

defender liable to the pursuer in the expenses of the reclaiming-note, and remit," &c.

Counsel for the Defender and Reclaimant—J. C. Watt. Agent—John Robertson, Solicitor.

Counsel for the Pursuer and Respondent—Wilton. Agent—David R. McCann, S.S.C.

Saturday, January 25.

FIRST DIVISION.

KING LINE, LIMITED, PETITIONERS.

Company—Memorandum of Association—Alteration—Companies (Memorandum of Association) Act 1890 (53 and 54 Vict. c. 62)—Steamship Owners.

The Companies (Memorandum of Association) Act 1890 enacts as follows:—Section 1—“(1) Subject to the provisions of this Act a company registered under the Companies Acts 1862 to 1886 may by special resolution alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, . . . but in no case shall any such alteration take effect until confirmed on petition by the Court which has jurisdiction to make an order for winding-up the company . . . (5) The Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company, if it appears that the alteration is required in order to enable the company . . . (b) To attain its main purpose by new or improved means or . . . (d) To carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company. . . .”

A company which had been formed for the purpose of carrying on the business of steamship owners in all its branches, by special resolution altered its memorandum of association by adding clauses in which they took power to carry on the business of ship owners, ship brokers, insurance brokers, managers of shipping property, lightermen, warehousemen, wharfingers, ice merchants, refrigerating storekeepers, and general traders, and to make and carry into effect arrangements for amalgamation with any other companies having similar objects.

On a petition by the company under the Companies (Memorandum of Association) Act 1890, the Court confirmed the alteration.

Counsel for the Petitioners—Tait. Agents—Davidson & Syme, W.S.

Thursday, January 30.

FIRST DIVISION.

LORD HAMILTON OF DALZELL v. CHASSELS.

Superior and Vassal—Casualty—Composition—Payment of Casualty—Special Stipulation—Implied Entry when Fee Full—Conveyancing (Scotland) Act 1874 (37 and 38 Vict. cap. 94), sec. 4.

A feu-contract was executed in 1781 by which subjects were feued to be held “expressly of” the superior and his heirs and successors, “and not otherwise.” The *reddendo* clause provided for payment by the vassal of one year’s feu-duty at the entry of each heir, “and one full year’s rent of the subject according to the value thereof at the entry of every singular successor to the said subject, and that within one year and one day of the heir or singular successor succeeding or acquiring right thereto.”

In 1884 a body of trustees who were the vassals infeft in the subjects paid a casualty. In 1900 a singular successor acquired the subjects under a duly recorded disposition. The superior having claimed a casualty, the singular successor refused to pay it in respect that the fee was full, one of the trustees being still alive, and that consequently in virtue of the proviso contained in the Conveyancing (Scotland) Act 1874, sec. 4 (3) he was not liable.

Held that prior to the Conveyancing Act of 1874 the superior could not under the provisions of this feu-contract and the law as it then stood have compelled a singular successor to enter while the fee was full; that there was no obligation imposed upon a singular successor by the feu-contract to pay a casualty irrespective of entry; and that consequently the superior was not entitled to payment of a casualty.

Opinion (per Lord M'Laren) that even if there was in the original feu-contract an obligation upon every disponee to take entry and pay a casualty within a year and a day, such an obligation was not binding on a singular successor who had not by any express stipulation in his title made himself a party to the original contract.

By a feu-contract dated in 1781 entered into between Captain John Hamilton of Dalzell and Robert Brownlie, Captain Hamilton sold and in feu-farm and heritage perpetually let to Robert Brownlie certain subjects therein described, now part of Windmillhill Street, Motherwell, for payment of the feu-duty and casualties and on the conditions therein expressed.

The feu-contract contained, *inter alia*, the following clauses:—“The said Capt. John Hamilton binds and obliges him, his heirs, and successors, to infeft and seize the said