them were only in behalf of Kinnell. In September she removed to Forfar, and on the 15th she went to Kinnell and applied for relief. The respondent was at the time in Edinburgh on duty, but his wife saw Lyell, and learned from her that she was going into service. The respondent's wife took a slate to write her address on, but "the slate," she said, "was pre-occupied." On her husband's return on the 20th she informed him of Lyell's application, but could not recollect her address, and on 16th October the petition was served upon him. He stated in his defence that the minister acted for him in his absence; but his wife said she had not understood any one was acting for her husband.

The Sheriff-Substitute (ROBERTSON) pronounced the following interlocutor:—

"*Forfar, 25th November*, 1869.—The Sheriff-substitute having made avizandum with the petition, answers thereto, proof, and whole process, Finds, in point of fact, that at the date when the petitioner applied for parochial relief from the respondent, she was admittedly a proper object of parochial relief, and that her parish of settlement was admittedly that of Kinnell: Finds that at the date when she applied for relief she was not residing in the parish of Kinnell, but in the parish of Forfar: Finds that the application to the respondent was uncalled for, and that the petitioner might have applied for relief in the parish of Forfar, where she was residing: Finds that the petitioner has failed to prove that she was refused relief by the respondent: Finds that the circumstances under which her application to the respondent received no response do not warrant the raising of the present action: Therefore dismisses the petition; finds no expenses due to or by either party; and decerns.

"*Note.*—The petitioner, when resident in Forfar, instead of applying to the inspector there, takes an unnecessary journey to the parish of Kinnell. She happens to find the Inspector from home, and, unfortunately, his wife forgets the address left by the petitioner, who returns to Forfar. Then, instead of writing to the respondent, or instead of applying to the Forfar inspector, she appears to have done nothing for a month, and then to have raised this action.

"All this might have been obviated by the petitioner doing what she was quite accustomed to do before,—namely, by applying to the inspector of the parish she resided in.

"The Sheriff-Substitute thinks that it would be straining the equitable reading of the statute to say there was a refusal of relief in this case, and he is not inclined to allow the petitioner her expenses."

The petitioner appealed.

BURNET for her.

FRASER in answer.

The Court adhered.

The law recognised no right in a pauper to enforce relief in this manner. It provided a way. And it was the duty of the Court to discourage the incurring of expense. There had been an irregularity no doubt; the inspector should not have been absent without appointing a substitute to act for him. But it was doubtful whether the respondent really needed relief as she was in service, and had waited a month before renewing her application.

Agent for Petitioner—John A. Gillespie, S.S.C.

Agent for Respondent — Neil M. Campbell, S.S.C.

Friday, March 18.

GLASGOW UNION RAILWAY CO. *v.* M'EWEN AND CO.

Compensation — Notice — Landlord—Lease—Tenant.

Held a landlord could not, by granting a lease to a tenant subsequent to receiving notice that a railway company were going to take part of his property, give the tenant a right to get compensation from the company.

The City of Glasgow Union Railway Act, under which the complainers' company is incorporated, embodies the Lands Clauses Consolidation Act 1845; and in compliance with its provisions, the complainers served a notice upon the proprietors of certain subjects on 22d October 1868, that the premises would be required for the purposes of the railway. The respondents are tenants under these proprietors; and on 29th January 1869, they were duly warned to remove at Whitsunday following. Shortly before Whitsunday the respondents intimated to the complainers that they were lessees of the subjects for a longer period than a year, and made a claim for compensation. The complainers refused to grant this compensation, alleging that when the respondents received notice of removal they were only tenants by the year under a verbal lease. The respondents replied that though their lease was only dated 4th February 1869, it was in implement of a prior promise to grant a three years' lease from Whitsunday 1868. A note of suspension and interdict was thereon presented by the Railway Company to have the respondents interdicted from proceeding with the claim.

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

"*Edinburgh, 5th January* 1870.—The Lord Ordinary having heard counsel for the parties, and considered the closed record and proof, sustains the reasons of suspension, suspends the proceedings complained of, declares the interdict formerly granted perpetual, and interdicts, prohibits, and discharges, in terms of the prayer of the note of suspension and interdict, and decerns: Finds the respondents liable in expenses; allows an account thereof to be given in, and, when lodged, remits to the Auditor to tax and report.

"*Note.*—The suspenders' company was established by their Act of 1864, and in 1867 their time for taking lands was prolonged till the 29th July 1869. On 22d October 1868 the suspenders gave notice to Stewart & Co. that they were to take for their railway the property belonging to them, of part of which the respondents allege themselves to be lessees under a three years' lease from Whitsunday 1868.

"In October 1868, when the suspenders gave their notice, no written lease was in existence. The respondents had been tenants of the premises under a lease for three years from Whitsunday 1865, but no second lease had been made out, and after Whitsunday 1868 the respondents were possessing without a written lease. It appears that, in the end of 1867 and beginning of 1868, communings took place between the respondents and Stewart & Co. with a view to a new lease for another three years. But, even if there had been a definite verbal agreement, it seems to be clear that, in that state of matters, neither party was bound for more than a year; and thus, that the respondents began to possess at Whitsunday 1868,

and continued to possess in October 1868 merely upon a lease for a single year. The very contemplation of having a written lease ultimately made out is unfavourable to the view that anything was irrevocably fixed.

