

LORD MACNAGHTEN—I entirely concur. I must say I am surprised that this action was ever defended, and I am astonished that after two adverse decisions the appellant should have had the courage to come to this House.

As far as I am aware there is no difference whatever between the law of England and the law of Scotland in relation to the duties and obligations of trustees when they are dealing with their *cestui que* trusts. I do not find that the law is stated anywhere more concisely and clearly than it was in the judgment of Lord Cairns, which I referred to. I will not read the passage again, because I have read it twice already in the course of the argument; it is in 2 Appeal Cases, at page 238.

Now, did the appellant in this case give full value? Clearly not. Did he give all the information he possessed to his brother? Most certainly he did not. He had in his pocket a valuation showing exactly what according to the opinion of a most experienced valuator this property was worth. He had it in his room at the time when his brother called, and he did not show it to his brother—he did not even give it to the agent, the person to whom he says his brother might have gone. That was keeping back information which it was his bounden duty to have conveyed to his *cestui que* trust. And it does not matter in the least how or under what circumstances the information was gained; if he had that information he was bound to place it at the disposal of his *cestui que* trust with whom he was dealing.

LORD SHAND—I am of the same opinion, and I would not add a word to what has been said by your Lordships if it were not that the case is one coming from Scotland. With regard to the law of Scotland, I have only to emphasise what has fallen from my noble and learned friend who has last spoken. It has not been suggested that any distinction in the law of trusts applicable to such a case as this exists between the law of England and the law of Scotland. The fiduciary relation is the same—the duties and obligations of trustees in such cases are the same in Scotland as they would be in England.

Here the trustee plainly did not realise or appreciate the duty which lay upon him to give the beneficiary full information as to his position in entering into this transaction. He makes this quite clear by his own evidence. He had in his possession—I do not care how he acquired it—the valuation which has been so much spoken of. That is a fact, and that fact he was bound to disclose when he came to transact with reference to a proposed acquisition of the share of a beneficiary. He failed to do so, and the failure is fatal in the question of the validity of the transaction.

With regard to what Lord Young said, and the expressions which have been referred to in the judgment of his Lordship the Lord Chancellor, I will only say that it might have been possible to suggest that there was integrity, uprightness, and

honesty on the part of the appellant if it had been a transaction between strangers, and if there had not been the relation of trustee and beneficiary subsisting between them; but the moment you bring into the case the circumstance that the appellant was a trustee, having the duties lying upon him as a trustee in dealing with a beneficiary and transacting or negotiating for the purchase of that beneficiary's share of the estate, the question of integrity and honesty drops out of the case. I do not say that he was acting fraudulently, but certainly he was acting in violation of the duty which he owed to his brother in his character of a beneficiary under the trust. I have therefore no hesitation in saying that the case is an extremely clear one, and in concurring in the judgment proposed by your Lordships.

LORD BRAMPTON—I concur in the judgment, and I cannot help saying that I think the appeal is a frivolous and vexatious one.

LORD LINDLEY—I am of the same opinion. I will only add that no equity lawyer reading page 40,* and being told that that valuation was not disclosed by the trustee to his *cestui que* trust, could uphold this transaction for a moment.

Interlocutors appealed from *affirmed*, and appeal dismissed with costs.

Counsel for the Pursuer and Respondent—Lord Advocate (Graham Murray), K.C.—Munro. Agents—Almond & Company, for St Clair Swanson & Manson, W.S.

Counsel for the Defender, Reclaimer, and Appellant—Crabb Watt—George Joseph. Agents—Salaman, Fort, & Company, for Clark & Macdonald, S.S.C.

COURT OF SESSION.

Thursday, February 6.

FIRST DIVISION.

[Dean of Guild Court,
Glasgow.]

NEILSON v. DOUGLAS BOAG & COMPANY.

