it would not follow that other statutes relating to shipping are to be applied to factories. Indeed, the usual form of such clauses is that "in this Act" the words quoted shall have the meanings assigned to them.

The Lord Ordinary also points out that in the latest of the Entail Amendment Acts it is provided by section 2 that the Entail Acts specified in the schedule "shall for all purposes and to all effects be read as one Act." The schedule of Acts enumerated begins with the Scottish Statute of 1685, and this creates a difficulty, but as I think only an apparent difficulty. For many purposes of construction it may be convenient that a series of statutes should be construed as one Act. But there must be some limit to this convenient rule; because in each statute of the series something in the previous legislation is repealed or altered, and it is not possible to construe two inconsistent provisions as one. Each of the Entail Amendment Acts has an interpretation clause of its own. I of course except the "Act concerning Tailzies," which is not an Amendment Act. These definitions, however, are not identical. I can hardly think that even within the system of the Entail Acts it would be sound construction to read a definition contained in one Act into another. If the definition of "entailed estate" which is found in the Act of 1875 is to be read into the Statute of 1685, then it would be lawful to any owner of personal estate, stocks, partnership estate, pictures, or chattels, to entail these subjects by deed of heritable title, recorded in the Register of Sasines and Register of Entails. This of course could not be intended; what is meant by reading the Act of 1685 along with the modern statutes is that when reference is made in these to the rights of an heir of entail, his disabilities, the order of succession, and the title, we are referred to the Scottish statute to see what these rights were, and what was the character of the succession according to the notion of an entail as originally constituted.

Giving the largest possible construction to the clauses on which the Lord Ordinary's judgment is founded, I do not think they will bear the meaning that in all future Acts of Parliament, whatever the subject of these Acts might be, the expression "entailed estate" should include money held in trust for the benefit of heirs of entail in their order. The definition in the 3rd section of the 1875 Act does not bear to be prospective in its operation. The 2nd section of the Act of 1882 does to some effects make the definition retrospective, but does not make it prospective, and the Finance Act of 1894 (which was not passed until twelve years later) could not be within the contemplation of the Legislature which gave its sanction to either of the Entail Acts referred to.

I am therefore of opinion that in construing the Finance Act 1894 the expression "entailed estate" must be construed according to the ordinary use of language, and it has not the special meaning attributed to it. It follows, according to my view, that the defenders should be assoilzied from the action.

I wish to add that the only question argued for the Crown was the question which I have considered, viz., whether the money held in trust is, or is not "entailed estate." I therefore offer no opinion on the question whether the existence of successive life interests in this fund makes it a settlement of personalty, and as such liable to settlement-estate-duty.

The LORD PRESIDENT, LORD ADAM, and LORD KINNEAR concurred.

The Court recalled the interlocutor of the Lord Ordinary, and assoilzied the defenders from the conclusions of the action.

Counsel for the Reclaimers—Lorimer. Agents—Blair & Cadell, W.S.

Counsel for the Respondent—Sol.-Gen. Dickson, K.C.—A. J. Young. Agent—P. J. Hamilton Grierson, Solicitor for Inland Revenue.

Friday, February 1.

SECOND DIVISION.

[Sheriff-Substitute at Glasgow.

BARCLAY, CURLE, & COMPANY, LIMITED *v.* M'KINNON.

Reparation — Workmen's Compensation Act 1897 (60 *and* 61 *Vict. c.* 37), *sec.* 7 (1) *—Employment "about" a Factory.*

A workman who was employed as a rivetter by a firm of shipbuilders at their ship-repairing premises, which were a "factory," but were not a "shipbuilding yard," received injuries, which resulted in his death, while he was at work on board a steamer which was being repaired by his employers, and which was lying in a public dock at a berth distant about a mile by road and about 550 yards in a direct line from the premises of his employers.

Held that the employment at which the deceased was engaged at the time of the accident was not employment "about" a factory within the meaning of the Workmen's Compensation Act 1897, section 7 (1), and that accordingly he was not entitled to compensation under that Act.

This was a case stated by the Sheriff-Substitute at Glasgow (BOYD) in an arbitration under the Workmen's Compensation Act 1897, between Barclay, Curle, & Company, Limited, shipbuilders, Whiteinch, appellants, and Mrs Janet Osborne or M'Kinnon, widow of John M'Kinnon, rivetter, claimant and respondent, with regard to a claim made by Mrs M'Kinnon for compensation in respect of the death of her husband.

