

from what is conceded. It is conceded—it is impossible to dispute it—that the money was lawfully lent or advanced—advanced is the better word—on the terms expressed in the bond granted by the defender and accepted by the society. It was lawfully lent upon these terms. I put the question to Mr Gloag whether the liquidator might not lawfully fulfil these terms if he was of opinion that it was for the advantage of the society; and I understood Mr Gloag to answer—quite candidly—that he might, and that it would be his duty in that case. Thus, if satisfied that he would probably or certainly get more money for the society by accepting instalments than in pressing the man for immediate payment—selling him up and taking what it was possible to get out of him—then he might lawfully take payment of instalments. But if the money was lawfully lent upon the terms of being paid by instalments, and the liquidator notwithstanding the liquidation may lawfully observe those terms—nay, if it would be incumbent on him in the discharge of his duty to observe them, why should the liquidation render them of none effect, and change the character of the bond, to the prejudice of the debtor, who is under no other obligation than it expresses. I think these considerations, which are only very brief, are also very conclusive, but I entirely agree with what your Lordship has said with reference to the case in the House of Lords, and the observations of the noble and learned Lords, chiefly, and indeed I may say exclusively, relied on by the pursuer in maintaining what I would otherwise have thought an extravagant position, that the admittedly lawful terms of the bond upon which they are suing this debtor are changed to his prejudice by the liquidation, although the liquidator might himself make a precisely similar bargain even with an unlimited debtor if he saw it was for the advantage of the society.

I entirely concur with the judgment of the Lord Ordinary, and think it ought to be affirmed.

LORD CRAIGHILL.—Assuming for the moment that this case is not over-shadowed by the judgment of the House of Lords in the case of *Brownlie*, the decision to be pronounced is perfectly clear. The defender got an advance, he gave his bond for repayment, and that is not only the measure of his obligation, but is rule by which that shall be fulfilled. The fourteen years during which the stipulated instalments were to be paid are still current, and the accident that the society has gone into liquidation cannot, any more than any other accident to their affairs which might have occurred, enlarge the rights of the one party or make more onerous the liability of the other.

The case is one of contract, and the company cannot be better, and the defender cannot be worse, than they respectively are by their bond. This being so, the question is, Is this case ruled by that of *Brownlie*? I think it is not, because, first, the two cases are not the same, so far as the subject-matter of controversy is concerned; secondly, in *Brownlie*'s case the period for payment of the bond had expired—here it is still current, and at the date of the liquidation order had more than ten years to run; and thirdly, the *dicta* relied on by the reclaimers, though these might not be necessary as grounds of decision, were at any rate innocuous in *Brown-*

lie's case, but their application to this case would change the contract by which the debtor's liabilities are determined, and as a consequence impose upon him a burden which he never undertook, and which it may safely be said was in the contemplation of neither party when the loan was given and the bond was granted. The company came into liquidation in 1881, and such a claim as that on which they are now insisting never was advanced until after an interval of two years, when the case of *Brownlie* was decided in the House of Lords. During that period the fortnightly instalments stipulated in the bond, which in all amounted to £2317, 16s. 4d., were paid, and received as in full of all which in the course of this period could be exacted. A result more unfortunate for the administration of justice between the parties than the claimer's success on the pleas which are now the ground of action could, in my opinion, hardly be conceived in this or any other Court.

These views are all within this case as presented by the Lord Ordinary, and I may only add that in his decision and reasons, as well as the reasons given by your Lordships, I entirely concur.

LORD RUTHERFURD CLARK—I am of the same opinion.

The Court adhered.

Counsel for Pursuers (Reclaimers)—Gloag—Strachan. Agents—Davidson & Syme, W.S.

Counsel for Defender (Respondent)—Pearson—Dickson. Agents—J. Y. Guthrie, S.S.C.

Friday, November 7.

FIRST DIVISION.

[Lord M'Laren, Ordinary.]

KEITH v. SMYTH AND ANOTHER.

Property—Boundary—Salmon-Fishing—Foreshore.

Held that the rule laid down in the case of *M. Taggart v. Macdonald*, 6th March 1867, 5 Macph. 534, with regard to the division of the foreshore between the proprietors of adjoining properties bounded by the sea, viz., "that the legal boundary was a perpendicular line let fall seaward from the end of the land march upon a straight line drawn in a direction parallel to the coast, representing the average line of coast between two points fixed by the Court," was applicable to the division of salmon-fishings between two neighbouring proprietors.