Police—Advertisement Licence—Advertising Vehicles—“Moveable Structure”—Police Offences—Building Regulations—Street—Burgh—Dean of Guild—Glasgow Building Regulations Act 1900 (63 and 64 Vict. cap. 150), sec. 119.

The Glasgow Building Regulations Act 1900 (63 and 64 Vict. cap. 150), sec. 119, enacts:—“(1) No person shall erect, exhibit, fix, maintain, retain, or continue any advertisement, whether existing before the passing of this Act or

* The passage referred to by his Lordship is quoted *ante* vol. 38, p. 408, second column.

not, upon any ground, house, building, or structure, except on such sites, hoardings, or structures as the corporation may license, which they are hereby empowered to do. Such licence shall be in writing and may be granted for any period not exceeding four years, and no fee shall be charged therefor. Provided always that a licence shall not be necessary (a) in respect of any hoarding or structure the highest part of which does not exceed 12 feet above the street, where the same is situated in or upon any street, or above the ground where it is situated elsewhere . . . (4) The word 'structure' in this section shall include any moveable structure (except a board or boards personally carried not exceeding in size 4 feet by 2½ feet) used primarily as an advertisement or an advertising medium."

Held that two advertising vehicles of the nature of ordinary four-wheeled lorries, upon each of which as a foundation there was placed a canopy of wood with a sloping roof not exceeding 12 feet in height above the ground at its highest point, were "structures" within the meaning of the section; but that as the proviso and exemption in sub-section (1) applied not only to stationary erections, but also to moveable structures under sub-section (4), and as the structures in question did not exceed 12 feet in height, they could be used for advertising purposes without being licensed.

This was an appeal from a judgment of the Dean of Guild Court, Glasgow, upon a petition and application at the instance of George Neilson, writer, Glasgow, Procurator-Fiscal of the Dean of Guild Court of the Burgh of Glasgow for the public interest, against Douglas Boag & Company, advertising contractors, 27 Oswald Street, City, Glasgow.

The petitioner craved the Court to find that the respondents had been guilty, actors or art and part, of two Guild offences within the meaning of the Glasgow Police Acts 1866 to 1900, particularly the Glasgow Building Regulations Act 1900, sections 119, 137, and 138, in respect that the said respondents "(1) did on 30th January 1901, in Trongate, Glasgow, exhibit and maintain theatrical advertisements on a moveable structure upwards of 6 feet high used primarily as an advertising medium; and (2) did, date and place above labelled, exhibit and maintain advertisements of a stallion show on another moveable structure upwards of 6 feet high, used primarily as an advertising medium, without having obtained licences from the Corporation of the City of Glasgow therefor respectively;" and to find the said respondents liable in respect of each of the said two Guild offences to a penalty not exceeding £5.

The petitioner, *inter alia*, stated that one of the structures "was on the 30th day of January 1901, with a horse yoked thereto, under the charge of David Wilkie, 4 East

John Street, Glasgow, driven along Trongate, Glasgow," and that the second "was on said date, with a horse yoked thereto, under the charge of James Galstead, 114 Elmvale Street, Glasgow, driven along Trongate aforesaid," and that these men were employed by the respondents. These averments were admitted.

The respondents pleaded, *inter alia*—“(2) The petitioner's statements are irrelevant and insufficient to support the prayer of the petition. (4) The vehicles in question not being moveable structures either under the Act in question or as matter of fact, the respondents are entitled to absolvitor with expenses. (5) *Esto* that the said vehicles are moveable structures, no licence is required for them in respect they do not exceed 12 feet in height at their highest point.”

On 2nd April 1901 the Dean of Guild (GOURLAY) issued the following interlocutor:—"Having considered the closed record, repels the second plea-in-law stated for the respondents; finds the averments in the petition relevant for probation; before further answer allows the parties a proof of their respective averments, and appoints the proof to proceed on a date to be afterwards fixed.”

