Lord Ormidale—It is of great importance that the decisions of the Court should be uniform and consistent in the class of cases of which this is one. I make this observation because, if I am not much mistaken, the case of *Reddie* v. *Williamson*, referred to by the Lord Ordinary in the note to his interlocutor, must be taken as all but conclusive of the present.

By the judgment in that case it may be taken as settled that although according to one and perhaps the strict reading of the bond there, as here, the cautioner is liable for all drafts of principal up to the sum he engaged for, with interest on each and all of these drafts from their respective dates till payment; that a balance must, in conformity with the practice which has long prevailed in such matters, be held as annually struck; that at each such balance the interest arising for the preceding year is added to the principal, just as if a cheque or draft had been passed for the amount; that on the sum of principal and interest thus accumulated, interest runs to the next annual balance, and so on till the amount is finally closed. So far the parties seemed to be agreed at the debate, and so far also the Lord Ordinary's judgment is in conformity.

But a further question arises in this case which can scarcely be said to have been decided in the case of *Reddie* v. *Williamson*. It is, whether the bank is entitled to go back to the balance of 31st December 1877 in ascertaining the indebtedness of the complainer as cautioner, in place of taking the amount as it stood on 11th November 1878, when the principal obligant became avowedly insolvent in the knowledge of the bank, and executed a trust-deed for behoof of his creditors, or at 31st December 1878, being the ordinary date of striking a balance next thereafter recurring, and when the bank, according to their letter to the complainer of 7th January 1879, may be said to have demanded payment of what was then due by him under the bond. The complainer contends that one or other of the two latter dates was the right one, and admitted his liability for £600 of principal as being due by him at either of them, with interest thereon till payment. But it is maintained for the bank that they are entitled to go back to the balance of 31st December 1877, and to charge the complainer with £600 of principal as due by him at that date, with interest till payment. The pecuniary difference between the parties thus arising is only £31, 0s. 9d.

In considering whether the bank is entitled to revert to the 31st December 1877 for ascertaining the indebtedness to them of the complainer, or must take the 11th of November or 31st December 1878 for that purpose, it has to be borne in mind that the account in question ceased to be operative on the former of these dates, when, in the knowledge of the bank, the principal obligant was avowedly insolvent and executed a trust-disposition for behoof of his creditors. Accordingly, it has been argued that in order to ascertain the indebtedness of the complainer it was necessary to revert to the 31st of December 1877, which was the last annual balance which had been struck before the account became inoperative.

After careful consideration I have come to be satisfied, although not altogether without difficulty, that this must be so, as well from the reason of the thing as from the import of the judgment in the case of *Reddie* v. *Williamson*, for although the precise point was not decided in that case, it was, I think, practically adopted as forming the basis in part of the judgment which was pronounced.

I am therefore, on these grounds, of opinion with Lord Gifford that the interlocutor of the Lord Ordinary ought to be altered to the effect of repelling in place of sustaining the reasons of suspension.

The Lord Justice-Clerk concurred.

The Court therefore recalled the Lord Ordinary's interlocutor and repelled the reasons of suspension.

Counsel for Complainer (Reclaimer)—Murray. Agents—Tods, Murray, & Jamieson, W.S,

Counsel for Respondent—R. V. Campbell. Agent—A. Kirk Mackie, S.S.C.

Friday, March 19.

SECOND DIVISION.

SPECIAL CASE — FORBES AND OTHERS (ANGUS' TRUSTEES) *v.* FORBES OR ANGUS AND OTHERS.

Provisions to Wives and Children—Marriage-Contract—Suspensive Condition—Vesting.

An antenuptial marriage-contract contained a clause directing that after the death of the wife, in case she should survive her intended husband, and if there should be a child or children of the intended marriage then alive, the trustees should pay over the trust-funds to the child or children of the marriage, subject to a power of appointment by the father, whom failing by the mother. The provisions were to be payable "on their respectively attaining majority." In the event of the wife predeceasing the husband the trust was to come to an end; the children were to renounce their legal rights in respect of these provisions. The husband having predeceased, *held* that the condition was not suspensive of vesting, and that the trust-funds vested in the children of the marriage at their father's death.

Opinion — per the Lord Justice-Clerk (Moncreiff)—that the *conditio si sine liberis* does not apply to the case of provisions under a marriage settlement.

