

The pursuer appealed to the Court of Session for jury trial, and proposed issues against the defender Paton at common law and under the Employers Liability Act.

Argued for respondent Paton—There was no relevant ground of action against this respondent. A stevedore was not responsible for the defects of the tackle in a ship belonging to another person. It was no part of his duty to warrant the condition of such tackle, there being no special circumstances alleged which would impose such a duty upon him. Accordingly no liability attached to him. This had been clearly laid down in the cases of *Nelson v. Scott Croall & Sons*, January 30, 1892, 19 R. 425; *Robinson v. John Watson, Limited*, November 30, 1892, 20 R. 144.

Argued for reclaimers—There was a sufficient allegation of fault on the part of the stevedore. It was his duty to see that the parts of the ship which he and his men were going to use were in proper order. The defects were not latent, and might easily have been discovered, and accordingly he was liable to his servants for an accident caused by these defects.

LORD PRESIDENT—It seems to be clear that there is no case against the stevedore, there being no particular circumstances alleged such as to impose on him the wide duty of examining the ship on which he was employed, and an entire absence of any grounds to constitute liability against him.

LORD M'LAREN—I agree, and after the two cases which have been referred to, I should have thought it hopeless, or at least unnecessary, to bring an action against a stevedore in respect of the insufficiency of the ship in which he is employed.

LORD ADAM and LORD KINNEAR concurred.

The Court dismissed the action as against the defender Paton.

Counsel for Pursuers—Baxter—Guy.
Agent—Henry Robertson, S.S.C.

Counsel for Defender—Constable. Agents—Mill, Bonar, & Hunter, W.S.

Thursday, March 12.

FIRST DIVISION.

THE SCOTTISH ACCIDENT INSURANCE COMPANY, LIMITED, PETITIONERS.

Company—Resolution to Alter Memorandum of Association—Confirmation by Court—Companies (Memorandum of Association) Act 1890 (53 and 54 Vict. cap. 52), sec. 1—Change of Name.

A petition presented by an Accident Insurance Company for confirmation of a resolution to alter its memorandum

of association to the effect of enabling it to undertake life, fidelity, and certain other classes of insurance business, granted on condition that the name of the company should be altered in such a manner as should be approved of by the Court, so as to indicate the change which was being effected in the character of its business.

The Scottish Accident Insurance Company Limited, incorporated and registered under the Companies Acts, presented a petition for confirmation of an alteration of its memorandum of association under the Companies (Memorandum of Association) Act 1890, sec. 1.

The company was established under its memorandum of association for the purpose of carrying on the business of insurance against or upon accidental injuries to human life, and against injury to and destruction of property from any accidental cause other than fire. The alterations proposed to be made in the memorandum of association were designed to enable the company to extend the scope of its operations by transacting life, employers' liability, fidelity, and sickness insurance business, and to abandon the power of insuring property against loss caused by accident other than that of fire.

Two extraordinary general meetings of the company adopted and confirmed a special resolution giving effect to these alterations, but a second special resolution "that the name of the company be changed to 'The Scottish Accident and Life Insurance Company, Limited,'" was not confirmed.

The Companies (Memorandum of Association) Act 1890 (53 and 54 Vict. cap. 62), sec. 1, empowers companies to alter the provisions of their memorandum of association subject to confirmation by the Court. Sub-sec. 5 provides—"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 to enable the company (a) to carry on its business more economically or more efficiently; or (b) to attain its main purpose by new or improved means; or (c) to enlarge or change the local area of its operations; 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; or (e) to restrict or abandon any of the subjects specified in the memorandum of association or deed of settlement."

Mr C. B. Logan, W.S., to whom the Court remitted to inquire and report on the petition, reported that the proceedings had been regular. On the reasons for the proposed alteration he said—"Your Lordships have in a previous case sanctioned, under the Act of 1890, the extension of the business of a Life Assurance Company so as to include accident insurance, and have also permitted an Accident Insurance Company to obtain powers to transact fidelity and guarantee business, and I have not been able to ascertain that there have been any cases, either in Scotland or in

England, in which the Courts have authorised under the Statute of 1890 so important an extension of business as is now sought for. . . . I have therefore some difficulty in reporting whether the proposed extension can be held to be covered by the provisions of the Act, or whether it may not be necessary to reconstitute the company in order to accomplish the change. This is a matter which I feel it my duty to bring specially under your Lordship's consideration." He further reported with regard to the name of the company—"It humbly appears to me that if the extension of powers asked for is granted by your Lordships, either in whole or in part, it would be proper that the name of the company should be altered so as to indicate the increased nature of the business. The petitioners are willing that the name of the company be changed to 'The Scottish Accident, Life, and Fidelity Assurance Company Limited,' and they are in communication with the Board of Trade for its approval to this change, as provided for under section 13 of the Companies Act of 1862."