The facts stated as proved or admitted were as follows:—"That John M'Kinnon, husband of the respondent, a rivetter, was in the employment of the appellants in their boiler-

making and ship-repairing premises at Kelvinhaugh Street, Glasgow—said premises being a factory within the meaning of the Workmen's Compensation Act 1897—and on certain vessels in Queen's Dock, Glasgow. That while M'Kinnon was engaged in punching holes in a plate on board a steamer which the appellants were repairing at berth No. 27 Queen's Dock, Glasgow, the plate bent and he fell to the bottom of the hold, sustaining injuries from which he died on 10th June 1900; that in the Kelvinhaugh Street works ships are not made, finished, or repaired, but that the materials for repairing ships are prepared and made ready so far as that can be done for the repairs entrusted to the appellants; that the Queen's Dock at its nearest point is distant from the appellants' Kelvinhaugh Street works about 367 yards on a bee line, and about 616 yards by road, and that berth 27 is distant from the works about a mile by road, and about 550 yards on a bee line."

Upon the foregoing facts the Sheriff-Substitute found in law "(1) That the said John M'Kinnon was employed in or about a factory belonging to and occupied by the appellants," and found the appellants liable in compensation.

The first question of law for the opinion of the Court was—"Whether on the facts admitted and proved the Sheriff-Substitute was justified in holding that the employment at which the deceased was engaged was employment on or in or about a factory within the meaning of the Workmen's Compensation Act 1897?

There were two other questions which the Court did not find it necessary to answer.

The Workmen's Compensation Act 1897, sec. 7, sub-sec. 1, enacts—"This Act shall apply only to employment by the undertakers . . . on or in or about (*inter alia*) a factory."

Argued for the appellants—The appellants' Kelvinhaugh Street premises were an ordinary factory, and not a shipbuilding yard. Consequently the claimant could not take any benefit from section 7 (3) of the Workmen's Compensation Act. The Sheriff was wrong in holding that the accident occurred "about" the appellants' factory. It was well settled that the word "about" implied local contiguity. It could not reasonably be said that a dock which at its nearest point was 367 yards from the factory was in that case "about" the factory. But the measurement should be to the actual *locus* of the accident, which made the distance even in a direct line about 550 yards. It was settled by decision that a much less distance than that would not satisfy the meaning of the word "about"—*Bell & Syme* v. *Whitton*, June 16, 1899, 1 F. 942; *Malcolm* v. *M'Millan*, June 30, 1900, 2 F. 525; *Low* v. *Abernethy*, March 8, 1900, 2 F. 722; *Brodie* v. *North British Railway Co.*, November 6, 1900, 38 S.L.R. 38; *Powell* v. *Brown* [1899], 1 Q.B. 157; *Louth* v. *Ibbotson* [1899], 1 Q.B. 1003; *Chambers* v. *Whitehaven Harbour Commissioners* [1899], 2 Q.B. 132; *Fenn* v. *Miller* [1900], 1 Q.B. 788; *Francis* v. *Turner Brothers* [1900], 1 Q.B. 478.

Argued for the respondent—It must be conceded that the appellants' Kelvinhaugh Street premises were not a shipbuilding yard. The employment of the deceased workman at the time of the accident was "about" a factory. It was clear from the decisions that the word did not mean physical contiguity, and the question was therefore one of circumstances. The Court would not interfere with the judgment of the Court below on what was really a question of fact—*Powell* v. *Brown*, *supra*; *Louth* v. *Ibbotson*, *supra*. The dock here was within "such area as was reasonably necessary for the purposes of the business carried on in the factory"—*per* Collins, J., in *Fenn* v. *Miller*, *supra*. A large part of the appellants' work was of necessity executed in ships in the dock, which was thus really an extension of their factory. To hold otherwise would exclude the majority of workmen engaged in this class of employment from the benefit of the Act, and such a result should if possible be avoided.

At advising—

LORD JUSTICE-CLERK—The question for decision in this case is, whether a workman sent out from the appellants' works to do some repairs on a ship lying in a dock 550 yards in a direct line, and about a mile by road, was at the time of an accident at that place engaged in work "on or in or about a factory." I am of opinion that that question should be answered in the negative. I should so hold were this point being considered for the first time. But the same question has already been made matter of decision in more than one case. The case of *Malcolm* v. *M'Millan* in this Court, and the case of *Fenn* v. *Miller* in the Queen's Bench Division, are both cases distinctly in point, and there are others to the same effect. In the latter case the place was much nearer to the works than in this case, as the distance did not exceed 160 yards.

