

he was going to make an averment regarding English law to the effect that this pursuer was entitled to act as tutrix and administratrix-in-law to her illegitimate son, and that as matter of status she had the legal capacity to represent him, the case would have been different, but so far as we can see there is no proposal to aver English law to that effect, and I think it almost certain that no such law exists. The only amendment really proposed is to plead in this Court the rules of the Court of Chancery, and that is quite irrelevant. I am in favour of affirming the Lord Ordinary's interlocutor.

The LORD JUSTICE-CLERK was absent.

The Court adhered.

Counsel for the Pursuer (Reclaimer)—M. P. Fraser. Agents—Bruce & Black, W.S.

Counsel for Defender (Respondent)—Dean of Faculty (Campbell, K.C.)—Horne. Agents—R. R. Simpson & Lawson, W.S.

## HOUSE OF LORDS.

Wednesday, March 13.

(Before the Lord Chancellor (Loreburn), Lord Macnaghten, Lord Robertson, and Lord Atkinson.)

HAMILTON AND OTHERS v. NISBET.

(Ante, July 19, 1905, 42 S.L.R. 781, and 7 F. 1034; vide also *Caledonian Railway Company v. Glasgow Corporation*, *infra*.)

*Burgh—Police—Street—Building Regulations*—“Width” of Street—*Glasgow Building Regulations Act 1900* (63 and 64 Vict. cap. cl), secs. 20 and 21.

The Glasgow Building Regulations Act 1900 confers in certain events power (section 20) on the Master of Works, and on appeal from him (section 21) on the Dean of Guild, to fix the “width” of a street.

Held (*aff.* judgment of the Court of Session) that the only width which the Master of Works, or, on appeal, the Dean of Guild, was empowered to fix was the actually existing width of the street.

This case is reported *ante ut supra*, and was heard with the immediately following case of the *Caledonian Railway Company v. Glasgow Corporation*.

Nisbet, the respondent in the Court of Session, appealed to the House of Lords.

At delivering judgment—

LORD CHANCELLOR—This is an appeal from the decision of the Lords of the First Division, along with Lords Kyllachy, Low, and Stormonth Darling, and it depends upon the construction of the Glasgow Building Regulations Act 1900. Another case, that of the *Caledonian Railway Com-*

*pany v. The Corporation of Glasgow* (*infra*, following case) raised similar questions, and was in effect heard and considered by your Lordships at the same time. It seems to me that the opinions delivered in these two cases by the Lord President cover the whole ground so exhaustively and so clearly, that I need do no more than express my entire concurrence in them and in the conclusions to which they lead. I therefore respectfully advise your Lordships to dismiss this appeal with costs.

LORD MACNAGHTEN—I agree entirely.

LORD ROBERTSON—I concur.

LORD ATKINSON—I agree.

Appeal dismissed with costs.

Counsel for the Respondents (Appellants in the Court of Session)—Clyde, K.C.—Hunter, K.C. Agents—Kerr & Barrie, Maclay, Murray, & Spens, James Hutcheson & Sons, Glasgow—Auld & Macdonald, W.S., Edinburgh—Grahames, Currey, & Spens, Westminster.

Counsel for the Appellant (Respondent in the Court of Session)—The Lord Advocate (Shaw, K.C.)—The Dean of Faculty (Campbell, K.C.)—M. P. Fraser. Agents—Campbell & Smith, S.S.C., Edinburgh—Martin & Leslie, Westminster.

Wednesday, March 13.

(Before the Lord Chancellor (Loreburn), Lord Macnaghten, Lord Robertson, and Lord Atkinson.)

CALEDONIAN RAILWAY COMPANY v. GLASGOW CORPORATION.

(Ante July 19, 1905, 42 S.L.R. 773, and 7 F. 1020; vide also *Nisbet v. Hamilton*, *supra*.)

*Process—Statutory Remedy—Action of Reduction Pending Statutory Appeal to Sheriff—Finality of Sheriff's Decision—Competency of Action of Reduction—Glasgow Building Regulations Act 1900* (63 and 64 Vict. cap. cl), sec. 9 (2) (c).

The Glasgow Building Regulations Act 1900 provides for the preparation of a register of streets in which is to be set forth the “width” of the street, and section 9 (2) (c) enacts—“Any proprietor who may be aggrieved by any entry in the register or omission therefrom . . . may within the said period of two months appeal to the Sheriff against the same. The Sheriff shall after the expiry of the said period of two months deal with any such appeal in a summary manner, and may order any entry in the register . . . to be deleted or altered . . . and his decision shall be final.”

A proprietor deeming himself aggrieved inasmuch as the “width” of the street opposite his property entered in the register was not the actually existing width of the street, brought

an action of reduction of the entry while also appealing to the Sheriff.

