To my mind this indicates that the survivorship meant is that of the mother, and if so there is no difficulty, because we have the three *nominatim* legatees surviving their mother, and in my view the vested right of these legatees is not affected by the annuitant being also alive. She is willing to take her annuity if properly secured. I am for answering the question in the affirmative.

LORD GIFFORD—This question has two branches, whether the residue has now vested and is now divisible. Both should be answered in the affirmative. I think on a sound construction of this trust settlement that the residue has vested in the three *nominatim* residuary legatees. The only difficulty is the use of the word survivor in connection with the gift, for if it referred to the period of division it would stop vesting, according to the case of *Young*. But I think the testator himself has interpreted his own meaning to be that it referred to the mother, so that there is really no contingency to stop vesting. The testator does not direct the trustees to divide until the death of the annuitant. The question is, does he intend to suspend vesting thereby. I cannot read the clause so. His intention was to secure the interests of the liferentrix and annuitant.

LORD NEAVES concurred.

Counsel for First Party—G. Smith and Balfour, Agents—Mackenzie, Innes, & Logan, W.S.

Counsel for Second and Third Parties—Solicitor-General (Watson) and Mackintosh. Agents—Mitchell & Baxter, W.S.

Thursday, November 5.

SECOND DIVISION.

[Sheriff of Fife.

M'DONALD *v.* GILRUTH.

Filiation—Physical Incapacity—Medical Evidence.

In an action for filiation and aliment of an illegitimate child, the defence was a general denial of the pursuer's statements, and an allegation of physical incapacity. The fact of connection was proved, but the defender maintained that he was incapable of having fruitful connection. The Sheriff-Substitute allowed a proof, and on the report of three medical men assoilzied the defender. The Sheriff reversed, on the ground that the defender had not proved it was impossible he could have been the father of the child.

The Court adhered, and were unanimously of opinion that the medical evidence admitted was insufficient to verify the defence,—LORD NEAVES holding that the admission of medical evidence where the defence did not amount to total incapacity was unprecedented and inexpedient.

Counsel for Appellant — Rhind. Agent—Wm. Officer, S.S.C.

Tuesday, November 10.

SECOND DIVISION.

[Lord Gifford, Ordinary.

BUCHANAN *v.* STEWART.

Recompense—Amelioration.

Where a trustee on a sequestrated estate completed certain buildings to which the bankrupt had no title but merely a personal claim against an investment company, who had made advances to the bankrupt, *Held* that the trustee was not entitled to recompense from the investment company for the money beneficially expended on the subjects.

The summons in this suit, at the instance of James Buchanan, Alexander Forbes, and William Leckie, trustees of the Fourth Provident Property Investment Company, enrolled under 6 and 7 Will. IV., c. 32, against James Wilkie and William Stewart, trustees on the sequestrated estate of the said James Wilkie, concluded that it should be found and declared that the Fourth Provident Investment Company and the pursuers, as trustees, were creditors of James Wilkie at the date of his sequestration on 18th December 1868, and still are such creditors, in respect of advances on loan made by the said Company to James Wilkie as a member or shareholder of said company, and in respect of interest and penalties, and that the said company, and the pursuers, as creditors of James Wilkie, and feudally vested in certain subjects (specified), were and are entitled to sell said subjects, and out of the price to repay the amount of said advances, amounting to £685, 11s. 9d., as at 18th December 1868, with interest, fines, and penalties according to the rules of the company and that William Stewart, trustee foresaid, should be decerned and ordained to remove from said subjects, and as trustee and individually should be ordained to hold just count and reckoning with the pursuers with respect to the rents and profits of said subjects since the date of his appointment, and to make payment of the sum of £500, or such other sum as shall be ascertained to be the amount of said rents and profits, with interest.

The pleas in law for the pursuers were—"(1) The pursuers being creditors of the said James Wilkie, as above mentioned, and holding *ex facie* an absolute conveyance to the property in question, are entitled, in respect of the rules of the company, and *separatim* of their common-law rights, to remove the defender therefrom, to draw the rents thereof, and to sell the subjects for payment of their debt. (2) The defender having failed to pay the pursuers either the principal or interest, and having disputed their claims to the rents, the present action is necessary, and the pursuers are entitled to retain the expenses out of the prices of the property. (3) The defender having collected the rents of the property, he is liable to account therefor to the pursuers, and he is personally liable in the rents received by him, and he is liable in expenses to the pursuers. (4) In respect of the stipulations of the bond condescended on, the balance or charge against the said James Wilkie is conclusively ascertained by the stated account made out from the books of the company, and signed as aforesaid, and the defender is barred from disputing or quarrelling the said balance. (5) The defender's statements are not relevant,

or sufficient in law to support his pleas in defence. (6) The defender's whole material statements being unfounded in fact, the pursuers should have decree as concluded for, with expenses."