This was an action of declarator and interdict at the instance of George Keith of Usan, near Montrose, against Mrs Smyth and Mrs Stansfield, proprietresses of the estate of Dunninald, lying immediately to the west of the lands of Usan. The conclusions of the summons were for declarator "that the pursuer is proprietor of the salmon-fishings in the sea adjacent to his lands and estate of Usan or Ulysseshaven, including the lands of Scotstown, and that the western boundary thereof seawards is as delineated on two plans hereof, dated 22d June 1811, prepared by George

Robertson, land-surveyor in Montrose, the one signed with reference to a disposition of the lands of Dunninald, dated 9th and registered in the Books of our Council and Session the 11th, both days of November 1811, granted by Robert Spears, Esquire, in favour of the late Peter Arkley, Esquire of Dunninald, and the other signed with reference to a disposition of the said lands of Usan by the said Robert Spears to the late George Keith, Esquire of Usan, dated 15th March 1817, and registered in the Books of our Council and Session 21st April 1835;” and to have the defenders interdicted, “by themselves, their tenants, servants, or others, from fishing for salmon in the sea to the east of the west boundary seawards of the pursuer’s said lands and estate of Usan, as delineated as aforesaid on the foresaid plans, and from entering or landing upon the foreshore of the pursuer’s lands and estate of Usan to the east of the said west boundary seawards for the purpose of shooting or drawing their nets.”

Prior to 1811 both estates of Usan and Dunninald were the property of Mr Robert Spears. By disposition dated 9th and registered in the Books of Council and Session 11th November 1811, Mr Spears disposed to Peter Arkley, Esquire, the defenders’ author, certain parts and portions of the lands and barony of Dunninald (except the salmon-fishings), as the same were “particularly delineated on a plan and admeasurement thereof by George Robertson, land-surveyor in Montrose, dated the 22d day of June last, and subscribed by me the said Robert Spears of the date of these presents as relative hereto, by which plan it appears that the foresaid lands, including roads, contain 571 acres 3 roods or thereby Scotch measure, in which measurement both parties acquiesce.”

By disposition dated 30th October 1815, and registered in the Books of Council and Session 6th June 1821, Peter Arkley acquired from Robert Spears “All and Whole the right of salmon-fishing on the sea coast of the said estate of Dunninald, disposed by me to the said Peter Arkley . . . with power to the said Peter Arkley and his foresaids to use such boats and nets as they shall think proper for fishing the same, and to restrain all others from fishing within the said lands, but which right of salmon-fishing shall extend only to the sea coast immediately adjacent or opposite to the lands of Dunninald, belonging to the said Peter Arkley, and not to the salmon-fishings in the Southesk, or on the sea coast opposite or adjacent to the lands of Scotstown and Usan still belonging to me.”

By disposition and assignation dated 15th March 1817, and registered in the Books of Council and Session 21st April 1835, following on a minute of sale between Robert Spears and Alexander Keith, on behalf of his brother George Keith of Usan, the pursuer’s author Robert Spears disposed to George Keith all and whole the lands now known as the estate of Usan as for principal, and certain other lands as for warrandice, “as also the right of salmon-fishing in the sea and river of Southesk adjacent to the said lands of Ulysseshaven,” and the superiority or *dominium directum* of the said lands of Dunninald, “which lands and superiorities before narrated compose the whole property in the county of Forfar belonging to me, and

purchased from David Scott, Esquire, merchant in London, only son and heir of the deceased David Scott, Esquire of Dunninald with the exception of the lands and estate of Dunninald, and part of Scotstown and others, sold by me to Peter Arkley, Esquire, younger of Cleppington, by disposition dated the 9th and registered in the Books of Session the 11th days of November 1811, and with the exception also of the salmon-fishings in the sea opposite to the said lands of Dunninald, afterwards conveyed by me to the said Peter Arkley by disposition dated the 30th day of October 1815,” and “which lands now disposed to the said George Keith as principal, are contained in two plans and admeasurements thereof by George Robertson, land-surveyor in Montrose, and subscribed by us the said Robert Spears and Alexander Keith of the date of these presents as relative hereto, by which plans it appears that the foresaid lands, including roads, contain 683 acres or thereby Scotch measure, in which measurement both parties acquiesce.”

