riage was admitted; jurisdiction was therefore competently founded by arrestment. (2) Scotland was in the circumstances the *forum conveniens.*

Argued for the defender—This was a consistorial action, and in such cases domicile formed the only ground of jurisdiction.

Authorities cited — (1) *Bell* v. *Bell*, February 26, 1812, F.C.; *Wylie* v. *Laye*, July 11, 1834, 12 S. 927; *Longworth* v. *Hope*, July 1, 1865, 3 Macph. 1049; *Fraser* v. *Fraser*, January 14, 1870, 8 Macph. 401; 1 Mackay 177; 2 Fraser's Husb. and Wife, 1296; (2) *Graham* v. *Stevenson*, August 9, 1788, Hume D. 250; *Macmaster* v. *Macmaster*, June 7, 1833, 11 S. 685; *Macmaster* v. *Stewart*, June 17, 1834, 12 S. 731; *Hawkins* v. *Wedderburn*, March 9, 1842, 4 D. 923; *Parker* v. *Royal Exchange Assurance Company*, January 13, 1846, 8 D. 365; *Tulloch* v. *Williams*, March 6, 1846, 8 D. 657; *Longworth* v. *Hope*, *supra*; *Clements* v. *Macauley*, March 16, 1866, 4 Macph. 583; *Thomson* v. *North British and Mercantile Insurance Company*, February 1, 1868, 6 Macph. 310; *Lynch* v. *Stewart*, June 21, 1871, 9 Macph. 860; 1 Mackay 274, 276., also 176.

The Lord Ordinary pronounced the following interlocutor:—"The Lord Ordinary having heard counsel, in respect that no question of *status* is raised, and that the action is founded on a contract made in Scotland, Finds that jurisdiction may be constituted against the defender either by personal citation within the territory or by arrestment of funds within the territory: Therefore sustains the arrestment, repels the first and second pleas-in-law for the defender, and allows the parties a proof of their averments in the closed record on a day to be afterwards fixed."

Counsel for Pursuer — MacWatt. Agents—Gordon, Petrie, & Shand, S.S.C.

Counsel for Defender — Strachan. Agent—Andrew Newlands, S.S.C.

Wednesday, March 17.

SECOND DIVISION.

[Lord Lee, Ordinary.

CARTWRIGHT AND OTHERS (STIRLING MAXWELL'S EXECUTORS) *v.* M'KERRACHER AND OTHERS.

(*Ante*, vol. xx. p. 818, 17th July 1883; vol. xxi. p. 549, 21st May 1884.)

Succession—Testament—Legacy—"Servant."

An heir of entail in possession of large entailed estates, as well as of much movable property, by holograph will left legacies to his factor, butler, coachman, housekeeper, and "to each of my other servants who shall be in my service at the time of my death, and who shall have been with me for four years, one year's wages." *Held* (1) that all the persons, some fifty in number, who were employed on the entailed estates at the time of the testator's death, including ordinary day labourers, and who for the four years immediately preceding had been so employed substantially without interruption, were entitled to one year's wages under the will; but (2) that persons employed for a substantial portion of the four years on a contiguous estate by trustees (of whom the testator was one), in whose name the title of that estate stood, and who were directed to sell it so far as necessary for payment of debts of the entailer of the entailed estates, were not servants of the testator within the meaning of the will; and (3) that persons employed for a substantial part of the four years in work on the statute-labour roads in the neighbourhood of the estates, and paid (through the testator) by the statute-labour trustees, were also excluded from the benefit of the bequest.

Process—Reclaiming-Note, Effect of on Parties neither Reclaimers nor Respondents—Court of Session Act 1868 (31 *and* 32 *Vict. cap.* 100), *sec.* 52.

A testator left a will by which he gave a legacy of a year's wages to all his servants who were in his service at the time of his death, and had been so for four years previously. The executors of the will brought an action against a number of persons who might be supposed likely to claim under this provision, for declarator that they were not entitled to benefit under the will. The Lord Ordinary assoilzied certain of the defenders and granted decree against others. Certain of the last-mentioned reclaimed. *Held* (*diss.* Lord Rutherfurd Clark) that the effect of this reclaiming-note was to submit to the review of the Inner House the whole interlocutor of the Lord Ordinary, not only as regarded the right of the reclaimers to legacies, but also as regarded the right of the other defenders, whether successful or not.

