Substitute had stated that the case was a narrow one, and it was always in the discretion of the Court to allow additional proof in special circumstances where justice would be done thereby to the parties to the cause—Mackay's Manual of Practice of the Court of Session, p. 335; Act of Sederunt July 10, 1839, section 83; *Brown* v. *Gordon*, January 27, 1870, 8 Macph. 432; *Mackie* v. *Pratt*, February 18, 1870, 42 Scot. Jur. 273.

Argued for the pursuer—The defender's motion ought to be refused. The Act of Sederunt said that "very weighty reasons" must be shown. No such reasons had been shown here. Both of the proposed witnesses had been precognosced and might have given evidence at the trial, and no case had been cited showing that the evidence of a person in this position had been allowed after the trial was ended.

At advising—

LORD JUSTICE-CLERK—It is always a serious matter to allow additional evidence after a proof is closed. It seems to me to be quite clear that no motion to allow such evidence should be granted where there has been no discovery of new evidence, but where it is merely proposed to lead the evidence of persons known and precognosced before the trial, these persons not having been put in the box at the trial. It would be very unsafe to allow additional evidence to be led after the close of a proof, except when the weightiest grounds can be shown for doing so, and considering the circumstances of this case, I do not think that this is a case in which further proof of the kind proposed should be allowed.

LORD RUTHERFURD CLARK—I do not want to lay down any general rule, and I do not say that it is not possible in certain cases to allow additional evidence after the proof has been closed. But I do not think it should be allowed in the present case.

LORD TRAYNER—I also think that no proof should be allowed. But I put my decision on the ground that no sufficient reason has been shown for allowing additional evidence on the points proposed here.

LORD YOUNG was absent.

The Court refused the motion of the defender for leave to lead the additional proof.

The Court heard counsel on the merits of the appeal as it stood, and thereafter recalled the interlocutor of the Sheriff-Substitute dated 9th April 1893, and assoilzied the defender.

Counsel for Pursuer and Respondent—Orr—A. S. D. Thomson. Agents—W. & J. L. Officer, W.S.

Counsel for Defender and Appellant—Salvesen. Agents — Boyd, Jameson, & Kelly, W.S.

Wednesday, June 14.

FIRST DIVISION.

MYLES (LIPMAN & COMPANY'S TRUSTEE).

Bankruptcy — Sequestration — Bankruptcy Act 1856 (19 *and* 20 *Vict. c.* 79), *secs.* 5, 125, *and* 127—*Computation of Periods of Time under Act—Error in Time of Inserting Notice in Gazette—New Advertisement Authorised.*

Section 5 of the Bankruptcy Act provides that periods of time in that Act are to be reckoned exclusive of the day from which they are directed to run.

Section 125 provides that immediately on the expiration of four months from the date of the deliverance awarding sequestration, the trustee shall prepare a state of the bankrupt's estate, and that within fourteen days after the expiration of said four months the commissioners shall examine it.

By section 127 the trustee is directed within eight days after the expiration of such fourteen days to give notice in the *Gazette* published next after the expiration of such fourteen days, of the time and place of paying the dividend.

The four months in a sequestration expired at midnight on 25th May. The *Gazette* was published on 9th June. The trustee did not insert the notice required by section 127 until the next issue published on 12th June.

On the petition of the trustee, the Court, on the ground that an error appeared to have been committed, *authorised* insertion of the notice in the *Gazette* of 16th June.

Opinion by Lord M'Laren that it is not the meaning of the Act that a day should intervene between two consecutive periods, but that the later period begins on completion of the earlier.

Opinions of the Lord President, Lord Adam, and Lord Kinnear *reserved.*

Section 5 of the Bankruptcy Act provides that "Periods of time in this Act shall be reckoned exclusive of the day from which such period is directed to run." Section 125 provides—"Immediately on the expiration of four months from the date of the deliverance actually awarding sequestration, the trustee shall proceed to make up a state of the whole estate of the bankrupt, of the funds recovered by him, and of the property outstanding (specifying the cause why it has not been recovered), and also an account of his intromissions, and generally of his management; and within fourteen days after the expiration of the said four months the commissioners shall meet and examine such state and account, . . . and they shall declare whether any and what part of the nett produce of the estate, after making a reasonable deduction for future contingencies, shall be divided among the creditors." Section 127 provides — "The trustee shall, within eight

days after the expiration of such fourteen days, give notice in the *Gazette* published next after expiration of such fourteen days, of the time and place of paying the dividend." . . .