"On 29th January the respondents were warned, by the usual burgh ceremony of chalking of doors, to remove at the ensuing term from the property occupied by them, and at this date still the respondents had no written lease.

"On the 4th of February thereafter the lease now founded upon was executed by Stewart & Co.; and the question thus arises, Whether the respondents are to be dealt with as validly vested with a tenancy for three years, or whether the suspenders have not acquired the subjects by their statutory notice, free from any lease extending beyond the then current year ending at Whitsunday 1869?

"The questions that have here arisen are partly questions of fact and partly questions of law. The respondents say that, in point of fact, they knew nothing of the railway company's rights until after they had obtained the lease in February 1869; and they argue that at that time Stewart & Co. were still the undivested proprietors of the subjects, and thus entitled to grant them such a lease.

"They further argue, in point of law, that even if they had known of the railway company's proceedings, they were not bound to regard them, in consequence of what had previously passed in their verbal communications with Stewart & Co.

"The Lord Ordinary thinks that the questions of fact and law are a good deal mixed up together.

"The giving of notice to take lands by a railway company has been assimilated to a concluded contract of sale. But the Lord Ordinary thinks that it is something more than a mere private contract would be. The passing of the Act establishing the railway, the scheduling of the properties intended to be taken, and the notoriety generally attending the company's proceedings, give a publicity to this matter which would not attach to the execution of private missives of sale. Further, when the notice given by the railway had been followed, as here, by a formal warning to remove, it is impossible to conceive that after that the respondents were in ignorance of what was going on. The Lord Ordinary is willing to take as favourable a view of the evidence as possible for the respondents, and to hold that, in the multiplicity of proceedings that took place at that time, the officials examined for the suspenders may have been forgetting or confounding some things that took place. But it is certain that a warning to remove was given, and that the respondent M'Ewen, if not then present, heard of it next day from his shopman. He cannot be allowed, it is thought, to plead ignorance of its meaning, or of its connection with the railway company's proceedings, which, as they involved the removing of many other parties, must have excited a considerable sensation in the neighbourhood. It cannot be overlooked that the respondent immediately afterwards hurried on the preparation of the lease, and it is remarkable that, though in communication with his own agent, he did not tell him of the warning to remove until after the lease was obtained. He says also that he never spoke on the subject to the landlord, from whose actings, in some way or other, the warning must have proceeded. Any ignorance existing in such a state of things is very like knowledge.

"In these circumstances, the Lord Ordinary cannot but hold that when the respondents obtained the only lease they have, they did so with such knowledge of what was going on as to preclude them from altering the state of matters, to the prejudice of the suspenders. Stewart & Company could not lawfully do so, and the respondents should not have been parties to the attempt.

"If the lease thus obtained is taken out of the way, it seems quite clear that the respondents have no case. A verbal agreement of lease for more than one year is not binding upon either party, except for that year. It is clearly not valid against a singular successor. The railway company are not bound to implement such an agreement, or to compensate the respondents for its being disregarded."

The respondents reclaimed.

MONCRIEFF and BALFOUR for them.

SOLICITOR-GENERAL and WATSON in answer.

At advising—

LORD-PRESIDENT—There are really some nice points in this case; but it just falls short of raising them. The Railway Company gave notice in October 1868 of their intention to take these subjects; and I am satisfied it was possessed by the tenants in January 1869 at least. There was then no lease. The premises were held by the reclaimers under a verbal contract; and the Company were therefore entitled by statute to acquire the land on payment of compensation to the landlord alone. They were exempted by statute from the necessity of compensating the tenants; and the question arises, whether a landlord and tenant can, by laying their heads together and concocting a lease, defeat this provision? I do not wish to say anything disagreeable; but to do so was a fraud. But I will confine myself to calling it a legal fraud; for there was no moral fraud in the transaction. There is a general feeling that it is perfectly justifiable to "do" a railway company. And that was the nature of what took place here. It is said the Messrs Stewart were bound to grant this lease; but it is admitted that they were only bound to do so *in foro conscientiæ*. There may have been a promise to grant the lease to be fulfilled; and the lease so granted might be a good lease in a different question. But the Railway Company were in the position of purchasers of the subjects, and the proprietors, having sold the subjects to them, were not entitled to do anything to defeat their rights. I therefore think the Messrs Stewart were not bound to grant this lease; and I am for adhering to the Lord Ordinary's interlocutor.

The other Judges concurred.

Agents for Complainers—Murray, Beith & Murray, W.S.

Agents for Respondents—Graham & Johnston, W.S.

Friday, March 18.

SPECIAL CASE—GRAY *v.* WADDELL.

Provisions—Vested Interest—Postponed Vesting—Term of Payment—Assignation. A truster, in his trust-disposition and settlement, directed that "the shares or provisions of said residue to his said daughters should become vested interests on their being married or attaining the age of twenty-one years complete, which ever event should first happen, and should become payable to them at the first term of Whitsunday or Martinmas that should happen