The late Sir William Stirling Maxwell, Baronet, of Keir and Pollok, died on 15th January 1878, leaving besides the entailed estates of Keir and Pollok, a large amount of moveable property.

By his holograph will dated 2d January 1875 he appointed certain persons his executors, and *inter alia* provided—"I also bequeath to Alexander Young, my factor, four thousand pounds, in testimony of my regard and of my sense of his long and faithful service and friendship. To Thomas Saddler, my butler, three hundred pounds. To George Crowson, my butler at 10 Upper Grosvenor Street, five hundred pounds. To Thomas Mott, my coachman, five hundred pounds. To Mrs Cairns, my housekeeper, three hundred pounds. To each of my other servants who shall be in my service at the time of my death, and who shall have been with me for four years, one year's wages."

On the margin opposite each of the specific legacies there was marked in pencil the amount of each legacy in figures, and opposite the final bequest—"To each of my other servants," &c.—there was written, also in pencil, the words "say £1000." These marginal additions were holograph of Sir William Stirling Maxwell.

Under the authority of the will the executors paid away sums amounting in all to £936. The persons to whom these payments (amounting to a year's wages to each) were made included certain domestic servants and also two gardeners, three gamekeepers, a carpenter, a forester, a farm grieve, and three land overseers. Under a decree

of the Court of Session (21st May 1884, vol. 21, p. 549) they also paid Thomas Brown, blacksmith, the sum of £78, 15s. 4d. as one year's wages to him. A number of persons—all of them employed on outdoor occupations on the estates, some as ploughmen, foresters, gamekeepers, carpenters, or the like, and others as ordinary day labourers—who considered that they were entitled to payment of one year's wages as having been servants of Sir William Stirling Maxwell for the four years immediately preceding his death, brought actions in the Court of Session against the executors for the sums alleged to be thus due to them.

In these circumstances the executors on 13th December 1884 brought an action in which they called as defenders all the foreging persons, as well as all others having similar occupations and in a position to make a similar claim, or the heirs or other representatives of such persons. The conclusions of the summons were for declarator "that the defenders are not, nor is any one of them entitled, to take benefit under a bequest or provision made by the said deceased Sir William Stirling Maxwell in his said will in the following terms—To each" &c., "and that the pursuers, as executors aforesaid, are not bound nor entitled to make payment to the defenders or any of them of any sum under or in virtue of the said bequest or provision," and for decree ordaining the defenders "to desist and cease from troubling the pursuers as executors aforesaid in all time coming, and from making any claim or demand under or in virtue of the said bequest or provision in the said will."

The pursuers, besides contending that none of the defenders were, from the nature of their employment, entitled to a legacy, as not being "servants" within the meaning of the bequest, maintained that certain of the defenders who had been (as the pursuers averred) employed on the estate of Pollokshields, could not be regarded as servants by the testator on the following special ground:—"The said estate of Pollokshields was held by trustees nominated by and acting under a trust-disposition and deed of entail executed by the late Sir John Maxwell of Pollok, Bart., dated 23d July 1863, in trust for the uses and purposes therein set forth. The said purposes were to pay off subsisting debt on the estate of Pollok, and ultimately to entail the said estate of Pollokshields, or the unsold residue thereof remaining after the said debt was paid off, on the series of heirs mentioned in said trust-disposition and deed of entail. The said defenders were not at the date of Sir William's death in his service, or at all events they had not been so for four years prior to said date."

A proof was allowed. The import of the evidence as regarded the general position of the several defenders sufficiently appears from the Lord Ordinary's note. The pursuer's averments regarding the estate of Pollokshields were substantially borne out by the facts, with these qualifications, that none of the defenders affected by this question were exclusively employed on that estate, that some of them were largely so employed during the four years in question, while others were so employed only during one or two isolated weeks in each year, and that it was not proved that any of the defenders, when transferred from the entailed estate of Pollok to the trust-estate of Pollokshields (which prior to the entail and the trust were one estate), knew that the character of their service was in any way altered, though their wages were entered in separate books, and the management of the two estates generally was kept distinct. The unsold portion of Pollokshields after the debts had been paid was directed to be entailed on the same series of heirs as Pollok, and this was being done at the date of the proof. It also appeared that there had been allocated to Sir William Stirling Maxwell annually by the Renfrewshire statute-labour road trustees a sum of money to be applied by him to the maintenance of the statute-labour roads in the neighbourhood of his property, and that some of the defenders were employed on these roads during a part of the four years, receiving their wages out of the money thus allocated.

