an heir of entail now receiving power for the first time to impose the burden upon the entailed estate. The prayer of the petition must therefore be granted.

"The cases of *Breadalbane's Trustees* (8 D. 1062) and *Stewart* v. *Stewart* (14 Scot. Law Rep. 238) merely settled that a proprietor who had power to impose the burden of road debts either upon his executry or his heirs of entail did by the terms used in the particular bonds granted in these cases impose the burden upon his general representatives and not upon the heirs of entail. These decisions in no way conflict with the judgment now pronounced, which has relation solely to the construction to be put upon an Act of Parliament subsequent in date to them."

Thereafter, Mr Dundas having adjusted the amounts, the Lord Ordinary granted authority as craved, and this judgment was acquiesced in.

Counsel for Petitioner—J. P. B. Robertson. Agents—Murray & Falconer, W.S.

Counsel for Tutor *ad litem*—Darling. Agent—Party.

Tuesday, March 15.

FIRST DIVISION.

BRADY *v.* WATSON.

Expenses—Fees to Counsel—Where Case has Extended over more than One Day.

Held that the fact that a case has extended over more than one day is not a reason why an additional fee should be sent to counsel, unless the amount of time, trouble, and attention required more than fairly fall within the original fee.

In this case the facts sufficiently appear from the opinion of the Lord President, *infra.*

At advising—

Lord President—In this note objection is taken to the Auditor's report of taxation in respect of three items, the question, however, being just this, whether a certain fee was properly sent on February 17th. The state of facts is simply this—The case was called in the afternoon, and after a very short beginning of an opening speech on the part of the appellant the cause was continued. When the case again came on for hearing a fee of £2, 2s. was sent as a refresher, and the question is, whether this fee was properly disallowed? It was stated to us that this fee was sent and charged in accordance with precedent and invariable custom. Now we have communicated with the Auditor, and have ascertained that there is no such custom. On the contrary, the practice is, that if a cause is discussed in more days than one, and a greater amount of time, attention, and trouble is required of counsel than fall fairly within the original fee, then a refresher is allowed, but under no other circumstances. The mere fact that a case has extended over more than one day is no reason why an additional fee should be sent.

Lord Deas, Lord Mure, and Lord Shand concurred.

The Court approved of the Auditor's report.

Counsel for Appellant—Kennedy. Agent—John Macpherson, W.S.

Counsel for Respondent—Wallace. Agents—Smith & Mason, S.S.C.

Friday, March 18.

FIRST DIVISION.

BLACK *v.* MASON.

Expenses—Jury Trial—Fees to Counsel.

The usual rule in jury trials is to allow fifteen guineas to junior counsel for the first day, ten for the second, and seven for the third. Trial in which this rule was followed.

This was a note of objections to the Auditor's report in a jury trial, in which the defender has been successful. The trial related to an alleged right-of-way; it had lasted for three days, from 10 a.m. to 6·30 p.m. each day; and the question raised involved points of law as well as of fact. The fee which the defender sent to his senior counsel on the last day was fifteen guineas; to his junior he sent twenty, fifteen, and fifteen guineas on each day respectively. The Auditor taxed five guineas off the fee to the senior counsel, and reduced the junior's fees to fifteen, ten, and seven guineas. The defender then lodged this note of objections, and argued that the fees sent should be allowed, as the sitting each day had been so prolonged, and as the question was one of law as well as of fact.

The pursuer replied that the general rule was well recognised—*Hubback* v. *North British Railway*, June 25, 1864, 2 Macph. 1291; *Neilson* v. *Barclay*, July 19, 1870, 8 Macph. 1011; and that there was nothing in the present case to take it out of that rule.

At advising—

Lord President—As to the amount of fees to be allowed, I think that this has been just an ordinary jury trial, and therefore that we are bound to follow the rule laid down in the cases cited by Mr Campbell. The rule is very well understood in both Divisions of the Court, and I think it would be dangerous to interfere in any way with its application. I am for disallowing the objection.

Lord Deas, Lord Mure, and Lord Shand concurred.

The Court refused the note of objections.

Counsel for Objector (Defender) — D.-F. Kinnear, Q.C. Agent—A. Morison, S.S.C.

Counsel for Pursuer—R. V. Campbell. Agent—A. Wylie, W.S.