used it, if he did use it—because he did not admit having used it—and tendered a sum of money, not indeed large, but substantial as compared with the sum which the jury has thought sufficient to award, if the pursuer had accepted the sum and apology offered he would have had all the advantage and more which the verdict of the jury has given him.

The Court pronounced this interlocutor—

"Apply the verdict found by the jury on the issue in this cause, and in respect thereof decern against the defender for payment to the pursuer of the sum of one farthing: Find the defender entitled to expenses since 6th April 1899, the date of lodging the defences, and remit," &c.

Counsel for the Pursuer—T. B. Morison. Agent—William Hamilton, S.S.C.

Counsel for the Defender—J. C. Watt. Agent—James F. Macdonald, S.S.C.

Wednesday, November 1.

FIRST DIVISION.

[Lord Pearson, Ordinary.

BANKES *v.* ANDERSON AND OTHERS.

(*Ante*, July 20, 1899, 36 S.L.R. 936.)

Appeal to House of Lords — Petition for Disentail — Interlocutory Judgment — Leave to Appeal.

In a petition for authority to disentail, the three next heirs refused their consent, and after consenting to the usual remits, they lodged objections to the report of the man of skill upon the valuation of the estate. The respondents further made averments as to the state of the petitioner's health, as affecting the value of her interest in the estate. The Lord Ordinary remitted of new to the man of skill to report upon the objections to his report, and remitted to a medical man to report on the state of the petitioner's health. The respondents reclaimed, and moved for a proof on both points. The Court having refused the reclaiming-note, the respondents craved leave to appeal to the House of Lords, on the ground that their case would be prejudiced if the remits were exhausted and the inquiry made before they could appeal. The Court *granted* leave to appeal.

A petition was presented by Miss Maria Ann List Bankes, heiress of entail in possession of Letterewe and Gruinard, for authority to disentail these estates. The three next heirs entitled to succeed to the estate were Mrs Ada Jane Bankes or Anderson and her two sons, all of whom were of full age and subject to no legal incapacity. They declined to give their consent to the disentail, and their expectancies accordingly fell to be valued under the Entail Amendment Act of 1875 (38 and 39 Vict. cap. 61). The respondents consented to the usual remits, suggested the name of the man of skill, and, represented by their local agent, accompanied him on his survey of the estate. They subsequently lodged objections to his report, maintaining that he had undervalued the property, specifying the particulars in which he had been mistaken, and moved for a proof.

The respondents further objected to the report of the actuary, and made certain averments with regard to the petitioner's health as affecting the value of her interest in the estate. These averments were all founded upon present symptoms, and did not involve the previous history of the petitioner.

The Lord Ordinary (PEARSON), on 29th June 1899, pronounced an interlocutor, by which he (1st) remitted of new to Mr Davidson to consider the objections to his report; (2nd) remitted of new to Mr Low to report with regard to the objections to his report; and (3rd) remitted to Dr Byrom Bramwell "to examine the petitioner and to inquire into the facts and circumstances averred . . . touching the petitioner's state of health, and to report whether and to what extent (if any) her expectation of life is thereby affected."

The respondents reclaimed, and moved for a proof, both as to the value of the property and as to the health of the petitioner.

The First Division, on 20th July 1899, adhered to the interlocutor reclaimed against.

The respondents moved for leave to appeal to the House of Lords.

Argued for the respondents—Their case would be prejudiced if the remit were exhausted before they could appeal to the House of Lords. The result would be to exclude them from all remedy, for it would be very difficult to persuade the House of Lords to allow a proof if they came there after an inquiry had already been made in terms of the remit.

The doctor who attended the petitioner had died since the judgment of the Lord Ordinary was pronounced, so it would be impossible for the doctor to whom the Lord Ordinary had remitted to obtain any information from him, and any information concerning her health must be proved by a different method than that allowed—*Macdonald* v. *Macdonalds*, March 15, 1880, 7 R. (H.L.) 41.