On 2d July 1885 Lord Lee issued the following interlocutor:—"Finds that of the compearing defenders the following are or represent persons who at the date of the late Sir William Stirling Maxwell's death had been four years in his service as his servants within the meaning of the will mentioned on record, viz., Allan Cameron, mason, William Anderson, Robert Fyfe, John Stewart, John Richardson, John Taylor, David Bryce, Duncan Fisher's representatives, Duncan M'Intyre, cattleman, William Wight, representatives of Robert Kinnibrugh, deceased; the representatives of James Henderson, deceased, John Maxwell, the representatives of Smith Ferguson, deceased, Andrew Wren, John Moffat, the representatives of Enoch Torrance, deceased, the trustees of Gavin Ralston, deceased, Thomas Brown, Pollokshields, John Monaghan, James Muir, John Cowan, Dennis Kerry, Robert Aitken: Therefore assoilzies the said defenders from the conclusions of the action, and decerns: Finds them entitled to expenses, and remits the account when lodged to the Auditor to tax and to report: And as regards the other defenders, Finds, declares, and decerns in terms of the conclusions of the summons, and finds no expenses due.

"*Opinion.*—The principles upon which, in my opinion, the claims of the various defenders ought to be disposed of (and have been disposed of in the interlocutor now pronounced) may be briefly stated.

"The bequest is—[*reads*]—and it occurs in the settlement of a man who from his position and occupation was obliged to maintain a large establishment of servants not only for domestic purposes, but for purposes of forestry, gardening, farming, and the maintenance of a well-known stock of Clydesdale horses and shorthorn cattle. I hold it settled by the case of *Brown* that the bequest is not confined to servants upon the domestic establishment.

"The testator had several places in Scotland, and I think it proved that he had servants at each of them. A part of one of these estates (Pollok) appears to have been settled upon trustees for the purpose of payment of debt, and ultimately of being entailed upon a series of heirs, of whom Sir William himself was first. But the testator's interest in the rents and destination of this portion of Pollok, and the mode in which the Pollok servants were employed upon it, appear to me to make it impossible to deny to a servant of Sir William Stirling Maxwell,

as proprietor of Pollok, the benefit of the legacy, merely on account of his being for a greater or less part of the four years employed upon Pollokshields and paid out of the Pollokshields rents.

"On the other hand, I cannot think that every person who was employed in the testator's woods and upon the private roads at Keir and Pollok, or even in the gardens, is to be regarded as a servant. The words of the bequest, 'my other servants,' appear to me to suggest a class somewhat different from mere labourers employed by the grieve, or gardener, or forester, or joiner, at wages payable by the hour or day. I see no reason to exclude ploughmen on the home-farm, or a byreman with a house (like Muir), or servants (like M'Intyre, and Bryce, and Fisher, and Taylor) entrusted with important service in connection with the Clydesdales and shorthorns, and I have allowed as a general rule those who had houses on the place, like Kinnibrugh, and Wren, and John Cowan, or who carried letters, or did work about the house (like Wright, and Kerry, and Torrance, and Gavin Ralston, and Smith Ferguson). I have included Henderson, the Cawder gamekeeper (I think it proved that he was a gamekeeper), and Maxwell, the Pollok forester, and the men in charge of the sand-pit or the roads, and all those who were selected to attend the funeral as Pollok servants. The only class I have excluded, indeed, are those who in my opinion are proved to have been mere workers as labourers. Grant I have excluded, because he was for a part of the four years a mere labourer in the garden, and for the rest of it an apprentice to the head gardener. Cameron is included as the servant in charge of the masonwork, but Cairns and Downie are excluded as mere labourers under him. The evidence of Stewart, and Brown, and Cameron seems to show the precarious nature of the engagement upon which such labourers were employed.

"With regard to the pencil jotting, my opinion is that it forms no part of the will, and can have no effect in restricting the bequest. It does not show the purpose with which Sir William made it.

"I think it is to be regretted that all the actions which have been raised were not conjoined, so that the proof led might have enabled me to dispose of them at once. But I have endeavoured to dispose of the various claims which have been brought forward as far as possible. The cases of those who have not appeared may be disposed of as undefended, and in the roll of such causes."

