that there were funds payable to the bankrupt under contracts entered into by him since his sequestration, which might be made available to his creditors under the 103d section of the statute.

The petitioner objected to the objector's title; and maintained that, not being qualified as a creditor in the sequestration, he could not now come forward to object to the discharge.

The Lord Ordinary (MURE) repelled this objection to title, and deferred consideration of the petition for four weeks, in order that the necessary steps might be taken by the objector for having a new trustee elected, and the sequestration proceeded with.

His Lordship added the following note:—

"Had this case depended solely upon the terms of the report by the trustee, the Lord Ordinary would not have been disposed to delay granting the discharge, because, as at present advised, he does not think that report shows such culpable and undue conduct on the part of the bankrupt as would warrant the refusal of the petition. But as it appears that there are funds payable to the bankrupt under contracts in which he has an interest, entered into by him since his sequestration, which may be made available to his creditors under section 103 of the Bankrupt Act, the Lord Ordinary does not consider that it would be right to grant a discharge until the creditors shall have an opportunity of taking steps, if so advised, to make those funds available. And, as regards the title of the objector to oppose the discharge, it appears to the Lord Ordinary that, as the objector was admittedly entered as a creditor to the extent of £75 in the state of affairs given up by the bankrupt, and has now produced an oath of verity, he has shown a sufficient title and interest to appear and state the objections he has done to the present application, although that oath may require to be amended before any dividend is paid on it."

The petitioner reclaimed.

D.-F. MONCREIFF and CAMPBELL SMITH for him.

DUNCAN in answer.

The Court adhered.

Their Lordships held that, while for the purpose of voting, ranking, and otherwise taking part in the sequestration, an oath on vouchers were necessary in terms of the 49th section, yet that did not apply to such a matter as opposing an application by the bankrupt to have the sequestration brought to an end. Under the former Bankrupt Act this distinction was well recognised; and the only difference, *quoad hoc*, between the former bankrupt statute and the present was, that under the present statute the bankrupt could, after a certain time, petition for discharge without any concurrence on the part of his creditors, whereas under the former Act such concurrence was always necessary. That difference was, if anything, in favour of the objector, and therefore there was no reason for applying a different rule in construing the present statute from that which was adopted in construing the former one.

Agent for the Petitioner—W. R. Skinner, S.S.C.

Agents for the Objector—Jardine, Stodart, and Frasers, W.S.

Tuesday, February 11.

FLEMING *v.* IMRIE'S TRUSTEES.

Sale—Heritable Bond—Clause of Sale—Intimation and Requisition—Defect in Title—Transaction between Co-trustees—Assignation—Bond of Corroboration—Confusio—*Consignation—Expenses.* A heritable bond, containing a clause of redemption and a power of sale, provided that intimation of an intended sale should be made to the granter and his successors personally if in Scotland, and by notice at the market-cross if furth of the kingdom. The granter though still alive is now entirely divested of his right in the subjects. The holders of the security acquired their right from a lady to whom the bond had been assigned by her husband's trustees. When the assignation was made to her she was an assumed trustee on her husband's estate, but the consideration upon which the assignation was made was paid prior to the date of assumption. Having resolved to call up the money in the bond, she made the necessary intimation and requisition, obtaining a dispensation of these notices from the parties feudally vested in the subjects. She afterwards assigned her right under the bond with the right to the steps of procedure taken by her under it to the respondents. The complainer brought a suspension of the intended sale, on the ground that notice had not been given to the original granter, and that the respondents' title was bad in respect it descended from a party who had illegally acquired it from a co-trustee. *Held* (1) that notice did not require to be given to the original granter, he being fully divested of all interest, and that it was sufficient to give notice to his successor in the proprietary right; (2) that there was no illegality in the transaction between the co-trustees, the conveyance by the trustees to one of their own number being merely in implement of a previous obligation to convey to one who could competently acquire the right; (3) that the debt in the bond was not extinguished by confusion. Terms of consignation which held ineffectual to bar the respondents from claiming expenses.

