

of such grave importance as to be far beyond, in its operation and effect, a mere ordinary act of administration. On these grounds, after considering the able argument addressed to us for the pursuers, I have reached the conclusion that the interlocutor of the Lord Ordinary is right.

The other judges concurred.

Agent for Pursuers—John Thomson, S.S.C.

Agent for Defender—John Ross, S.S.C.

Friday, December 13.

ROBERTSON v. MACKINTOSH BROTHERS.

*Minor—Bill—Lesion—Charge—Suspension.* Circumstances in which held that a bill had been accepted by a minor, not for his own behoof, but as manager for his father, and charge on the bill suspended on the ground of minority and lesion.

This was a suspension of a charge on a bill, the suspender being John Robertson, residing at Carrbridge, Inverness-shire, and the chargers Messrs Mackintosh Brothers, merchants in Leith. The grounds of suspension were that the bill in question was granted by the suspender while only seventeen years of age; that it was granted by him as manager for his father, who was a shopkeeper at Carrbridge and Kingussie; and that it was so granted by him at the solicitation of the chargers, who were at the time in course of accepting a composition from his father on all the claims against him, and who wished to obtain the contents of the bill in addition to the composition, with a view to obtaining a preference over the other creditors.

The answer for the chargers was that the defender had carried on, or represented himself as carrying on, business on his own account at Kingussie; that he was, or represented himself as being, major while he did so; and that the bill in question was granted by him, not for behoof of or for any debt due by his father, but for a debt properly due by himself.

A proof having been led of a somewhat conflicting character, the Lord Ordinary found for the suspender, on the ground that he was a minor; that the goods for which the bill was granted were ordered by him as his father's manager; that, therefore, he had no interest personally in the value received for the bill; and that that being so, the same must be held to have been granted to his lesion.

The Lord Ordinary explained the grounds of his judgment as follows:—The Lord Ordinary has had little hesitation, also, on consideration of the whole proof, in arriving at the conclusion that the goods for which the bill charged on, and the prior one of which it was a renewal, were accepted by the complainer for goods ordered by him as the assistant or servant of his father, and in reference, not to any business of his own, but to the business of, and carried on for, his father alone. There are many and various pregnant circumstances established by the proof which have satisfied the Lord Ordinary in regard to this matter. (1) The complainant was little more than seventeen years old when the goods were ordered and furnished. (2) The business at Kingussie, for the purposes of which the goods were ordered and furnished, was carried on in a shop, having outside and above the door, not the complainer's name, John Robertson, but the name of his father, William Robertson.

(3) The invoices or accounts for goods sold in the shop were made out and rendered in the name, not of the complainer, but of his father, William Robertson. (4) Actions in the Small Debt Court against customers were prosecuted in the name and at the instance, not of the complainer, but of his father. (5) The attempted sales in the summer of 1863, by public advertisements in the newspapers, and by printed handbills, of the business and stock-in-trade, were in the name, not of the complainer, and as for him, but in the name and as for his father. (6) The general repute and understanding in Kingussie were that the business was the father's, and not the complainer's. (7) The positive testimony to that effect of both father and son. And (8) The fact that on the insolvency of the father, the whole stock-in-trade of the business in Kingussie, and cash balances in the shops and in bank connected with that business, were taken possession of by the trustee for the father's creditor's, including the respondents, who ranked upon his estate, composed in part of said stock-in-trade and cash balances, and received dividends therefrom on the express footing that the business at Kingussie was the father's. His Lordship also held that the respondents had failed to prove their counter case—that the complainer had represented himself as being major and as being in business for himself.

The chargers reclaimed.

GIFFORD and ASHER for them.

SOLICITOR-GENERAL and MACLEAN in answer.

At advising—

Their Lordships held that it was proved that the minor had no interest in the Kingussie business except as manager for his father; and that, that being so, there was here proved that absence of consideration which constituted lesion, and was sufficient to let in the plea of minority. With regard to the alleged misrepresentation by the minor, it was necessary that such a case, if it was to be made at all, should be made out clearly. There was here some conflict of evidence on that subject; but, on the whole, the charge of misrepresentation was not made out; and it rather appeared that the chargers had themselves to blame for their misapprehension of the suspender's position, if such misapprehension existed.

Agent for Complainer—W. B. Glen, S.S.C.

Agents for Respondents—Murdoch, Boyd, & Co., W.S.

Friday, December 13.

WATT v. BENSON & CO.

*Employment—Railway Stock—Balance of Loss on Transactions.* Circumstances in which held that a party who employed merchants in London to buy and sell railway stock for him, was liable under his employment to relieve the sellers of a balance of loss on the transactions.

This was an advocacy from the Sheriff-court of Lanarkshire. The facts are these:—In February 1866 Watt, the defender and advocator, employed the respondents, who are merchants in London, to buy and sell on speculation certain American railway stocks, which they accordingly did, and on which transactions, extending from 12th to 27th February 1866 inclusive, there arose a loss or difference against the advocator of £516, 17s. 6d.