Argued for the petitioner—The question was merely one of convenience of procedure, and the respondents would suffer no prejudice if leave were refused. On the other hand, delay might lead to serious consequences for the petitioner. In an entail petition the Court would take this into account, and refuse leave to appeal, even if the respondents had very strong reasons for appealing—*Duke of Sutherland* v. *Marquess of Stafford*, Feb. 27, 1892, 19 R. 504. The usual procedure had been followed as to the mode of valuation, and the re-

spondents, so far from objecting, had proposed the man of skill who was chosen. As their averments concerned the health of the petitioner and not her habits, it was clear that the Lord Ordinary's method of inquiring into this question was the right one, and that the respondents would not be prejudiced by its being carried out before their appeal. If this appeal were allowed, the result would be that there would be two appeals taken.

The Court granted leave to appeal.

Counsel for the Petitioner — Guthrie, Q.C. — Chree. Agents — A. P. Purves & Aitken, W.S.

Counsel for Respondents—H. Johnston, Q.C. — C. K. Mackenzie. Agent — A. S. Douglas, W.S.

Tuesday, November 7.

FIRST DIVISION.

JOHNSTON, PETITIONER.

Nobile Officium—Authority to Alter Name.

The Court will not grant a petitioner authority to alter his name unless some special reason is shown for it. Circumstances in which authority *granted.*

This was a petition at the instance of the Rev. Henry Johnston, otherwise Henry Lindsay Johnston, for authority to alter his name.

The petitioner set forth the following circumstances:—"That the petitioner's name was entered in the register of births, &c., and in his certificate of baptism as Henry Johnston. That for some years past the petitioner has adopted and used the name of Henry Lindsay Johnston, and as such has been commonly known. That in particular the petitioner's name is entered as Henry Lindsay Johnston in the books of Trinity College, Cambridge, and of the University of Cambridge, where he took his degree in the year 1897. That on the occasion of the petitioner's ordination as a deacon of the Church of England, the Bishop of Rochester, through his diocesan secretaries, refused to enter in the petitioner's letters of orders any other name than was contained in his certificate of baptism without evidence that the said name had been assumed with authority. That the petitioner is about to enter into priest's orders in said church, and that he is informed that the Bishop of Rochester, through his said diocesan secretaries, will again refuse to insert in his letters of orders the name Henry Lindsay Johnston. That it is of importance to the petitioner, as a clergyman of the Church of England, that the name appearing in his letters of orders should be the same as that under which he took his degree at the University of Cambridge."

The prayer of the petition was in the following terms:—"May it therefore please your Lordships to authorise the petitioner to assume and use the name of Lindsay in addition to his present name of Henry Johnston, and call and subscribe himself Henry Lindsay Johnston, and to ordain this petition and your Lordships' deliverance thereon, to be recorded in the Books of Sederunt.

LORD ADAM—The petitioner's application is for authority to alter his name. Now, any person in Scotland may, without the authority of the Court, call himself what he pleases, and accordingly when a petition for such a purpose is presented, we are in use to dismiss it as unnecessary, unless sufficient reason is shown for the application. The question therefore is, whether there is good reason in this case. The reason assigned is that the petitioner's name, as entered in his baptismal certificate, is Henry Johnston; that he has adopted the name of Henry Lindsay Johnston, and that his name was so entered in the books of the University of Cambridge when he took his degree; that when the petitioner was ordained as a deacon the Bishop of Rochester refused to enter in the petitioner's letters of orders any other name than was contained in his baptismal certificate without evidence that the same had been assumed with authority; that the petitioner is informed that the Bishop will again refuse to insert his adopted name in the letters of orders as priest, and that it is of importance to the petitioner that the name in his letters of orders should be the same as that under which he took his degree. Now, I have no doubt that the Bishop of Rochester will insert the petitioner's adopted name in his letters of orders if the petitioner receives the authority of the Court to assume it. We are in use to grant petitions of this kind in the case of notaries and other such persons, and it rather appears to me that we should grant the application. I see no way in which Mr Johnston can get over the difficulty mentioned in the petition unless we grant the application.

LORD M'LAREN and LORD KINNEAR concurred.

The LORD PRESIDENT was absent.

The Court granted the prayer of the petition.

Counsel for the Petitioner—J. Adam. Agents—Cowan & Dalmahoy, W.S.
