

An appeal having been taken to the House of Lords, the case was remitted for re-consideration. A full report of this case, together with the Judges' opinions, as also of the procedure which took place in the Court of Session after the remit, will be found in Mr Shaw's Report of the Second Appeal to the House of Lords, vol. i., p. 320, which see.

1814.

AGNEW
v.
DUNLOP.

For the Appellant, *John Clerk, John Greenshields, Alexander Maconochie, J. A. Murray.*

For the Respondents, *Wm. Adam, Sir Samuel Romilly.*

(Sheuchan Case.)

JOHN VANS AGNEW of Sheuchan, - - Appellant.

Mrs FRANCES DUNLOP, otherwise AGNEW,
Widow and universal Disponee and Exe-
cutrix of Robert Agnew, Esq., last of } Respondent.
Sheuchan, - - - - - }

House of Lords, 29th July 1814.

(Second Appeal.)

It has been seen by the previous appeal, that the creditors had been successful before the Court of Session in obtaining a judgment, finding that the entailed estate of Barnbarrow was liable for John Vans' debts.

It was also mentioned that his son, Robert Vans Agnew, had also contracted considerable debts; and he in his turn raised an action of reduction against the heirs of entail, on the grounds, *inter alia*—1st, That the entail did not protect the estates against the contraction of debts. 2d, That he was entitled to set aside the contract of mutual entail because the counterpart of it had not been implemented on the part of John Vans, one of the contracting parties, but the same had been defeated by his contracting debts. 3d, That he ought to be allowed to relieve and disengage from the said entail as much of the estate of Sheuchan as would be equal in value to the extent of the debts contracted by John Vans. 4th, To sell and dispose of so much of the said lands and estate of Barnbarrow, as shall be sufficient to discharge these debts; and for their Lordships to interpose their authority to such sale, upon proof of the rental and value of the estate.

A remit was made to an accountant, as to the amount of the debts and the rental of the estate; but the Court ultimately pronounced this interlocutor:—"But, in regard there

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 AGNEW
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 March 11, 1785.

“ is no clause or provision in the entail by which the heir of
 “ entail is empowered to sell the whole or any part of the said
 “ estate of Barnbarrow for payment of debt, and in regard the
 “ Court has no jurisdiction to authorise any such sale, assoilzie
 “ the defenders,—leaving to the pursuer and the other parties
 “ concerned to take such steps for their relief in the premises
 “ as they shall be advised.”

Against the interlocutors pronounced in this cause, with the exception of part of the last interlocutor, which is above quoted, the present appeal was brought.

After hearing counsel,

It was ordered, That the cause be remitted back to the Court of Session to review the interlocutors complained of generally, allowing the appellant to call all necessary parties before them, and to do therein as to them shall seem just.

For the Appellant, *John Clerk, J. Greenshields, Alexander Maconochie, J. A. Murray.*

For the Respondent, *Sir Samuel Romilly, Geo. Cranstoun.*

(Sheuchan Case.)

JOHN VANS AGNEW, Esq. of Sheuchan, *Appellant.*

Mrs FRANCES DUNLOP, otherwise AGNEW, Widow, and universal Disponee and Executrix of Robert Vans Agnew, Esq., last of Sheuchan, as representing her said Husband; the Right Honourable JOHN, EARL of STAIR, JOHN MAITLAND, Esq. of Freugh, as representing the deceased Captain the Honourable PATRICK MAITLAND of Freugh; Sir DAVID HUNTER BLAIR, Bart., and JAMES HUNTER BLAIR, Esq., both or one of them representing the deceased Sir John Hunter Blair of Dunskey, Bart.; RAMSAY HANNAY, Esq. of Kirkdale, ALEXANDER M'LEAN, Esq. of Mark, and CHARLES STEWART, W.S., as Trustees of William Hannay of Bargally; and JOHNSTON HANNAY of Torrs, Esq., and DAVID BALFOUR, Esq., W.S.,

Respondents.