suer examined by eminent surgeons, and no doubt it was necessary for him likewise to have good advice. Several surgeons were consulted, and the Auditor has allowed the expenses of the fee to one of them, and in these circumstances I am not disposed to differ.

In regard to the next question—that of the fee to counsel for consulting in regard to the tender—I think that is a fair charge. Counsel was consulted, and in consequence the tender of £150 was rejected, and the result was that the tender was revised. I think that this was quite a fair charge.

Lord Ormidale—The objections to the doctor's fee have been founded entirely on the Act of Sederunt of 10th July 1844. Now I do not think that applies to this case at all. It only applies to cases where the trial has actually taken place, and where the Judge has certified as to the necessity of skilled witnesses. The trial in this case has not taken place, and therefore the rule does not apply.

My difficulty has already been hinted at by your Lordship, but I have greater doubts than have been expressed, although I do not intend to differ from the result your Lordship has arrived at.

I must say that the giving of these large fees to eminent men in Edinburgh seems to me most reprehensible. The example may have been set by the Railway Company; but there is no reason why we should not check this practice in the case of railway companies when they come before us, and also with private parties. I cannot say that I have heard anything which indicates to me that it was necessary in the present case to come to Edinburgh for advice. The pursuer was taken to Bridge of Allan, and consulted doctors there, and I see no reason why they should not have been examined, or, if there was any objection to them, it was not far to Stirling, where the pursuer might have got advice, and therefore I am not at all satisfied that this charge should have been allowed to a greater amount than a surgeon from one of these places would have received. But that is a matter of opinion, and no doubt it is a point that the Railway Company do retain the most eminent men, and therefore it might be hard if private parties were not to be allowed to have them too. But I have already stated my opinion, and if I had any support from your Lordships I should have been disposed to cut down the fee to the amount I have indicated.

On the other point I agree with your Lordship.

Lord Gifford—I concur.

The Court repelled the objections to the Auditor's report.

Counsel for Pursuer—M'Kechnie. Agents—M'Caskie & Brown, S.S.C.

Counsel for Defenders—Trayner. Agent—John Gill, S.S.C.

Saturday, June 29.

FIRST DIVISION.

[Lord Adam, Ordinary.

ROSS *v.* ROSS.

Jurisdiction—Arrestment jurisdictionis fundandæ causa.

An arrestment of 9s. 3d. standing at the credit of a defender in the books of a bank, and due to him in name of interest on an account which he formerly kept there, but which he believed to be closed, *sustained* as an effectual arrestment *jurisdictionis fundandæ causa* in a petitory action raised against him, on the authority of *Shaw* v. *Dow & Dobie*, Feb. 2, 1869, 7 Macph. 449.

Counsel for Pursuer—Darling. Agent—W. B. Dewar, S.S.C.

Counsel for Defender—Black. Agent—David Forsyth, S.S.C.

Tuesday, July 2.

FIRST DIVISION

[Lord Adam, Ordinary.

FERGUSON *v.* M'DUFF.

Process—Reponing—Where Action Dismissed owing to Non-Attendance of Counsel—Act of Sederunt, November 2, 1872, sec. 1.

Where, under the first section of the Act of Sederunt of November 2, 1872, an action had been dismissed in respect that no counsel attended on either side when the case was called in the Lord Ordinary's Procedure Roll, the Court, upon a reclaiming note, recalled the interlocutor in respect that there were on the Lord Ordinary's Roll of that day a proof, a Bill Chamber cause, and several debates, so that counsel might not have been able to ascertain when the case would be called, but intimated that it was not to be taken for granted that such a course would be followed in future.

Counsel for the Pursuer (Reclaimer)—Kennedy. Agents—W. Adam & Winchester, S.S.C.

Counsel for the Defender (Respondent)—Mair. Agent—Charles B. Hogg, Solicitor.

Thursday, July 4.

FIRST DIVISION.

[Lord Young, Ordinary.

ADAMSON & GULLAND *v.* GARDNER.

Expenses—Between Agent and Client—Reclaiming Note against an Auditor's Report in Action at Agent's Instance for Payment by Client.

Objections to the Auditor's report upon an agent's account of expenses incurred by previous litigation under his charge, in a petitory action at his instance against his client for payment, will be dealt with by a very summary procedure.