dissolution was sufficient in the circumstances. The notice here put the creditors in exactly the same position as in the case of *Dunbar*, and there it was held to be sufficient.

The Court adhered.

Counsel for Pursuer (Reclaimer) — Asher—Mackintosh. Agents — Hamilton, Kinnear, & Beatson, W.S.

Counsel for Defender (Respondent)—Balfour—Rhind. Agent—R. P. Stevenson, S.S.C.

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*Friday, June* 20.

## FIRST DIVISION.

CITY OF GLASGOW BANK LIQUIDATION—(*M'DOUGALLS' CASE*)—M'DOUGALL AND ANOTHER (PETITIONERS) *v.* LIQUIDATORS.

*Husband and Wife—Exclusion* of Jus mariti *from Wife's* Acquirenda *in Antenuptial Marriage Contract.*

*Held* that the *jus mariti* and right of administration of a husband over the *acquirenda* of his wife may be competently excluded *per aversionem* in an antenuptial marriage contract.

The petitioners Mr and Mrs M'Dougall were married in 1845. An antenuptial contract was entered into between them. In this contract it was provided, *inter alia*—"Whereas the said Margaret Wright has several sums of money due and belonging to her, and also several sums and legacies in expectancy, particularly the sum of Two thousand pounds provided to her, or to be provided and left to her, by her said father on his decease, of which sum a part thereof amounting to the sum of Two hundred pounds is to be paid to her on her present marriage by her said father, and a legacy left and bequeathed, or provision made, to her by William Thorburn, Esq., residing in Stirling, the amount of which is as yet unascertained: It is hereby provided, declared, and agreed to by both parties, that not only shall the foresaid sum or sums above specified, due and belonging, and to fall due and belong, to the said Margaret Wright, but also any other provisions, legacies, or bequests that may be made by any other relation of the said Margaret Wright, or other party or parties, to her in time coming, and which shall or may fall due during the subsistence of the marriage, shall still, and notwithstanding of the said marriage, remain the absolute property of the said Margaret Wright and be at her sole and unrestricted disposal, and full power and liberty is hereby reserved to her to assign and dispone the same, or any part thereof, without the consent of the said John M'Dougall, her intended husband, and the said sum or sums, legacies, and bequests, shall in no ways be subject to nor affected by the debts or deeds of the said John M'Dougall, his *jus mariti* and power of administration therein being hereby expressly excluded, and the said John M'Dougall does hereby renounce his said *jus mariti* and right of administration, and all right or interest in him inconsistent with this reserved power in the said Margaret Wright: And in case it shall be necessary to uplift any part of the said sums, legacies, and bequests during the subsistence of the said marriage, or upon their falling due and payable to her, it is hereby expressly agreed that the same shall not fall under the *jus mariti* of the said John M'Dougall, but the said sum or sums so uplifted or falling due and payable shall be lent out, and the bonds and securities therefor shall be taken payable to the said Margaret Wright, her heirs, executors, and assignees, excluding the said John M'Dougall's *jus mariti* as aforesaid, and the receipts or obligations of the said Margaret Wright shall be a sufficient discharge of the same, without the consent and advice of the said John M'Dougall."

In 1867 Miss Grace Wright, a sister of the petitioner Mrs M'Dougall, died leaving a *mortis casua* settlement by which she disponed her whole estate to her sister, nominating her at the same time her sole executor and universal legatory. There was no exclusion of the *jus mariti* or right of administration of Mr M'Dougall. The estate to which Mrs M'Dougall thus succeeded consisted of £460 of City of Glasgow Bank stock, besides other property, and in September 1867 she was confirmed executrix-nominate of Miss Wright, and the confirmation was forwarded to the bank officials who issued a stock certificate in the following terms:—

"CERTIFICATE, CITY OF GLASGOW BANK.

"No. 29/67. Entd. R. R.

"*Glasgow, 24th September* 1867.

"These certify that the executrix of the late Miss Grace Wright, Comrie Road, Crieff, has been entered in the books of this Company as the holder of four hundred and sixty pounds consolidated stock.

"Robert Kidd, *p. Accountant.*

"John Turnbull, *p. Manager.*"

"*Note.*—This certificate must be deposited with the bank before a transfer for the whole or any portion of the stock can be issued, or a new certificate granted."

On the back of the certificate there was a jotting in the following words:—"Mrs Margaret Wright or M'Dougall, spouse of the Reverend John M'Dougall, residing at Canaan Park, near Edinburgh, executrix nominated by the deceased Miss Grace Wright, Crieff, conform to *testament testamentar* in her favour by the Commissary of the county of Perth, dated 13th September 1867."

