The third case—that of secret processes, inventions, documents, or the like—depends upon this: that the rights of the subject are bound up with the preservation of the secret. To divulge that to the world, under the excuse of a report of proceedings in a Court of law, would be to destroy that very protection which the subject seeks at the Court's hands. It has long been undoubted that the right to have judicial proceedings in public does not extend to a violation of that secret which the Court may judicially determine to be of patrimonial value and to maintain: [1913] A.C. 483.

Lord Shaw in the *Scott* case, [1913] A.C. at 485, said: "The cases of positive indecency remain: but they remain exactly where statute has put them. Rules and regulations can be framed under the statute by the Judges to deal with gross and highly exceptional cases. Until that has been done, or until Parliament itself interferes, as it has done in recent years by the Punishment of Incest Act and also the Children Act, both of the year 1908, Courts of justice must stand by constitutional rule. The policy of widening the area of secrecy is always a serious one; but this is for Parliament, and those to whom the subject has been consigned by Parliament, to consider."

The attempts sometimes essayed by trial Judges to treat the old Ecclesiastical Courts as secret are combatted in the masterly exposition of the law present and past, rendered in the *Scott* case.

In the early stages of the suit, the Ecclesiastical Court, charging itself with the interests of both parties, took upon itself the inquiring into the facts, not *in foro contentioso* nor *in foro aperto*, but by way of obtaining, first from the one side, and then, if there was a denial or a counter-case, from the other side, and from each apart from the other, the testimony of witnesses, this testimony to lie *in retentis* until, according to modern ideas, the real trial of the case should begin: *Scott* v. *Scott*, [1913] A.C. 470.

The official precognition, by hearing each side separately, never invaded nor could invade the publication stage at which the trial proper began. The Ecclesiastical Courts Commissioners in 1832 stated the procedure applicable to matrimonial causes as follows: "The evidence on both sides being published, the cause was set down for hearing. All causes are heard publicly in open Court; and on the day appointed for the hearing, the cause is opened by the counsel on both sides, who state the points of law and fact which they mean to maintain in argument; the evidence is then read, unless the Judge signifies that he has already read it, and even then particular parts are read again, if necessary, and the whole case is argued and discussed by the counsel. The judgment of the Court is then pronounced upon the law and facts of the case; and in discharging this very responsible duty, the Judge publicly, in open Court, assigns the reasons for his decisions, stating the principles and authorities on which he decides the matters of law and reciting or adverting to the various parts of the evidence from which he deduces his conclusions of fact; and thus the matters in controversy between the parties become adjudged.