Certain of the unsuccessful defenders reclaimed. The remaining unsuccessful defenders (who were represented by separate counsel and agent) did not reclaim.

Argued for the reclaimers—All the persons who appeared as reclaimers were servants on Sir William's estate at the time of his death, and had been so for four years previously; they therefore were entitled to a share of the bequest. They were not hired for an occasional job. It was not unreasonable that any person who had done work on Sir William's estate for four years should be regarded as a servant of his for that time, and therefore should be entitled to share in the benefits under his will. The servants employed on the Pollokshields estate were shifted to that work without any intimation to them that they were working for anyone else than Sir William, and the same thing was true of those who worked on the statute-labour roads. Their pay always came through the same hands; although the money for their labour might have been derived from Sir John Maxwell's trustees or from the statute-labour road trustees. Therefore they should be considered as servants—*M'Intyre* v. *Fairrie's Trustees*, November 12, 1863, 2 Macph. 94.

Argued for the respondents—None of the reclaimers here were entitled to a share of the bequest. The fair test was to see if those persons came under the definition laid down by the Lord Justice-Clerk in the previous case of *Brown* v. *Cartwright and Others*, 21st May 1884, 21 S.L.R. 549—that is, whether they were "belonging to the domestic establishment" and none of the reclaimers came within that definition, as they were all employed in out-door labour about the grounds. From the context of the will it might be seen that Sir William did not intend to include all the labourers on the estate, as the servants to whom specific legacies were left were all engaged in personal attendance on himself. As to the claimants who were workers on Pollokshields estates, these were not Sir William's servants in any sense. They were the servants of the trustees, and were paid by the trustees. The same was true of those who were paid with money obtained from the statute-labour road trustees for work done on the roads.

A further argument was maintained on the competency of the pursuers opening up, as they proposed to do under the reclaiming-note, the cases of the defenders other than the reclaimers. The question turned on the construction of the Court of Session Act 1868, sec. 52, which provides —"Every reclaiming-note, whether presented before or after the whole cause has been decided in the Outer House, shall have the effect of submitting to the review of the Inner House the whole of the prior interlocutors of the Lord Ordinary of whatever date, not only at the instance of the party reclaiming, but also at the instance of all or any of the other parties who have appeared in the cause, to the effect of enabling the Court to do complete justice, without hindrance from the terms of any interlocutor which may have been pronounced by the Lord Ordinary, and without the necessity of any counter reclaiming-note."

At advising—

Lord Justice-Clerk—In this case the result of my opinion is this, that I should be inclined to admit all the claimants who had been four years in the service of Sir William Stirling Maxwell in any capacity. I think the real meaning and object of the bequest was that those who had remained for four years in the service of Sir William, and who by his death might be turned out of the places they had so long held, should be beneficiaries. Therefore I should not have been inclined to make any subtle distinctions between the Pollokshields Trust, where Sir William was trustee, and the County Road Trust, where he in truth acted for the Road Trustees. That generally is an indication of my opinion, but I am quite willing to acquiesce in excluding

those two classes if your Lordships should be of that view.

Lord Young—This is a perplexing case altogether. I sympathise a good deal with what your Lordship has said—that those who were really, although not formally, in the testator's service for the four years, are within the meaning of the bounty which he has provided. But I think my brothers Lord Craighill and Lord Rutherfurd Clark are of opinion, upon grounds which I quite see the force of, that those who were in the service of the trustees, whether of the Pollok estate or of the Road Trust, and were working for them, were not in the service of Sir William Stirling-Maxwell within the meaning of the bequest. Upon the whole I am disposed to concur in that. The result will be that all the claimants before us who were for four years continuously—substantially continuously—in the service of the testator will participate in the bequest, but that those who were in the service of the trustees, or who were working upon the public roads, will be excluded.

There is a little difficulty with respect to some of these. The Lord Ordinary has allowed the claims of some of them, and the question has arisen, Are they here as respondents in this reclaiming-note? Upon the whole I rather think they are. It is a mere formal or technical difficulty, because the matter was argued just as it would have been whether they were here or not. I rather think that we may alter the Lord Ordinary's interlocutor with respect to them, so far as is necessary to give effect to the general view which I have endeavoured to express, that the servants of the Pollok trustees or of the Road Trustees are to be excluded.