This case originated so far back as 1865, and arose out of these circumstances:—Andrew Fleming, the brother of Alexander Fleming, cabinet-maker in Kirkcaldy, borrowed a sum of £500 from a Mr Robertson of St Andrews in 1836, to whom he granted a *second* bond over subjects on the south side of the High Street of Kirkcaldy, then his property. Mr Robertson having called up his money in 1842, the late Mr Hutchison, baker in Kirkcaldy, paid the same and acquired right to the bond, to which his trustees at his death succeeded. Those trustees, in the year 1861, having become desirous to wind up the trust-estate of Mr Hutchison, Mrs Jane Hutchison or Tod, at Martinmas of that year, paid the sum in the bond, and obtained an assignation thereto.

In the year 1847 Mr Andrew Fleming conveyed the subjects, over which the present and a previous bond for £1000 extended, to the late Mr Imrie of Haughmill and Bankhead. These bonds were made to form part of the price of the subjects in question. Andrew Fleming was thus in the year 1847 feudally divested, and in the same year was discharged of his personal obligations under the sequestration of his estates. Alexander Fleming continued to occupy a considerable part of the subjects, and to take charge of the remaining portions from 1847 to 1858 on behalf of his father-in-law, Mr Imrie. Of the latter date, Mr Imrie sold the subjects to Alex-

ander Fleming, who undertook to pay the two bonds of £1000 and £500 as part of the price.

In the year 1849 the late Mr Imrie and his son, Mr Robert Imrie, granted a bond of corroboration in favour of the late Mr Hutchison, in consequence of the security over which the £500 bond had extended having been somewhat lessened. Mrs Tod had, by the conveyance of her father's trustees, acquired right not only to the original bond, but to the bond of corroboration by the Messrs Imrie. That lady did not formally call up the principal sum due under these bonds till 8th June 1865, but continued to receive from Alexander Fleming, from 1861 to 1865, payments to account of interest. Of the latter date, however, she resolved to call up the sums due under the bonds, and accordingly caused intimation and requisition to be made to Alexander Fleming and Imrie's trustees. On 9th October 1865, Imrie's trustees found it necessary, to save diligence, to pay Mrs Tod the principal sum, interest and expenses, and to take an assignation to the bond and to the instrument of intimation, requisition, and protest. Imrie's trustees thus, in right of the bond and steps of procedure taken in virtue of it, repeated their demands to Alexander Fleming to relieve them of the sums paid by them. Failing in this, the trustees caused the subjects to be advertised for sale in virtue of the powers under the bond. The sale, however, which was to have taken place on the 1st December 1865, was interdicted under a suspension at the instance of Alexander Fleming. The grounds of suspension were that Mrs Tod's title was bad, as flowing from her late father's trustees, of whom she was one, and that the intimation was also bad from edictal intimation not having been given to Andrew Fleming, though that individual had been feudally divested and discharged so far back as 1847. When the suspension was presented, the sums claimed by Imrie's trustees from Fleming were deposited in the Bank of Scotland on deposit-receipts, in name of Alexander Fleming, Alexander Gow (now somewhat connected with the property), Mrs Tod, and Imrie's trustees. The deposit-reciepts were in the following terms:—

"*Deposit-Receipt.*

"£538, 16s. *Bank of Scotland Branch, Kirkcaldy, 5th January* 1866.

"Received from Messrs Alexander Fleming, cabinet-maker, Kirkcaldy, and Alexander Gow, innkeeper there; and Jane Tod, relict of Robert Tod, shipmaster, Kirkcaldy, and George Turnbull, shipbroker, Kirkcaldy, as trustees of the late William Hutchison, baker, Kirkcaldy; and Robert Imrie, residing at Bankhead, of Balcurvie, David Houston, residing at Windeygates, David Watson, residing at Markinch, and William Watson, ironmonger, Kirkcaldy, as trustees of the late David Imrie, tenant, Haughmill, Five hundred and thirty-eight pounds sixteen shillings sterling, which is placed to their credit on deposit-receipt.