"R. R."

The dividend warrants in respect of the stock were sometimes signed by Mr M'Dougall and sometimes by Mrs M'Dougall, but always cashed by the former.

When the bank failed, the names of both Mr and Mrs M'Dougall were placed upon the list of contributories, and calls were made upon them in respect of the stock, and they then presented this petition praying for the removal of Mrs M'Dougall's name.

It was argued for the petitioners that there was not by the marriage contract a valid exclusion of Mr M'Dougall's *jus mariti* and right of administration from the succession of the deceased Miss Wright, and as it was not competent by antenuptial contract to exclude *per aversionem* those rights with reference to *acquirenda*, the

means and estate from which these rights were to be excluded must be specified. Such an exclusion could only be effected by a conveyance to third parties. This principle was strongly laid down in Bell's Comm. i. 684, 7th ed., 638 5th ed., and in the Juridical Styles, 3d ed.. 231.

It was argued for the respondents that such an exclusion was competent, and often occurred in practice.

Authorities—Erskine, i. 6, 14; Bell's Prin., 1562, 1944; *Macdonald*, M. 5848; *Diggens* v. *Gordon*, March 7, 1865, 3 Macph. 609, H. of L., 5 Macph. 75; *Greenhill* v. *Ford*, June 24, 1824, 3 S. 114; *Hutchison* v. *Hutchison's Trs.*, June 10, 1842, 4 D. 1399, and Feb. 1, 1843, 5 D. 469; *Babington*, rep. in Fraser's Husb. and Wife 792; *Roll* v. *Shand*, Nov. 28, 1832, 11 S. 133; *Young* v. *Loudon*, June 26, 1855, 17 D. 998.

At advising—

Lord Deas—Mr and Mrs M'Dougall were married in 1845. There was an antenuptial contract by which the *jus mariti* and right of administration were excluded as regarded all the means which might come to Mrs M'Dougall pending the marriage. Her sister Mrs Wright left a settlement in her favour, conveying to her her whole means and estate, heritable and moveable, and she appointed Mrs M'Dougall her executrix. Mrs Wright died in 1867, more than twenty years after the marriage, and part of her estate which she left to Mrs M'Dougall consisted of £400 of City of Glasgow Bank stock. Of course the exclusion of the *jus mariti* and right of administration was applicable to that stock, and the question raised upon the part of Mr and Mrs M'Dougall is whether that exclusion of the *jus mariti* and right of administration was effectual with reference to that bank stock. There is nothing else in dispute between the parties in this case. It was maintained by Mr Jameson that this exclusion is ineffectual because it is said the *jus mariti* or right of administration cannot be excluded without specifying what the means and estate may be in regard to which these rights are excluded. Mr Jameson maintained, and he brought to bear upon it both ability and a good deal of research —that the *jus mariti* cannot be excluded except the means and estate from which it is excluded are specified. I pointed out to him that that implied that the *jus mariti* and right of administration cannot be excluded with reference to *acquirenda* at all, and he was obliged to admit that it was so. The question raised therefore comes to be whether by an antenuptial marriage-contract the *jus mariti* and right of administration can be excluded with reference to *acquirenda*. That is a very important question if it be still unsettled, and it is somewhat startling to those of your Lordships who when at the bar have been accustomed to be consulted about marriage-contracts, and must have advised again and again that it was quite a possible thing in making a bargain between a husband and wife to exclude the *jus mariti* and right of administration with reference to all that might come to her during the marriage, and accordingly we know very well that a very large number of antenuptial marriage-contracts in this country would be defeated if it were held that that could not be done.

