on the respondents' averments that they made their claim at Scarborough, and that their claim was not then admitted. They had undoubtedly some claim, and therefore the only question was as to its amount. Now, it seems to me that if the amount claimed was not admitted, a difference or dispute as to the amount claimed at once arose. And thus the dispute as to the salvage claim arose at Scarborough, where the salved ship was lying, and the justices at Scarborough alone had the right to determine, under the statutory jurisdiction, the amount to be awarded to the salvors. It is not necessary, however, to press this view after the opinion I have expressed as to the meaning of the 460th section of the Act.

There is just one other point to be noticed. The respondents directed their petition not only against the owner of the salved ship, but against the company with which the salvage ship was insured. I think it quite certain that the statutory jurisdiction does not cover such a claim. The justices and Sheriff can only pronounce an award against the owners of the salved property, as it is only in disputes between the salvors and such owners that they are authorised to pronounce any award at all. In any view, therefore, as regards the insurers, the Sheriff had no jurisdiction. But it is unneccessary to make any special finding with regard to them, for on the whole matter I am of opinion that the reasons of suspension should be sustained and the interdict formerly granted declared perpetual.

The LORD JUSTICE-CLERK and LORD RUTHERFURD CLARK concurred.

LORD YOUNG was absent.

The Court recalled the Lord Ordinary's interlocutor, sustained the reasons of suspension, and declared the interdict formerly granted perpetual.

Counsel for the Complainers and Reclaimers — Graham Murray — Salvesen. Agent—Wm. Croft Gray, Solicitor.

Counsel for the Respondents—Jameson—Shaw. Agent—R. C. Gray, S.S.C.

Tuesday, June 9.

SECOND DIVISION.

[Sheriff of Aberdeen.

DAVIDSON *v.* DAVIDSON.

Sheriff Court — Citation — Sheriff Court Amendment (Scotland) Act 1870 (33 and 34 Vict. cap. 86).

In an action in the Sheriff Court at Aberdeen the person called as defender lived in the Peterhead district of Aberdeen. In 1870 the Secretary of State, under the provisions of the above-mentioned Act, had prescribed that all cases, civil or criminal, arising in the Peterhead district should be tried within that district, and also prescribed the court days to be held there for the purpose of the despatch of business. The Sheriff-Clerk refused to grant a warrant to cite the defender to the Aberdeen Court, and when a motion was made to the Sheriff-Substitute to that effect he also refused to grant the warrant.

An appeal therefrom *dismissed* as incompetent.

The Sheriff Court Amendment (Scotland) Act 1870 (33 and 34 Vict. cap. 86), sec. 13, provides — "It shall be lawful to Her Majesty by one of her Principal Secretaries of State to prescribe from time to time the number of courts to be held by the several sheriffs of Scotland who shall be appointed after the passing of this Act, and the times and places for holding such courts."

Upon 10th June 1885 the Right Honourable Sir William V. Harcourt, one of Her Majesty's Principal Secretaries of State, in pursuance of the powers contained in the above section, prescribed that from and after that date the following arrangements should take effect with respect to the Sheriff Courts in the Peterhead district of the county of Aberdeen—"(1) All cases, civil and criminal, arising in the district of the county of Aberdeen, hitherto known as the Peterhead district, shall be called, tried, and proceeded with within the said district. (2) A court shall be held at Peterhead once a week, on a stated day, during three weeks out of every four, according to such regulations as may be prescribed by the Sheriff, for the despatch of all business, civil and criminal, competent in the Sheriff Court."

In May 1891 George Davidson, residing in Baltic Street, Aberdeen, brought an action against Ann Davidson, residing at Gallahill, St Fergus, in the county of Aberdeen, to have her ordained to produce an account of her intromissions with the estate of a deceased brother, in whose executry estate the pursuer claimed a share.

As the defender was resident in the Peterhead district, the Sheriff-Clerk at Aberdeen refused to grant the pursuer a warrant to cite the defender to the Court at Aberdeen.

The pursuer made application to the Sheriff, and upon 26th May 1891 the Sheriff-Substitute (GRIERSON) issued this interlocutor:—"The Sheriff-Substitute having heard the pursuer's agent in his motion for a warrant to cite the defender to the Court at Aberdeen in respect of the order of the Secretary of State of date 10th June 1885, refuses the same."

The pursuer appealed, and argued — It was competent to appeal this interlocutor, and have it remitted back to the Sheriff Court with instructions to cite the defender to attend the Court at Aberdeen. It had been held that where the Sheriff had dismissed an action because it was not brought in a certain form it was competent to advocate the cause to the Court of Session—*Whyte* v. *Gerrard*, November 30, 1861, 24 D.