Held that postnuptial assignations of insurance policies completed for the purpose of securing provisions under a marriage-contract were testamentary and revocable in so far as they exceeded the amount of the provisions which they were executed to secure.

Where an antenuptial marriage-contract provided an annuity of a certain sum for the wife, and the trustees under it held securities which were assigned to them for that purpose, *held* that she was not entitled to payment of more than the fixed annuity, although the securities were found to be more than were sufficient to yield the sum in question.

By antenuptial contract of marriage dated 30th November 1840, and recorded 6th September 1841, John Angus provided to his intended wife Katherine Ann Forbes, in case she should survive him, an annuity of £150, to be satisfied *pro tanto* out of the annuity of £30 or other annuity payable by the Widows' Fund of the Society of Advocates in Aberdeen. In security for the due payment of this annuity and for the payment of certain provisions which he made in the contract for the children of the intended marriage, Mr Angus conveyed to trustees, who were the first parties to this case, two policies of insurance over his own life, each for £999, 19s. The third purpose of the marriage-contract was in the following terms:—"After the death of the said Katherine Ann Forbes, in case she shall survive her said intended husband, and if there shall be a child or children of this intended marriage then alive, the said trustees shall pay the said trust-funds to the said child or children, to be divided among them, if more than one, in such proportions as their father shall appoint by any deed or writing under his hand, and failing his exercising that power, in such proportions as their mother shall appoint by any deed or writing under her hand, and failing both exercising that power, the same shall be divisible among the children equally, share and share alike; which provisions shall be payable to the children on their respectively attaining majority; and the interest, proceeds, and dividends shall be applied by said trustees during the minority of the said children for their support, maintenance, and education, according to their respective rights and interests; and in case there shall be no child or children of the said intended marriage alive at the death of the said Katherine Ann Forbes, or in the event of the said Katherine Ann Forbes predeceasing her said husband, whether leaving issue or not, then, and in any of these cases, the said trust shall cease and be at an end, and the said trustees shall be bound to divest themselves of said trust-funds and convey and make over the same to and in favour of the said John Angus, his heirs and assignees whomsoever."

The marriage-contract further provided that in the event of the dissolution of the marriage by the decease of Mrs Angus leaving a child or children of the marriage, Mr Angus should be bound to pay a sum of £1500 to such child or children at the first twentieth day of June or twentieth day of December after his death, the said sum of £1500 to be subject to a power of division by him. These provisions were declared to be in full of the legal rights of the children of the marriage.

In 1848 Mr Angus executed a postnuptial assignation to his marriage-contract trustees of a third policy of assurance on his own life for £999, 19s., and in 1851 he assigned to them a fourth policy for the same amount. Both assignations proceeded on a narrative of the granter's desire to secure a further sum to meet the annuity and other provisions to his wife, and the sum of £1500 conditionally payable to the children of the marriage under the antenuptial contract. In 1855 Mr Angus assigned a fifth policy of assurance on his own life to the same trustees, "as trustees for the purposes and with and under the conditions and provisions expressed in the foresaid contract of marriage." This assignation proceeded on a narrative of the obligations he had incurred in the contract of marriage, of the assignations therein made, and of the postnuptial assignations above referred to, and bore also to be in consideration "that I am desirous, in addition to the sums so assigned by me by said contract of marriage, and assignations hereinbefore narrated, of securing and providing a further sum to meet the due and regular payment of the foresaid annuity of £150 to the said Katherine Ann Forbes, my spouse, the foresaid sum of £150 for mournings, and the said sum of £1500 payable to the child or children of the said marriage, all as provided for in said contract of marriage, and generally for the due and faithful implement of the obligations come under by me by said contract, as well as for providing a further sum for the benefit of the child or children of the said marriage." In 1856 Mr Angus made another postnuptial assignation of a policy of assurance to the same trustees on a similar narrative.

There were eight children of the marriage, and they were all alive and major at the date when this case was presented. They, together with the marriage-contract trustees of one of them, were the fourth parties to the case.

Mr Angus died on 3d November 1878 survived by his wife and the whole children of the marriage. Previously to his death one of his daughters had been married to a Mr Renny. Mrs Renny had by her antenuptial contract conveyed to trustees her whole estate, including that to which she might succeed during the marriage. Mr Angus in the same deed undertook to pay to the trustees £500 on the celebration of the marriage, which £500 he paid accordingly, and £500 at the first term of Whitsunday or Martinmas after the death of the survivor of himself and his spouse.