With reference to the particular stock which came to Mrs M'Dougall under the deed, Mrs M'Dougall expede confirmation as executrix. The stock was expressly included in the inventory. She sent in her confirmation to the City of Glasgow Bank, and at her own request and that of her husband she was registered as the owner of that stock both in the transfer register and in the stock register, and obtained a corresponding certificate that she was so registered, and she continued to hold the stock till the failure of the bank, having drawn in the meantime directly or indirectly some twenty-two dividends, the dividend warrants being always in her name, and sometimes being drawn by her husband and sometimes by herself; but substantially she acted as sole proprietrix of that stock from the date of her confirmation downwards, as stock which she had exclusive of the *jus mariti* and right of administration of her husband. Now, we all know, and we had occasion to be reminded in the case of *Biggart* not long ago (Jan. 15, 1879, *ante* p. 226), that according to our old lawyers the *jus mariti* and right of administration of the husband could neither be excluded by a third party nor renounced by the husband, because it was held that these rights were inherent. They seemed to go back to the Bible for it—that when man was made first he was the noblest part of creation, and to attempt to renounce these essential rights was like throwing water upon the higher ground, for it always came down again, and that so the thing could not be done. That was the original notion—quite the opposite of the Roman law, from which we borrowed so much, according to which the rights of the husband and the wife were quite separate and distinct, she having her own estate as much as he had his. These notions continued to prevail until the case of *Walker* against her husband's creditors, June 1730, M. 5841. That case was the first blow given to that doctrine. That was followed by the case of *Annand and Colquhoun* v. *Chessels*, 4th March 1774, affirmed in the House of Lords, 24th March 1775, M. 5844. Then we come to the case of *Keggie* v. *Christie*, 25th May 1815, F.C., where it was held as settled law that the *jus mariti* and right of administration may be effectually excluded by an antenuptial contract entered into by the husband and his wife. From the date of these decisions—I should say from the date of the first of them downwards—the law which has been established appears to me to be this, that the *jus mariti* and right of administration are held to belong to the husband in the ordinary case simply upon the presumption that where there is no particular arrangement it is the mutual intention of the parties that the husband as the natural head of the family should have these powers. But there is nothing to preclude the husband and the wife from making any different arrangement which they may think proper in entering into an antenuptial marriage-contract to regulate their respective rights in their respective estates. Before the marriage the wife's estate is unquestionably her own, with power to do with it what she likes, and the husband's estate is his own, with power to do with it what he likes; and it would be a very extraordinary thing, I think, to hold that these two parties, being each fully vested with their respective estates, may not make any reasonable bargain that they choose with reference to the wife's estate, and with reference to the husband's *jus mariti* or right of administration over it.

The question I think, ever since these decisions, has always been, and must be—What have the parties agreed upon? And if it has been agreed between them in a probative deed in plain language that the wife's estate—whether that which she has already or that which she may acquire during the marriage—is to be hers exclusive of the *jus mariti* and right of administration, there is neither law nor reason that I know of to prevent that bargain being made between them. Accordingly, all the more recent decisions have gone upon that principle. There is the case of *Greenhill* v. *Ford*, June 24, 1824, 3 Sh. (new ed.) 114. In that case, by antenuptial contract Mrs Ford conveyed to trustees, for behoof of herself and Mr Ford, in conjunct fee and liferent for his liferent use allenarly, and the children of the marriage; "all means and estate she may acquire during the subsistence of the marriage." Lord Pitmilly (Ordinary) held that although there was there no express exclusion of the *jus mariti* or right of administration, but a mere conveyance of all means and estate she might acquire during the subsistence of the marriage, the *jus mariti* and right of administration were both excluded by implication; and the report bears—"The Court were unanimously of opinion that the provisions of the marriage-contract amounted to an exclusion of the *jus mariti* as to the property of the *acquirenda*;" that the succession of Mrs Ford's uncles vested instanter; and that the husband's rights were effectually excluded. That is a strong case, because there was no express exclusion. The *jus mariti* and right of administration were not mentioned—it was a conveyance to the trustees of all she might acquire during the marriage, and the exclusion was held to be implied. I am quite aware that that was a conveyance in favour of trustees. That is a different point altogether. What I am speaking about at present is the competency of the spouses by an antenuptial marriage-contract making what arrangement they choose with reference to the *jus mariti* and right of administration. Whether that must be done by a conveyance to trustees, or in the form of an express conveyance, is a different thing, but the case undoubtedly illustrates the principle I am stating, viz., that it depends upon what the parties choose to do.

