. This objection has reference to the payment by Adamson to the opposite party as law-agent in respect of Adamson's claim having failed in the reclaiming-note, and expenses from the date of the interlocutor reclaimed against, which it is represented was unauthorised, and was not a claim for which Adamson could have any preference. It might be represented no doubt that this was part of the incidental expenses which an agent was entitled to advance and charge for, and which might be held as cash advances in the proper sense, and it may be that payments of that kind are within a law-agent's lien, and may be charged in a law-agent's account. But the question here is, considering that Adamson was acting both as law-agent and factor, ought not these disbursements to have been made by him in his capacity as factor? I certainly think that they should. Had different persons been acting in the capacity of law-agent and factor it would undoubtedly have fallen upon the factor to make these payments.

If this is a just observation as regards the first of these objections, then I think that it equally applies to all the others except the sixth. With regard to the second, there is no doubt some specialty about it which it is necessary to keep in view. As the law now stands, Adamson was under no obligation to pay that sum, as it was a cash advance by a principal, and the law in that respect is now just the opposite of what it was prior to 1873. Therefore this comes to be only a cash advance properly made by Adamson as factor, and cannot be included properly within the limits of his lien as law-agent. The same remark applies to the third and fourth objections.

As regards the fifth, that is a matter of interest; the decision regarding it depends entirely upon that of the questions which have preceded it.

The sum objected to in the sixth objection is Adamson's business account, amounting to £129, 11s. 6d. Now, this amount was incurred to Adamson for business done, and was due on the 29th June 1878, the date of the agreement. If this is a proper business account for work done by Adamson as agent, it was the very subject appropriate for a law-agent's lien.

The objection resolves into this, that in litigating, the executor was doing so improperly and recklessly. But I do not see how that can prevent a law-agent having his lien for his business account. The lien over title-deeds does not depend upon the nature or extent of the litigation in which it occurred, nor on the character or condition of the employer, and although litigating, not in his own name or on his own behoof, but in a representative capacity. The right arises simply from the possession of the title-deed, and the fact of a proper business account being due, and no relevant objection to that account being stated. If the party here denies the amount, he may no doubt get the account audited, but I think for so small a matter it would be undesirable to incur any further expense.

I am for sustaining the first four objections, and as to the claim for interest, for sustaining that also in so far as it affects the first four items, and am for repelling the sixth objection.

Lord Mure—I concur. There was here undoubtedly a waiving of rights on the part of Mr Largue, and the question is as to the footing upon which he consented to renounce the benefit which he had obtained by his inhibition. It is explained that Mr Largue was to withdraw his inhibition, by which means the sale of the Banff property would be facilitated, and that as soon as the sale of the Ceylon property was carried out he was to be paid after Mr Adamson's preferable claims had been met. Now, what preferable claims could Mr Adamson have except as law-agent, and in respect of his holding the title-deeds of the estate which was to be sold. Now, clearly that preference does not apply to sums with which the first four objections deal, and which are properly factorial payments, and over which his lien as law-agent cannot extend.

Lord Shand—I am of the same opinion. The agreement upon which the present question arises deals with two matters which are perfectly distinct—first, as to an existing litigation which had reference to Largue's claim against Urquhart, while the second arises out of Largue's inhibition, which it was desirable to get out of the way in order to make a sale of the property possible. I hardly think that there was here a compromise in the ordinary sense of the word, for Mr Largue got all that he desired, his claim was admitted to be good, and as far as I can see there was no concession.

In order to facilitate the sale Mr Largue agreed to withdraw his inhibition, but in so doing he did not agree thereby to give up a valuable right acquired under it. He accordingly takes Adamson bound "that the proceeds were to be applied in payment of his debt after his own preferable claims were met." But these preferable claims arose only in his character as law-agent of Urquhart, for his position as factor entitled him to no preference. It is clear, I think, that Largue might have adjudged this properly without Adamson getting any of his expenses as factor Therefore no claim could arise for factorial outlay, and it was not intended by this agreement to give him any such claim. There can be no doubt that cond. 3 has been somewhat loosely stated, but I do not see that it can in any way affect the terms of Mr Largue's letter.

