is nothing more than a jotting. There is not a word in it which is not loose and unintelligible upon the face of it. Your Lordship has gone through the separate items in detail, and I need not do so again, but it appears to me, as was well said by Mr Strachan, that they are nothing more than memoranda for the use of the maker, and intended to assist his memory when he came to go to an agent. Each of them is exclusive of the idea that the document can be held to be a concluded will, and the words "the will of" are merely a title or heading to the memorandum. It is further not unimportant that the writing was made upon a loose bit of paper, and with a pencil, not a pen.

The only remaining question is, whether the parole evidence can be said to give the document a definite character. The parole evidence is conflicting. The deceased was told by one of the witnesses, a Roman Catholic priest named Father Turner, whom he consulted, that he ought to go to a solicitor to have his will prepared, and the witness left Brennan under the impression that his advice was to be followed. In these circumstances, I cannot accept the evidence of his having spoken to other witnesses of his "will," and of his having left different bequests to different objects as conclusive to the effect that he appended his signature to the document before us, intending it to be a completed testamentary writing.

Lord Adam—It appears to me that neither Mr Brennan nor anyone else of those to whom he showed this document can have regarded it as a completed testamentary writing. I do not think that the figures followed by the single words can have appeared to him to have had any intelligible meaning to anyone but himself. The document upon its face shows that it was a mere memorandum for future use.

If this is the character of the document itself, I do not see that that character was changed by the addition of the words "will of," followed by the signature "John Brennan."

Upon these grounds I agree with the judgment pronounced by the Lord Ordinary.

The Court adhered.

Counsel for John Colvin, Nominal Raiser and Claimant—Strachan—Rankine. Agent — John Walls, S.S.C.

Counsel for Joan Hutchison, Real Raiser and Claimant—Goudy—Macfarlane. Agent—Thomas M'Naught, S.S.C.

Thursday, May 21.

SECOND DIVISION.

WRIGHT *v.* BROWN'S TRUSTEES.

Poor — Poor's-Roll — Circumstances warranting Admission.

Held (*dub.* Lord Rutherfurd Clark) that a marine engineer earning 18s. a-week while at sea, and unable to find continuous employment on shore, was entitled to the benefit of the poor's roll to enable him to carry on an action of damages in the Court of Session.

Opinion (*per* Lord Justice-Clerk) that the nature of the action being such that the litigant's personal superintendence would be very desirable to its furtherance, did not affect the question.

William Leckie Graham Wright, designed as engineer, residing in Glasgow, made application for admission to the benefit of the poor's roll in the Court of Session to enable him to carry on an action of damages against the testamentary trustees of the deceased William Brown. Brown's trustees opposed the application, and the Court remitted to the reporters on the *probabilis causa litigandi*, who reported that it appeared that the applicant when in employment was engaged as an engineer on board sea-going vessels at an average wage of 18s. per week; that he was then unable to seek employment in consequence of the present application, which, in the applicant's opinion, required his own personal guidance and assistance, without which his interests would not be sufficiently secured during any absence from this country in his employment as a marine engineer; that the applicant stated that his present support was derived from private sources, from which he drew 5s. weekly; that they, having respect to the nature of the applicant's claim, considered that his personal superintendence of the intended proceedings would be, if not essential, at least very desirable to the furtherance of the applicant's interest, and that such personal superintendence was not compatible with the pursuit of his calling as a marine engineer.

A certificate of poverty procured by the applicant from the minister and elders of the parish of Kinning Park, Glasgow, bore that the applicant stated to them that he was forty-five years of age; that he had eight of a family living, four being married, and the other four living in family with him, aged respectively, seventeen, fourteen, ten, and nine years.

Argued for the objectors—The applicant had stated to the reporters that he could earn £3 a-week while at sea, and 18s. if he lived on shore; and they had taken no notice of this in their report. There was no precedent for admitting a litigant to the poor's roll who was not admissible on the ground of poverty merely because his occupation prevented him giving personal attention to his case.

Replied for the applicant—The applicant might have stated to the reporters that he had on exceptional voyages earned more than 18s., but they had after inquiry reported that sum as his usual earnings, and the Court must take it on their report. In *Stevens* v. *Stevens*, January 23, 1885, 12 R. 548, the Court had found a man, who had a salary of £1 a-week, entitled to the benefit of the poor's roll, to enable him to carry on an action in the Court of Session. The circumstances of the applicant's case were more favourable for the application, in respect that his earnings were less than those of Stevens, and that the applicant, in order to gain them, would have to withdraw himself from the personal superintendence of his case.