Lord Craighill—That which has been explained by Lord Young is the conclusion at which I have arrived. The bequest is one of a very general character, and it is very difficult to say who among the servants of Sir William Stirling-Maxwell are to be looked upon as legatees and included in the bequest. The first condition is that they shall have been servants of Sir William, and the next that they shall have been in his service for a period of four years. Now, the chief difficulty has been in determining what has been service with Sir William, and what has not. That there is a distinction is certain. The Lord Ordinary has found that some are entitled to be ranked as servants and that others are not. In one respect the distinctions on which the Lord Ordinary has acted, or which have been suggested on the part of the bar, are not such substantial distinctions as ought to deprive some of the legatees of their legacies, while bequests are given to others. I think we have only to inquire whether or not certain persons were in Sir William's service, and if they had been, whether their service extended over the period of four years immediately preceding his death. Sir William does not give any indication of his own wish or feeling in the matter. He has left it for others to decide; and if the two conditions I have mentioned are found to have been fulfilled by any party, I think the benefit of the bequest ought to be extended to that party.

The next question that arises is this, whether those persons who were in the service of the Pollokshields Trust, and those others who were in the service of the Road Trustees—though the money afforded by these trusts was administered by Sir William—are to be looked upon as in Sir William's service, giving a liberal interpretation to the words which he used. Upon consideration, I think there is here an essential distinction which does not at all exist when we consider the case of those who really were in Sir William's service. The servants who served the Pollokshields Trust did not serve Sir William personally, and that being so, the first of the conditions which I have formulated is not in their case satisfied. It is quite true that Sir William and those who came after him were to have the benefit of the trust which was in course of administration; but that does not in my view alter the position of the servants. They were the servants of the trust. I make the same observation in regard to those employed on the public roads. They cannot be held, on a reasonable interpretation of the settlement, to have been servants of Sir William.

A question of some little nicety was started with reference to the position of the pursuers in regard to certain beneficiaries whom we have not formally before us. But on that matter I have come to entertain no doubt. This is, no doubt, in a certain sense a congeries of so many independent actions; but I think the pursuers must be looked upon as parties who are entitled to appear as reclaimers under this reclaiming-note, though that has been presented by certain of the defenders and not by the pursuers. It seems to me that the whole of these cases have been brought up by this reclaiming-note.

Lord Rutherfurd Clark—I agree with Lord Young and with Lord Craighill in the opinions they have expressed as to the persons who are entitled to take benefit under this will, and I have nothing to add to the observations which they have made on that subject.

I confess, however, that upon the formal question I have had very great difficulty. And the opinion that I strongly incline to is, that the pursuers are not entitled under this reclaiming-note to bring up the question as against the persons who have obtained the judgment of the Lord Ordinary. The pursuers have presented no reclaiming-note themselves. The question is whether they are entitled to take the benefit of the reclaiming-note presented by some of these parties to raise questions as against those who have obtained the judgment of the Lord Ordinary. I am inclined to think they are not. And my reason is simply this, that the action is to be regarded as an action against each of these defenders separately. There is no jointness in the action; it is not a joint action at all. It is just an action in which all these defenders have been convened, but they have been convened in the same position as if each of them had been convened in separate actions; and the reclaiming-note of one defender in such an action is, I think, a reclaiming-note in which there are no parties except himself (the reclaimer) and the pursuers (the respondents). I think the defenders who obtained the judgment are in no sense even under the statute parties to the reclaiming-note presented by the defenders, and therefore I should rather be for allowing the interlocutor to stand with respect to those persons who obtained the judgment of the Lord Ordinary.

The Court pronounced this interlocutor:—

"Recal the Lord Ordinary's interlocutor of 2d July 1885: Find that the following defenders are or represent persons who at the date of the late Sir William Stirling Maxwell's death had been four years in his service within the meaning of the will mentioned on record, vizt.,"—then followed the names of about forty persons or their representatives, including one or two who had been employed for a few weeks in all on the Pollokshields estate or on the statute-labour roads—"Therefore assoilzie these defenders from the conclusions of the action and decern: *Quoad ultra* find and declare in terms of the conclusions of the summons against the whole remaining defenders: Find the defenders who have been assoilzied entitled to expenses, and remit," &c.

Counsel for Pursuers — Darling — Dundas. Agents—Dundas & Wilson, C.S.

Counsel for Defenders and Reclaimers—Rhind—R. K. Galloway. Agent—G. Hutton, Solicitor.