The pursuer averred—“The plan referred to in the said disposition in favour of Peter Arkley shows the eastern boundary of the lands sold to him running across the foreshore and projected seawards in exactly the same line as the plan referred to in the disposition in favour of the pursuer’s author shows the western boundary of the pursuer’s lands. The pursuer maintains that the dispositions in favour of the defenders’ author must be read with reference to the relative plan of the lands acquired by them, and that they are not entitled to prosecute their salmon-fishings beyond the boundary line between their said lands and estate of Dunninald and the foreshores thereof, and the pursuer’s lands of Usan and the foreshores thereof, as laid down on the said plan, and which line corresponds with that laid down on the plan in accordance with which the pursuer’s lands and estate of Usan were conveyed to him and his predecessors, and have been possessed by them, and that the defenders are not entitled in the prosecution of their said fishings to enter upon, or land or shoot or draw their nets on, the foreshore of the pursuer’s said lands to the east of the said boundary.”

The defenders in their answer to this averment maintained—“That in virtue of their titles to the said salmon-fishings, and the possession following thereon, the boundary between their said fishings and the pursuer’s salmon-fishings is . . . a perpendicular line let fall seaward from the end of the land march between the pursuer’s and defenders’ properties, upon a straight line drawn in a direction parallel to the coast, and representing the average line of coast at that place. The said line parallel to the coast is the result or mean of lines drawn from various points on the coast to other points on the said coast, and represents the average of these lines, and therefore the average line of coast at that place, having regard to the inequalities existing there.”

On 14th November 1883 the Lord Ordinary (M’LAREN) pronounced this interlocutor:—“The Lord Ordinary having considered the cause, before further answer, remits to Mr Thomas Brumby Johnston, Geographer Royal to the Queen in Scotland, to lay down, on a copy of the Ordnance Survey map, a line (which may be either a straight line or an arc of a circle, according to

the nature of the case) opposite and approximately parallel to the coast line of the pursuer's and defenders' estates, and representing the average line of the coast *ex adverso* of the two estates, and also to lay down a normal or perpendicular to such average coast line, drawn from the seaward extremity of the rock of St Skae, as delineated on the 25-inch Ordnance Survey map, with power to Mr Johnston to lay down any other line or lines which may be suggested by either party, and which in his opinion may be useful in determining the question of the true boundary of the pursuer's and defenders' salmon-fishings, with power also to him to make a special report, if necessary, on the subject of the remit, and on this being done, appoints the case to be further heard."

The report of Mr Johnston, dated 16th January 1884, was in these terms:—"The estates of the pursuer and defenders are united by the same coast line,—the estate of Usan extending 1 mile 7 furlongs to the east, and that of Dunninald extending 1 mile 2½ furlongs to the west of the rock of St Skae, the admitted boundary line or point between the two estates. By the terms of the remit it was required to lay down on a copy of the Ordnance Survey map a line which would accurately represent a medium coast line of the two estates at high-water mark, and on this line to erect a normal or perpendicular line to intersect the seaward point of the rock of St Skae, the continuation of said perpendicular line to form the limit between the two estates seawards. This line is thirty degrees west of true north. An approximate line being drawn, the indentations of the coast north of the line, and the portions of water contained within the part intersected by the line, were carefully measured. The same course was followed for all the portions projecting south of the line. These measurements were continued till the projections and indentations exactly balanced each other on the opposite side of the *medium flum*."

"On this line, marked A B on plan drawn in carmine, a perpendicular line C D, also in carmine, has been erected from the southern point of the rock of St Skae. This line, continued seawards, according to the remit, is the boundary line between the two estates. The mode of proceeding in fixing the *medium flum* is the same as that followed by the late Dr Keith Johnston in the *Bay of Luce* case, as reported in Cases of Court of Session, vol. v., p. 534, 1866-67. As the result of several meetings with the agents of the contending parties, the pursuer's agents have requested me to lay down a line to correspond with the estate boundary line seawards, as shown on plans of the two estates surveyed by George Robertson of Montrose, and dated 22d June 1811. This line is marked E F, and is coloured green. A tracing is added to the Survey map, showing in colours the junction of the two estates taken from the plans referred to above. They correspond in the line seaward as nearly as could be expected in plans by a country surveyor. Also to lay down a line starting seawards from the point where the two estates join at low-water mark, as shown on the old plans, and at right angles to the medium line. This line is marked G H, and is also coloured green."