The pleas for the defender, William Stewart, were—"(1) The first conclusion of the summons is incompetent, in respect that the pursuers' right rests upon their disposition; or otherwise, if the disposition is not sufficient to instruct the debt, they must prove the debt by writ, or by the oath of the trustee. (2) The conclusions of the summons, *quoad* count and reckoning, being disconform to the Act 13 and 14 Vict., c. 36, and inept, the summons *quoad* said conclusion should be dismissed. (3) The security upon which the pursuers found not being in terms of the Act 6 and 7 William IV., c. 32, under which the company was formed, such security can give them no preference against the trustee or otherwise, at least can give no preference against him except for burdens expressed *in grœmio* of the deed of security. (4) The pursuers' title not being truly an *ex facie* absolute disposition, it can only give a preference as against the trustee for the sum actually advanced by them to complete the subjects previous to the date of the disposition, or at least previous to the recording thereof, not exceeding £800, and not for interest, fines, or penalties; and no stipulation for forfeiture or ejection not specially referred to, and made real by insertion in the titles, can effect the trustee. (5) Even assuming that the pursuers can turn the trustee out of possession, they can only do so on fourteen days' notice; and notice having only been given on 24th May 1870, since which no rents have been drawn, the pursuers cannot claim any rent from the trustee. (6) The pursuers having induced the trustee to complete the subjects at his own cost, by promising to lend the requisite sum, at least having acquiesced in his so doing, they cannot now eject him from the subjects, or prevent him drawing the rents, till he be repaid his advances. (7) The pursuers having consented to the trustee selling, they cannot interfere to prevent his doing so. (8) At least they cannot so interfere with the trustee without paying him the expenses incurred in the attempted sales, and the account for which his law agent holds the titles hypothecated. (9) The trustee having nothing in his hands belonging or due to the pursuers, and, *separatim*, being always ready to count and reckon with them, the present action is uncalled for and premature. (10) It being admitted by the pursuers that they did not advance the sums specified in their security-deeds, they are bound to instruct what they actually did advance; and, *separatim*, the stated account is not in terms of the bond. (11) The defender having taken proceedings to sell said subjects before the pursuers, they are not entitled to interfere with him in so doing."

The facts were, that under the rules of the Fourth Provident Society the defender James Wilkie became a shareholder of the company to the extent of thirty-two shares, amounting to £800, and in or about the month of July 1868 he applied to the directors to advance to him the whole of that sum. The directors agreed to make the said advance by instalments, to enable the said James Wilkie to complete a tenement then in the course of building in Wilkie Place, North Leith, upon the security aftermentioned. On 24th July 1868 James Wilkie granted, in favour of the trustees of the said Fourth Provident Property Investment Company, a bond, whereby, on the narrative of his being a shareholder of the said company, and to enable him to finish and complete the erection of the foresaid subjects in Wilkie Place, Leith, the directors of the said company had, in conformity with the rules thereof, agreed to advance to him the sum of £800 sterling, being the amount or ultimate value of the said thirty-two shares held by him in the said company, on the condition that the said building ground should be conveyed to the said trustees; and that he should grant them his bond in the terms therein written, and that the directors of the said company had advanced to him the said sum of £800, of which he thereby acknowledged the receipt, and that, as agreed on, the said building ground had been conveyed by the trustees of the Third Provident Property Investment Company, with his, the said James Wilkie's consent, by disposition dated 24th July 1868, in favour of the said trustees of the said Fourth Provident Property Investment Company, and that it remained for him to grant his bond for the farther security of the said company, he without hurt or prejudice to the foresaid conveyance in favour of the said trustees, but in addition thereto, bound himself and his heirs, executors, and representatives whomsoever, without the necessity of discussing them in their order, to pay to the trustees of the Fourth Provident Property Investment Company therein named, and to the survivors or survivor of them, and their successors in office, the sums of money therein mentioned, declaring that nothing therein contained should in any way affect or prejudice the rights and powers competent to the said trustees or directors, under the said rules in respect of the foresaid subjects, or of the foresaid advance to him, but that the same were thereby reserved full and entire; and he thereby ratified and approved the same accordingly. By the said bond it was specially declared and agreed to that a stated account or accounts, made out from the books of the said society or company, and signed by the manager or treasurer thereof for the time being, with reference to the foresaid advance, should at any period be sufficient, without any other voucher, to constitute and ascertain a balance or charge against the said James Wilkie and his foresaids, and that no suspension should pass upon a charge for payment of the balance or charge so ascertained, except on consignation only. The security to be given to the pursuers consisted of two tenements, along with the tenement then in course of being erected, being in whole three tenements, and the whole of the ground upon which the said three stood, which ground was contained in a feu-contract granted by Thomas Wilkie and Alexander Wilkie, clothiers, Leith, with consent of the said James Wilkie, on the one part, and William Leckie, Esq., cashier in the Commercial Bank, David Currie, 10 Hunter Square, James Buchanan, High Street, Alexander Forbes, West Newington Place, and Adam Mossman, 30 Princes Street, all of Edinburgh, trustees of the Third Provident Property Investment Company, enrolled under the foresaid Act of Parliament, 6th and 7th William IV., chapter 32, entituled "An Act for the Regulation of Benefit Building Societies." The said trustees held the property in security of advances made by the directors of the said Third Provident Property Investment Company to the said James Wilkie, and, accordingly, the security to be granted for the foresaid sum of £800 was to be subject to

