

and in the carrying off of sand and stones for building purposes, extending over the prescription period and following as they did on a barony title to lands so situated, constituted a right of property in the foreshore, although there was no express grant thereof in the title.

Opinions per Lord Curriehill and First Division (in accordance with the case of *Agnew v. The Lord Advocate*, decided by the Second Division, Jan. 21, 1873, 11 Macph. 309) that a barony title to lands so situated, which does not contain any express grant of foreshore, or any such specific boundary as can be held to include the foreshore, is not sufficient to confer that right, if unaccompanied by any proof of possession.

Counsel for Pursuers (Respondents)—Balfour—Hunter. Agents—Skene, Webster, & Peacock, W.S.

Counsel for Lord Advocate—Lord Advocate (Watson)—Ivory. Agent—Donald Beith, W.S.

Counsel for Clyde Trustees—Asher—Lorimer. Agents—Webster, Will, & Ritchie, S.S.C.

Wednesday, February 20.

FIRST DIVISION.

[Lord Adam, Ordinary.

M'FARLANE v. WALKER AND OTHERS.

Process—Multiplepinding—Leave to Reclaim.

Two records were made up in a multiplepinding, one upon the condescence of the fund *in medio* and objections thereto, and another upon the claims.—*Held* (1st) that the two were separate causes, and that an interlocutor disposing finally of all objections against the fund *in medio* exhausted that cause, and that it was therefore unnecessary to obtain leave from the Lord Ordinary to reclaim; and (2d) that the amount of the fund *in medio* was finally settled by an interlocutor which held the condescence annexed to the summons as a condescence of the fund *in medio*, and by another which repelled objections to the condescence.

Counsel for Reclaimer—Thorburn. Agents—J. & J. Gardiner, S.S.C.

Thursday, February 21.

SECOND DIVISION.

[Lord Rutherford Clark,
Ordinary.

DALGLEISH v. DALGLEISH.

Husband and Wife—Divorce—Expenses.

A raised an action of divorce for adultery against his wife. The defence was a denial of the adultery, and also condonation. The Lord Ordinary found the adultery proved, and pronounced decree of divorce. On a

reclaiming note for the defender, in which the only defence relied on was that of condonation, the Court affirmed the Lord Ordinary's interlocutor without calling for a reply from the pursuer.—*Held*, in an application by the defender for her expenses in the Inner House, that the defender having shown no probable grounds for reclaiming, this was a proper case for following the rule laid down in *Kirk v. Kirk*, November 12, 1875, 3 R. 128, and that therefore the defender was not entitled to her expenses.

Counsel for Pursuer (Respondent)—Brand. Agents—J. & A. Hastie, S.S.C.

Counsel for Defender (Reclaimer) — Lang. Agent—R. A. Veitch, S.S.C.

Saturday, February 23.

SECOND DIVISION.

SPECIAL CASE—POLSON AND OTHERS
(M'LEAN'S TRUSTEES).

Fee and Liferent—Antenuptial Contract—Provision for Children—Default of Issue.

By antenuptial contract of marriage the intending spouses conveyed to trustees a fund providing that in event of the husband's predecease one-half of it should be held in liferent for the widow for her liferent use allenarly, and for the issue of the marriage in fee, whom failing for the widow's "nearest heirs and assignees in fee."—*Held* that upon the dissolution of the marriage without issue the widow was entitled to have the fund conveyed to her absolutely.

This was a Special Case presented by William Polson and others, trustees under an antenuptial contract of marriage, dated in 1862, between the Rev. D. M'Lean and Miss Georgina Mollison Allardice, as parties of the first part; and Mrs Allardice or M'Lean, widow of the Rev. D. M'Lean, who predeceased his wife on 28th May 1876, and D. W. Allardice, her factor, of the second part. No children were born of the marriage.

The clause in the marriage-contract under which the questions stated in the case arose was as follows:—"In the event of the said Daniel M'Lean predeceasing the said Georgina Mollison Allardice, the said means and estate conveyed by her as aforesaid shall, to the extent of one-half thereof, as such half shall be valued, ascertained, and fixed by the said trustees, be freed from and disencumbered of the trust hereby created, and paid or conveyed by the said trustees or their foresaids absolutely to the said Georgina Mollison Allardice, and the other half of the said means and estate, together with the foresaid sum of £500 contained in the policy of assurance above mentioned, and whole bonuses and additions thereto, shall be held and applied by the said trustees and their foresaids for behoof of the said Georgina Mollison Allardice in liferent, for her liferent use allenarly, and the child or children of the said intended marriage, and the survivors or survivor of them, the issue of any predeceasing