The cases to which the words "about a factory" can apply are quite different from the present. The words were evidently intended to meet the case of something being done in direct connection with the factory, though not exactly within it, as, for example, loading goods at a gate, or doing work in an annexe, though possibly separated from the principal yard by a street. It appears to me to be plain that this was the intention in inserting the word "about," and that it is not a word suitable to indicate that wherever a workman be sent to do work for his master, he, as it were, carries the factory to that place, or establishes a factory for his employers at at that place, so that he is doing work "about" the factory. If that was what was meant, it could have easily been expressed, and I see nothing to indicate that any such intention existed.

I would move your Lordships to answer the first question in the negative, and to

find it unnecessary to answer the other questions.

LORD TRAYNER—The first question put to us is, I think, already decided in the negative by the case of *Malcolm*, decided in this Division of the Court, and the case of *Francis* v. *Turner* decided in the Appeal Court in England. These cases, indeed, are *a fortiori* of the present, for whereas in them the injury to the workman was sustained in a factory, although not his employer's factory, in the present case the injury was sustained in a place that was not only not his employer's factory, but not a factory at all within the meaning of the statute.

I dissented from the judgment in *Malcolm's* case, but I am bound to recognise its authority; and doing so, I think there is no alternative but to answer the first question here in the negative. That results in the present appeal being sustained, and the case being sent back to the Sheriff-Substitute, with directions to him to dismiss the application.

LORD MONCREIFF—The claim in this case is made solely under the Workmen's Compensation Act 1897. The ground of claim is that the deceased workman was injured while in the employment of the appellants "in or about a factory."

The Sheriff has rightly found that the premises at Kelvinhaugh Street, Glasgow, in which the appellants carry on their business of boiler-making and ship-repairing, are a factory within the meaning of the Workmen's Compensation Act 1897. But the workman M'Kinnon was not injured at these premises; he received the injuries of which he died on board a steamer in Queen's Dock, Glasgow, at a distance of a mile by road from the Kelvinhaugh Street premises. The question of law—that is the only question of any difficulty—is whether it can be held that when he received the fatal injuries M'Kinnon was engaged in the appellant's employment "about" their factory within the meaning of the statute. The Sheriff has held that M'Kinnon when injured was employed "in or about" a factory belonging to the appellants. I am of opinion that in point of law that finding is wrong.

It is clearly settled by decision that in order to bring the *locus* of an accident within the scope of the statute, it is not enough that the workman should at the time of the accident have been employed on the employer's business. Without referring to them in greater detail I may mention the recent cases in this Division, viz., *Malcolm* v. *M'Millan*, 2 F. 525, and *Brodie* v. *North British Railway Co.*, 38 S.L.R. 38, and the English cases of *Fenn* v. *Miller* and *Francis* v. *Turner*.

It is quite true that the use of the word "about" indicates that "employment" for the purposes of the Act is not to be strictly confined to the four walls of the factory. Certain operations closely connected with the work of the factory may have to be carried on outside the factory, at its gate, for instance, or in an adjacent yard, or even at an outlying bit of ground belonging to the owners of the factory, or which they have right to use in connection with their work.

But it is a totally different matter when the proprietors of the factory, having completed within the factory all the work which can be done there, send their workmen either to execute repairs or to fit up apparatus or furnishings in premises belonging to customers at a distance. No doubt such work may involve risks quite as great as those in the factory, and if injury results to a workman through the fault of his employers or those for whom they are responsible, he will at common law or under the Employers Liability Act be entitled to compensation. But the question here is, whether under the Workmen's Compensation Act such premises can be regarded in any proper sense as being "about" a factory.

The present case is one of some hardship. From the nature of the appellants' business their workmen are employed not merely to work in the Kelvinhaugh premises, but also to go if required to repair vessels lying in the docks. Probably their harder and more hazardous work is connected with the latter employment. This may have been a very proper case for the statute to provide for, just as it has made provision in regard to shipbuilding yards—section 7, sub-section (3). But it has not done so, and I entertain little or no doubt that we should be straining the terms of the statute, and opening a very wide door to even more doubtful claims, if we were to hold that this case is covered by the terms of the 7th section. In order to demonstrate this it is almost sufficient to say that such a decision would apply to every case in which tradesmen or manufacturers whose premises come under the head of "factories," as defined in the statute, send their workmen to the houses or premises of their customers to execute repairs, or fit up the materials or apparatuses which have been manufactured in the factory.

I am of opinion that we should sustain the appeal and answer the first question in law in the negative.

LORD YOUNG was absent.

The Court answered the first question of law in the negative, and remitted to the Sheriff - Substitute to dismiss the application.

Counsel for the Appellants—W. Campbell, K.C.—Younger. Agents — Morton, Smart, & Macdonald, W.S.

Counsel for the Claimant and Respondent—Shaw, K.C.—Findlay. Agents—J. & J. Galletly, S.S.C.