At advising—

Lord Justice-Clerk—It has been suggested, and the view has found favour with the reporters,

as a ground for allowing the applicant to obtain the benefit of the poor's roll, that being a marine engineer in the habit of making long foreign voyages, he would be unable to earn his livelihood, and at the same time remain continuously at home; while, on the other hand, his personal superintendence of this litigation is said to be most desirable, if not essential, for the protection of his interests. With this view I have no sympathy, and were his claim based solely on the poverty caused by his remaining at home in pursuit of his litigation, I should be for refusing the application. But looking to what the reporters have found to be the amount of his earnings when he is at work, I think he may fairly be held to be within the category of persons entitled to the benefit of the poor's roll. I am therefore for admitting him.

LORD YOUNG and LORD CRAIGHILL concurred.

LORD RUTHERFURD CLARK—I have some doubts about this case, which I do not think is ruled by that of *Stevens*, for there is this essential difference, that the applicant here might have brought his action in the Sheriff Court, while in *Stevens*' case the action was one for the reduction of an award of aliment, which could only be brought in the Court of Session.

The Court granted the application.

Counsel for the Applicant—Penney. Agent—J. A. Trevelyan Sturrock, S.S.C.

Counsel for Respondents—Ure. Agents—Maconochie & Hare, W.S.

Friday, May 22.

FIRST DIVISION.

LINDSAY *v.* LINDSAY'S TRUSTEES.

Succession—Vesting—Conveyance to be on Death of Liferentrix—Clause of Survivorship.

A testator conveyed his heritable property to trustees, directing them to pay the annual proceeds thereof to his widow in liferent, and so soon as convenient after her death to convey to his two sons certain portions of the heritable property, equally, share and share alike—"Declaring that if either of my said sons shall predecease my said spouse without lawful issue, then my said trustees shall denude and convey the said several subjects first above described and disponed to my surviving son, but should such predeceasing son leave lawful issue, then such issue shall come in their father's room and stead." Both sons survived the testator. One died without issue in 1864, and the other also without issue in 1873. The widow died in 1877. *Held* that the object of the survivorship clause was served on the death of the first deceasing son, and that the fee of the heritage vested in the other son at that date.

By trust-disposition and settlement dated 26th April 1860, and relative codicil dated 4th June 1860, John Lindsay, plumber in Perth, conveyed to trustees his whole estate, heritable and moveable for, *inter alia*, the following purposes:—(*First*) for payment of his just and lawful debts; (*Second* and *Third*) for payment to his wife Mrs Mary Campbell or Lindsay, in the event of her surviving him, of the free annual proceeds of his heritable property, and for delivery to her of his household furniture and silver plate as her own absolute property, and also for payment to her of the sum of £500 contained in a policy of assurance on his life with the Standard Life Assurance Company, together with any sum that might be in bank at his death above what was necessary for the expenses of the trust. The truster further directed his trustees to pay over to Mary Anne Lindsay, his daughter, in the event of her surviving him, the whole amount of accumulated bonuses, dividends, or other profits which had accrued or might accrue on the said policy, under deduction of two legacies of £50 each, payable to his grandchildren, the son and daughter of his eldest son James Lindsay, plumber, Aberfeldy."

The fourth and fifth purposes of the settlement were as follows:—"In the *fourth* place, I direct and appoint my said trustees, so soon as convenient after the death of my said spouse, to denude, convey, and make over to my two sons, George and John, the whole heritable properties first before conveyed and disponed equally, and share and share alike, and that in due and legal form, so as that they may be duly and validly invested in the fee of the said several heritable subjects first before disponed and described; declaring that if either of my said sons shall predecease my said spouse without lawful issue, then my said trustees shall denude and convey the said several subjects first above described and disponed to my surviving son, but should such predeceasing son leave lawful issue, then such issue shall come in their father's room and stead, and my said trustees shall denude and convey the father's share to such issue, and if more than one child, then to all of my said predeceasing son's lawful children equally, and share and share alike. In the *fifth* place, in the event of my said daughter Mary Anne surviving my said spouse, whether married or unmarried, I hereby direct and appoint my said trustees to denude, convey, and make over to her the subjects second before disponed and described as her own sole and absolute property, and that so soon as my said trustees shall find it convenient; declaring always that in the event of my said daughter being married at the time of my said trustees so denuding in her favour, and having lawful issue, then my said trustees shall so denude, convey, and make over the said subjects to her in liferent, and to her children equally among them, share and share alike in fee."

The testator died on 31st July 1860, having been twice married. By his first wife he had one child, James Lindsay, plumber in Aberfeldy, who predeceased the testator, but was survived by two children, William Lindsay, who died after his grandfather, unmarried and intestate, and Mrs Mary Lindsay or Sinclair. By his second wife Mrs Mary Campbell or Lindsay (who survived him) he had two sons, George and John, who were mentioned in the fourth purpose above quoted, and one daughter, Mary Anne Lindsay (mentioned in the 5th purpose), who all survived him.