

my said daughters respectively, by any deed or deeds, with or without power of revocation and new appointment, or by will or codicil, and whether they shall be under coverture or not, shall appoint; and in default of such appointment, and so far as any such appointment shall not extend in trust for the children of each such daughter who being male shall attain the age of twenty-one years, or being female shall attain that age or marry, in equal shares; and if there shall be only one such child, the whole to be in trust for that one child: And in case there shall be no such child or children of my said daughters respectively who shall attain a vested interest in the said trust-funds, then in trust for such person and persons, in such shares and in such way and manner as my said daughters respectively shall in manner aforesaid appoint." Now, it does not seem to me to be necessary to decide as between the daughters and their possible children what their respective rights are. The question whether the daughters have power to disinherit them or not may never arise, and I doubt if anyone now at the bar is entitled to appear and plead for these possible children. The question is, whether George James Lennock has made a good appointment? I think he has; and that the trustees must, as directed, pay to the sons and hold for the two daughters. If they object to the trust and demand an absolute payment, a question will arise. But they may not do so, and I decline to decide a question which has not arisen. I think Mr Lennock had power to put this money in trust for his daughters. Whether or not they can cut out their children it would be premature to decide.

LOLD YOUNG concurred.

The Court pronounced this interlocutor:—

"Sist Miss Elizabeth Leigh Lennock and George Richard Lennock, both now or lately residing in Edinburgh, as parties to the Special Case, and having resumed consideration of the case and heard counsel, are of opinion and find, that the deed of settlement (last will and testament) dated 24th October 1871 constituted a valid deed of appointment in favour of the widow and children of the granter, to the effect of vesting in the granter's sons the provisions therein mentioned absolutely in fee, and vesting in the daughters the capital of the sums therein mentioned, but that the respective shares of the daughters are limited to their separate use for life, independent of any present or future husband, and are to be held by them subject to the power of appointment conferred by the said settlement, but without power to make any other assignment or appointment by way of alienation: Find all the parties to the Special Case entitled to their expenses out of the trust-estate," &c.

Counsel for First Parties—Dean of Faculty (Fraser, Q.C.)—Blair. Agents—Hunter, Blair, & Cowan, W.S.

Counsel for Second and Third Parties—Ghogg—Muirhead. Agents—Ronald & Ritchie, S.S.C.

Tuesday, November 2.

FIRST DIVISION.

[Sheriff of Lanarkshire.

KNOX v. SLIGO.

Process—Appeal—Expenses.

A Sheriff Court appeal was sent to the Short Roll on 15th October 1880. On 2d November counsel for the appellants moved that the appeal be dismissed with modified expenses. The respondent's counsel asked for his full expenses, on the ground that he had been put to considerable expense in printing documents for the consideration of the case omitted by the appellants in his print. The Court dismissed the appeal, and allowed the respondent his full expenses as taxed.

Counsel for Appellant—Lorimer. Agents—Macbrair & Keith, S.S.C.

Counsel for Respondent—Dickson. Agents—J. L. Hill & Co., W.S.

Wednesday, November 3.

FIRST DIVISION.

[Sheriff of Midlothian.

SUTHERLAND v. GREIG.

Process—Appeal—Expenses—A. S., 10th March 1870—Reponing.

A Sheriff Court appeal being enrolled in the Single Bills, the respondent's counsel objected to its being sent to the roll, in respect that the appellants had failed timeously to comply with the terms of the Act of Sederunt, and had indicated by his procedure throughout a desire for delay. The interlocutor appealed against was dated 15th June 1880; the defender did not appeal till 12th October; and the proceedings were received by the Clerk of Court 14th October. By sub-sec. 1 of sec. 3 of the Act of Sederunt the appellants was bound to print and box the papers within 14 days thereafter, failing which to be held to have abandoned his action, and to be reponed only on payment of such expenses as should seem just. The print was not boxed till 1st November, though due on 29th October, the 28th being the Fast Day and a Court holiday. The appellants pleaded, as an excuse for the delay, absence from town of junior counsel, and consequent inability of the agent to get access to the papers. He did not present a note to be reponed. The Court allowed the case to go to the roll on payment of ten guineas by the appellants to the respondent.

Counsel for Appellant—J. C. Smith. Agent—Andrew Clark, S.S.C.

Counsel for Respondent—Salvesen. Agents—Boyd, Macdonald, & Co., S.S.C.