

Tuesday, March 3.

FIRST DIVISION.

THE COLONIAL REAL PROPERTY
COMPANY, LIMITED, PETITIONERS.

Company—Process—Reduction of Capital—Companies Act 1877 (40 and 41 Vict. cap. 26), sec. 4 (2)—Addition of Words “And Reduced” to Name of Company.

In an application, under the provisions of the Companies Act 1867 and 1877, for an order by the Court to confirm reduction of capital, and to dispense with the words “and reduced,” the petitioners, on moving for advertisement and service, craved the Court to dispense with the words “and reduced,” as part of the name of the company between the date of presenting the petition and the disposal thereof. The Court, following *The Albany Shipping Company, Limited*, December 11, 1895, *ante* p. 203, granted the dispensation craved.

Counsel for the Petitioner—W. Campbell.
Agents—Macandrew, Wright, & Murray,
W.S.

Wednesday, March 4.

SECOND DIVISION.

[Edinburgh Dean of
Guild Court.

MILLAR *v.* TRUSTEES FOR ENDOW-
MENT COMMITTEE OF CHURCH OF
SCOTLAND.

Property—Building Restrictions—“Villa.”

A vassal was bound by a restriction in his feu-charter to erect no buildings other than “villas or offices” on his feu. He applied to the Dean of Guild Court for warrant to erect six contiguous self-contained houses of two storeys with separate gardens before and behind. The superior objected.

Held (affirming the judgment of the Dean of Guild Court) that the proposed buildings were not “villas.”

By feu-charter dated 29th January 1870, David Deuchar disposed to the Corporation of the Royal Edinburgh Asylum for the Insane part of the lands of Morningside, under certain conditions, *inter alia*—(2) “That the said corporation shall not be entitled to erect on any part of the stripe of ground hereby disposed houses or buildings other than villas or offices, except with the consent of me and my heirs and successors, and said stripe of ground shall not be used for any purpose injurious to the amenity of the adjoining ground.”

In 1890 Mr Deuchar disposed the superiority of the ground to the Trustees of the Endowment Committee of the Church of Scotland. By disposition dated 9th and recorded 11th November 1895 the Asylum

Corporation disposed the ground itself to James Millar, builder, Edinburgh.

Thereafter Mr Millar applied to the Dean of Guild Court, Edinburgh, for warrant “to erect six self-contained dwelling-houses” on the ground. The plans showed a row of contiguous houses of two storeys with gardens in front about 15 feet square, separated by iron railings, and with separate gardens behind.

The superiors opposed the application on the ground that the buildings proposed were disconform to the conditions of the feu-charter, which restricted the petitioner to the erection of “villas.”

On 2nd January 1896 the Dean of Guild sustained this plea, and refused warrant.

Note.— . . . “But the Dean of Guild is of opinion that the same result would follow if the term is considered with reference to its present use and application. Of late years the public have become familiar with that form of erection which consists of two contiguous self-contained houses, each surrounded on three sides by vacant ground. Each of such houses has come to be known as a ‘semi-detached villa,’ and the Dean of Guild is of opinion that this term has now acquired a definite place in architectural nomenclature. But at the same time the Dean of Guild is clearly of opinion that for the present this is the last modification of the term ‘villa’ which is known to the building trade.

“In order to be able to pronounce an authoritative opinion on this point, the Dean of Guild thought it right to call a special meeting of his Court, which was attended by all the members except two, who are merchants. The members present included, besides the Dean of Guild, who is a civil engineer, an architect, house-agents, licensed valuers, and masters of the trades of builders, joiners, and cabinet-makers. The members of the Court were unanimously of opinion that the term villa still denotes exclusively a self-contained house of individual and separate character, standing within its own grounds; further, that if any modification of the term were intended, it would require to be expressed, as by the use of the term ‘semi-detached villa’; and that at the present day the semi-detached villa represented the furthest extent to which the qualification of the original meaning of the term ‘villa’ had been recognised by the building trade.

“The Dean of Guild and his Court are unanimously of opinion that the houses proposed by the petitioner would form a row or short street of self-contained houses.”

The petitioner reclaimed, and argued—A restriction of this class on property was to be construed as favourably to the disponent as possible. A villa was a house having ground about it. The proposed buildings fulfilled this condition, having garden ground before and behind. It did not matter that the houses were attached to one another. If the test, as contended for on the other side, was that a villa must have ground all round it, then a mere passage of a foot or two between the