Mr Angus left a trust-disposition and settlement in favour of the parties of the second part, by which, on the narrative of his marriage-contract, of the postnuptial assignations mentioned above, and of his wish to execute a general settlement of his affairs, he disponed to them as trustees his whole estate, and particularly the six policies of insurance, "in so far as the sums payable under the said policies, and all interest and revenue to accrue thereon, are or may be within my power of disposal or were assigned by me to the trustees under my said contract of marriage only in security of the provisions thereby created." The residue of his estate he appointed to be paid and divided among his eight children equally, subject to the declaration that the share of Mrs Renny should be £1000 less than that of the others, Mrs Renny having already been provided in £1000 under her contract of marriage. The children of Mrs Renny were the fifth parties to the case.

After the death of Mr Angus the trustees under his marriage-contract paid to Mrs Angus out of the proceeds of the first and second policies of insurance which had been assigned in the marriage-contract the annuities due to her, and set aside the balance as a sum sufficient to secure the annuity. This sum at the time of the Special Case yielded a considerable surplus income over what was required for the annuity, and this surplus was claimed by Mrs Angus in addition to the annuity. The testamentary trustees also claimed this surplus as applicable to the purposes set forth in the settlement of Mr Angus. It was admitted that the proceeds of the fifth and sixth

policies were not required to meet the annuity. The second and fourth policies were realised by the testamentary trustees. Further, it was contended by the marriage-contract trustees that the fee of the capital sum set apart in the marriage-contract did not vest till the death of Mrs Angus, and that the assignation of the fifth and sixth policies, in so far as not required to secure the provisions to the widow and children contained in the antenuptial contract, constituted special provisions irrevocable by the subsequent testamentary deed of Mr Angus. The only remaining question was, whether the proceeds of the fifth and sixth policies fell to be divided by the first parties among the parties of the fourth part, or whether they belonged to the second parties for the purposes of the settlement?

This Special Case was therefore presented to the Court by (1) Mr Angus' marriage-contract trustees; (2) his testamentary trustees; (3) Mrs Angus; (4) the children of the marriage, including the marriage-contract trustees of one of them; and (5) the children of Mrs Renny.

The questions proposed to the Court were—"(1) Did the fee of the capital sum appointed under Mr Angus' marriage-contract to be set apart to provide an annuity for his widow, vest as at the dissolution of the marriage, or is the vesting suspended during the period of Mrs Angus' survivance? (2) Are the first parties (the marriage trustees) bound to account for and pay to the second parties (Mr Angus' testamentary trustees) any surplus income that may accrue from year to year on the funds in their hands after providing the said annuity; or is it the duty of the first parties to accumulate such surplus with the capital, or is Mrs Angus entitled to such surplus? (3) Did the assignations of the policies described as fifth and sixth, in so far as not required to secure the provisions to the widow and children contained in the antenuptial contract, constitute special provisions in favour of the children of the marriage, irrevocable by the subsequent testamentary deed of Mr Angus. Or, (4) Is the effect of these assignations limited to the providing a further security for the particular provisions made by the said antenuptial contract? (5) In the event of question 3 being answered affirmatively, are the first parties entitled, in a due administration of their trust, to divide at the present time the sum of £3863, being the proceeds of the fifth and sixth policies, among the parties of the fourth part; or, in the event of question 4 being answered affirmatively, are the second parties now entitled to receive and administer that sum for the purposes of Mr Angus' testamentary trust?"

Argued for the first, third, and fifth parties—(1) There could be no vesting till the death of Mrs Angus, there being no gift to the children while she survived. The trustees were therefore bound to retain till her death. The *conditio si sine liberis* must be held to apply. (2) Either the surplus income fell to be paid to Mrs Angus at once, or it fell to be accumulated by the marriage-contract trustees till the period of division. (3) The fifth and sixth policies were irrevocably assigned by deed delivered to the marriage-contract trustees.

Argued for second and fourth parties—The *conditio si sine liberis* had no application in marriage-contracts. Under a marriage-contract, vesting in the children of the marriage was presumed at the earliest period possible.