Then we have the case of *Rollo* v. *Shaw or Ramsay*, Nov. 28, 1832, 11 Shaw 132. That case came before the first Lord Mackenzie, and he sustained the claim of Mrs Ramsay to the exclusion of her husband's creditors. There she assigned and conveyed to herself and her husband "in conjunct fee and liferent, for the liferent use allenarly of the longest liver, and to the children of the marriage in fee, &c., all lands and heritages, debts, sums of money, and effects presently belonging to her, or which shall belong to her at the dissolution of the marriage, other than the provisions before expressed," which she had reserved, "and particularly the sum of £5000" bequeathed to her by her uncle. Holding that the words of the conveyance must be so read, Lord Mackenzie says in his note—"The Lord Ordinary does not think that the *jus mariti* has any operation to cut down conveyances made of the wife's fortune by antenuptial contract in her own favour, or in favour of the children of the marriage. Exclusion of the *jus mariti*, if necessary to the effect of allowing these to stand, is implied. The legal assignation of the wife's moveable fortune by marriage to the husband never can be supposed to have existed at all in contradiction to such conveyances contained in the antenuptial contract on which the marriage proceeds. As to intimation—if the *jus mariti* had been expressly excluded, intimation of such exclusion never is held necessary, even to bar the debtors of the wife from paying to the husband, far less to exclude the creditors of the husband from taking the wife's separate estate. No party has a right to assume that a wife was married without a marriage-contract, and that all her moveable property must have passed to her husband by the operation of law. Parties interested must inquire what were the actual conditions of the marriage." That judgment was unanimously adhered to by the Court.

Then there is the case of *Babington*, in June 1840, which did not go beyond the judgment of Lord Jeffrey as Ordinary. The only report of that case that I have found is contained in the 1st vol. of Mr Fraser's book, last ed., p. 792, where it is said in a note—"In this case of *Babington* the woman herself had prior to the marriage conveyed all the property which she then possessed, and all which she should thereafter acquire (*acquisita et acquirenda*) to trustees for certain purposes; and having afterwards succeeded to heritable and moveable estate, the husband challenged the validity of the trust-deed which conveyed away from him the profits of the heritable property and the fee of the moveables. Lord Jeffrey (Ordinary) pronounced an interlocutor sustaining the deed." In that interlocutor Lord Jeffrey finds "that it is undoubtedly competent for a party *sui juris*, and consequently for an unmarried woman of full age, to make an effectual conveyance in trust, under such qualifications and conditions as may be thought fit, of all properties which may accrue to her subsequent to the date of such conveyance, as well as what may be actually vested in her at the time, and that the right to such subsequent acquisitions will pass to the trustees as soon as it could have opened to the truster herself, and the property, so far as it is of a moveable nature, be fully vested in them so soon as they attain to the actual possession thereof: Finds (secondly) that the trust-settlement of Miss Catherine Newall (the wife) of 2d May 1835 was in itself a competent and valid conveyance of the above description and was consequently effectual to denude the granter of the fee of all future *acquirenda*, and to exclude the *jus mariti* of the pursuer or any future husband as to such annual proceeds of the said subjects as she thereby directed to be paid over to herself."

Then there is a case which was incidentally noticed in the discussion, which is by no means unimportant—the case of *M'Donald or Young* v. *Loudoun & Co.*, June 26, 1855, 17 D. 998. That was a case in which Mrs Robertson, the aunt of Mrs Young, left her all her property, heritable and moveable, exclusive of the *jus mariti* and right of administration of any husband she might marry, and named her to be her executrix. She expede confirmation as executrix, and in that confirmation was included the furniture in the house which had been left to her by Mrs Robertson. The creditors of the husband executed a poinding of that furniture, and the case came