In the sequestration of Lipman & Company the four months expired at midnight on 25th May. The *Gazette* was published on 9th June, the fifteenth day after the expiration of said four months. The trustee did not insert the notice required by the 127th section of the Act until 12th June.

Fearing that he had failed to comply with the statute, the trustee presented a note to the Court craving authority to insert the notice in the *Gazette* of 16th June.

The petitioner referred to the following authority—*Fortunat Edwardo Von Rothberg*, December 22, 1876, 4 R. 263.

At advising—

LORD PRESIDENT—Now that we have heard the argument, it appears that an error has been committed in this sequestration. I do not, however, say conclusively that an error has been committed, because we have only heard such argument as the statement of one counsel admits of. That being so, it appears that the sequestration cannot be worked out without our assistance. The petitioner therefore appears to be within the authority of the cases, and I think we should grant him authority to insert the notice in the coming *Gazette*.

LORD ADAM concurred.

LORD M'LAREN—I bring to this case the same principles as have been applied in other cases, and I think the meaning of the Act is that consecutive periods of time are to be treated according to the ordinary rules of arithmetic. Now, the period of four months expired on 25th May, and adding 14 to 25, and subtracting from the total the 31 days of May, we come to the 8th of June. I cannot think that the statute means that there should be between two consecutive periods of time a day belonging neither to the one or the other. It appears to me therefore that an error has been committed which we should put right.

LORD KINNEAR—I agree that it appears on Mr Salvesen's statement that an error has been committed, and that we should grant the authority craved, but I desire to reserve my opinion as to the computation of the time in the periods allowed by the statute.

The Court authorised the trustee to insert the notice in the *Gazette* of 16th June.

Counsel for the Petitioner — Salvesen. Agent—J. Smith Clark, S.S.C.

Thursday, June 15.

FIRST DIVISION.

[Sheriff Court at Selkirk.

THE GALASHIELS PROVIDENT BUILDING SOCIETY *v.* NEWLANDS.

Process — Appeal — Competency — Building Society—Sheriff—Jurisdiction—Building Societies Act 1874 (37 *and* 38 *Vict. cap.* 42), *secs.* 34, 35, *and* 36.

Section 34 of the Building Societies Act 1874, provides that where the rules of a society under the Act direct disputes to be referred to arbitration, arbitrators shall be elected in the manner such rules provide, or, in the absence of such provision, at the first general meeting of the society. Section 35 provides that the Sheriff Court may determine a dispute if it appear that one party to a dispute has applied to the other to have the dispute settled by arbitration under the rules of the society, and that such application has not been complied with within forty-eight hours. Section 36 enacts that every determination by the Sheriff Court under the Act of a dispute shall be final and not subject to appeal.

By the rules of a society incorporated under the above Act it was provided that disputes between the society and any of its members should be decided by arbitrators, but there was no provision as to the manner in which the arbitrators should be elected, and no arbitrators were elected at the first general meeting of the society.

A dispute having occurred between the society and one of its members, the society brought an action against the member in the Sheriff Court. *Held* that the provisions of section 35 of the Building Societies Act did not apply, but that the Sheriff had jurisdiction to entertain the action at common law, and accordingly that his decision was subject to appeal.

Contract—Loan—Building Society—Rules —Discharge.

The rules of a building society provided that all advances to members should be secured by such deeds as were necessary, and that interest on advances should be paid into the general fund in June and December at the rate of 4½ per cent. per annum, and failing payment that a charge of 10 per cent. per annum should be charged upon all arrears.

In 1866 a member obtained a loan from the society for which he granted a bond and disposition in security in common form. Between 1866 and 1891 he from time to time made payments to the society to meet the interest due under the bond. In 1891 he paid up the bond with interest and received from the society a discharge in ordinary form of the capital sum due under the