Note.—"This is a petition and application brought by the procurator-fiscal against a firm of advertising contractors to have them found guilty of an infringement of section 119 of the Glasgow Building Regulations Act 1900. Section 119 provides (1) 'No person shall erect, exhibit, fix, maintain, retain, or continue any advertisement . . . upon any ground, house, building, or structure, except on such sites, hoardings, or structures as the Corporation may license . . . Provided always that a licence shall not be necessary (a) in respect of any hoarding or structure the highest part of which does not exceed 12 feet above the street where the same is situated in or upon any street or above the ground where it is situated elsewhere,' or (b) in respect of certain other cases; and sub-section (4) of section 119 provides—"The word structure in this section shall include any moveable structure (except a board or boards personally carried not exceeding in size 4 feet by 2½ feet), used primarily as an advertisement or an advertising medium.' The respondents plead that the petitioner's statements are irrelevant and insufficient to support the prayer of the petition, and parties have been heard upon this plea. If the Dean of Guild correctly apprehended the argument of the respondents' agent, the argument was this. The words in parenthesis in sub-section (4) are merely words of exception or relief, and cannot be taken to support or affect the rest of the sub-section, which is the enacting part of the sub-section; that the enactment of the sub-section is that moveable structures shall be included in the previous enactment imposing a penalty for using an advertising structure without a licence; that from the penal enactment there is excepted the case of a structure which does not exceed 12 feet above the street where the same is situated in or upon any street;

that the moveable structure referred to in the petition is only averred to be upwards of 6 feet high, or at most about 12 feet high, and that the averments are therefore irrelevant. The Dean of Guild cannot adopt this construction of the statute. While the word 'structure' in section 119 is declared to include any moveable structure, it appears to the Dean of Guild that, from the words used in it, the exception (a) in sub-section 1 was intended to cover hoardings or structures of the nature of hoardings. The exception is of any hoarding or structure the highest part of which does not exceed 12 feet above the street where the same is situated in or upon any street or above the ground where it is situated elsewhere. No doubt the moveable structure referred to on record must be in or upon some street or above the ground, but in the ordinary sense of the words it cannot be said to be situated in or upon any street. Further, if moveable structures which do not exceed 12 feet are not within the penal enactment, then the parenthetical clause of sub-section (4) must in effect be declared to be mere surplusage. Surplusage in Acts of Parliament is, of course, not unknown, but in the present case the Dean of Guild is not prepared to say in effect that the parenthetical clause referred to is of no point or purpose whatever. Sub-section (4) brings any moveable structure, except a board personally carried not exceeding 4 feet by 2½ feet, within the enactment requiring structures to be licensed by the Corporation, and the Dean of Guild is therefore of opinion that the averments in the petition and application are relevant. The Dean of Guild understands that the question is going on appeal, and he has not therefore in the meantime fixed a diet for proof."

Thereafter the parties adjusted the following joint-minute of admissions:—"The parties concur in stating that the respondents are proprietors of two advertising vehicles which are of the nature of an ordinary lorry upon four wheels, upon which as a foundation there is placed a canopy of wood with a sloping roof resembling a large dog-house. The canopy is separate from the lorry, and is placed upon it and fixed down. It is wholly constructed of wood, and is held together with iron bolts and screws attaching it to the body of the lorry. The canopy is removable. The canopy is hollow. On the dates libelled, vehicles of the form above described were used, as condended on, by defenders. The highest point of the canopy above the ground did not exceed 12 feet. The vehicles in question were in use for advertisements on the 1st day of March 1900."

