

investiture following thereon," then the tailzie shall be invalid and ineffectual as regards all the prohibitions. The present is not the kind of case provided for by that enactment. The objection is not to the validity of any one or more of the prohibitory clauses, if there be a tailzied destination. The objection is that there is no tailzied destination, and consequently that, although there is no defect either in the entail or the investiture as regards the prohibitory clauses, there is nevertheless no entail. That is precisely the question to which I have already addressed myself, and which I need not resume.

The other Judges concurred.

The Court accordingly pronounced the following interlocutor:—

"The Lords having resumed consideration of the reclaiming-note for the pursuers against the interlocutor of Lord Gifford, Ordinary, dated 10th June 1873, with the record as amended since the date of the said interlocutor, proof adduced, and whole process, and heard counsel—Recall the said interlocutor: Find that the erasures, interpolations, and superinductions occurring in the Crown charter, No. 16 of process, have not in law the effect of invalidating the entail of the lands of Dundonnell and others, and had not the effect of freeing the late Hugh Mackenzie, as institute of tailzie, from the fetters of the said entail; therefore assoilzie the defenders from the whole conclusions of the libel, and decern: Find the defenders entitled to expenses in so far as not already disposed of: Allow an account thereof to be given in, and remit the same when lodged to the Auditor to tax and report."

Counsel for Pursuer—Dean of Faculty (Gordon), J. M. Duncan, and Rhind. Agent—Robert Menzies, S.S.C.

Counsel for Defender—Solicitor-General (Clark), Balfour, and Hunter. Agents—Skene, Webster, & Peacock, W.S.

Saturday, January 31.

### FIRST DIVISION.

COLIN MACCULLOCH, PETITIONER.

Act 36 and 37 Vict. c. 63—Notary Public—Exchequer Fees.

Held that a law agent, enrolled in terms of the Act 36 and 37 Vict. c. 63, is only bound to pay the stamp-duty of £20 on enrolment as notary public.

Mr Macculloch, solicitor in Greenock, enrolled law agent in terms of the Act 36 and 37 Vict., cap. 63, presented the following petition to the First Division.

"That of this date (Jan 7, 1874), your Lordships admitted the petitioner to the office of a notary-public, and remitted to the Clerk to the Admission of Notaries, to mark his protocol, and take his declaration *de fidei administratione*, and granted warrant to the said clerk to enrol him as a notary-public.

"That the petitioner having applied to the said Clerk to the Admission of Notaries to enrol him as a notary-public, [the said Clerk refuses to do so except on payment of the

sum of £11, claimed by the Queen's and Lord Treasurer's Remembrancer as fees due to Exchequer on the admission of every notary, stating as his ground for such refusal that the said Remembrancer has intimated to him that he is bound to collect and account to Exchequer for said fees. That the petitioner submits he is entitled, in virtue of sect. 18 of the Act 36 and 37 Vict., cap. 63, to be enrolled as a notary-public on payment only of the stamp-duty of £20 presently exigible by law from a notary-public on admission, without any further payment to Exchequer.

"May it therefore please your Lordships to grant warrant for service of this petition upon the said Clerk to the Admission of Notaries, and upon the Queen's and Lord Treasurer's Remembrancer, and to ordain them to lodge answers thereto, if so advised, within four days after service; and on resuming consideration hereof, with or without answers, to ordain the said Clerk to the Admission of Notaries to enrol the petitioner as a notary-public on payment of said stamp-duty of £20, and in event of opposition hereto, to find the party opposing liable in expenses; or to do otherwise in the premises as to your Lordships shall seem proper."

The Court ordered intimation of the petition to be made to the Queen's and Lord Treasurer's Remembrancer, and continued the case in order to give him an opportunity of lodging answers if so advised. He failed to do so, and the Court, on resuming consideration, granted the prayer of the petition.

Petitioner's Counsel—Mackintosh. Agents—Stuart & Cheyne, W.S.

Saturday, January 31.

### FIRST DIVISION.

TANNETT, WALKER & CO. v. HANNAY & SONS.

Process—Expenses—Auditor's Report.

(1) Charges of an agent for attending examination of havers at a distance, disallowed: (2) Amount of Commissioner's fee fixed: (3) Double fees to Counsel allowed, in respect of the nature of the case: (4) Charge for two accountants allowed: (5) Unsuccessful party, held not entitled, by the fact of paying for them, to get the models which had been prepared by the other side to be produced in the case.

This case came before the Court on objections by the pursuer and defender to the Auditor's Report, which was in the following terms:—

#### ABSTRACT OF ACCOUNTS.

I. Messrs Hunter, Blair, and Cowan's accounts—	As stated.	Taxed off.
(1) For action at instance of Messrs Tannett, Walker & Co. v. Hannay & Sons,	£96 8 2	£21 19 8
(2) For action at instance of Hannay & Sons v. Tannett, Walker & Co.,	73 12 11	11 2 0
(3) For conjoined processes,	1673 2 3	667 12 7
	£1843 3 4	£700 14 3
II. English solicitor's account,	650 14 9	373 16 2
III. Payments to witnesses,	1299 16 4	656 18 10
	£3793 14 5	£1731 9 3
Taxed off,	1731 9 3	
	£2062 5 2	