"For the Governor and Company of the Bank of Scotland.

No. 14,911 A. G. Morgan, *Agent.*
108

Entd. J. G.

"When money is to be drawn, this receipt must be returned with the signature of the depositor on the back."

"*Deposit-Receipt.*

"£29, 17s. *Bank of Scotland Branch, Kirkcaldy, 5th January* 1866.

"Received from Messrs Alexander Fleming, cabinet-maker, Kirkcaldy, and Alexander Gow, innkeeper there; and Jane Tod, relict of Robert Tod, shipmaster, Kirkcaldy, and George Turnbull, shipbroker, Kirkcaldy, as trustees of the late William Hutchison, baker, Kirkcaldy; and Robert Imrie, residing at Bankhead, of Balcurvie, David Houston, residing at Windeygates, David Watson, residing at Markinch, and William Watson, ironmonger, Kirkcaldy, as trustees of the late David Imrie, tenant, Haughmill, Twenty-nine pounds seventeen shillings sterling, which is placed to their credit on deposit-receipt.

"For the Governor and Company of the Bank of Scotland.

No. 14,912 A. G. Morgan, *Agent.*
107

Entd. J. G.

"When money is to be drawn, this receipt must be returned with the signature of the depositor on the back."

The complainer made the following statement in regard to the sums consigned:—"The complainer, on 22d September last, sold part of the subjects to Mr John Strachan, merchant, Kirkcaldy, for £1255, leaving in his own hands a remainder worth about £1000. Mr Strachan is quite ready to pay down the price on receiving a clear title; but the proceedings of the respondents, and the difficulties created by them, have impeded the settlement of this matter. The complainer now tenders payment of the sum in the bond, and interest to the date of payment; and he has consigned the amount in bank. He has also consigned a sum to meet any expenses properly demandable from him, and will pay the same when ascertained."

The respondents answered this statement as follows:—"Not known that Mr Strachan has purchased a part of the subjects. Reference is made to the receipts for the consigned moneys for their terms and purport. Denied that the complainer made the tender here stated for a discharge of the bond.

And the following correspondence took place between the parties on this subject:—

On or about 5th January 1866, the complainer's agent wrote respondents' agents a letter in the following terms:—

"5th January 1866.

"Messrs D. & D. Pearson,
Writers, Kirkcaldy.

"Sirs,—With reference to my previous correspondence, and without prejudice to any of the objections to the attempted sale, I have to inform you that there has been consigned in the Bank of Scotland here, to-day, £538, 16s., to meet the principal sum and interest upon the £500 bond now claimed by Imrie's trustees, and £29, 17s. to meet the claim for expenses. I inclose copies of the deposit-receipts. On getting a discharge by Hutchison's trustee, Mrs Tod, and Imrie's trustees, the principal sum and interest will be paid. On your agreeing to accept of that sum, I will, on your sending me the titles, prepare the necessary discharge, which shall include a discharge of the bond of corroboration.

"With regard to the expenses claimed, it seems clear that this claim is unfounded; but, in order to prevent any difficulty, my client has consigned the amount.

"I trust that you will now send me authority to get up the disposition by Mr Imrie. If this is not done immediately, my client will hold all concerned liable in damages.—I remain, &c.

(Signed) "Thos. Jackson."

On or about 13th January 1866, the respondents' agents replied to the said letter of 5th January in the following terms;—

"13th January 1866.

"Thomas Jackson, Esq.,
Writer, Kirkcaldy.

"SIR,—We have received your letter of the 5th curt., and beg to state that Imrie's trustees will procure, in favour of your client, the discharge required by him from Hutchison's trustees, Mrs Tod, and Imrie's trustees, on payment of the principal sum in the bond and interest, and on payment also by your client of the expenses, or of such part thereof as may be found due to them by the auditor of the Court of Session, the auditor of the Sheriff-court of Fife, or any other professional gentleman to whom you and we may agree ro refer the question of your client's liability for these expenses.