Adamson in his letter writes as a law-agent, and there is no indication of the character of factor appearing from beginning to end of it. And further, when one looks to the character of the disbursements, they are in my opinion just such as a factor might make.

As regards the business account, I hope that it may not be thought necessary by the parties to incur the further expense of a remit to the Auditor.

Lord Deas was not present at the debate.

The Court sustained the first four objections, the fifth in so far as relating to interest on sums involved in the first four objections, and repelled the sixth objection.

Counsel for Pursuer—Keir. Agent—Alexander Morison, S.S.C.

Counsel for Defender—Begg. Agents—Scott Moncrieff & Trail, W.S.

Thursday, July 19.

SECOND DIVISION.

(Before Seven Judges.)

SPECIAL CASE—SIMSON AND OTHERS.

Succession—Testament—Informal Writing—Conveyancing and Land Transfer (Scotland) Act 1874 (37 *and* 38 *Vict. c.* 94), *sec.* 39.

Terms of an informal writing signed by the granter before witnesses, who appended their signatures, *held* to be valid as the testament of the granter though written in pencil, and though capable of being read as merely tentative in its character.

Writ—Witness, Interest of, in Deed.

Held (by Seven Judges), following the cases of *Graham* v. *Marquis of Montrose*, M. 16,877, and *Ingram* v. *Stevenson*, M. "Writ" Appx. 2, that it is not a disqualification to an instrumentary witness to a settlement that he has a beneficial interest under the deed.

This was a Special Case between parties interested in the succession to Miss Agnes Christian Simson. The facts as stated in the Case were as follows:—Miss Simson died at Stuttgart, on 16th November 1880. At the date of her death she was a domiciled Scotchwoman, and her next-of-kin were her brothers George Sutherland Simson and Henry Bruce Simson, and her sisters Miss Frances Katherine Simson and Mrs Mary Simson or Hamilton.

In addition to a writing which the parties to this case were agreed was invalid according to Scotch law, Miss Simpson left a writing bearing to be a will. It was in the following terms:—"1. 500, Kitty; 500, John. 2. 500, Tiny—residuary legatee; 800, Mary Hamilton; 1300, F. K. S. Tiny, pearl brooch and earrings. I divide all equally. Will make new will. Is it not better to divide all between Henry, Kate, Mary, and if I get well I can alter it all, I have left it so late? I leave Tiny residuary legatee. I just divide the 'whole 8000' equally between Kate, Mary, Henry. Somebody must be residuary legatee for all my things; it is called 'things' I think—residuary legatee, Tiny. This is my meaning—to divide the money between Kate, Henry, Mary, and all rest to Tiny—residuary legatee for all left. Add, I leave £100 for funeral xs. This must be taken off the whole acct. before dividing. I leave £300 to Henry for paying debts that may occur. I leave £400 to F. K. Simson—all this to be deducted by Henry before dividing: that is all.—A. C. Simson. F. K. Simson, *witness;* Helen Boucher, lady's-maid, *witness;* H. R. Linton, *witness* (*scripsit*). Novber. 9th."

The date "9th Novber." was 9th November 1880, a few days before Miss Simson's death. At that date there were residing with the testatrix at Stuttgart (besides her maid Helen Boucher, who signed as a witness) her brother Henry Bruce Simson and her sister Frances Katherine Simson, who also signed as witnesses. The document was written on that date in pencil by Henry Bruce Simson at the request and to the dictation of the testatrix while she was lying in bed. The signatures of the testatrix and the witnesses were written in ink at the same time immediately after the testatrix had signed. The parties stated that they were satisfied that the writing was so subscribed by the testatrix and the three witnesses, and dispensed with any proof or declarator on the point.

The person designated in the body of the writing as "Henry" was the brother of Miss Agnes Christian Simson, Henry Bruce Simson, the writer thereof. The person designated as "Kate," and also as "F. K. Simson," was the sister of Miss Agnes Christian Simson, Frances Katherine Simson. The person designated as "Mary" was the other sister of Agnes Christian Simson, Mrs Mary Simson or Hamilton. The person designated as "Tiny" was Agnes Elizabeth Simson, a minor, youngest daughter of Henry Bruce Simson, and the niece and godchild of Agnes Christian Simson,