been proved, no intelligible motive for the comission of the offences. The history of Mr Lockyer's life, of which this is the last act of the drama, has extended over thirty years. That history is not unknown in the records of the Court, although from motives of delicacy and humanity it has not been investigated to-day. Yet that case is known to your Lordship and is known to all Scotch lawyers, and there is a great deal of interest attaching to it. For thirty years he has been possessed by a passion for this lady—and that that passion was not without encouragement is sufficiently well known. It stands in the records of the Court that it was so. That he should down to this date have cultivated a passion which, according to the Solicitor-General, is morbid in its character, is exceedingly unfortunate. In some aspects of it it may be absurd, but there is certainly one aspect of it that is very melancholy. That any man should have wasted thirty years of his life in such a pursuit is in the last degree melancholy. That thirty years of his life that cannot possibly return to him have been so wasted is certainly, I submit, a sufficient extenuation for this great offence. I have therefore to submit that, in the circumstances of the case, looking to the power that is in your Lordship's discretion of inflicting punishment by fine or imprisonment, the ends of justice would be met by inflicting the punishment of a fine, and if you bind Mr Lockyer to keep the peace in regard to the lady hereafter, or for such time as your Lordship shall think proper. I submit this all the more readily, looking at the trifling nature of the injury. She was nothing the worse. All the injury done was in looking into these letters in the pursuit of something very near like a delusion. I submit it also in consideration of the state of Mr Lockyer's health. I hold in my hand a certificate from Dr Myrtle that there is great danger of Mr Lockyer suffering in mind and body should he be subjected to solitary confinement of any kind.

The LORD JUSTICE-CLERK said that this application must be made in another quarter. He was bound to administer the law, and to inflict such a punishment as he thought proper for such an offence.

J. C. SMITH said he made the application now, as before it could be made in another quarter the evil might be irretrievable.

The LORD JUSTICE-CLERK then pronounced sentence. Addressing the prisoner Holmes, he said that, seeing that he had been to some extent punished already by the deprivation of his office, and considering the recommendation of the jury, the sentence against him would be one of imprisonment for a period of nine months. He was bound to pronounce against the panel Lockyer a heavier sentence. He regarded the crime with which he had been found guilty—of seducing this man from his duty and inducing him to commit this crime—was a very serious one, and deserving of severe punishment; and the sentence of the Court was that he should be imprisoned for twelve months.

Agent for Holmes—D. F. BRIDGEFORD, S.S.C.
Agent for Lockyer—

COURT OF SESSION.

Tuesday, March 2.

FIRST DIVISION.

FERGUSON, ANDERSON, & CO. *v.* WELSH.

Bankrupt—1696, *c.* 5—*Illegal Preference.* The appellant held a bill accepted by A, and several bills accepted by B. He agreed to renew A's bill on condition that A guaranteed payment of the bills due by B. A becoming bankrupt within sixty days of granting the guarantee, *held* that this guarantee was not struck at by the Act 1696, c. 5.

This was an appeal against a deliverance of the Sheriff-substitute of Renfrewshire, in the sequestration of the estates of Kirkpatrick, M'Intyre, & Company, shipbuilders in Port-Glasgow, and James M'Intyre, shipbuilder there, only partner of the firm. The facts as found by the Sheriff were—"That on 5th September 1867 John M'Intyre & Company, chain manufacturers, Kelvinhaugh, drew on Kirkpatrick, M'Intyre, & Company, at one month, for £100, and that this bill was accepted by Kirkpatrick, M'Intyre, & Company, and was thereafter indorsed for value by John M'Intyre & Company to the appellants, Ferguson, Anderson, & Company; that when this bill fell due, it was not paid either by Kirkpatrick, M'Intyre, & Company, the acceptors, or by the drawers John M'Intyre & Company, but was taken up by Ferguson, Anderson, & Company, the indorsees; that diligence having been threatened on the bill by the indorsees against the said drawers and acceptors upon the 18th of October 1867, John M'Intyre, a partner of John M'Intyre & Company, and James M'Intyre, his brother, the sole partner of Kirkpatrick, M'Intyre, & Company, went to Glasgow and waited upon Ferguson, Anderson, & Company, for the purpose of obtaining from them a renewal of the bill; that at this time Ferguson, Anderson, & Company were the holders of three acceptances of John M'Intyre & Company to them for value received, viz., for £71, 18s. 10d., due 19th November 1867; for £221, 3s. 4d., due 12th December 1867; and for £194, 9s. 10d., due 7th January 1868; and that the said Ferguson, Anderson, & Company made it a condition of granting a renewal of the bill for £100 above mentioned, of which Kirkpatrick, M'Intyre, & Company were acceptors, that they should guarantee to Ferguson, & Company the payment at maturity of the three above-mentioned acceptances by John M'Intyre & Company to them; that the said James M'Intyre, as the sole partner of Kirkpatrick, M'Intyre, & Company, of date the 18th October 1867, signed the letter of guarantee No. 4 of 3/8 of process, by which Kirkpatrick, M'Intyre, & Company guaranteed the due and punctual payment at maturity of the three above-mentioned acceptances by John M'Intyre & Company to the appellants, Ferguson, Anderson, & Company, and also of all expenses incurred through any failure to pay these bills at maturity; that of the same date, 18th October 1867, a renewed bill drawn by John M'Intyre & Company upon and accepted by Kirkpatrick, M'Intyre, & Company, was granted and indorsed to Ferguson, Anderson, & Company for £103, 15s. 3d., in lieu of the bill for £100, the difference in amount between the two bills consisting of the bill-stamp, the expenses of noting the for-

mer bill, and some small items appearing in the ledger of Ferguson, Anderson, & Company at the debit of John M'Intyre & Company; and at the same time the old bill for £100 was given up by Ferguson, Anderson, & Company either to John or James M'Intyre; that Ferguson, Anderson, & Company retired at maturity the bills mentioned in the letter of guarantee, with the exception of the bill first-mentioned, for £71, 18s. 10d., as well as the renewed bill for £103, 15s. 3d.; that the estates of Kirkpatrick, M'Intyre, & Company, and James M'Intyre, the sole partner of that company, were sequestrated on 12th December 1867; and that notour bankruptcy was thereby constituted against the said firm and individual partner."