"The defenders have requested me to lay down a line perpendicular to the medium line, but

starting from the north or shore end of the rock of St Skae, in place of the seaward point. I have drawn this line, which is marked I J, and is coloured blue."

On 24th March 1884 the Lord Ordinary (M'LAREN) pronounced this interlocutor—"Finds and declares that the pursuer is proprietor of the salmon-fishings in the sea adjacent to his lands and estate of Usan or Ulysseshaven, including the lands of Scotstown, and that the true boundary between the said salmon-fishings and the salmon-fishings in the sea pertaining heritably to the defenders, is in a line laid down by Mr T. B. Johnston, geographer to the Queen, under remit from the Lord Ordinary, marked I J, and coloured blue on a copy of the Ordnance Survey map, signed by the said T. B. Johnston, and dated 16th January 1884, and which line is drawn from the north point of the rock of St Skae, in a direction perpendicular to the medium or average coast line, also laid down on the said Ordnance Survey map: Finds it unnecessary to dispose of the conclusions for interdict, and decerns."

"*Opinion*.—The pursuer and the defenders acquired right to the estates, to which the right of salmon-fishing is attached, by dispositions from a common author. The defenders' title to the lands is dated in 1811, and by supplementary disposition, dated 30th October 1815, the defender's authors obtained a grant of salmon-fishings on the 'sea coast, immediately adjacent or opposite to the lands of Dunninald,' pertaining to him. By disposition, dated 15th March 1817, the pursuer's author acquired right to the estate of Usan or Ulysseshaven, with the 'right of salmon-fishing in the sea and river of Southesk adjacent to the said lands.'

"The rights of the parties to their salmon-fishings in the sea are therefore described in identical terms with reference to the lands to which they are respectively adjacent, and it appeared to me at the first hearing of the case that the proper and only competent mode of defining these rights was by laying down a perpendicular to the medium or average coast line on the principle which has been applied in previous cases."

"There is a question, however, whether the line shall be drawn from the march where it meets the high-water mark, or from a corresponding point taken at low-water mark. Mr Johnston, the Queen's geographer, has laid down alternative lines under the remit made to him in a previous interlocutor, and it will be seen that in consequence of the peculiar configuration of the coast at this point the extent of fishing embraced between these lines is considerable, and that the parties have an appreciable interest in the determination of the proper line."

"I have held that the perpendicular drawn from the march at high-water is the legal boundary within which the right of salmon-fishing on either side is to be exercised. It is admitted that the titles to the lands do not confer on either of the parties a right of property in the foreshore. The estate divided between the pursuer's and the defenders' authors was a barony, and the foreshore might have been acquired by prescription, but it is not said that the foreshore had been so acquired, and Mr Spears, the common author, neither professed to have the right to convey, nor did he convey, the foreshores. The pursuer, however, founds on two plans, accord-

ing to which the estates were respectively conveyed. In these the foreshores are delineated and tinted, and in one of them the boundary line between the two estates is continued in a straight line across the foreshores into the sea. The pursuer proposes that the geographical boundary line with reference to fishings should start from the point where this imaginary line meets the low-water mark, his argument being that above high-water mark the boundary is fixed by convention. I think that this contention on the part of the pursuer is ill founded. The plans are only referred to in the title-deeds for the purpose of defining the lands thereby conveyed, and it is a rule of construction that a plan is only part of a contract to the extent to which it is there referred to, and for the purposes for which it is incorporated. The surveyor's delineation of the foreshore and its boundaries are not, in my apprehension, part of the contract between seller and purchaser. If it expresses the surveyor's notion of how the foreshore, when required, should be divided, his views are at variance with the rules subsequently laid down by the Court, and in my opinion are not entitled to any weight. There is certainly no reference to any plan for the purpose of fixing the seaward boundary of the salmon-fishings. As these are described in the titles as 'adjacent to the lands,' it seems to follow that the sea boundary must start from a definite point in the landward boundary, which can be no other than the point where that boundary meets the high-water line.

"I must add that by an error in reading the old plans I directed Mr Johnston in the first place to lay down a line from the seaward extremity of the rock of St Skae, but with power also to lay down such alternative lines as the parties might desire. I am now satisfied that the whole of the rock of St Skae is in the defenders' estate, and that the perpendicular must be drawn from the north side of that rock where the march line meets the shore line. This is the perpendicular marked I J, and I have taken it for the boundary in my interlocutor."

