a bill granted by the company to him on which he had charged but had not received payment. The company's nominal capital was £5000, of which £42, 4s. was subscribed, and the liabilities were stated to amount to £11,795, 11s. 5d., with assets amounting to £11,511, 12s. 3d.

On 4th March 1908 Mr Wishart presented a note to the Lord President stating that since the date of his petition the company had resolved that the voluntary winding-up should be continued under the supervision of the Court, and that Mr Patrick, C.A., Glasgow, should be associated with Mr Meikle as joint-liquidator, and craving confirmation of that arrangement.

LORD PRESIDENT—I will take this opportunity of intimating for the information of counsel that we are going to alter the practice of granting expenses to petitioners in such cases as a matter of course, and to leave that to the Lord Ordinary to whom the liquidation is remitted and who has a knowledge of the facts. In this case it is all very well to say that two liquidators are required, but I see no reason why there should be two horses in this one-horse concern. This is a company of which we are told the capital is £5000, and the total capital subscribed £42, 4s. The company passed a resolution for voluntary winding-up and the appointing of a liquidator, and then there was a creditor's petition. The parties seem to have come together and agreed that the liquidation should be continued under the supervision of the Court and that a liquidator nominated by the creditors should be conjoined with the liquidator appointed by the company. It has been brought under the notice of the Court that in a great many liquidations there is really almost a scandalous amount spent in expenses, and the Court are resolved to do what they can to prevent this abuse. It seems to me that the proposition made here is an abuse on the face of it, and although in ordinary cases the wishes of the creditors will be consulted as to who should be appointed as liquidator, it seems that the arrangement here is so objectionable that the only course for your Lordships to take, and the one I propose, is to pronounce a supervision order, remove the present liquidator, and appoint an entirely new liquidator who is not proposed by any of the parties.

LORD M'LAREN and LORD KINNEAR concurred.

LORD PEARSON was absent.

The Court ordered the voluntary winding-up to be continued subject to the supervision of the Court, superseded the appointment of Mr Meikle, and in his room and place appointed Mr J. M. Macleod, C.A., Glasgow, as liquidator of the company, and found the petitioner entitled to the expenses of the petition as the same should be taxed by the Auditor.

Counsel for Petitioner—D. M. Wilson. Agents — Adamson, Gulland, & Stuart, S.S.C.

Tuesday, March 10.

FIRST DIVISION.

(SINGLE BILLS.)

SMITH *v.* GORDON.

Expenses—Agent—Agent Disburser—Local Agent—Decree for Whole Expenses in Name of Local Agent.

In an appeal from the Sheriff Court, in which the defender was successful in having the adverse interlocutor recalled with expenses in both Courts, decree for the taxed amount thereof was asked in name of the agent in the Sheriff Court as agent-disburser, and, on assurance that the motion was made by instructions of the Edinburgh agent, and had been duly intimated to the other side, and was unopposed, it was *granted.*

John Alexander Smith, watchmaker, Peterhead, raised an action of interdict in the Sheriff Court there against John Gordon, merchant, Cromdale, Grantown-on-Spey, the owner of the neighbouring feu in Peterhead, and obtained interdict. The defender appealed to the Court of Session, and on February 5, 1908, the First Division recalled the interdict, refused the prayer of the petition, and found the defender entitled to expenses in both Courts. When the case came up for approval of the Auditor's report, counsel moved for decree in name of Robert Gray, solicitor, Peterhead, as agent-disburser, and, in answer to the Court, stated (1) that the motion had been duly intimated and was unopposed, and (2) that it was made by instructions from the appellant's Edinburgh agent.

The Court pronounced an interlocutor approving of the Auditor's report, decerning against the pursuer for payment of the taxed amount of the defender's expenses, and "of consent of W. Croft Gray, S.S.C., Edinburgh, the agent disburser in this Court" allowed decree to go out and be extracted in name of Robert Gray, solicitor, Peterhead, the agent disburser in the Sheriff Court.

Agents for the Pursuer (Respondent)—Boyd, Jameson, & Young, W.S.

Counsel for the Defender (Appellant)—Lippe. Agent—W. Croft Gray, S.S.C.

Thursday, February 20.

FIRST DIVISION.

[Lord Salvesen, Ordinary.

GILLESPIE *v.* RIDDELL.

Entail—Lease—Powers of Heirs of Entail in Possession—Sheep Stock on Expiry of Lease—Transmissibility of Obligation Undertaken by One Heir of Entail in Possession against Succeeding Heir of Entail in Possession.

