had been done, presented a reclaiming note, but subsequently to the expiry of the reclaiming days, asking to be reponed against that interlocutor.

Authority—*Milne* v. *Maccallum*, Jan. 22, 1878, 5 R. 546.

At advising—

LORD PRESIDENT—On looking into this case I have no doubt as to the competency of this proceeding, dealing with it as a reponing note. It is a proceeding in the absence of a creditor, and though there is no provision in the Bankruptcy Statute as to reponing in such circumstances, we are entitled to treat reclaiming notes in bankruptcy questions as we should a reclaiming note in ordinary actions. By the provisions of the Act of Sederunt of 11th July 1828 a note to repone may be presented, and though that Act does not say that such a note may be presented after the reclaiming days are past, yet that is a matter of decision in the leading case of *The Scottish Union Insurance Company* v. *Calderwood*, July 8, 1836, 14 S. 1114. It would be very inconvenient and very unjust if we could not apply the principle of the Act of Sederunt, and the cases which followed on it, to reclaiming notes in bankruptcy cases as well as to others. This is clearly a reponing note, for the interlocutor was pronounced in absence, and though there is no statutory provision ordaining intimation to a dissenting creditor of the presentation of a petition for a trustee's discharge, still it has been adjudged by the Court that such intimation ought to be given wherever it appears that any creditor dissented from the resolution of the body of the creditors allowing the trustee to apply for his discharge. The complaint here is that no notice was given to the dissenting creditor, and therefore I think that we are in a position to repone. The Court in *Milne's* case dealt with the application as a reponing note, and did not enter into the merits, but remitted to the Lord Ordinary to hear the reclaimer's objection to the trustee's discharge; and I propose that we should follow that course here.

LORD DEAS, LORD MURE, and LORD SHAND concurred.

The Court therefore recalled the interlocutor, and remitted to the Lord Ordinary to hear the reclaimer's objections to the trustee's discharge.

Counsel for Hendrie—Shaw. Agents—

Counsel for Trustee (Respondent)—Macfarlane. Agents—Boyd, Macdonald, & Co., S.S.C.

Friday, July 11.

OUTER HOUSE.

[Lord Rutherfurd Clark.

MP.—THE ANGLO-FOREIGN BANKING COMPANY.

Process—Multiplepoinding—Where Decree given, but not extracted, in favour of Claimant who afterwards became Bankrupt—Riding Claim by Creditors.

In a multiplepoinding a riding claim was tendered on behalf of creditors of a claimant who had obtained decree for payment, but had not extracted it. The Lord Ordinary refused to allow the claim to be received, on the ground that he could not give two decrees for the same sum to different claimants, and that to render a riding claim admissible it must be lodged before the original claimant had obtained a decree for payment.

Counsel for Creditors of Claimant—J. C. Smith. Agent—A. Clark, S.S.C.

Counsel for other Claimants—Innes—Thorburn. Agents—Wallace & Foster, S.S.C.—Boyd, Macdonald, & Co., S.S.C.

Friday, July 11.

FIRST DIVISION.

CITY OF GLASGOW BANK LIQUIDATION—(*BROWNLIE'S CASE*)—BROWNLIE AND OTHERS *v.* BROWNLIE'S TRUSTEES.

Trust—Realisation of Trust Property—Bank Stock—Right of Relief—Duty of Trustee to Realise where Truster's Funds invested in Bank Stock.

In an antenuptial contract of marriage the husband made over to trustees the whole heritable and moveable subjects belonging to him, "the foresaid subjects to be held and administered by the said trustees for the following purposes." These purposes included the payment of an annuity to his wife and provisions to his children, which were payable at certain postponed periods. He predeceased his wife, and on his death his trustees accepted office. The trust-funds consisted, *inter alia*, of 74½ shares of a bank of unlimited liability. The trustees sold the greater part of the shares immediately after the death of the truster in order to pay off advances made to him by the bank, but the balance, consisting of $5\frac{3}{10}$ shares, they continued to hold as part of the trust-estate. Thirteen years after the trustees had accepted office the bank failed with very large liability. The trustees were placed on the list of contributories, and sought to recoup themselves out of the trust-fund for the calls.

In a suspension and interdict by the beneficiaries, *held* (*diss.* Lord Deas) (1) that the retention by the trustees, after a reasonable time had been allowed for realisation, of an investment which they themselves had at