the prior advances. In implement of the arrangement thus entered into, the trustees of the said Third Provident Property Investment Company, with the consent of the said James Wilkie, made over and conveyed to the pursuers the whole ground contained in the said contract, with the buildings thereon, under the burden, however, of the said prior advances due to the said Third Provident Property Investment Company by an *ex facie* absolute disposition, dated on or about 24th July, and recorded in the New Particular Register of Sasines for the Sheriffdom of Edinburgh, &c., on or about the 1st day of December in the year 1868. In accordance with the agreement above mentioned the pursuers advanced to the said James Wilkie the sum of £700 by instalments. James Wilkie thereafter became bankrupt, and was sequestrated under the bankrupt statutes on or about 18th December 1868, and the defender William Stewart was appointed trustee on his sequestrated estate. The said William Stewart entered into possession, and drew the rents of the properties at Whitsunday and Martinmas 1869, and also at the term of Whitsunday 1870, although the pursuers intimated to the tenants at the latter term that they claimed the rents thereof, and were entitled to the same; but the defender denied the pursuers' right thereto, or to any portion thereof, and the pursuers have received no payment since the bankruptcy to account of their debt, either principal or interest.

The defender Stewart stated that at the second statutory meeting of the creditors he was authorised to get the pursuers to advance the funds still necessary for completion of the three blocks of building, and on his applying to the law agent and manager of the Fourth Provident Company, the allowance was promised on his proceeding to complete the buildings. The trustee accordingly, on the faith of this promise and arrangement being carried out by the pursuers, at once proceeded with the completion of the subjects, and incurred accounts to the various tradesmen employed by him, amounting, exclusive of interest, to £301, 8s. 7d., by which additional saleable value was given to said subjects to a much larger extent. The pursuers, and their agent and manager foresaid, were aware of, and acquiesced in, these proceedings of the trustee, and also of the footing on which they were carried on, and it was only after the work was nearly completed, and the said accounts had been incurred, that the said manager wrote the trustee, on 24th April 1869, that the company declined to make the advance. The defender has in consequence been under the necessity of paying the said accounts himself, and he has required the pursuers to repay to him said accounts in terms of the arrangement, and also in respect of the additional value put upon the property before he gives up possession of the subjects; but the pursuers insist on entering into possession of the property and drawing the rents, and selling, without recognising said claim on the part of the trustee, or paying him any portion of the sums so advanced by him.