"On hearing from you that you agree to either of the courses proposed, we shall send you the titles, that you may prepare the discharge and a draft of the proposed minute of reference. We presume the gentlemen to whom the matter of expenses may be referred would dispose of the question in a single day, and without incurring the delay and expense of proceedings, as in a formal submission.—Yours, &c. (Signed) "D. & D. PEARSON."

On 15th January 1866 the complainer's said agent again wrote the respondents' agents a letter, in which he said, "I have your letter of the 13th inst. *Hoc statu*, the proposal contained in it cannot be agreed to.

"The process of suspension and interdict at the instance of Mr Fleming against Imrie's trustees depends in part on the proceedings for which you claim expenses. It would therefore, in my opinion, be improper to deal partially with that process."

Farther, in said letter, the complainer's said agent, in reference to the foresaid arrangement of March 1865, wrote as follows:—"The object of my letter of the 5th inst. was, without prejudice to the process of suspension, to carry out the agreement between Mr Imrie's trustees and Mr Fleming, about which I understand there is no difference. That ageeement I have not access to, but, if I rightly recollect its terms, it was conditional upon Mr Fleming paying the £500 bond by last term. I understand from our correspondence that advantage is not to be taken by your clients of that condition not having been in terms fulfilled. If I am right in this, I shall expect the titles to the security in the course of this day, so as the agreement may now be carried out. If I do not *so receive* the papers, I shall assume that the agreement is held by you at an end, and shall accordingly proceed to have such questions as exist between your clients and mine brought to an issue.—Yours, &c.,

(Signed) "THO. JACKSON."

The Lord Ordinary (MURE) pronounced the following interlocutor:—

"The Lord Ordinary having heard parties' procurators, and considered the closed record, and productions: Finds (1) that the title under which the respondents were proceeding to effect a sale of the property in question was not a valid title to the bond; and (2) that prior to the date of the proposed sale, intimation had not been duly made in terms of the bond: Therefore, and to that extent, sustains the reasons of suspension and interdict: Declares the interdict perpetual, and decerns: Finds the respondents liable in expenses, of which appoints an account to be given in, and remits the same, when lodged, to the auditor to tax and report.

"*Note.*—Although the position of the respondents, as alleged creditors under a bond, with reference to which they appear to have stood in the position of debtors in a relative bond of corroboration, is peculiar, and the personal obligation in the bond of corroboration may thereby be extinguished; the Lord Ordinary, having regard to the fact that the bond was granted over subjects of which the complainer is the alleged proprietor, and still affects these subjects, is not prepared to say that it would have been incompetent for the respondents to take steps to realise their security out of those subjects, if they could have shown a good title to the bond. But it is unnecessary, in the view the Lord Ordinary takes of the respondents' title, to deal with the question raised under the bond of corroboration, because it appears to him that the sale in question is objectionable, in respect (1) that the title under which it is proposed to sell the property is not a good title to the bond; and (2) that the proposed sale was not preceded by intimation duly made in terms of the bond.

"1*st*. With reference to the first of these points, it appears to the Lord Ordinary that the title is objectionable, as flowing from Mrs Hutchison, whose own title was one derived from herself, as one of Hutchison's trustees. The fact that such was the nature of the title was admitted, and the general doctrine upon which the objection is rested was not seriously disputed. But it was argued that, as this was not a sale of the property, but a mere conveyance or assignation of a bond by trustees to one of their own number, upon the advance of the principal sum due under the bond, there was nothing to raise any presumption of fraud, or any suspicion of a trustee having means of information which he might exercise to the prejudice of the trust; and that there was therefore no room for the application of the rule in respect of which sales by trustees to a co-trustee are considered illegal. But the Lord Ordinary is unable to see any solid ground for this distinction. The general rule is, that a trustee cannot enter into contracts with the trust-estate; and as the principle has been held to apply to every case in which a party has a personal interest "which possibly may conflict" with the interests of the trust—and it appears to the Lord Ordinary that cases of such conflict may occur with reference even to transactions for the transference of an heritable bond by trustees to one of their own number—he does not feel himself warranted in holding that such transactions are not affected by the rule.