before Lord Handyside, Ordinary, (17 D. 998), who says in his note—"The question truly raised by the chargers is this, whether moveable property disponed to an unmarried woman, 'exclusive of the *jus mariti* and right of administration of any husband she may marry, and her heirs and disponees whomsoever,' is sufficiently protected by force of the conveyance against the diligence of creditors of the husband she afterwards marries, although there is no marriage-contract executed between them by which he renounces his *jus mariti*, nor was there any conveyance by her previous to her marriage, to trustees of the property then belonging to her to guard her rights. . . . It was argued, that having married without a contract, what she possessed by so absolute a title fell to her husband by the legal assignation which marriage implies." It related only to the furniture, but the reasoning was equally applicable to the whole means and estate which had been left to her by Mrs Robertson. "But the Lord Ordinary apprehends that an exclusion of any right in a future husband over the moveable estate of the lady may be as effectually provided by a clause in the deed, whereby the property was bestowed on her as by a clause of renunciation in a contract of marriage. . . . Some stress was laid on the conveyance in the disposition and deed of settlement by the aunt being to the niece 'and her heirs and disponees whomsoever,' and it was suggested that the suspender might have made over the furniture to her husband. But no gift is alleged upon record, nor indeed any acts of the suspender inconsistent with the preservation of her rights over the furniture and other moveable estate free from her husband." The cause was ordered to the roll in order to ascertain by a proof at large whether this furniture had belonged to the aunt, and consequently had been part of what she conveyed to the husband. The case went to the Inner House, and there are long opinions upon it which I need not read. The Lord Justice-Clerk said—"Now, on what grounds can the creditors suppose themselves entitled to get over this, while the exclusion of the *jus mariti* is specified in two several parts of the deed. Two grounds are relied on—1st, as it is given to her her heirs and disponees it was equivalent to a fee, and the marriage operated an assignation of her whole right and interest so as to evacuate the declaration that the husband's right was excluded. I think that is peculiarly unsound. Where there is no marriage-contract, there is no presumption that the wife abandons any protection she had at the date of the marriage, especially if her husband be engaged in trade; and on what ground in law was it here to be presumed that she renounced this protection constituted by deed." Lord Murray concurs, and Lord Cowan says—"I am of the same opinion. . . . . If as in this case the lady's right is to be held assigned to her husband by the fact of her marrying without a contract of marriage, the condition attached to the bequest or provision must in every such case be rendered abortive. It is *jure mariti* that the wife's fortune becomes vested in the husband. The marriage does not carry her moveable estate to him when the *jus mariti* has been effectually excluded, and the question truly resolves into the inquiry whether his legal rights over his estate have or have not been excluded *cum effectu*. For the legal assignation implied in marriage cannot carry any subject which stood well excluded from the operation of the *jus mariti*." Now, that case, I think, is a strong illustration of the general principle.

It has been suggested that an inventory of the estate is a safe precaution; but the conveyance of the whole estate was not to trustees but direct to the wife herself, and I do not know any ground for holding that trustees are at all necessary to make such a conveyance or such a renunciation by the husband in an antenuptial marriage-contract effectual in favour of the wife. No doubt the appointment of trustees may be a protection, and, in particular, it may be a protection to the wife herself despoiling herself by her own acts and deeds, but it is not in the least essential that there should be trustees. It is quite enough that the meaning and intention anything could be clear upon the face of the deed that the *jus mariti* was to be excluded, and if anything could be clear upon the face of the deed, it is clear upon the face of this deed that that was the intention of the parties. The only fault to be found with the deed is the repetition of this by innumerable words, for "it is hereby provided, declared, and agreed to by both parties, that not only shall the foresaid sum or sums above specified, due and belonging and to fall due and belong to the said Margaret Wright, but also any other provisions, legacies or bequests that may be made by any other relation of the said Margaret Wright, or other party or parties, to her in time coming, and which shall or may fall due during the subsistence of the marriage, shall still and notwithstanding of the said marriage remain the absolute property of the said Margaret Wright, and be at her sole and unrestricted disposal, and full power and liberty is hereby reserved to her to assign and dispone the same, or any part thereof, without the consent of the said John M'Dougall, her intended husband, and the said sum or sums, legacies and bequests, shall in noways be subject to nor affected by the debts or deeds of the said John M'Dougall, his *jus mariti* and power of administration therein being hereby expressly excluded, and the said John M'Dougal does hereby renounce his said *jus mariti* and right of administration, and all right or interest in him inconsistent with this reserved power in the said Margaret Wright;" and it goes on to repeat in other forms the same thing. So that if it could be made clear on the face of any deed that that was the agreement of parties, it is so here. And there is, moreover, added what I do not think essential—"And lastly, it is hereby agreed that all execution necessary shall pass hereon for the due fulfilment of these presents against the said John M'Dougall at the instance of John Wright, &c., who are hereby named and appointed tutors and curators of the children who may be procreated of the said marriage." Mr Jameson very ingeniously tried to make out that there is only one thing there, viz., about tutors and curators; but there are two things—the parties named are appointed to see to the execution of the contract in favour of the wife, and just as much are they bound to intervene if occasion required as if they had been named trustees. In short, they are trustees for the purpose of vindicating the rights of the wife as well as the rights of the husband. So that if that were necessary it is substantially here. But I am of opinion that it is not necessary. According to our law and practice, if it is clear on the face of

the deed of a third party, or on the face of an antenuptial contract of marriage, that the intention of the testator in the one case, or of the parties entering into marriage in the other, was that the *jus mariti* and right of administration should be excluded, that intention must receive effect. That being so, the exclusion being applicable to that portion of the wife's estate that we are now dealing with, viz., the shares of the City of Glasgow Bank, and they having been dealt with as her separate property, she being registered as the sole proprietor, though it is a different case from that of *Biggart*, I cannot doubt that the same principle applies, and that these shares must be held exclusively the property of the wife, to the exclusion of the husband's *jus mariti*. The consequence of that is that the wife must remain on the list of contributories, but the husband's name must be taken off, as Mr Biggart's was.