The Lord Ordinary (GIFFORD) pronounced the following interlocutor:—

"*Edinburgh, 21st February* 1871.—The Lord Ordinary having heard parties' procurators, and considered the closed record and whole process, Finds that the pursuers of the present action, as surviving trustees of the Fourth Provident Property Investment Company, are fully vested with, and have a complete title to the various subjects mentioned in the conclusions of the summons, and that by virtue of disposition by the trustees of the Third Provident Property Investment Company, with consent as therein mentioned, to and in favour of the pursuers, as trustees for the Fourth Provident Property Investment Company, dated 24th July 1868, and recorded in the Register of Sasines at Edinburgh 1st December 1868; finds that the said disposition confers upon the pursuers, as trustees foresaid, an *ex facie* absolute title to the said subjects, although it is apparent from the narrative of the deed, and is admitted on record, that the subjects were in reality conveyed only in security; finds that the pursuers, as trustees foresaid, were and are entitled to sell the said subjects, and out of the price which may be realised by such sale, to repay all advances made by the pursuers, or by the Fourth Provident Property Investment Company, to or for James Wilkie, formerly builder in Leith, with all interest due thereon, and also all sums justly due to the pursuers, or to the said Fourth Provident Property Investment Company by the said James Wilkie; repels the pleas stated by the defender, so far as directed against the validity of the pursuers' title or against the pursuer's right to sell; and, before further answer, remits to Mr Frederick Hayne Carter, accountant in Edinburgh, to inquire and report as to the balance due by the said James Wilkie to the pursuers, or to the Fourth Provident Property Investment Company; further, and before answer, remits to the said Frederick Hayne Carter to inquire and report as to the amount of the rents and profits of the said subjects which have been uplifted by the defender William Stewart, as trustee on the sequestrated estate of the said James Wilkie, with power to the said accountant to call for all accounts, books, papers, and documents relating to the questions remitted, and grants diligence at the instance of either party for recovery of all such accounts, books, papers, and documents, and commission to the accountant to examine the havers and receive their exhibits; and with power to the accountant to state alternative views, if he shall deem it proper to do so.

"*Note.*—The summons seeks to have it declared that the pursuers, as trustees for the Fourth Provident Property Investment Company, are entitled to sell the subjects mentioned in the conclusions of the summons, and that for repayment of a certain precise sum, with interest, said to be the amount of advances, fines, and penalties due by James Wilkie, the bankrupt, to the pursuers.

"As parties are widely at issue as to the sum truly due to the pursuers by the bankrupt, inquiry is necessary, and the Lord Ordinary was at first disposed, before answer, simply to remit the whole case to an accountant to ascertain the true balance due to the pursuers by the bankrupt; and also to ascertain the amount of rents which have been uplifted by the defender Stewart, as trustee upon James Wilkie's sequestrated estate. On reconsideration, however, and as some of the pleas of the defender go to exclude the action altogether, the Lord Ordinary has deemed it right to dispose of these pleas as far as he safely can, and this he has endeavoured to do by the findings contained in the preceding interlocutor.

"The true question is—Are the pursuers, as trustees, entitled to sell as against the defender

Stewart, and by a sale to recover the sums justly due to them, whatever the amount may be?

"The Lord Ordinary thinks that the pursuers, by the terms and conception of their title, have a right of sale, and that this right has not been lost or given up by anything which has taken place between the pursuers and Mr Stewart, as trustee on James Wilkie's sequestrated estate.

"The principal objections of the defender may be shortly noticed—

"(1) The title of the pursuers was objected to as disconform to the Act 6th and 7th William IV., cap. 32. This was explained to mean that the company had not been duly registered, and that the deed could not constitute a statutory security under the Building Societies Acts. It was maintained that the Registrar of Friendly Societies is not the proper officer to register the laws of a "building society," but that such registration should be made by a special officer appointed for the purpose.

"If it had been necessary to decide this question, it might require a careful examination of the statutes, but the Lord Ordinary is clearly of opinion that whether the Society's laws are well registered or not, the pursuers, as trustees for a lawful society, have a right at common law to enforce the deed which they have obtained from the bankrupt, according to its true nature and effect. A defect in the registration of the society, supposing such defect to exist, would not destroy deeds and contracts entered into by trustees for the society. Least of all would such defect avail a debtor or obligant who has contracted expressly with the trustees for the society. There is no question here of the society's title to sue as a society. It is well represented by the trustees, who sue as such. See *Jones* v. *Woolen*, 5 Barn. and Adolph., 769; *Margate* v. *Parks*, 1 D. and L., 582.

"(2) The defender maintained that the deed held by the pursuers did not constitute an absolute *ex facie* title, but was *in gremio* a mere security, and subject to all legal exceptions as such.