On 11th June 1901 the Dean of Guild issued the following interlocutor:—"Having resumed consideration of this case, heard the complainer and the agent for the respondents, and considered the joint-minute of admissions by the parties—probation having been renounced—the Dean of Guild finds that the respondents did on 30th January 1901, in Trongate, Glasgow, use two advertising vehicles of

the nature and dimensions stated in the said joint-minute, and upon each of these vehicles or part of these vehicles did exhibit and maintain advertisements as libelled: Finds that the said vehicles are moveable structures within the meaning of the 'Glasgow Building Regulations Act 1900,' section 119, and that the respondents had and have no licence from the Corporation of the City of Glasgow as provided for by the said 'Glasgow Building Regulations Act 1900,' section 119, for these vehicles or either of them: Therefore finds the respondents guilty of the two Guild offences libelled: Finds them liable in respect of each of the said two offences in a penalty of five shillings, to be recovered, paid, and applied as directed by the said Act: Finds the respondents liable to the complainer in expenses," &c.

Note.—"The general question involved in this case is whether, since the passing of the Glasgow Building Regulations Act, certain vehicles or structures admittedly used for advertising purposes—and, as the Dean of Guild may remark, used in considerable numbers on the public streets of Glasgow—fall to be licensed by the Corporation. The parties have dispensed with a proof, and have lodged a joint-minute of admissions, from which and from the relative photograph a satisfactory notion of the vehicles or structures in question may be obtained.

"By interlocutor dated 2nd April 1901 the Dean of Guild, for the reasons therein mentioned, repelled a plea taken by the respondents against the relevancy of the application and complaint. That interlocutor has not yet been brought under review, and the parties now ask the Dean of Guild to decide whether the particular vehicles referred to in the proceedings fall under the provisions of section 119 of the Glasgow Building Regulations Act of 1900. The Dean of Guild thinks it is clear that these vehicles or structures are exactly what is contemplated by that section; if they are not, the Dean of Guild cannot think what the words 'moveable structure' were meant to cover.

"If the Dean of Guild is right in what he has decided by his interlocutor of 2nd April, and in the opinions just expressed, then it follows that a licence from the Corporation is required before vehicles or structures such as those in question can be used, and no licence having been obtained by the respondents, they have, by using the vehicles in question, been guilty of a Guild offence within the meaning of the Act, and the Dean of Guild has found accordingly and imposed a penalty.

"The parties admit that the vehicles in question were in use for advertisement on 1st March 1900, and the respondents plead that they are entitled to use the vehicles in question for a period of five years after the passing of the said Act. The point was taken but not argued, and the Dean of Guild, on much the same line of reasoning as influenced him on the question of relevancy, is against the respondents on this point also."

The respondents appealed, and argued—Sub-section 4 of section 119 declared that the word “structure” in the section should include any moveable structure, but the vehicles here were not structures at all but merely lorries. If, however, it were held that they came within the definition of “structure,” then the definition applied to the whole section, and “structure” must be taken to have the same meaning in the proviso as elsewhere in the section. If that were so, the vehicles in question came under the proviso, because they did not exceed 12 feet in height, and consequently they did not require a licence. It was impossible to argue that because the words “situated in or upon a street” were used in the proviso therefore the word “structure” there used must be limited to meaning fixed structure, for the Corporation had no power to allow an advertising structure to be fixed in or upon a street. The word “situated” meant temporarily situated, and the object in using the words was merely to give a datum from which to measure the height.

Argued for the petitioner and respondent in the appeal—Sub-section 1 of section 119 gave the operative prohibition, and would have been incomplete had it not included moveable structures, and the vehicles in question clearly came under that description. The exception, however, to the prohibition did not require to include moveable structures, and clearly did not do so because of the word “situated.” That implied a fixed stance. It was not necessary to give a datum from which to measure the moveable structures, for in their case the hoarding itself was to be measured, as shown in the case of the provisions regarding sandwich men in sub-section 4.

At advising—

LORD PRESIDENT — The proceedings in which this appeal is taken originated in a petition by the respondent as Procurator-Fiscal of the Dean of Guild Court of the Burgh of Glasgow praying that the appellants should be found guilty of two Guild offences within the meaning of the Glasgow Police Acts 1866 to 1900, and in particular the Glasgow Building Regulations Act 1900, sections 119, 137, and 138, in respect that the appellants did on the date and in the place within the city of Glasgow therein mentioned exhibit and maintain advertisements on two moveable structures, each upwards of 6 feet high, used as advertising media, without having obtained licences from the Corporation of the city of Glasgow to do so.