"2*nd*. With reference to intimation, the bond seems to be express to the effect that that must be made to the original debtor, his heirs, executors, and successors. Now, the original debtor is admittedly still alive, and, although out of the country, there is provision made by the bond for intimation at the Market Cross of Cupar in the case of parties so situated. This, however, was not done, and, in these circumstances, the Lord Ordinary does not think that intimation made to the complainer in respect of his interest in the matter, or the dispensation with intimation on the part of the respondents as parties also interested, can be held to supersede the necessity of making intimation in terms of the bond.

"Such being the view which the Lord Ordinary takes of these objections, he has considered it unnecessary to enter into the further questions, whether in respect of the consignation of money made

by the complainer, he would have been entitled to have the sale interdicted."

Imrie's trustees reclaimed.

LORD ADVOCATE (GORDON) and SCOTT for them.

MONRO and SHAND in answer. In addition to the pleas relied upon in the Outer-house, they maintained that, as Imrie's trustees were the proper debtors in the bond of corroboration, and had paid the same, they could not take proceedings against Fleming under the bond for recovery of the sums they had paid—in fact, that the doctrine of confusion barred them from recovering the sums they had paid by a sale of the subjects.

At advising—

LORD JUSTICE-CLERK—In this case the Lord Ordinary held that the proposed sale of certain subjects in Kirkcaldy, embraced in an heritable bond granted by Andrew Fleming in July 1836, then proprietor of the subjects, for £500, in favour of Alexander Robinson, and sought to be brought to sale under a power contained in the bond, should be interdicted, and that on two grounds. *First*, that notice had not been given of the intended sale to the granter of the bond, Andrew Fleming; and *secondly*, that there is a flaw in the title of the parties giving the notice to sell, arising from the fact that their immediate author, Mrs Hutchison, acquired right from herself and the other trustees of her deceased husband, such a transmission being in the view of the Lord Ordinary null and void. I do not concur in these views, or in either of them. Andrew Fleming, the granter of the bond, was sequestrated and discharged of his debts due previous to the sequestration, so far back as 1847. He had been divested prior to his bankruptcy of his right to the property in favour of the late David Imrie, whose trustees are respondents. David Imrie and his son, in November 1829, executed a bond of corroboration in favour of the late Mr Hutchison, then holder of the security, by which they came under a joint and several obligation to pay the debt. There remained no fragment of interest in Andrew Fleming, and he had nothing to do with the subjects or the debt. He was not liable in the debt, and he had no right in the subjects. It would have been a perfectly vain and idle ceremony to have given notice to him. But it is said to have been a condition agreed to in the bond that if the subjects should be brought to sale, he should have a notice and a requisition to pay, either personally if in the country, or by notice at the market-cross of Cupar if furth of the country; and that is said to be, by the conception of the bond, a necessary condition of the exercise of the power of sale. This objection arises, in my view, from a misconstruction of the clause. In stipulating for notice to himself or his successors, I hold that the word "successors" is to be construed as his successors in the right of the subjects, whether their right should be acquired by succession to him, or by the acquisition of the right by transmission *inter vivos*. The successor in the proprietary right, as the person whose property was about to be sold, was surely entitled to notice; and unless the expression is read as applying to him, the provision would be unmeaning. In this case his successors in the right, in the sense of the clause, were the actual proprietors of the subjects at the time when the notice was to be given; and if notice was given to them, the condition was, in my view, complied with. Similarly, in the immediately preceding condition as to a power of redemption, notice is to be given by the granter or his foresaids, *i.e.*, his heirs or successors,—in which it is impossible to read successors otherwise than as successors in the right of property; for no other party than the actual proprietor could be in a situation to clear off the tendered payment. The provision as to sale is almost part of the same sentence. The second objection was, that the right to the £500 security was acquired by the respondent from Mrs Hutchison, an assumed trustee on her husband's estate, and that this was a transmission incapable of being sustained in law. It appears that Mrs Hutchison actually acquired and paid for a transfer of this security from the trust-estate of her husband prior to her being assumed as a trustee. The consideration was paid to the trustees at Martinmas 1861, and her assumption to the office of trustee was in June 1862. Thus, the trustees in granting the title were merely performing an obligation, which they could not resist, in favour of a party who had an unquestionable right to have that title completed, and the nature of the transaction is therefore exempted from a shadow of objection. If this specialty had not existed, I could not have viewed the transfer as null and void. The transfer of an heritable security for the amount in the security is not even of a suspicious character. There is certainly no inherent *nullity* in such transactions. They may be voidable where the interests of beneficiaries have been prejudiced. Here it is difficult to conceive a case of prejudice to these interests, or any possible contingent challenge. The objection of the suspender, if good for anything, would present itself, not as a case of nullity in the title, but as a ground for preventing the sale, as injuring the interests of the suspender from possible doubts of purchasers as to the validity of the title—a question to be solved by different considerations altogether, and which, if viewed in that aspect, would not in this case justify so strong an act as interdicting the sale by parties otherwise entitled to carry it through. I see no ground for reasonable apprehension of a defect in the title. The suspender has stated, in the argument before us, two other pleas. The first, that notices, in the form of a requisition to pay, have not been given, because the proprietors feudally vested in the subject were not served with such requisition and notice, but dispensed with it; and, moreover, because, in dispensing with it, they held notice to have been given as of a date prior to that of the dispensation. It is sufficient to say, in answer to this objection, that the party who was then in the right of the heritable security, and proceeding to sell, was Mrs Hutchison; and that in obtaining from the parties feudally vested in the subjects this dispensation and acknowledgment, she acted in perfect conformity with practice and with legal principle.