102. The case had virtually been dismissed here, and the Sheriff had not applied his mind to the subject, but had practically disposed of the whole case.

At advising—

LORD JUSTICE-CLERK—In my opinion we must dismiss this appeal as incompetent.

LORD YOUNG, LORD RUTHERFURD CLARK, and LORD TRAYNER concurred.

The Court dismissed the appeal as incompetent.

Counsel for the Appellant—Jameson—Burnet. Agents—Henry & Scott, W.S.

Friday, May 29.

FIRST DIVISION

[Lord Kinnear, Ordinary.

COLQUHOUN AND OTHERS *v.* COLQUHOUN.

Parent and Child—Presumption—Pater est quem nuptiæ demonstrant — Circumstances in which the Presumption Pater est quem nuptiæ demonstrant was Held to be Overcome.

Three weeks after their marriage a husband and wife separated, though they continued to live in the same town. Five years after the separation the wife bore a child. The husband died nineteen years later, and after his death an action was raised by certain of his relatives to have the child declared illegitimate. It was proved that the husband had repudiated the paternity and declined to support the child; that his wife, though in very poor circumstances, had taken no steps to compel him to support it; and that she had submitted to a charge made against her by the kirk-session of her church of having given birth to an illegitimate child, and to a consequent suspension from church privileges.

Held that the inference to be drawn from these facts was strong enough to displace the presumption in favour of legitimacy, even though there was some vague evidence of the spouses having met on several occasions during the two years preceding the child's birth.

George Colquhoun, cooper, Paisley, and Christina Alexander were married on 12th May 1865. They lived together for about three weeks after the marriage at the house of an aunt of Mrs Colquhoun's in Paisley, and there separated, Mrs Colquhoun remaining with her aunt, and George Colquhoun going to the house of a brother in Paisley. After that time the spouses never kept house together. On 24th June 1870 Mrs Colquhoun gave birth to a female child, whom she called Christina Alexander Colquhoun, and registered as the child of George Colquhoun. On 5th December 1889 George Colquhoun died intestate leaving certain heritable and moveable property.

In January 1890 the present action was raised by Mary, Agnes, and Janet Colquhoun, nieces, and Mrs Taylor, a grandniece of the said George Colquhoun, claiming to be the whole parties interested in his moveable estate, against Christina Alexander Colquhoun, her mother Mrs Colquhoun, and Robert Colquhoun, nephew and heir-at-law of the deceased George Colquhoun, to have it declared that the said Christina Alexander Colquhoun was not the lawful child of George Colquhoun, and had therefore no title to any of the legal rights which would have been competent to his lawful children.

Christina Alexander Colquhoun lodged defences. In answer 2 she admitted that her mother and George Colquhoun had had no intercourse for three years after they separated from one another, but averred that thereafter they "met each other now and again at night, and walked together, and that this intercourse continued until five months before this defender was born."

Proof was led. The following were the strongest points established against legitimacy. George Colquhoun repudiated the paternity both in private and to the kirk-session of the Reformed Presbyterian Church to which he belonged. He also declined, on the application of the parochial board, to contribute to its support, and his wife took no steps to compel him to do so, though in such poor circumstances that she was obliged to apply for relief to the parochial board, from whom she received a few shillings. It further appeared that Mrs Colquhoun's case had been inquired into by the Reformed Presbyterian Church, to which she belonged, and that Mr Symington, one of the elders of the church, had been sent to see her with regard to the child's birth. His report to the kirk-session, as it appeared from the minutes of that body, was to the effect that Mrs Colquhoun had acknowledged to him that the defender was not the child of George Colquhoun. Mr Symington also deponed that he had no doubt that this admission had been made to him, though he could not recall the language in which it had been conveyed. In consequence of Mr Symington's report to the kirk-session Mrs Colquhoun was suspended from church privileges, and remained suspended for a period of 17 years. At the end of that period she was readmitted, but according to the evidence of Mr Clazey, the minister of the church, who had visited her with regard to her readmission, only upon her making profession that she had undergone a spiritual change, after he had alluded in what he considered an unmistakable manner to the fault for which she had been cut off from church privileges. The pursuers attempted to establish that Mrs Colquhoun had had improper relations with other men than her husband, but the evidence of this was of a vague kind, no individual being mentioned. No evidence was adduced by the defender that Mrs Colquhoun had ever