

Counsel for Reclaimers—Trayner—Taylor  
Innes. Agents—Boyd, Macdonald, & Co., S.S.C.  
Counsel for Respondents—Salvesen. Agents  
—Beveridge, Sutherland, & Smith, S.S.C.

Friday, March 18.

## OUTER HOUSE.

[Lord Fraser.

PATTISON (SIME'S JUDICIAL FACTOR)  
PETITIONER.

*Judicial Factor—Special Powers—Nobile officium  
—Husband and Wife—Jus mariti—Aliment.*

Authority granted to a judicial factor on a small moveable estate to which a woman in poor circumstances had succeeded, her husband having been absent from her without making any provision for her support, and not having been heard of for a period of eight years, to pay over the estate to the wife on obtaining a discharge from a man of business whom she and her children had previously appointed to be their factor and commissioner.

In 1869 Mrs Helen Fraser or Sime became entitled on the death of her uncle James Ross to a share of his estate *ab intestato*. Shortly thereafter, and before Mr Ross' estate was wound up, Mrs Sime and her husband went to America, leaving a factory and commission in favour of Mr James Ross, solicitor, Montrose, with full power to uplift the sums due to them out of the executry estate of Mrs Sime's uncle.

In 1873 Mr Sime disappeared, and had not been heard of since that time. He had made no provision for his wife's support. She was in poor circumstances, and unable to support herself.

On 5th July 1880 Mrs Sime and her three children granted a factory and commission in favour of Mr Purves, W.S., and presented a petition for the appointment of a judicial factor on the sum that might be found due by Mr Ross as the balance of his intronmissions with the executry estate before mentioned. Mr Pattison, accountant in Edinburgh, was appointed factor on 16th September 1880, and received a balance amounting to £60, 14s. 9d.

Mr Pattison now made application to the Court in the circumstances set forth—for the truth of which he stated he was satisfied—for authority to make payment to Mrs Sime of the balance remaining due in his hands; or otherwise, for authority to make payment to Mrs Sime of the sum of £15 yearly. The application was made with concurrence of her three children, two of whom were settled in America, and the third, a daughter, was married.

The Lord Ordinary, after remitting to a man of business to investigate the facts and circumstances set forth, pronounced this interlocutor—“Grants authority to the petitioner Mr Gilchrist Gray Pattison, as judicial factor mentioned in the petition, to make payment to the petitioner Mrs Helen Fraser or Sime of the free balance remaining due in his hands on a discharge to be granted by A. P. Purves, W.S., factor and commissioner

for said Mrs Helen Fraser or Sime and her children, after deducting the expenses incurred and to be incurred by the judicial factor prior to his discharge; and decerns.”

Counsel for Petitioner—D. Robertson. Agent  
—A. P. Purves, W.S.

Friday, March 18.

## SECOND DIVISION.

[Lord Curriehill, Ordinary.

HALL (COLLECTOR OF POOR'S ASSESSMENTS  
FOR THE CITY PARISH OF GLASGOW)  
v. THE CITY OF GLASGOW UNION  
RAILWAY COMPANY.

*Poor—Assessments and Recovery—Lands Clauses  
Consolidation Act 1845 (8 and 9 Vict. cap. 19),  
sec. 127—Deficiency in Assessments.*

In a claim for deficiency in assessments for poor-rates made against a railway company by reason of certain lands having been taken for the purposes of the railway's undertaking—*held* that the whole subjects taken for that purpose must be taken together in order to ascertain whether or not any deficiency actually existed, and that as the assessment for the whole subjects so taken showed no deficiency, no claim could be made against the company even although certain portions of them could be shown to be deficient.

This was an action at the instance of the collector of the assessment for relief of the poor in the City parish of Glasgow, to recover a sum of £158, 3s. 8d. from the City of Glasgow Union Railway Company, which was alleged to be due by the company under the 127th section of the Lands Clauses Consolidation Act 1845, in respect of deficiency in the assessment for the poor upon lands taken by the company for the purposes of their undertaking, as for the years 1878-9 and 1879-80. By virtue of an Act of Parliament passed in 1864 the defenders had become possessed of certain lands in the City Parish of Glasgow, which they entered upon and held for the purposes of their undertaking; upon the lands so acquired they proceeded to construct part of their railway lines, their station, and the various accesses and approaches thereto. The undertaking was a large and complex one, and by the terms of their Acts of Parliament the company were authorised to construct seven different railways or branch railways. In order to carry out the various parts of their scheme they had to acquire, and did acquire, various different parcels of lands in different streets, but all, as far as regarded this action, situated in the City Parish. Besides the railway undertaking proper, shops, an hotel, and arches which served as warehouses were erected upon the lands so taken. The 127th section of the Lands Clauses Consolidation Act, under which the claim was made, provides “that if the promoters of the undertaking become possessed, by virtue of this or the Special Act, or any Act incorporated therewith, of any lands charged with the land tax, or liable to be assessed with the poor-rate or prison assessment, they