There remains another and separate objection, viz., the extinction of the debt due under the bond *confusione*. The respondents, pressed by the creditors in the bond, acquire right to the security. They are creditors, it is said, in the obligation, *qua* proprietors; and in acquiring the security they are said to have made themselves debtors in the pecuniary obligation to which they have the right of debtors, so it is said the debt is extended, and the accessory security falls. This would have a very singular result, for the property would thus be disburdened of debts heritably secured over it to the amount of £1500, and, instead of being secured in such real debt, they would have a mere personal claim against the suspender.

The intention of the parties to the transfer was to keep up the debts and securities. The form of the transaction is assignation, not receipt. This may not be conclusive, but it is an element in the question. But that there has been a confusion seems to me made out by this, that at the time of the acquisition of the right to the real security there are adverse interests which prevent the absolute identity of debtor and creditor. The suspender has a personal right to the property contingent upon fulfilment of the simple condition of paying £100 of the price. The suspender says that he has purified the condition, and is entitled to delivery of the disposition which has been executed; at all events, he has a personal right to the property, and his feudal right may be at any time completed. The respondents in acquiring a right to a security over the property, acquire a right which, if the suspender should complete his will, would be instantly available as a burden on that right. There is no concurrence therefore of the full right, real and personal, to the property, and to the burden of the real security over it. There are different rights in the subject which may be brought almost immediately into conflict, and thus I hold the doctrine of *confusio* inapplicable. The consignation may obviate the sale, and on this and the terms on which it is offered, parties should be heard.

The other judges concurred.

The following interlocutor was pronounced:—

"*Edinburgh, 28th Jan,* 1868.—The Lords having heard counsel on the reclaiming note for Robert Imrie, &c., recal the interlocutor reclaimed against; repel the reasons of suspension, except in so far as they regard the consignation set forth in the record; and continue the cause that parties may be heard in reference thereto. Meanwhile reserve all questions of expenses.