Lord Mure—I am of the same opinion. Nothing I think can be clearer or more express than the provisions of the antenuptial contract as to the exclusion of the *jus mariti* and right of administration of the husband, and Lord Deas has so fully explained the law on this matter that I think it unnecessary to say anything more than that I concur with him.

But there is one authority which Lord Deas did not refer to, but which I have always understood was an important authority in a case of this sort. I refer to what Mr Erskine says in i. 6, 14, where after referring to the fact that in old times it was impossible to exclude the *jus mariti*, he says—"This doctrine, which springs from a mere subtlety is irreconcileable to that *bona fides* which ought to prevail in marriage contracts, and indeed to common sense, for all rights not inalienable may be renounced by those entitled to them, and the husband's right of administering his wife's moveable estate is not accounted by the law of any other country so essential to him but that he may divest himself of it. It is therefore now received as a settled point, both by our judges and writers, that a husband may in his marriage contract renounce his *jus mariti* in all or any part of the wife's moveable estate." Now, I confess I have never been quite able to understand how, in face of that opinion of Mr Erskine, that passage occurs in Mr Bell's Commentaries where he certainly expresses himself decidedly to the effect that an exclusion of the *jus mariti per aversionem*, and with reference to *acquirenda*, is not competent. He refers to no authority upon the point, and nothing but the respect that one has for Mr Bell's views could make one inclined to think that at any time that could have been the law. The passage in the Juridical Styles which was referred to merely adopts Mr Bell's views; but I thought it right to look into the last edition of the Juridical Styles, and glancing over a hundred pages—as to *jus mariti* and the exclusion of it by a marriage contract—I could not find the passage repeated. I am not surprised at this, because it appears to me that not only is there nothing in principle to support such a doctrine, but in the case of *Hutchison*, referred to in the discussion, the Court unanimously found that a clause almost as broad as this was a good exclusion of the *jus mariti* as regards *acquirenda*. The words there were—"And the said John Hutchison hereby renounces all right thereto," &c, and there is reserved to the wife "liberty to dispone, use, or alienate the whole property she may succeed to through the death of her father or mother, or otherwise, . . . . or to which she may succeed during the subsistence of the marriage."

In the interlocutor of the Lord Ordinary certain findings were pronounced, some of which were altered by the Inner House, but the first finding, to the effect that it was a good exclusion of the *jus mariti*, was unanimously adhered to by the Second Division. That being so, I have no hesitation in concurring with Lord Deas.

Lord Shand—I am of the same opinion, and after the full examination of the authorities and statement of the grounds upon which that opinion is rested by Lord Deas and Lord Mure, I think it unnecessary to say a word more.

Lord President—I am entirely of the same opinion, and I have nothing to add to the view of the law expressed by Lord Deas. The doubt which has been entertained apparently by practitioners upon this question was naturally founded on the statement contained in Mr Bell's Commentaries, to which my brother Lord Mure has referred; but I trust that now at least all doubt and hesitation on the subject will be at an end, and that it will now be understood that a renunciation by a husband in the marriage contract of his *jus mariti* and right of administration will be quite effectual as regards the *acquirenda* of the wife, if it be so expressed as to cover *acquirenda*. The result will be to refuse the petition of Mrs M'Dougall.

The Court therefore refused the prayer of the petition.

Counsel for Petitioners—Dean of Faculty (Fraser)—Jameson. Agents—Boyd, Macdonald, & Co., S.S.C.

Counsel for Respondents—Kinnear—Balfour—Asher—Lorimer. Agents—Davidson & Syme, W.S.

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*Saturday, June 21.*

## FIRST DIVISION.

### CITY OF GLASGOW BANK LIQUIDATION—(*FORBES' CASE*)—THOMSON OR FORBES AND ANOTHER *v.* THE LIQUIDATORS.

*Public Company—Winding-up—Liability of a Husband for Stock registered in Wife's Name—Exclusion of* jus mariti *in a Family Agreement.*

A died intestate leaving personal property to a considerable amount. He was survived by his mother and five married sisters. By deed of agreement entered into between the mother and the husbands of the five sisters, the mother gave up to her daughters by far the greater part of what she was legally entitled to receive from her son's estate, but on condition that the whole amount which would thus accrue to the sisters, as well what they