In these circumstances, the Sheriff, sustaining one of the grounds on which the trustee rejected the claim of the appellants, found—"That the above-mentioned letter of guarantee granted by Kirkpatrick, M'Intyre, & Company, in favour of the appellants, Ferguson, Anderson, & Company, who were creditors of the said Kirkpatrick, M'Intyre, & Company on the bill for £100 at the time of granting, is a voluntary deed granted by the said bankrupts within sixty days of their becoming bankrupt, in favour of creditors for their satisfaction or further security in preference to other creditors; and Finds that said letter of guarantee is, under the provisions of the Statute 1696, cap. 5, void and null: Finds that the first ground on which the trustee's deliverance is founded, under the Statute 1621, cap. 18, is not now insisted in: Sustains the second or alternative ground on which the appellants' claim is rejected: Dismisses the note of appeal: Finds the appellants liable in expenses," &c.

Ferguson, Anderson, & Company appealed.

SHAND and CLARK for appellants.

WATSON and TRAYNER for respondent.

LORD DEAS—A very nice question is raised under this appeal as to the application of the Act 1696, c. 5. The state of matters may be shortly stated thus—Laying aside the company firms, the repetition of which rather darkens the matter, we may take it in this way:—James M'Intyre and John M'Intyre are debtors in a £100 bill, mentioned in the interlocutor, and John is debtor in various other bills, the whole being due to Ferguson and Company. The transaction said to have taken place is, that Ferguson and Company agreed to renew the £100 bill, in which James M'Intyre, the bankrupt, was debtor, on condition that James guaranteed payment of the three other bills which were the debt of John. The question is, whether that transaction is struck at by the statute? that is, whether that is a voluntary deed granted by the bankrupt in favour of a creditor on the bankrupt's estate, for his satisfaction or farther security, in preference to other creditors? That is, whether it is a voluntary deed by the bankrupt in favour of one of his own creditors, in satisfaction or security of a debt due by him to these creditors? After the best consideration I can give to the matter, I think that, whatever other objections may apply,—whether the deed would have been challengeable under the Act 1621, or whether it is reducible at common law,—it is not granted in satisfaction or security of any debt due by the bankrupt in any way. The bankrupt might have granted that guarantee within sixty days of bankruptcy, although he himself owed no debt whatever to Ferguson and Company, and unless that had been set aside on some other ground than the Act 1696, there must have been a ranking on the estate of the defenders. If, again, the debt of £100 had been paid, the guarantee would still have remained, so as to give a ranking on the estate of the bankrupt who had granted it. As the case stands, although the bill for £100 stands and has not been retired, it stands in the same position as if this guarantee had not been granted. It is not contended that the £100 bill is to rank for the full amount. If the bankrupts had paid any thing in satisfaction of that debt, the amount of the debt would have been *pro tanto* diminished. But how this can be said to be in satisfaction of a debt which is not satisfied, or in security of a debt which is neither more nor less secured, I cannot understand. I am not surprised that the Sheriff-substitute took a different view. This transaction looks at first sight rather complicated, and there is an appearance of equity in the view taken in the interlocutor before us. But on full consideration, I think we have nothing to do with the nature of the transaction, and that it would be dangerous to extend the application of the Act 1696 in cases to which it does not naturally apply.

LORD ARDMILLAN and LORD KINLOCH concurred.

The LORD PRESIDENT was absent.

Agents for Appellants—J. W. & J. Mackenzie, W.S.

Agent for Respondent—A. K. Mackie, S.S.C.

Tuesday, March 2.

SECOND DIVISION.

BROWN *v.* LINDSAY (DUNCAN'S TRUSTEE).

Bankrupt—Act 19 *and* 20 *Vict. c.* 79, §§ 71 *and* 75 *—Irregular Procedure—Sheriff. Held* that a creditor was foreclosed from stating objections to the election of a trustee and other procedure at the meeting held for that purpose by his failure to bring such objections under the notice of the Sheriff.

Opinion reserved as to the effect of fraud in making said objection competent.

This was an action brought by Matthew Brown, cabinetmaker in Edinburgh, to set aside the election of trustee, and other proceedings, in the sequestration of William Duncan, S.S.C. The ground of reduction was certain alleged irregularities in connection with the meeting at which the trustee was elected, and, in particular, the alleged fact that the minutes of the meeting in question were not, as required by the statute, written out and signed in presence of the meeting.

The defence was a denial of the allegations of the pursuer with reference to what passed at the meeting, and the mode in which the minutes were prepared; but, in addition, the defender pleaded—(1) That the pursuer was bound to have stated his objection before the Sheriff, and that, the Sheriff having confirmed the trustee without objection, the matter was now foreclosed. (2) That the pursuer, having been present at the meeting in question, having concurred in the trustee's election, and having alleged nothing beyond certain irregularities, by which he was in no way prejudiced, had no interest to insist in the present action.

The Lord Ordinary (JERVISWOODE) sustained both of the foregoing pleas, and dismissed the action. His Lordship added the following note:—"There is in the Lord Ordinary's opinion some difficulty here, as to whether the whole facts of the