tain rights-of-way is entrusted by the Local Government Act of 1894 to District Committees of County Councils. This action puts it on the District Committee to consider whether it was their duty to defend the action. They did consider the question, and decided that as there was nothing in the action which would prejudice the interests of the public, it was not their duty to defend it. There is nothing in the statute which in such circumstances entitles a subordinate body such as a Landward Committee to take on itself a duty entrusted to another public body.

LORD PEARSON—I am of the same opinion. The question in this case is under section 42 of the Local Government Act of 1894, which lays on the District Committee the duty of protecting public rights-of-way. Section 29 is the only section that gives the Parish Council any spending power in the matter of public ways. But that section is limited to repair and maintenance, and I do not think it gives the Parish Council any power to use public money in the vindication of rights-of-way. The only standing which the Parish Council has in the matter of rights-of-way is the limited right conferred on it by section 42, sub-sec. 2, of making representations to the District Committee.

The Court pronounced this interlocutor—

"Recal the said interlocutor [of 16th October 1905] in so far as it finds the said defenders the Landward Committee of the Parish Council of Inveresk liable in expenses, and in lieu thereof find the said Committee liable in expenses since the date of the lodging of the minute, No. 8 of process: *Quoad ultra* adhere to the said interlocutor and decern: Find the said Committee liable in expenses since the date of the interlocutor reclaimed against, and remit the account thereof and of the expenses above found due since the date of the lodging of the said minute to the Auditor to tax and to report."

Counsel for the Defenders and Reclaimers —Munro—W. T. Watson. Agents—M. J. Brown, Son, & Company, S.S.C.

Counsel for the Pursuers and Respondents — Scott Dickson, K.C. — C. D. Murray. Agents—Melville & Lindesay, W.S.

Thursday, June 14.

FIRST DIVISION.

[Sheriff Court at Peebles.

THE IMPROVED EDINBURGH PROPERTY INVESTMENT BUILDING SOCIETY *v.* WHITES.

Process — Pursuer — Designation — Address of Pursuer (a Society)—"Building Society Incorporated under the Building Societies Act 1874"—*Sheriff Courts Act* 1876 (39 *and* 40 *Vict. cap.* 70), *sec.* 6.

In a petition in the ordinary Sheriff Court the pursuer was designed as "The Improved Edinburgh Property Investment Building Society, Incorporated under The Building Societies Act 1874," no address being given. *Held* that this description satisfied the requirements of the Sheriff Courts Act 1876, sec. 6.

The Sheriff Courts Act 1876, sec. 6, *inter alia*, enacts—"Every action in the ordinary Sheriff Court shall be commenced by a petition in one of the forms, as nearly as may be, contained in Schedule (A) annexed to this Act, in which the pursuer shall set forth the court in which the action is brought, his own name and designation, and the name and designation of the defender. . . ."

On 18th April 1905 "The Improved Edinburgh Property Investment Building Society, Incorporated under The Building Societies Act 1874," presented a petition in the ordinary Sheriff Court at Peebles against Anthony White, contractor, and Christina White, spinster, residing at White Bank, Peebles, with conclusions for declarator and removing in respect of certain heritable subjects situated in Peebles. No address or further designation of the pursuer was given.

On 21st July 1905 the Sheriff-Substitute (ORPHOOT) pronounced an interlocutor in terms of the conclusions of the petition, and on 23rd October 1905 the Sheriff (MACONOCHIE) adhered.

The defenders appealed to the First Division of the Court of Session, and there raised the point that the designation of the pursuer was insufficient.

Argued for the appellants—The action was incompetent, as the requirements of The Sheriff Courts Act 1876, section 6, had not been complied with, no proper designation or address of the pursuers being given on which an operative decree could follow—*Joel* v. *Gill*, November 23, 1859, 22 D. 6, *per* L.J.-C. Inglis, p. 12.

Counsel for the respondents was not called on.

