the first instance at least, shall be judged of. How a claim of the kind here made is to be brought under the notice of the executive council, or its acting committee the local council, is not defined. The claim, however, was fully brought under their cognisance by the branch society, of which the pursuer was a free member. The procedure followed by the pursuer on the occurrence of the accident by which he was disabled was first of all to get himself placed on the sick-list, whereby he became entitled to the regulated weekly allowance. This was duly paid him from the time of his disablement in 1866 until the institution of this action in April 1870,—the amount he has thus drawn being £59, 5s. Thereafter, apparently on the suggestion of the defenders themselves, who thought their funds might thereby be ultimately benefited, the pursuer advanced this claim for the £100, under the 23d rule. The branch were satisfied with the evidence of permanent disablement, and put themselves in communication with the general secretary of the executive council, with the view of the claim being considered by them. A good deal of communication ensued between the branch and the general secretary on the subject; and ultimately the local council intimated that the testimony produced to them was not satisfactory, and on that account no sanction was given for payment of the pursuer's claim. It appears that against this resolution, as suggested by the general secretary, an appeal has been entered to the executive council itself by the Kirkcaldy branch. Whether this can be recognised as a legitimate proceeding may be doubtful, but it appears to have been adopted with the sanction of the pursuer, and at all events it was taken for his behoof, so that in terms of the 23d rule he might have the benefit of a judgment by the general executive council, should they see fit to adopt a different view of the matter from that taken by the local council. That appeal has not been disposed of, but I do not see any trace of objection having been taken to its competency. In any view, however, it is certain that the condition, on fulfilment of which alone a claim under the 23d rule can be maintained, remains unsatisfied. And yet this action has been brought into Court as if the condition had been purified, and the amount was due and exigible.

This being the true state of the case, it appears to me impossible to hold that this Court can enter on the investigation whether the evidence, medical and other testimony, ought to have satisfied the executive council, or whether there was disablement caused by the accident which entitled the pursuer to this allowance of £100. A different tribunal has been declared to be the Judges of that evidence, and to be under the rules alone competent. Hence, I think the proof that has been gone into is so far objectionable and inadmissible; and I do not consider that the Court are called or entitled to judge of its effect.

The defenders urged that there was no room for an action in any circumstances against them for payment of this sum, and no jurisdiction in this Court at all to entertain such an action. I am not prepared to acquiesce in the views that were so strongly pressed as to these matters. Had the executive council, through their local council, held the medical and other testimony satisfactory, I am far from thinking that, in the event of payment not being made to him, the pursuer could not have insisted in proceedings against the branch society, seeing that it was out of the funds under their charge and in their hands that payment fell to be made. In such a situation it became one of the recognised benefits, to satisfy which these funds were declared to be held by the branch society. The actual state of matters, however, does not require that the question thus raised should be decided. It is enough for the disposal of this action that the claim put forward by the pursuer is not supported as it required to be under rule 23, and has been, in any view, prematurely insisted *in by* judicial procedure directed against the defenders.

In conclusion, I may observe that the result of these proceedings may possibly prove more prejudicial to the defenders than to the pursuer, seeing that his right to the sick allowance, which has been stopped because of the institution of this action, may very possibly be held to revive. This, indeed, was stated in course of the argument to be the result of his present claim being disallowed, so that, as contended, he will not be left destitute, pending the discussion of the claim by the general executive council. But with this contingent claim the Court, under this record, are not called on to interfere judicially.

On the whole, I am of opinion that the interlocutor of the Lord Ordinary should be recalled, and this action dismissed.

Agent for Pursuer—J. A. Gillespie, S.S.C.
Agent for Defender—John Galletly, S.S.C.

Thursday, March 14.

INGRAM *v.* HASTIE.

Poors-Roll.

A man, earning 20s. a-week as a clerk, without incumbrances, *refused* admission to the poors-roll.

KIRKPATRICK moved the Court to remit the case to the Reporters. The applicant was in such a position of life that he required the whole of the 20s. a-week, which he earned as a clerk, for his maintenance. If he were obliged to spend money in litigation, he would not be able to live as he had done. He would then not be able to continue in his situation, and would have no means to litigate with. Thus the refusal of the poors-roll would be a practical denial of justice.

TRAYNER, for the respondent, opposed the remit, and quoted cases in which persons who were earning much less than the applicant were refused admission to the poors-roll. The object of the appellant was to obtain reduction of a decree of divorce which was obtained more than two years ago, and was not reducible.

LORD COWAN—I do not think that a case has been stated sufficient for admission to the poors-roll. We have nothing to do with the nature of the action. It is the Reporter who must be satisfied that the applicant has a *probabilis causa*. What we have now to decide is, whether the circumstances are such as to permit of our putting the applicant on the roll. It is contrary to our practice to admit a man who is earning 20s. a-week, in good employment, and with no one dependent on him. In one of the cases referred to, a man with 15s. a-week, and with children, was refused the benefit of the poors-roll. I doubted if he should not have been admitted, but the other Judges thought otherwise.