The pursuer reclaimed, and argued—The titles were silent as regarded the boundaries of the lands conveyed, and therefore it was necessary to look to the plans. On the plans the boundary lines were prolonged over the foreshore. The effect of the title, and the possession following therein, was to give the pursuer the property in the foreshore as bounded by those lines. A proof of the possession should be allowed. The salmon-fishings to which the pursuer had right were *ex adverso* of the foreshore, and bounded by the lines shown on the plans produced seawards—*M'Taggart v. Macdowall*, March 6, 1867, 5 Macph. 534; *Lord Advocate v. Lord Blantyre*, June 19, 1879, 6 R. (H.L.) 72; *Glassell v. Earl of Wemyss*, March 22, 1806; *North British Railway Company v. Magistrates of Hawick*, Dec. 19, 1862, 1 Macph. 200; *North British Railway Company v. Moon*, February 8, 1879, 6 R. 640; *Paterson v. Marquis of Ailsa*, March 11, 1846, 8 D. 752; *Lord Saltoun v. Park*, Nov. 24, 1857, 20 D. 89; *Nicol v. Blairie*, Dec. 23, 1859, 22 D. 335; *Campbell v. Brown*, Nov. 18, 1813, F.C.; *Laird v. Reid*, March 14, 1871, 9 Macph. 699, 1009.

The defenders replied—As the plans only referred to the land boundaries they could not be

looked at in regard to the foreshore—*North British Railway Company v. Tod*, July 23, 1846, 5 Bell's App. 184, 201. Assuming that the plans settled the boundaries of the foreshore, they settled nothing in regard to the salmon-fishings. The rule laid down in *M'Taggart v. Macdowall* with reference to the division of the foreshore should be applied here in dividing the salmon-fishings.

At advising—

LORD PRESIDENT—I believe this is the first time that the rule of the division of the foreshore as between neighbouring proprietors who are both bounded by the sea has been applied to the division, or limitation by boundaries, of salmon-fishings. The Lord Ordinary has adopted that rule, and I think rightly. It is a rule that is just in itself as regards the limitation of the foreshore, and I think it is equally applicable to the case of salmon-fishings which belong to adjoining proprietors. In the absence therefore of any speciality in the titles, I think that the conclusion of the Lord Ordinary is well founded.

But we have heard a very able and anxious argument from Mr Gloag on the effect of the titles, and it has been said that their effect is to divide the foreshore between the neighbouring proprietors—that is to say, that they fix what amount belongs to each. If that were so, then another question would arise, whether the fixing of the boundaries of the foreshore would conclude the question between the proprietors as to the limits of the salmon-fishings. But this second question does not arise unless Mr Gloag succeeds in making out that the titles fix the limits of the foreshore.

The first question therefore is, whether that has been done? Now, in the conveyance of the defenders' lands, which is dated in 1811, the description is first in general words descriptive of the lands conveyed, excepting always the salmon-fishings. The description is principally, I say, by way of a conveyance by names, but there then follows a reference to a plan in these terms—"Which several lands and others above disposed as principal, are particularly delineated on a plan and admeasurement thereof by George Robertson, land-surveyor in Montrose, dated the 22d day of June last, and subscribed by me the said Robert Spears of the date of these presents as relative hereto, by which plan it appears that the foresaid lands, including roads, contain 571 acres 3 roods or thereby Scotch measure, in which measurement both parties acquiesce." On the other hand, in the conveyance dated 1817 by the same disponent to George Keith, the pursuer's author, there is in like manner a conveyance of lands by name in the first place, then a conveyance of the salmon-fishings, and then there is a reference to two plans in the following terms—"Which lands now disposed to the said George Keith as principal, are contained in two plans and admeasurements thereof by George Robertson, land-surveyor in Montrose, and subscribed by us the said Robert Spears and Alexander Keith of the date of these presents as relative hereto, by which plans it appears that the foresaid lands, including roads, contain 683 acres or thereby Scotch measure, in which measurement both parties acquiesce." In short, the two titles are framed on the same principles, and no doubt the

reference in each to plans of such a kind make those plans for certain purposes part of the titles.