It appears from the joint-minute of admissions in process that the two advertising vehicles in question were of the nature of ordinary lorries upon four wheels, and that upon each lorry a canopy of wood was placed with a sloping roof resembling a large dog-house. The canopy is separate from the lorry, but it is placed and fixed down upon it. It is wholly constructed of wood, and it is attached to the body of the lorry by screws. The highest point of the canopy above the ground does not exceed 12 feet.

The question depends upon the construction and effect of section 119 of the Glasgow Building Regulations Act 1900, sub-sections 1 and 4. By sub-section 1 it is declared that no person shall erect, exhibit, fix, maintain, retain, or continue any advertisement, whether existing before the passing of the Act or not, upon any ground, house, building, or structure, except on such sites, hoardings, or structures as the Corporation may licence, which they are thereby empowered to do, and it is provided by the section that a licence shall not be necessary in respect of any hoarding or structure, the highest part of which does not exceed 12 feet above the street where the same is situated in or upon any street or above the ground where it is situated elsewhere. By sub-section 4 of section 119 it is enacted that “the word ‘structure’ in this section shall include any moveable structure (except a board or boards personally carried not exceeding in size 4 feet by 2½ feet) used primarily as an advertisement or an advertising medium.” It appears to me to be clear that the vehicles in question were “structures” within this definition, and that consequently they fall within the leading enactments of sub-section 1. The exception in sub-section 4 of a board or boards personally carried not exceeding in size 4 feet by 2½ feet emphasises the wide scope of the section, as it shows that but for the exception, even boards of the moderate dimensions mentioned, when carried by a man, would have been structures within the meaning of the section. But while I think that the vehicles fall within the leading enactments of sub-section 1, the question remains whether they are not taken out of its scope by the proviso that a licence shall not be necessary in respect of any structure the highest part of which does not exceed 12 feet above the street where the same is situated in or upon a street; and I am of opinion that the effect of this proviso is to take the vehicles out of the leading enactment. It was argued for the respondent that the vehicles do not fall within the proviso, because it could not properly be said of them that they were “situated in or upon any street,” inasmuch as they are not fixed or attached to the street by their own weight or otherwise, but normally move about from place to place. It appears to me, however, that this argument is not well founded, as I think it is not necessary that the structures should be attached to the ground as an ordinary building is, or that they should permanently remain at the same place. Although the situation occupied by the vehicles changes from time to time, they are in a reasonable sense situated in a street while they are in the street. I understand that such vehicles not infrequently stop and remain for considerable periods at particular places out of the line of general traffic, and while they are so standing it appears to me not to be doubtful that they are, on a fair construction of the Act, situated at the places where they stand. If they are not situated at these places they would have no *situs* although they were resting on the ground. It is not so clear

that they are situated "in or upon a street" while they are moving, but it is not unreasonable to predicate this of them while they are in the street, and as the enactment is in its nature penal, I think that the construction is to be preferred which would prevent an action otherwise lawful from falling within its scope.

For these reasons I am of opinion that the judgment of the Dean of Guild should be recalled, and that the prayer of the petition should be refused.