The tenant of a sheep farm upon an entailed estate in right of a lease granted by one heir of entail in possession, cannot enforce against a succeeding heir of entail in possession, as such, an obligation in the lease on the landlord to take over the sheep stock at the expiry of the tenancy.

Process—Summons—Declarator—Entail—Succession—Lease—Subsidiary Conclusions—Action Against Heir of Entail in Possession to Enforce Obligations of Lease—Conclusions Against General Estate of Preceding Heir, or Present Heir as Benefitted Thereby—Competency.

In an action by a tenant in a farm on an entailed estate in right of a lease granted by one heir of entail in possession, against the succeeding heir of entail in possession, to have declared binding on the latter, who was not his predecessor's heir at law or executor, an obligation in the lease, the summons also contained conclusions that the whole estate heritable and moveable of the predecessor, and that the present heir in possession so far as benefitted thereby, was liable for the obligation.

Held that in the absence of the previous heir's general representatives such conclusions were incompetent, inasmuch as no decree would be binding on them; and the beneficiary was not bound to discuss the validity of a claim against the general estate which might or might not affect his particular legacy.

On 7th September 1907 Charles Gordon Gillespie, Ranachan, Strontian, Argyllshire, tenant of the sheep farm of Ardery on the entailed estate of Sunart, Argyllshire, raised an action of declarator against Miss Louisa Margaretta Riddell, 16 Wellington Square, Cheltenham, heiress of entail in possession of that estate. In it he sought declarator (1) that under and in virtue of a lease of the farm of Ardery entered into between the pursuer and the late Sir Rodney Stuart Riddell of Ardnamurchan and Sunart, baronet, Sir Rodney undertook a binding obligation that on the termination of the lease the sheep stock on the farm would be taken over from the pursuer by the proprietor or incoming tenant at the same prices as the pursuer had paid on entry; (2) that the obligation was binding upon the defender as heiress of entail in possession of the estate in succession to Sir Rodney, or otherwise, if she were not so bound, that she was bound to allow the pursuer to displenish the farm prior to Martinmas 1907, or to retain his stock on the farm till such period subsequent to Whitsunday 1908, *i.e.*, the termination of his tenancy, as might enable him to remove it; (3) that the whole heritable and moveable estate of the late Sir Rodney was liable for the obligation in question; and (4) that the defender as Sir Rodney's special legatee, and as beneficially entitled to the income of the residue of his trust estate, was liable for the said obligation to the extent by which she had benefited or otherwise that she was liable *subsidiarie*, and subject to the condition that the deceased's trustees and executors should be first discussed.

The defender pleaded, *inter alia*—"(1) The trustees and executors of Sir Rodney Riddell not being parties to the action the defender is entitled to have the third and fourth conclusions thereof dismissed as incompetent against her. (2) The averments of the pursuer are irrelevant and insufficient to support the conclusions of the action, which should be dismissed. . . . (4) There being no obligation to take over the sheep stock at the termination of the lease founded on which is prestable against the defender, either as heiress of entail in possession or *separatim* as an individual, she is entitled to be assoilzied from the conclusions of the action. (5) In respect that the obligation to take over the sheep stock could not be made to affect the entailed estate, it cannot affect the defender as heiress of entail in succession to the granter of said obligation."

The pursuer's lease, entered into between himself as second party and Sir Rodney Stuart Riddell Bart., the then heir of entail in possession of Sunart, first party, provided that the tenant "shall deliver at the end of the lease to the landlord or incoming tenant as far as possible, not more than the same number of sheep and the same classes, as he receives on his entry, and the proprietor agrees that the second party or his representatives shall receive the same prices as he paid on his entry, providing always that the landlord or incoming tenant shall not be bound to take over more ewes, ewe hoggs, or tups than the tenant took over at his entry; and further, the proprietor or incoming tenant will not be bound to take over more than 50 of the following three classes, namely, one, two, or three years' old wedders over and above the number of stock the tenant took over at his entry."

The deed of entail of Sunart was executed by Sir James Milles Riddell, Bart. and Charles Murray Barstow in 1851 and 1852, and contained the usual clauses.

The *facts* of the case and the *nature of the pursuer's* averments are given in the *opinion* of the Lord Ordinary (SALVESEN), who on 4th December 1907 pronounced the following interlocutor:—"Sustains the first plea-in-law for the defender, and dismisses the third and fourth conclusions of the action, and decerns: *Quoad ultra* repels the second plea-in-law for the defender, and allows to the parties a