Authorities—*Arthur & Seymour* v. *Lamb*, June 30, 1870, 8 Macph. 928; *Robertson* v. *Houston*, May 28, 1858, 20 D. 989; *Spence* v. *Ross*, Nov. 17, 1826, 5 S. 17; *Turnbull* v. *Tawse*, April 15, 1825, 1 W. & S. 80; *Taylor* v. *Graham*, July 12, 1878, 5 R. (H.L.) 217, and 3 L.R., App. Ca. 287; *Special Case—M'Call and Others*, Dec. 22, 1871, 10 Macph. 281; *Special Case—Hay and Others*, March 20, 1877, 4 R. 691; *Pretty* v. *Newbigging*, March 2, 1854, 16 D. 667.

At advising—

Lord Justice-Clerk—The deeds in this case are so complicated in themselves, and in many respects so obscurely worded, as to raise more than one element of difficulty in answering the questions which have been put to us in this Special Case. They consist, 1st, of an antenuptial marriage-contract between Mr Angus and his wife in 1840, under which his property was conveyed to trustees for purposes under which certain provisions were made by him for his wife in the event of her surviving him, and for the children of the marriage; 2d, of certain postnuptial assignations in favour of his marriage-contract trustees, which have for their professed object to provide greater security for the provisions in the marriage-contract. These bear date respectively 1855 and 1856. And lastly, a trust-disposition and settlement executed by Mr Angus in 1878.

The general scope of the first three mentioned deeds is to make and secure to his wife, in the event of her surviving him, a provision of an annuity to the extent of £150 a-year. As regards the children of the marriage, the marriage-contract, in the event of the husband's predecease, destined the whole trust-funds to the children of the marriage, under certain conditional words to which I shall immediately refer; and in the event of the husband surviving his wife the trust was to come to an end, and Mr Angus bound himself to pay to the children of the marriage after his death £1500. The assignations, as I have said, were substantially for the purpose of securing these provisions.

The main security assigned to the trustees by the marriage-contract were certain policies of insurance—one by the Society of Advocates in Aberdeen, of which the deceased was a member, and the other with the Scottish Widows Fund. It would appear that as the husband prospered in the world he had acquired other policies of insurance, which form the subject of the two assignations to which I have referred. There were eight children of the marriage, all of whom have survived and have attained majority, and Mrs Angus survived her husband and is still in life. The testamentary disposition and settlement of Mr Angus increases the annuity of £150 to his widow by an additional sum of £60, and directs the residue of his estate to be divided equally among all his children, with one exception, declaring that their provisions shall vest from the date of his death.

Such is a short summary of the general complexion of these instruments, in regard to the legal effect and operation of which the questions contained in this Special Case have been put for our decision.

The first of these is—"Whether the fee of the

capital sum appointed under Mr Angus' marriage-contract to be set apart to provide an annuity for his widow vests as at the dissolution of the marriage, or is the vesting suspended during the period of Mrs Angus' survivance?"

I have found this question to be attended with a great deal of difficulty, owing to the singular, confused, and not very consistent phraseology in which the marriage-contract is expressed. The main words are these—"*Third*, After the death of the said Katherine Ann Forbes, in case she shall survive her said intended husband, and if there shall be a child or children of this intended marriage then alive, the said trustees shall pay the said trust-funds to the said child or children." And then further on in the same clause—"And in case there shall be no child or children of the said intended marriage alive at the death of the said Katherine Ann Forbes, or in the event of the said Katherine Ann Forbes predeceasing her said husband," the trust is to come to an end.

It has been maintained—and certainly not without much apparent reason—that these words import a condition suspensive of vesting until the death of the widow. By the words of the deed payment is only to be made to the children then alive; and there is certainly not wanting authority or precedent to show that a condition so expressed must be fulfilled before a legacy or a bequest conceived in these terms vests in the legatee.

I am quite sensible of the great difficulty presented by the form of words employed. But I have come to be of opinion that such is not the true construction of the instrument, nor the expressed intention of the testator. In the first place, a condition of survivance attached to a legacy or a bequest, when not designed for the benefit of a conditional institute, but merely and only to protect the interest of a liferenter or annuitant, does not *prima facie* suspend vesting, although, no doubt, words may be used which may compel a court of law to give that effect to them. The object of postponing the period of payment was entirely for behoof of the widow, and in order that her annuity should not suffer. As was laid down by Lord Colonsay in the case of *Carleton*, 5 Macph. (H. of L.) 151, the presumption in the general case is that provisions vest *a morte testatoris;* and in the recent case of *Taylor*, 5 R. (H. of L.) 27, in the House of Lords, a provision somewhat similar, to which a contingency of survivorship was attached, was held not to be subject to a suspensive condition, the condition being truly not personal to the legatee, but affecting only the prior and superior right of the life interest.