"It is true that the deed contains in its narrative the strongest indications that the pursuers hold in reality merely in security. But the conveyance is absolute, there is no clause of reversion, and no back-letter was granted, or is founded on. The conveyance is an out-and-out one, vesting the absolute title in the pursuers alone. The deed also gives the pursuers, in express terms, power to sell, and even power to borrow, on the subjects for behoof of the society. Still further, Wilkie himself never had any feudal or real right to the subjects. The feu-contract was originally taken, not to Wilkie, but to the Third Property Company, and the Third Company conveyed directly to the pursuers, as trustees for the Fourth Company, Wilkie being a mere consenter. It is difficult to hold that a title so constituted is not *ex facie* an absolute title. That it is really taken in security is not and never was disputed; but still the holder of such a title is entitled to much higher rights and privileges than if the deed had been merely a conveyance in security of a specified sum. The unlimited terms of the conveyance are not to be narrowed in their legal effect by the mere narrative of the deed.

"(3) The defender's objection, that the deed is not a security for any sums advanced after the date of infeftment, fails if the above view is correct. It is the privilege of an *ex facie* absolute title to operate as a security, not only for loans made before infeftment, but for debts of every kind which may be contracted thereafter. Besides, the objection seems ill-founded in fact, as the cheques instructing the advances are all dated prior to infeftment.

"(4) The only remaining objection requiring special notice is, that the pursuers have barred themselves from exercising their powers of sale in consequence of transactions which they have entered into with the trustee. The strength of this objection was rested on the Bankrupt Statute and, in addition, to the correspondence produced, the defender asked for further probation in support of the objection. He proposed to prove by parole that the pursuers' agent had renounced their right of sale in favour of the defender. The Lord Ordinary thinks such proof entirely inadmissible, and there is nothing in the correspondence which bars the pursuers from exercising their legal rights. No doubt the pursuers' agent was willing that the trustee in bankruptcy should carry through the sale, provided he realised a sufficient sum to satisfy the pursuers' claims. But the trustee in bankruptcy has failed to effect any sale, and he declines to reduce the upset, or to expose again, in the hope, apparently, that the market may improve. But this is out of the question—the pursuers, by allowing the trustee to attempt a sale, waived no legal right, and it is impossible to hold that they consented to indefinite or arbitrary delay, or gave the trustee a right to refuse to lower the upset price.

"The provisions of the Bankrupt Statute are not applicable to the present case. They apply solely to the case where the bankrupt is the feudal proprietor, and the creditor a mere security holder. Here the bankrupt has no title at all to the subjects. He has merely a personal claim against the Investment Company to convey the subjects to him on redemption, or to account for the surplus price. The trustee on the bankrupt's estate is in no better position. He has a mere personal claim against the Investment Company, and nothing more. He could not give a title to a purchaser, for the subjects are not included in his act and warrant, or in his statutory adjudication; he has merely right to call the company to account.

"The result is, in the Lord Ordinary's view, that the pursuers are entitled, as *ex facie* absolute proprietors, to make good their security by a sale. The form of the summons renders it necessary that the amount of the debt should be ascertained, and this will be done under the remit.

"The Lord Ordinary has also remitted at the same time, and to the same accountant, to ascertain the amount of rents uplifted by the defender. The objection to the form of the conclusion for count and reckoning was waived at the debate, an amendment being competent at any time. In the Lord Ordinary's view, the trustee in bankruptcy, who never had any title of possession at all, must account for the rents, so far as they are necessary to meet the pursuers' claim."

The defender Stewart reclaimed.

Authorities quoted—Stair 1. 8. 13; *Barbour*, 2 S, 1279.

At advising—

LORD JUSTICE-CLERK—In this case the question is, how far Mr Stewart is entitled to allowance for sums expended in completing the buildings. There may be cases where a party without a title, who

has beneficially expended money on subjects, is entitled to get back the money. If it was clear here that the Fourth Provident Society took benefit by the sums expended it might have been different, but I see no ground for holding that they got any advantage. I am for adhering *de plano*, reserving any claim Mr Stewart may have on the price of the building.