The question is, for what purposes? I think that, seeing there are no boundaries expressed in the disposition, it was, first of all, clearly for the purpose of showing the boundaries, and secondly, to indicate the extent or measurements of the ground, but certainly for no other purpose. Therefore, according to the well-known and well-established rule, these plans can be looked at for no other purpose than that for which they were referred to. On the plan of the defenders' property the fixed boundaries of the lands are quite distinctly laid down, and there they have been prolonged by the surveyor beyond the high water-mark to above the low water-mark. But in the table of contents of the plan which is called the "Abstract of Contents," which is just a measurement of its contents, and contains a complete statement of the lands which were conveyed by the disposition, we find that the entire quantity consists of so much arable land, so much pasture, so much wood land, and so much road, and that the total of these corresponds with the measurement given. So that that is a measurement of the whole of the subjects conveyed by the disposition. In other words, there is a precise statement in words of what was intended to be conveyed, and neither party can well say that the measurement is inaccurate, for both expressly acquiesce in it. Now, there is not in this abstract any mention of the foreshore or of any subject which by implication can include the foreshore. The disposition does not convey it in words or by implication, and if you cannot get anything like it in the disposition or the table of contents, and if the measurement is exclusive of the foreshore, and it can be shown that the measurement of the lands exactly applies to all that is above high water-mark, then the conclusion is irresistible that the disposition does not convey the foreshore.

The boundary line which has been prolonged on the plan across the foreshore we are not entitled to look at, for it is not referred to in the disposition nor drawn for any of the purposes for which reference has been made.

The same remarks apply to the other disposition in favour of the defender. The measurement is different, but the reference, and the purpose for which reference is made, is as clear in the one as in the other.

When that has been said it is apparent that all reference to occupation or possession of the foreshore subsequent to the conveyance is irrelevant. Suppose both parties to have acquired right to the foreshore under a clause of parts and pertinents, followed by possession for the prescriptive period, the foreshore is not given them by their titles, and the acquisition of it could not affect the question whether the surveyor had any authority to lay down these lines, or any lines, except the boundaries of the subjects conveyed. I think they can have no effect either upon the disponent or upon the disponent or any third party. They have no more effect than if they had never been laid down at all.

The only peculiarity in the case thus disappears, and I therefore think that the Lord Ordinary was right in applying the general rule which was laid down in *M'Taggart v. M'Dowall*

to the case of salmon-fishings. I am therefore for adhering.

LORD MURE concurred.

LORD SHAND—If it could be shown that in the conveyance of the lands of Usan there was also a conveyance of the foreshore in the line laid down on the plan referred to, and that the pursuer thereby acquired right to the foreshore *ex adverso* of his property, there might then be room for the argument that the salmon-fishings should be divided with reference to that line, and not according to the general rule.

I am, however, of opinion, on a sound construction of the conveyance, that the foreshore was not conveyed by it, and that it certainly was not conveyed in the line which was pressed by the reclaimer, on the setting up of which his whole argument depended. The plan is only made part of the title for the purposes for which it is referred to. And it is referred to for two purposes only. In the first place, to indicate the boundaries of the lands, and in the second place, to fix what was their measurement. But the disposition says, "by which plan it appears that the foresaid lands"—that is to say, the lands thereby conveyed—"including roads, contain 571 acres 3 roods or thereby, Scotch measure, in which measurement both parties acquiesce." And on the plan referred to there is a statement of the measurement of each block and field, with a summation of the total, which comes exactly to 571 acres 3 roods. Now, the whole of the subjects included in that measurement are arable, pasture, woods, and roads, so that the foreshore is necessarily excluded. The surveyor no doubt extended the boundary line beyond the subjects of the conveyance; whether he did that simply to finish off the plan I cannot tell, but it was not for the purposes of the conveyance.

Therefore the case here is just one in which there was a conveyance of lands down to the foreshore, and as it appears to me that the rule which regulates the division of the foreshore is equally applicable to the case of salmon-fishings, I think it should be applied here.

LORD DEAS was absent.

The Court adhered.

Counsel for Pursuer—Gloag—H. Johnston.
Agents—Mackenzie & Kernack, W.S.

Counsel for Defenders—Jameson. Agents—
Macrae, Flett, & Rennie, W.S.

Saturday, November 8.

SECOND DIVISION.

[Lord Lee, Ordinary.]

BLAIR'S EXECUTRICES *v.* PAYNE AND
OTHERS.

Agent and Principal—Factor and Attorney—
Responsibility of Agent placing Money in Private
Banking House.

An agent who acted under a power of attorney on behalf of a foreign constituent, placed on deposit in the constituent's name in a private bank enjoying good credit funds coming into his hands belonging to the con-