Still further, this is not a legacy but a provision contained in a marriage-contract, and as such provisions are *quasi* debts in the persons of the children of the marriage, the presumption against the postponement of vesting is always stronger than it is in the case of a testamentary bequest.

It was argued that in truth there was a destination-over in this clause to the child who might survive; but that is not the nature of the provision. There can be no destination-over unless there be first a gift to someone else. But here, if the construction contended for is sound, there is no gift to anyone but such as survive. It is a pure case of a provision or grant subject to a condition.

These considerations certainly tend in the direction of the opinion which I have indicated; and further, there could be no good reason for the father depriving the whole of his children of any interest in the marriage-contract provisions unless they survived their mother, by which time they might have been, as they are, well advanced in life. But I must fairly confess that I should have found difficulty in reaching the conclusion at which I have arrived had I found nothing else in the instrument to support it. But as I read this third provision of the marriage-contract, it appears to me to contain a clause which puts the true intention of the contracting parties beyond dispute. The words on which I found are those immediately following the words of the grant. It is quite plain that if the children were to have no right at all as long as their mother lived, and the father was to predecease the mother, which was the only event which this trust contemplated, it was utterly impossible that the father could appoint the shares of the children, as he could not possibly know which of them would survive their mother, and among which of them therefore the appointment was to take effect. It seems to me that this provision proceeds, and must have proceeded, on the assumption that when this appointment was made by the father the fund had vested, and the like impression manifestly dictated the latter part of the clause—"which provisions shall be payable to the children on their respectively attaining majority," and the proceeds to be applied to their maintenance and upbringing while in minority, "according to their respective rights and interests."

It may be further observed, in support of this view, that by the marriage-contract the children renounce, or rather their parents renounce for them, their legal rights, and it is hardly to be supposed that these would be surrendered in consideration of an eventual and contingent benefit which might not be enjoyed for half-a century, if it ever was enjoyed at all.

Having come with no little hesitation to be of this opinion, I am relieved from the necessity of considering or deciding some of the other questions which were argued to us, on the assumption that the provision might be held not to vest.

It was said, in the first place, that the *conditio si sine liberis* would apply to this provision, and that the survivance of grandchildren or great-grandchildren would sufficiently fulfil the condition. The children of the marriage are in the stipulations made by the spouses anterior to marriage a favoured class, and it by no means follows that the children of another marriage can take their place or fulfil conditions bestowed or laid personally on themselves. It is not necessary that I should express an absolute opinion on this matter, but my impression is that the *conditio si sine liberis* is a principle of testamentary succession, and does not take effect in contracts. The question how far grandchildren succeed to their parents' provisions under contracts of marriage depends, and has been settled, on other principles.

The second question which was argued would have been one of very considerable importance had the first question put to us been answered in a different way. It was contended that the post-nuptial assignations of the policies, while they necessarily fell under the terms of the marriage-contract so far as they were intended to give additional security to the marriage-contract pro-

visions, were testamentary and revocable in so far as they went beyond that purpose; and that is the subject of the third and fourth questions in the case. In the view I have already presented, it is not necessary that I should come to conclusion on this matter, but I am of opinion that the plea is well founded. I am of opinion that, excepting to the extent of securing the marriage-contract provisions, these assignations were entirely gratuitous and voluntary, and so testamentary and revocable, unless some act took place which barred revocation. It was said, and with force, that delivery to the trustees had this effect; but as it was necessary to deliver the deed in order to secure the marriage-contract provisions, I do not think the fact that the instrument delivered for that purpose contained also a testamentary bequest is sufficient to exclude the testator from revoking.

The next question, which is the second of those contained in the case, is, whether the widow is restricted to £150, although the original securities held for her behoof are now more than sufficient to yield the requisite amount? It is not without reluctance that I find myself obliged to negative this claim; but without going through the different parts of the marriage-contract which lead to this result, I may express my opinion that beyond the additional provisions made in the trust settlement I can find no words in the marriage-contract or in the assignation which would justify such a result.

I answer the fifth question in the affirmative, to the effect that the sum here mentioned as the produce of the fifth and sixth policies may with propriety be divided now, as the funds in the hands of the trustees from the first and second policies are more than sufficient to meet the widow's annuity.

LORD ORMIDALE concurred.