LORD NEAVES—I concur. The doctrine of recompense is one of importance and nicety, and the authorities are not satisfactory upon it. It is an equitable claim, and our law is favourable to the claim. As originally stated by Stair it is overstated, for it is applied even to the case of *mala fides*. The requisites generally are *bona fides*, which means a man with a bad title, in error as to his title, who improves a subject, and the party who takes the subject is bound to recompense such *bona fide* party who has expended money on the subject and may have lost by the transaction. Now, I do not see any error on the part of Stewart. He knew his rights, and there is no room for *bona fides*. There was a laxity both on the part of Stewart and of the society. Is it not possible the party who interposes here is acting *in suo* for himself. This must be made quite clear, that he was not acting so as to increase the reversion. Now, I do not think that is clear at all.

LORD ORMIDALE—I concur. In regard to the doctrine of recompense, as stated by Lord Stair, the Court must now hold it was too broadly stated as applied to *mala fide* amelioration, after the case of *Barbour* against *Halliday* in 1840.

Here the trustee had a title in virtue of the sequestration, but could only take possession subject to the rights of the secured creditors, such as the Fourth Investment Company. He might have proceeded to sell, subject to an accounting where a preference existed. The creditors have declined to authorise any proceedings. The correspondence between the Fourth Provident Society and Stewart is not quite distinct as to the management, but Mr Stewart kept possession and went on with the amelioration, the Fourth Company doing nothing, being secured. Stewart believed there might be a reversion, but that made his procedure only a kind of speculation on his part, he taking his chance of the result being favourable. I can find no authorities on this point, and to the effect that a party entering into possession in the full knowledge of his own rights and those of other parties on a speculation of this kind has any right of recompense from the true owner.

The Court pronounced the following interlocutor:—

> "Repel the remaining objections to Mr Carter's report, and approve thereof; adhere to the remaining findings of the Lord Ordinary's interlocutor of 21st February 1871; find that the pursuers, as trustees of the Fourth Provident Society, are not bound in administering and realising their security to pay the amount expended by the defender William Stewart, as trustee on Wilkie's sequestrated estate, in completing the buildings libelled, reserving the effect of any claim on his part for repayment thereof against the price of the said subjects when sold, and against the other creditors and the estate of the bankrupt Wilkie; farther, decern against the said William Stewart, defender, in terms of the conclusions for removing and for payment of the sum of £90, 15s. 11½d., being the balance of rents received by him as reported by the accountant Mr Carter; reserve any question in regard to the expense of the attempted sales of the property until the same shall come to be sold; find the pursuers entitled to expenses; and remit to the Auditor to tax the same and to report, and decern."

Counsel for Reclaimer—Scott. Agent—James Barton, S.S.C.

Counsel for Respondent—Balfour. Agent—John Robertson, S.S.C.

Tuesday, November 10.

SECOND DIVISION.

[Lord Gifford, Ordinary.

GILMOUR *v.* GILMOUR.

Contract—Residue—Multiplepoinding—Provision to Children.

Circumstances in which two brothers *held* entitled each to a half of an unexpected reversion of their father's estate, after payment of their sisters' preferable claims, without relief *inter se* in respect of such claims.

The fund in this multiplepoinding consisted of the free residue of the trust-estate of the deceased William Gilmour, merchant in Glasgow. The claimants were the two sons of the truster, John and William Gilmour. By the terms of the trust-disposition and settlement of the deceased William Gilmour senior, his four sons were constituted his residuary legatees, share and share alike. By arrangement with the two younger brothers, their shares were assigned to the two elder brothers, John and William, who became their father's sole residuary legatees. After their father's death John and William carried on business in partnership, and in 1850 they assumed a third partner, William Gilmour Cuthbertson. In 1856 an arrangement was made with three of the daughters of the deceased Mr Gilmour, by which they discharged their provisions under their father's settlement to the extent of £7000, the money being credited to the firm of William Gilmour & Company, that firm, and its three partners, granting personal bonds to the lenders for the sums discharged by them. In security of this £7000 William and John Gilmour assigned their interest in their father's estates. On 11th August 1857 an agreement was entered into by the three partners for the retirement of William Gilmour from the firm as at 1st February 1858. This agreement provided, *First*, "That on the 1st February 1858, William Gilmour shall retire from the firm of William Gilmour & Company as a partner, on having a full discharge from all his liabilities as a partner, or a satisfactory security to cover all his responsibilities, with the exception of the lease of the premises, but his discharge by the landlord is to be procured if possible, but the London agency is to remain unchanged until the same 1st February. *Second*, That William Gilmour shall relinquish all claim on the policy on his life for £1000, lodged with the Union Bank of Scotland, the new firm paying future premiums and