LORD PRESIDENT—The point has been raised by counsel in this case that inasmuch as this is a petition under section 6 of the Sheriff Court Act of 1876, it ought to set forth the name and designation of the pursuer, and that the name as set forth here does not include a designation. We were re-

ferred to a remark of the Lord Justice-Clerk in *Joel* v. *Gill*—"I would state it as a general rule that the proper designation of any person is a statement of his present occupation and residence." No doubt that is the general rule, but I cannot say that residence must necessarily form part of the designation, which is given for the purpose of identification. In many cases no designation at all is needed. The instance of the *Bank of Scotland* was suggested in argument, and it has all along sued without an address or designation, and I have no doubt that a person like the Duke of Buccleuch could sue without an address being given. If an incorporated company gives its title under the Act there can be no room for doubt as to its identification. I am far from suggesting that a convenient practice should be departed from, but I do not think that as a matter of strict law the present petition ought to be dismissed. The objection therefore fails.

LORD M'LAREN—I agree with all that your Lordship has said. We were not referred to the clause in the Sheriff Court Act, but it requires the name and designation to be set forth. That explains why the address is given as a general rule, because the identification of an individual is imperfect without it. In the case of societies incorporated by Special Acts there was never any doubt that they could sue and be sued without the addition of a designation. The case of the *Bank of Scotland* is peculiar, because it is the oldest trading corporation in Scotland, but we often have actions before us by corporations such as railway companies which are never designed otherwise than by their names. Where a company is incorporated under a general Act you must look to its nature. I think that in the case of companies under the Building Societies Act 1874 the corporate name includes both name and designation.

LORD KINNEAR—I agree. The objection is founded on section 6 of the Sheriff Court Act 1876, which provides that actions in the ordinary Sheriff Court shall be commenced by petition setting forth the name and designation of the parties. The question here is whether the pursuers have complied with this provision of the Act. I have no doubt that they have. The description of the pursuers is quite sufficient, because it identifies the particular society that is sueing, and distinguishes it from everybody else.

LORD PEARSON concurred.

The Court dismissed the appeal, affirmed the interlocutor of the Sheriff and Sheriff-Substitute, and of new found, declared, decerned, and ordained in terms of the conclusions of the petition, with expenses.

Counsel for the Defenders and Appellants —A. A. Fraser. Agent—Stirling Craig, S.S.C.

Counsel for the Pursuers and Respondents—C. D. Murray. Agents—A. & A. S. Gordon, S.S.C.

Thursday, June 14.

FIRST DIVISION.

[Lord Dundas, Ordinary.

GLEN'S TRUSTEES *v.* THE LANCASHIRE AND YORKSHIRE ACCIDENT INSURANCE COMPANY, LIMITED.

Contract—Insurance Policy—Construction —Grammatical Error—A Negative in Proviso to a Condition Nullifying Whole Intention of Condition—Reading Proviso as if there were No Negative therein.

A policy of insurance against accident stipulated that the right to recover under it should be forfeited on the expiry of . . . from the date of the accident "unless within these periods a settlement with the insured or his representatives has been agreed upon, or his claim referred to arbitration, or in the absence of notice from the company requiring the matters in difference to be referred to arbitration, legal proceedings have *not* been taken by the insured against the company. . . ."

Held that as the whole intention of the condition was to impose a limit of time on claims, and as the presence of the word "not" in the proviso was to nullify this intention, the clause must be read omitting the "not."

On July 10, 1905, Francis Walter Allan, shipowner in Glasgow, and others, trustees and executors of the late Thomas Glen, calico printer, Glasgow, raised an action against the Lancashire and Yorkshire Accident Insurance Company, Limited, 5 West Regent Street, Glasgow, to recover, with interest from April 24, 1897, the sum of £500, contained in a policy of insurance against accident, dated October 8, 1895, which had been effected with the defenders by the deceased William James Glen, civil engineer, Main Street, Donegal, Ireland. The insured was drowned on April 24, 1897, and by his holograph settlement, dated March 2, 1890, he bequeathed to his father Thomas Glen his whole means and estate. Thomas Glen applied to the defenders for payment of the sum due under the policy immediately after the death of the insured, without effect, and died in 1898 without having raised an action against them.

The policy contained, *inter alia*, the following condition:—"(10) The right to recover payment of any capital sum insured under this policy shall be forfeited and extinguished on the expiry of six months from the date of the accident, and the right to recover payment of the weekly compensations shall be forfeited and extinguished on the expiry of nine months from the date of the accident, on the completion of which periods the liability of the company in respect of such accident shall cease and determine, unless within these periods a settlement with the insured or his representatives has been agreed upon, or his claim referred to arbitration, or, in the