LORD GIFFORD—The first question in this case is as to the date of vesting of the capital sums set apart under the marriage-contract between Mr and Mrs Angus to secure the annuity for Mrs Angus, and which are still held for that purpose, and the question is, whether these sums have vested on Mr Angus' death on 3d November 1878, or whether the vesting thereof is suspended till the death of his widow Mrs Angus, who still survives?

This question of vesting is a difficult one upon the terms and on the peculiar expression of the marriage-contract. At first sight the words of the marriage-contract seem to point to a suspension of the period of vesting till the death of the widow, and it is only with some difficulty, and after a minute examination of the deed, that I have come to be satisfied that vesting is not postponed beyond the death of the husband. The words of the deed seem to restrict the children who are to be beneficiaries to those alive at the death of the widow, and the term of ultimate division thus seems to be the contemplated term for vesting. But I am satisfied that this is not the true meaning of the deed, but that the makers intended that all the children of the marriage, or at all events all the children who should survive its dissolution, should participate in the fund. The only object of the fund was to secure the annuity to Mrs Angus if she should survive her husband. There was no other purpose in the postponement of the division of the fund except its dedication to produce the widow's jointure. If the jointure is secured, the fund would be instantly set free for immediate division. Again, the annual proceeds of the fund are made available for the maintenance and education of the children, and the fund itself is treated as belonging in fee to all the children of the marriage. Still further, a power of apportionment is vested in the father, and failing his exercising that power, in the mother, to fix the shares and proportions in which the fund is to be divided among the children; and lastly, the provisions to the children are declared to be in full to them of their respective legitim or legal rights of every kind. All the provisions indicate in the clearest way that the sum in question had vested and was intended to vest in the children of the marriage. It is a vested sum which is the proper subject of apportionment, and not a sum regarding which there is uncertainty as to who the parties are who will take all or any part of it. Legitim vests on the death of the father, and there is a strong presumption that where there are provisions in place or in full of legitim, and no ulterior provisions in favour of anybody beyond securing the widow's annuity, the widow in such case is merely a liferentrix, or holds a mere security for her liferent, and the existence of a liferent *per se* never suspends the vesting of the ultimate fee. I think the expression in the marriage-contract that the payment is to be made to children "then alive"—that is, alive at the death of the widow—has mere reference to the postponement of payment, and of course payment could only be made to those who were alive at the time, but was not intended to restrict the beneficiary fee or to exclude the representatives of children who might happen to predecease their mother. I think therefore that the first question should be answered to the effect that the fee of the capital sum in question vested at the dissolution of the marriage.

The next question relates to the appropriation and destination of any surplus income which may arise from the capital in question over and above what is necessary to pay the full annuity to Mrs Angus, the widow.

Now, in the first place, I am of opinion that Mrs Angus herself, the widow, is not entitled to such surplus. The fund itself, and all interest or income accruing thereon, is merely a security to Mrs Angus for her annuity. Her annuity is otherwise fixed by the marriage-contract, and by Mr Angus' testamentary deeds increasing it by the sum of £60 per annum, but when so secured Mrs Angus has no further interest in the security fund. That fund belongs, I think, so far as created under the marriage-contract, to the children of the marriage in terms of the marriage-contract, and in so far as the fund has been created by Mr Angus' testamentary deeds, then the fund itself and any interest accruing thereon must be accounted for to Mr Angus' testamentary trustees, and disposed of according to his will.

I am disposed to answer the third question in the negative, and the fourth or alternative question in the affirmative. I think, on a sound construction of the assignations of the policies described as fifth and sixth, taken in connection with the terms of the marriage-contract, that

these assignations were only intended to provide further security for the provisions contained in the antenuptial marriage-contract. If they are not required for this purpose, or after this purpose is completely served, these policies simply form part of Mr Angus' general estate, and fall to be disposed of or applied in terms of his *mortis causa* trust-disposition and settlement. I do not think that the assignations of these policies to the marriage-contract trustees can be held as final and irrevocable additions to the marriage-contract provisions for the children The assignations, it appears to me, after providing additional security to the widow, must be held as merely testamentary, so that Mr Angus had full power to dispose of them (the security being first satisfied) by his final trust-deed and settlement.

The fifth question is virtually already answered. The security for Mrs Angus' annuity being complete, and the sum here mentioned (£3863), being the proceeds of the fifth and sixth policies, not being required for the widow's security, I think it should be handed to Mr Angus' testamentary trustees to be applied in terms of his deed of settlement

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