LORD ADAM—This case is a case of an alleged contravention, or rather two alleged contraventions, of the 119th section of the Glasgow Building Regulations Act 1900, in respect that the appellant exhibited an advertisement upon a moveable structure without having obtained a licence from the Corporation in terms of that section. The moveable structure in this case no doubt falls within the definition. It is a van covered with a canopy, but it was a matter of admission that it does not exceed 12 feet in height. The question is, whether such a vehicle as that, under 12 feet in height, is prohibited. The 119th section says—"No person shall erect, exhibit, fix, maintain, retain, or continue any advertisement upon any ground, house, building, or structure, except on such sites, hoardings, or structures as the Corporation may license." Then there is this proviso—"Provided always that a licence shall not be necessary in respect of any hoarding or structure the highest part of which does not exceed 12 feet above the street where the same is situated in or upon any street or above the ground where it is situated elsewhere." Now, I should think in the ordinary interpretation of such clauses that there could be no doubt whatever that the word "structure" in the proviso must have the same meaning as it has in the enacting clause, and therefore that it was co-extensive with the enacting clause. I did not think that anyone would have disputed a construction such as that. But then there is the interpretation clause, which says that the word "structure" in this section shall include any moveable structure used primarily as an advertisement or an advertising medium. When we come again to construe the enacting clause it humbly appears to me to come to this, that no person shall exhibit on any ground, house, building, or structure, except on such sites, hoardings, or moveable structures as the Corporation may license, provided always such licence shall not be necessary in respect of any hoarding or moveable structure the highest part of which does not exceed 12 feet. I think you must give the same meaning to the word "structure" in the two divisions of this clause; and again, unless there is some extraordinary reason to the contrary, I should say that the moveable structure in the proviso is exactly the same thing as the moveable structure in the enacting clause. If that is so, it simply comes to this, that a licence shall not be required for any moveable structure which does not exceed

12 feet at its highest point, and this does not exceed 12 feet, and therefore it appears to me to be clearly within the proviso.

But then the argument of the Dean of Guild I understand to be that the proviso does not apply to a moveable structure when it is in motion—for it actually comes to that, which seems a very remarkable conclusion to come to—that when you are dealing with a moveable structure it is not to be considered a moveable structure when it is in motion, and the ground on which he says that is this, that sites, hoardings, or structures to which it applies must be situated upon the street where they are situated, and he says—which I think is a most extraordinary proposition—that a moveable structure when it is in motion is not situated anywhere. Where is it situated if it is not situated in the street? Now, according to the interpretation clause, it appears to me that the moment you get the definition to include a moveable structure, the case of a moveable structure from the very definition and description of it is one where there can be no permanent site such as the Dean of Guild here desiderates. Accordingly it appears to me that this humble van and everything else in the world must have a situation somewhere if it is on the face of the earth. It must be situated in a street if it is on a street. This van must be situated somewhere. Well then, where is it situated? Where is a moveable structure situated for the time being? It is situated upon the spot where it is for the time being, and nowhere else. I do not suppose this objection of the Dean of Guild would exist if it was quietly located in its coach-house. I suppose in that case he would admit that it was situated in the coach-house. But if it is taken out and driven along the street, where is it situated if not in the street? Accordingly I do not know what length of position or resting in a street would make it to be situated in the street. I do not know whether according to this view—take a series of cabs in a cabstand—are these cabs not situated in the street or anywhere else the moment they begin to move? That is exactly what the reasoning of the Dean of Guild comes to. Therefore I have no hesitation in coming to the conclusion that a moveable structure of this kind when in motion, if it is in a street, is situated in the street; if it is anywhere else, it is situated where it is for the time being. Now, if that be the true and only possible interpretation of this clause, as I think it is, it is beyond doubt that this particular man and his particular vehicle were situated in the street, and if they were situated in the street and the structure was not over 12 feet in height the objection does not hold.

LORD KINNEAR—I entirely agree with your Lordships. The only question seems to be, whether it is possible to read the word "structure" in the proviso of the 119th section in the sense in which the interpretation clause requires that it should be read throughout the whole section. Now, if the