*Held* that the action of reduction, while competent, inasmuch as the proceedings complained of were *ultra vires*, must be dismissed as premature.

This case is reported *ante ut supra*, and was heard along with the immediately preceding case of *Hamilton and Others v. Nisbet*.

The Caledonian Railway Company, the pursuers, appealed to the House of Lords.

At delivering judgment—

LORD CHANCELLOR—I have already expressed my concurrence with the judgment of the Lord President in this case—*vide* judgment in *Nisbet v. Hamilton and Others*—and I have nothing to add to it. I think the appeal should be dismissed with costs.

LORD MACNAGHTEN—I agree.

LORD ROBERTSON—I concur.

LORD ATKINSON—I also concur.

Appeal dismissed with costs.

Counsel for the Appellants (Pursuers)—Clyde, K.C.—Cooper, K.C.—King. Agents—H. B. Neave, Glasgow—Hope, Todd, & Kirk, W.S., Edinburgh—Grahames, Currey, & Spens, Westminster.

Counsel for the Respondents (Defenders)—The Dean of Faculty (Campbell, K.C.)—M. P. Fraser. Agents—Campbell & Smith, S.S.C., Edinburgh—Martin & Leslie, Westminster.

## COURT OF SESSION.

Thursday, February 21.

### FIRST DIVISION.

(SINGLE BILLS.)

M'LEOD (LIQUIDATOR OF  
 ALEXANDER FORRESTER, LIMITED).

*Company—Liquidator—Caution—Bond of “Approved Guarantee Company” Authorised—Premium on Bond Charged against Company’s Estate, but to be Considered in Fixing Liquidator’s Remuneration—Act of Sederunt 15th July 1904.*

In a note presented by the liquidator in a liquidation under supervision, the Court authorised the acceptance of a bond of caution by an “approved guarantee company,” *i.e.*, a company approved for the purposes of judicial factories under the Act of Sederunt of 15th July 1904, the premium on such bond to be charged against the liquidation, but such charge to be considered in fixing the liquidator’s remuneration.

*Company—Liquidator—Caution—Amount.*

Where the assets of a company in liquidation amounted to about £6000 the

Court fixed the amount of caution to be found by the liquidator at £3000.

The Act of Sederunt of 15th July 1904, as to the finding of caution in judicial factories and the procedure therein, and as to the remuneration of factors, provides—Sec. 2(d) “The Accountant shall, in January yearly, prepare and submit a list of approved guarantee companies for the consideration and approval of the Court.” Sec. 3—“The Accountant of Court shall allow as a charge against the factory estate (1) the premium paid by the factor where a company bond of caution has been accepted, or such part thereof as he deems proper, and (2) the expense of the necessary procedure in obtaining the approval of a bond of caution or the limitation of the amount; but the fact of such charge shall be taken into account by the Accountant of Court in fixing the factor’s remuneration.” Sec. 5—“This Act shall not affect the procedure as to bonds of caution in bankruptcy and in the liquidation of public companies.”

On 21st February 1907 John M. M’Leod, C.A., Glasgow, the liquidator of Alexander Forrester, Limited, boot manufacturers, Glasgow, presented a note stating that on 5th February 1907 their Lordships of the First Division had placed the winding up of the company under supervision and appointed him liquidator; that the assets amounted to £5995, 1s. 10d.; and that he was willing to take out a bond of caution with the National Guarantee and Suretyship Association for such sum as the Court might fix. The prayer of the note was “to restrict the caution to be found by the said John M. M’Leod, as liquidator foresaid, to a sum to be fixed by the Court, and to authorise a bond of caution of the National Guarantee and Suretyship Association for that amount to be accepted; and further, to authorise the premium on the said bond of caution to be paid by the liquidator out of the estate of the said company; and further, to direct that the expenses of and in connection with this note shall be expenses in the liquidation . . .”

Counsel for the liquidator referred to secs. 2 (d), 3, and 5 of the Act of Sederunt, 15th July 1904, as to the finding of caution in judicial factories, &c., and argued that while the case of a liquidator was not provided for therein, still the analogy between his office and that of a judicial factor rendered the provisions applicable. He further stated that the National Guarantee and Suretyship Association was one of the companies approved of in terms of sec. 2 (d) of the Act of Sederunt.

LORD PRESIDENT—This note is at the instance of the liquidator recently appointed in the liquidation of Alexander Forrester, Limited, and asks the Court to restrict the caution, and to authorise a bond of caution by a company to be accepted, “and further to authorise the premium on the said bond of caution to be paid by the liquidator out of the estate of” the company, and to direct that the expenses of the note should be expenses in