The petitioners expressed at the bar their consent to the proposed change of name.

Argued for the petitioners—The prayer of the petition should be granted. Such applications were only refused when the company sought to undertake a totally different kind of business from that which it had been established to transact—*Glasgow Tramway and Omnibus Company Limited v. Magistrates of Glasgow*, March 13, 1891, 18 R. 675; *Young's Paraffin Light v. Mineral Oil Company Limited*, January 16, 1894, 21 R. 384. All the new business proposed to be undertaken by the company was insurance business, and was not foreign to the company's original objects. The case was therefore similar to that of the *Northern Accident Insurance Company*, June 30, 1893, 30 S.L.R. 834, as well as to those of the *Foreign and Colonial Government Trust Company*, L.R. [1891], 2 Ch. 395; *Alliance Marine Insurance Company*, L.R. [1892], 1 Ch. 300; and *National Boiler Insurance Company*, L.R. [1892], 1 Ch. 306.

The Court pronounced the following interlocutor:—

... "Confirm the alteration of the memorandum of association . . . subject always to the condition that the name of the company be changed to 'The Scottish Accident, Life, and Fidelity Insurance Company Limited,' or such other name as may be resolved upon by the company, and approved of by the Board of Trade, as provided for by section 13 of the Companies Act 1862, and be approved by the Court under this petition; and for this end continue the cause, and decern."

Counsel for the Petitioners—Lorimer—Crole. Agents—J. & R. A. Robertson, S.S.C.

Thursday, March 12.

SECOND DIVISION.

MARQUIS v PRENTICE AND HALBERT.

Succession—Vesting—Lease for 950 years—
Destination—*Conditio si sine liberis*.

The lessee in a lease for 950 years took the destination to himself "and his heirs as after mentioned" under burden of a liferent to the extent of one-third, and failing both himself and the liferentrix, to his wife in liferent only during her widowhood allanarly, "and after the death of the said spouses" or re-marriage of his wife "then to the children of their marriage equally between them, share and share alike in fee." After the death of both himself and his wife who had survived him, held that the lease vested in the children of the marriage alive at their father's death, and was not postponed till the termination of the widow's liferent, but that the issue of children who had predeceased their father were not entitled to a share, the *conditio si sine liberis* not being applicable in the case of a deed granted by a stranger to the family, and not as a parental provision.

By lease dated 12th July and 17th September 1845, entered into between the Right Honourable Robert Montgomerie Hamilton, Lord Belhaven and Stenton, heritable proprietor of the subjects thereby leased, on the one part, and Alexander Prentice, iron loader at Newmains Iron Works, and residing at Beltonfoot of Wishaw, on the other part, the said Lord Belhaven and Stenton "Let, and in tack and assedation set, to the said Alexander Prentice and his heirs as after mentioned, but always with and under the burden of the liferent of Cecilia Haddow or Prentice, his mother, to the extent of one-third of the subjects after described, during all the days of her natural life, and failing both the said Cecilia Haddow and the said Alexander Prentice, then the whole subjects to and in liferent only, to the present wife of the said Alexander Prentice during the days and years she may continue his widow allanarly, and after the death of the said spouses, or re-marriage of the present wife of said Alexander Prentice, then to the children of their marriage, equally between them, share and share alike in fee." The endurance of the lease was for the whole time and space of 950 years from and after the term of Martinmas 1844, which was declared to have been the term of entry to the possession of the subjects let, notwithstanding the date of the lease. The said Alexander Prentice by said lease bound and obliged himself, "and his heirs and successors herein," to content and pay to the said Lord Belhaven and Stenton £1, 1s. of yearly rent or tack-duty. The lease was not recorded under the Registration of Leases (Scotland) Act 1857, but the lessee entered into possession of the subjects, and possessed them in virtue of the lease during his lifetime.

Alexander Prentice, the lessee, died on 5th November 1877 intestate. He was sur