

Saturday, November 14.

FIRST DIVISION.

MACLEAN AND OTHERS (MACLEISH'S TRUSTEES), PETITIONERS.

*Bankruptcy — Sequestration — Declarator that Sequestration is at an End—Nobile Officium.*

The estate of a deceased bankrupt was sequestrated, and the trustee in the sequestration, after effecting a compromise as to the bankrupt's heritable estate with his testamentary trustees, wound up the estate and was discharged, but the sequestration was not recalled.

The testamentary trustees, who were desirous of giving a good title to the purchaser of part of the heritable estate, having applied to the Court, with the concurrence of the representative of the only claiming creditor in the sequestration, the Court declared the sequestration at an end, and the trustees reinvested in the subject in question.

This petition, presented at the instance of Mrs Jessie Maclean and others, the testamentary trustees of the late John Meiklem Macleish, merchant in Glasgow, set forth the following facts:—On 13th August 1888 the Lord Ordinary on the Bills awarded sequestration of the estate of the said Mr Macleish, on the petition of the testamentary trustees of James Shearer, and that James Martin was appointed trustee on the sequestrated estate.

Part of the sequestrated estate consisted of a villa at Helensburgh burdened to almost its full value, which the trustees in vain attempted to sell for £150 more than the sum in the bond.

The trustee having realised the rest of the bankrupt estate, "entered into an arrangement or compromise with the bankrupt's testamentary trustees and widow, by which they in 1889 paid the sum of £200 in full of all claims against the trustees and the heirs and representatives of the bankrupt. The said sum represented the full value of the reversion of the said Balfunning Villa, and it was part of the arrangement, as set forth in the receipt and discharge for the said £200, dated 31st January 1889, that the trustee should concur in any petition that might be presented by the bankrupt's testamentary trustees (the present petitioners) for the recal of the sequestration."

In September 1889 the trustee was duly discharged.

"The petitioners the said John Meiklem Macleish's trustees have sold the said villa at Helensburgh, and require, in order to give a good title to the purchaser, to clear the record, which can be done by having the sequestration recalled or declared to be at an end."

The present application was presented with consent of the judicial factor, who had been appointed on James Shearer's estate.

The petitioners accordingly craved the

Court, after advertisement and service, "to pronounce judgment recalling the sequestration of the estates of the said John Meiklem Macleish, or otherwise to declare the said sequestration at an end, and the petitioner reinvested in the said villa of Balfunning, Helensburgh, described in the titles thereof as follows," &c.

Argued for the petitioners—Section 32 of the Bankruptcy Act 1856 (19 and 20 Vict. cap. 89) provided that recal of a sequestration should be granted on a petition of nine-tenths of the creditors. The present application was in keeping with the whole spirit, if not the exact letter, of that section. The peculiarity of the case was that the whole sequestration had been carried through and the trustee discharged. Nevertheless, without the interposition of the Court, the testamentary trustees of the bankrupt would not be in a position to give a good title to the property which they were selling—*Anderson*, March 13, 1866, 4 Macph. 577, referred to.

The Court pronounced the following interlocutor:—

"Declare the sequestration of the estates of the deceased John Meiklem Macleish . . . at an end, and the petitioners and trustees of the said John Meiklem Macleish reinvested in the subjects described in the prayer of the petition: Grant warrant for recording the deliverance in the Register of Sequestrations and in the Register of Inhibitions."

Counsel for the Petitioners—J. C. Lorimer. Agents—Cowan & Dalmahoy, W.S.

HOUSE OF LORDS.

Monday, November 16.

(Before the Lord Chancellor (Halsbury), Lords Watson, Herschell, Morris, and Shand.)

CURRIE v. M'KNIGHT.

(*Ante*, vol. xxxii. p. 520, and 22 R. 607.)

*Shipping Law — Law Administered by British Courts of Admiralty—Maritime Lien for Damages.*

The maritime law administered by Courts of Admiralty in England and Scotland is the same, and the doctrine of maritime lien for damages is part of that law.

In order that a maritime lien should attach to a ship for damages done to another, some act of navigation of the ship itself must either mediately or immediately be the cause of the damage. It is not sufficient that there is a wrongful act on the part of the crew, unless the ship is itself the instrument by which the damage is caused.

The ss. "Dunlossit" and the ss. "Eas-