Counsel for other Defenders—Guthrie Smith—Rhind—Jameson—Fraser—R. K. Galloway—A. S. D. Thomson. Agents—George Hutton, Solicitor—F. J. Martin, W.S.—Brown & Patrick, Solicitors.

Wednesday, March 17.

SECOND DIVISION.

[Sheriff of Lanarkshire.

DONALD *v.* LEITCH.

Lease — Sequestration for Rent — Discharge of Rent in Full under Error.

A landlord granted a receipt for rent "less £7, 10s. for taxes." The amount which should have been deducted was only £3, 15s. *Held* that a sequestration by the landlord for £3, 15s., as being the balance of rent due, was competent.

Lease — Sequestration for Rent — Sequestration currente termino.

The landlord of a house which had been licensed as a hotel, petitioned for sequestration in security of the current year's rent, averring that the tenant intended to displenish the house. The tenant admitted that on the evening of May 27th, and before twelve noon on the 28th, *i.e.*, just before his occupancy for the current year had begun, he had removed a large part of the furniture, but he stated that he did so because he had no longer any use for it, having, as was the fact, failed to obtain, through no fault of his own, a renewal of the hotel licence, and he further stated, as was also the fact, that property to a considerable value was left in the house. *Held* in the circumstances that sequestration was competent.

Lease—Rent—Abatement in respect of Partial Loss of Subject—Supervenient Law.

A house called the D Hotel was let for a term of years, the missive of lease, *inter alia*, providing that "the hotel" should be put in good habitable order, that the licence then standing in the name of the landlord should be transferred to that of the tenant, that the tenant should be bound on the expiration of the lease to transfer the licence to any person elected by the landlord, and that if the tenant should be guilty of any breach of certificate the lease, in the option of the landlord, should expire. During the currency of the lease the hotel licence was lost, not through any fault of the tenant, but from a resolution of the licensing magistrates to withdraw hotel licences in the town. *Held* that the loss of the licence did not entitle the tenant to an abatement of rent.

In August 1884 James Leitch became tenant of the Dalziel Arms Hotel, Motherwell, belonging to David Donald, acquiring the right of the previous tenant under a missive of lease for five years from Whitsunday 1883 at a rent of £130 for the first year, £150 for the second, and £160 for each of the remaining years, payable half-yearly at Whitsunday and Martinmas. The missive bore, *inter alia*, that "the hotel" should be put into good habitable order, and "*Sixth.*—The license presently in the name of David Donald shall be transferred to the second party's (former tenant) name. The second party shall be bound to retransfer it to the name of any person elected by the first party (landlord) on the expiration of the lease, whether from the efflux of time or from any cause whatever. If the second party be guilty of any breach of his certificate the lease shall, in the first party's option, expire." The parties further bound themselves to execute a formal lease, and to insert therein all clauses "usual and reasonable in the circumstances."

Leitch paid the rent for the half-year due at Martinmas 1884. On 21st April 1885 his application for a renewal of the hotel licence was refused (as from Whitsunday following), and a public-house licence granted to him instead in consequence of a resolution by the magistrates to refuse all the hotel licences. On 24th May 1885 he paid the rent due at Whitsunday, under deduction of £7, 10s., being the amount, overestimated by one-half as ultimately appeared, of the landlord's share of the taxes. The receipt bore—"Received from Mr James Leitch the sum of seventy-five pounds, less £7, 10s. for taxes, being amount of rent due at Whitsunday 1885, for hotel and premises situated," &c. Over the stamp there was written "Paid £67, 10s."

On the night of the 27th May, and on the morning of the 28th, Leitch was in course of removing part of the furniture in the hotel to Glasgow when about 4 a.m. on the 28th he was stopped by Donald and a sheriff officer, who proceeded to restore the furniture to the hotel, and to inventory and sequestrate the whole furniture therein for payment of £3, 15s., the alleged balance of the past year's rent, and in security of £160 the current year's rent. This sequestration was withdrawn on 1st June, but on 2nd June a new petition for sequestration was presented praying for warrant to inventory and secure the whole stock, fittings, furniture, goods, and other effects, so far as subject to the landlord's hypothec, which were or had been in the said premises since Whitsunday 1884, in security and for payment of £3, 15s., being an unpaid balance of the half-year's rent payable at the preceding Whitsunday with interest and expenses; and the whole stock, &c., which were or had been in the