(Signed) "GEORGE PATTON, *I.P.D.*"

The case was to-day taken up on the question of consignation and expenses.

After hearing parties, the Court were unanimously of opinion that there was no proper consignation, nor sufficient tender to stop proceedings, and that it could not be dealt with to the effect of stopping the sale. The complainer might now pay the bond and interest due, and render the sale unnecessary.

The respondents were accordingly found entitled to expenses.

Agents for the Complainer—Duncan, Dewar, & Black, W.S.

Agents for the Respondents—D. Crawford and J. Y. Guthrie, S.S.C.

Wednesday, February 12.

FIRST DIVISION.

GLASGOW GAS LIGHT CO. *v.* BARONY PARISH PAROCHIAL BOARD.

Agreement—Poor-rates — Assessments—Repetition—Interest. Circumstances in which *held* that a public company had paid poor-rates assessed by a parochial board, on the footing that the board should repay such part of the assessment as might, according to a decision to be ultimately pronounced in an action then depending between the Company and another board, be found to be illegally imposed. *Held* that interest was due by the board on the sums overpaid. Opinion as to rate of interest.

These were conjoined actions of suspension and interdict and repetition, at the instance of the Glasgow Gas Light Company against the Parochial Board of the Barony Parish of Glasgow, the collector of parochial assessment, and the inspector of poor of that parish. It appeared that the Gas Light Company having appealed against an assessment imposed upon them by the respondents for poor-rates for the year from May 1855 to May 1856, on the ground that, in estimating the annual value of their lands and heritages, sufficient allowance had not been made to them for the annual average cost of the repairs, insurance, and other expenses necessary to maintain their property in their actual state, and all rates, taxes, and public charges payable in respect of the same, in terms of the 37th section of the Poor Law Act, 8 and 9 Vict., c. 83, and the respondents having dismissed the appeal, and threatened to enforce payment by poinding or otherwise, the Company threatened a suspension and interdict. A similar question was then depending in Court between the Company and the City Parish of Glasgow under a note of suspension and interdict at the instance of the Company against the Board of the City Parish, in which the Lord Ordinary had passed the note upon payment in the meantime of the rates charged for, and the charger undertaking to repeat the whole of the rates or such part as might be found to have been illegally imposed. In order to avoid unnecessary litigation, the Company and the respondents, in these circumstances, entered into an agreement dated 17th July 1856. That agreement narrated the assessment, the appeal to the Board, the dismissal of the appeal, the threats of litigation, the dependence of a similar question in Court between the Company and the City Parish of Glasgow, the interlocutor of the Lord Ordinary above set forth, and proceeded:—"And whereas it has now been agreed between the said first party and the Parochial Board of the said Barony Parish of Glasgow that the decision to be ultimately pronounced in the said action of suspension and interdict at the instance of the said first party against the Parochial Board of the said City Parish of Glasgow, shall be held as applicable to the assessment for poor-rates on the said first party within the said Barony Parish of Glasgow: therefore the said first party hereby agrees to pay to the collector of the poor-rates for the Barony Parish of Glasgow the foresaid sum of £361, 0s. 2d. sterling; and, on the other hand, the said John Meek, inspector foresaid, for himself, and as specially authorised by the said Parochial Board of the said Barony Parish of Glasgow, hereby agrees to hold the decision to be ultimately pronounced in the said action of suspension and interdict at the instance of the said first party against the Parochial Board of the said City Parish of Glasgow, as applicable to the assessment leviable on the said first party within the said Barony Parish of Glasgow, and as regulating and fixing the principles on which the allowances to be given to the first party for repairs, insurance, and other expenses necessary to maintain their property assessed, and the rates, taxes, and public charges payable in respect of the same, and the amount of such allowances are to be ascertained, and the assessable rental or value of the first party's lands and heritages fixed: And the said John Meek binds and obliges himself, as inspector foresaid, and the said