insertion of the words of the definition in place of the word defined would introduce any repugnancy into the sentence in which it occurs, then I think that might be a very good reason for saying, that notwithstanding the general terms of the definition Parliament could not have intended the word to be read in this particular sentence in any other than the ordinary sense, and therefore that we must discard the statutory sense and take the ordinary sense. I think that might possibly be a good argument if there were any such repugnance. But it seems to me there is none whatever. And even if there were we should not be placed in a very great difficulty, because of a reason which Lord Adam has pointed out, that when a statute says in the enacting clause that an advertisement shall not be exhibited upon any structure, meaning by the word "structure" to include any moveable structure, and then goes on to qualify that enactment by a proviso which excludes from its scope any structure of a particular description, it is hardly supposable that the word "structure" in the proviso is not to be read in the same sense as in the enactment. That appears to me, as Lord Adam has pointed out, to be a perfectly conclusive answer. But then I think there is nothing approaching repugnance in the sentence if we read the words as the statute says, and understand the proviso as meaning that a licence shall not be necessary in respect of any moveable structure the highest part of which does not exceed 12 feet above the ground. That is perfectly clear, and nobody could read that and imagine that there is any difficulty in understanding it. The highest part of a structure must always be the same height above the ground or above the street, and therefore there is no difficulty at all in that part of the case; but the difficulty is said to arise because the proviso goes on, that it is not to exceed 12 feet above the street where the same is situated in or upon any street or above the ground where it is situated elsewhere. The meaning of the clause is perfectly plain—that you are to measure from the street, or if the thing is not upon the street you are to measure from the ground. But it is said that the word "situation" or "situated" implies something fixed and permanent in the position of the thing described. I am rather disposed to think that in the ordinary use of language the word "situated" would suggest some such meaning of greater or less permanence, but there is no inaccuracy that I can see in the use of the word, although it is not intended to define a permanent situation. On a critical analysis of the words, if we are to enter into exact criticism, I rather think that the shade of meaning which distinguishes the word "situated" from its synonyms will be found to be that it describes the thing referred to in relation to its surroundings. The shade of meaning involved in the word "site" in the illustration which was used in the argument, of a fine site or a good site for building, describes the relation of the ground to other ground, but there is no difficulty in applying that

meaning of the word to the sentence here, because the sole purpose of the proviso is to describe the relation of the structure in its highest part to the ground upon which it stands, or on which it is moving. The height of the highest part of the lorry or the structure which is upon the ground is always 12 feet, and it is of no consequence whether it is standing in one street or another or upon ground which is not a street. It is always 12 feet high, and therefore I confess I see no difficulty in reading the word in the sense in which the statute says it is to be read. But I think it is a very misleading method of construction to require from the Legislature a greater degree of exactness in the use of particular terms than is practically attainable. We ought not to isolate a particular word, but must take the whole clause together in order to see what it means. I agree with your Lordships that the meaning is perfectly plain.

LORD M'LAREN was absent.

The Court pronounced this interlocutor:—

"Recal the interlocutor of the Lord Dean of Guild of Glasgow dated 11th June 1901: Refuse the prayer of the petition, and decern: Find the appellants Douglas Boag & Company entitled to expenses both in this Court and in the Dean of Guild Court: And remit," &c.

Counsel for the Appellants and Respondents in the Petition—Clyde, K.C.—M'Clure. Agents—Webster, Will, & Company, S.S.C.

Counsel for the Respondent and Petitioner—Shaw, K.C.—Cooper. Agents—Campbell & Smith, S.S.C.

Saturday, February 8.

FIRST DIVISION.

MACKENZIE, PETITIONER.

Public Records—Register—Transmission of Volume of Register for Production at a Criminal Trial in England.

The King's and Lord Treasurer's Remembrancer, as representing the Lords Commissioners of His Majesty's Treasury, presented a petition in which he craved the Court to authorise the Registrar-General to exhibit a volume in his custody before the Central Criminal Court in London at a trial in a criminal prosecution pending there. The Court (*disc.* Lord Adam), on certain assurances being given for the safe custody and immediate return of the volume, *granted* the prayer of the petition.

This was a petition presented on 5th February 1902 by Sir Kenneth Mackenzie, Baronet, King's and Lord Treasurer's Remembrancer, on behalf of and as representing the Lords Commissioners of His Majesty's Treasury.