

mated value, and looking to the state of the property market and the eminence of the valuers, it is unlikely that the property will fall in value to that extent. The reporter therefore thinks that by carrying out the proposed arrangement the interests of the remaining beneficiaries will be sufficiently secured."

Argued for the petitioners—The property here consisted of shops, warehouses, and other buildings in Glasgow, which were so built that it was practically impossible to sell any one part of them without selling the whole. The present time was most inopportune for selling the estate, as house property in Glasgow was much depressed in value. Mrs Findlay's children had agreed to accept a sum below the money which would come to them on the basis of the valuation of 1883, so that even if property in Glasgow were to fall lower the other beneficiaries would not be prejudiced. The only way to carry out the intentions of the trust in fairness to everyone was to borrow on the security of the heritable estate. The Court had great discretionary power in allowing trustees to borrow under the 3d section of the Trusts Act, and this was a case in which it was expedient for the trust, and not inconsistent with the intention of the trust, that such power should be given—*Arkley and Others (Hay's Trustees) v. Miln*, June 13, 1873, 11 Macph. 694; *Smith and Another (Weir's Trustees)*, June 13, 1877, 4 R. 876; *Downie and Another*, June 10, 1879, 6 R. 1013.

The Lord Ordinary issued the following interlocutor: "Grants warrant to and authorises the petitioners to borrow the sum of £22,400 sterling on the securities of the heritable properties belonging to and forming part of the trust-estate of the deceased William Lochhead referred to in the petition, or any one or more of them, and that in one or in several amounts, or at one time or at several times, as the petitioners may find most convenient in the administration of the trust, for the purpose of carrying out the arrangement set forth in the petition, and for that purpose to grant a bond and disposition in security, or bonds and dispositions in security, containing all clauses usual and necessary, in favour of the lenders: Finds the expenses of the petition, as the same shall be taxed by the Auditor, to be a proper charge upon the trust-estate and upon the share thereof falling to the children of Mrs Findlay, in the proportion of three-fourths to the former and the remaining fourth to the latter, and decerns."

Counsel for Petitioners—R. V. Campbell.  
Agents—Maitland & Lyon, W.S.

Counsel for Mrs Findlay's Children—Lorimer.

Tuesday, December 4.

## SECOND DIVISION.

EARL OF EUSTON, PETITIONER.

*Public Records—Register—Transmission of Volume of Register for Production at a Trial in England.*

The Court granted the prayer of a petition presented by an Englishman for the purpose of having the Registrar-General authorised

to exhibit a volume in his custody before the High Court of Justice in England in a suit pending there.

The petitioner, the Right Hon. H. J. Fitzroy, Earl of Euston, was the plaintiff in a suit pending in the High Court of Justice in England (Probate, Divorce, and Admiralty Division), the purpose of which was to have his marriage with Kate Walsh Smith, otherwise Fitzroy, commonly called Countess of Euston, annulled, on the ground that at the time of the said marriage she had a husband then alive, named George Manley Smith, to whom she was married on 16th July 1863 at St Mungo's Catholic Chapel, Glasgow.

The petitioner set forth that it was necessary for the purposes of this suit to prove this previous marriage, and to identify from the principal certificate or schedule the handwriting of the contracting parties.

This principal certificate or schedule was in the custody of the Registrar-General for Scotland, at Edinburgh, and the application was presented for authority to have the volume containing it exhibited before the High Court of Justice in London under the custody of an officer selected by the Registrar-General, and by whom the said volume was to be restored to the custody of the Registrar-General.

The Court was prayed "to grant warrant to and authorise the said Registrar-General, or his deputy, to convey the said volume to London, and there to exhibit the same in the said High Court of Justice at the trial of the foresaid cause."

The Court, without hearing counsel, granted the prayer of the petition.

Counsel for Petitioner—Maconochie. Agent—Tods, Murray, & Jamieson, W.S.

Wednesday, December 5.

## FIRST DIVISION.

[Sheriff of Lanarkshire.]

FERGUSON v. WILLIS, NELSON, & COMPANY.

*Husband and Wife—Jus mariti—Bankruptcy—Earnings of Wife Carrying on a Separate Business—Married Women's Property (Scotland) Act 1877 (40 and 41 Vict. cap. 29), sec. 3—Earnings—Stock-in-Trade.*

The protection from her husband and his creditors of the earnings of a married woman carrying on a separate business in her own name, which is conferred by the Married Women's Property Act 1877, does not extend to the stock-in-trade from which these earnings are made.

A woman who prior to her marriage in 1872 had carried on the business of a milliner, continued her business after her marriage, retaining her maiden name as her trading designation, and contributed by her earnings to the maintenance of the household. Her husband was sequestrated after the passing of the Married Women's Property (Scotland) Act 1877. In a com-