LORD LEE—I come to the same conclusion, but not without some difficulty. That difficulty arises from the allegations, not of the defenders, but of the pursuer. His action is not brought simply on the promissory-note as a document of debt. His condescendence shows that he is not in his own view in a position to lay his action upon it alone. He makes allegations that the Rev. Mr Easton was the principal debtor and that the other obligants were truly cautioners for him, and explaining the history of the transaction in his view of it. Now, on the document all the obligants are in the same position.

But on the whole, while I am clear that there could have been no summary diligence on this document, and have doubts whether it is sufficient to instruct the pursuer's allegations, I concur in thinking that *prima facie* it instructs an undertaking by the defenders personally to pay the sum contained in it. As to the alleged delegation also, I concur in holding the defenders' arguments not relevant to support their plea. My doubt is whether the case as presented is ripe for judgment.

LORD JUSTICE-CLERK—I concur in the opinion of Lord Young, and have nothing to add.

The Court refused the reclaiming-note and adhered to the Lord Ordinary's interlocutor.

Counsel for the Appellants—H. Johnston. Agent—P. Adair, S.S.C.

Counsel for the Respondent—Dickson—Salvesen. Agents—Gill & Pringle, W.S.

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*Friday, January 25.*

## FIRST DIVISION.

[Lord Fraser, Ordinary.

## CURRORS *v.* WALKERS.

*Trust — Investment — Law-Agent — Liability of Law-Agent.*

The law-agent of a trust is not bound to volunteer advice to the trustees.

Adam Curror and John Curror, trustees acting under a trust-disposition and settlement, continued to hold as an investment of the trust-estate a loan made by the testator before his death to Adam Curror secured only on his personal obligation. In consequence of Adam Curror's bankruptcy the money was lost, and John Curror's representatives were obliged to make good this loss to the trust-estate.

In an action by the latter parties against the representatives of the law-agent of the trust to recover the amount for which they had been found liable, the pursuers founded on averments to the effect that the law-agent had, in gross neglect and breach of his duty, failed to advise the trustees that it was their duty as trustees to obtain payment of the loan, and that the security upon which the money stood was not such as trustees were entitled to hold as a trust investment. *Held* that the pursuers' averments were irrelevant, and the action *dismissed.*

William Kennedy, W.S., Edinburgh, died on 23rd April 1877 leaving a trust-disposition and settlement dated 10th June 1876, and codicil thereto dated 20th April 1877, by which he conveyed his whole estate, heritable and moveable, to Adam Curror of the Lee, and his brother John Curror in trust for behoof of William Kennedy Moffat, his grandnephew and his heirs, payable or assignable to him on his attaining the age of twenty-one years, or as much sooner as the trustees might think proper. In his codicil he expressed a wish that John Walker, W.S., should be factor and agent for the trustees.

Messrs Adam and John Curror accepted the trust, and nominated Mr Walker to act as factor and law-agent to them.

During the fifteen or twenty years previous to his death, Mr Kennedy had advanced considerable sums of money to Adam Curror, and in December 1876 the latter was indebted to him in the sum of £4000, for which on the 13th of that month he granted to Mr Kennedy a bond and assignation in security, whereby he bound himself to re-pay the said sum, and in security thereof assigned £2400 City of Glasgow Bank stock and £1000 Union Bank of Scotland stock.

It was, however, arranged that Mr Kennedy should not intimate the assignation of the bank stock, and by letter dated 11th December 1876 he undertook not to do so.

After Mr Kennedy's death the loan to Adam Curror was allowed to remain on the security of his personal obligation.

Adam Curror in October 1878 was ruined by the failure of the City of Glasgow Bank of which he was a shareholder. In accordance with the advice of counsel no claim on behalf of Mr Kennedy's trust was lodged in his sequestration in case it should give rise to a claim by the liquidators of the bank against the trust-estate, and the sum of £4000 was thus totally lost to the trust-estate.

Adam Curror died on 11th February 1879, John Walker died on 27th October 1879, and John Curror died on 8th July 1885. The clerk who acted under Mr Walker in the management of the estate had also died before the date of this action.

After John Curror's death the trustee acting under Mr Kennedy's settlement made a claim against John Curror's representatives for payment of the sum of £4000 with interest, and the latter being advised that they could not resist the claim, paid to Mr Kennedy's trust the sum of £5479, 18s. 10d. on 10th December 1885.

With the view of recovering this sum the representatives of John Curror raised the present action against representatives of John Walker.

In their averments the pursuers set forth the facts above narrated, and in particular averred—"Mr Adam Curror and Mr John Curror accepted the trust (*i.e.*, under Mr Kennedy's settlement), and a meeting of trustees (the first meeting) was held on 1st May 1877, when Mr Walker was formerly authorised to act as factor and law-agent to the trust to make up the trustees' title to the trust-estate, and to do whatever might be necessary for the confirmation of the executors, and in regard to the general management of the estate, and to make all necessary payments and disbursements therefor. An inventory of the estate (amounting to £91,918, 15s. 1d. was then

given up, and confirmation of the executors was obtained on 12th June 1877. Thereafter the affairs of the trust were entirely conducted by Mr Walker, who only called a meeting of trustees when it was necessary for him to obtain their signatures. The Messrs Curror having full confidence in Mr Walker, and especially looking to the fact that he had been specially nominated law-agent of the trust by Mr Kennedy, trusted to him, as they were entitled to do, to advise them and keep them right in all questions of law connected with the administration of the trust." "At the date of Mr Kennedy's death the said loan of £4000 to Mr Adam Curror was secured only by his personal obligation contained in the said bond, and by the unintimated assignation of the said bank stock. Mr Adam Curror was then possessed of very considerable means, and if Mr Walker had advised the trustees that it was their duty as trustees to obtain payment of the debt of £4000 Mr Adam Curror would have made payment thereof, and he was then in a position to do so without difficulty. Mr Walker, however, through gross and culpable recklessness, or in gross neglect and breach of his duty, failed to advise Mr Adam Curror or Mr John Curror that it was their duty as trustees to obtain payment of the said loan, or that the security upon which the money stood was not such as trustees were entitled to hold as a trust investment. The Messrs Curror believed that the security for the said loan was ample (and in fact it was ample until the failure of the City of Glasgow Bank in October 1878, when Mr Adam Curror was ruined, as after mentioned), and as Mr Adam Curror was paying 5 per cent. upon the money, it is believed and averred that it did not occur either to him or to Mr John Curror that there was any necessity for calling up the loan, especially as Mr Kennedy had himself been satisfied with the security. The Messrs Curror were not lawyers, and they trusted, as they were entitled to trust, to Mr Walker to keep them right in matters of law. Mr Adam Curror paid the interest upon the said loan up to and including Whitsunday 1878 to Mr Walker as factor for the trust. Mr Walker gave receipts to Mr Adam Curror for the said interest, but never advised that the loan should be paid up. Mr Walker also in 1877 paid Mr Adam Curror a legacy of £500 left to him by Mr Kennedy in his said trust-disposition and settlement."

They further averred that during the proceedings in an action brought against them in January 1877 to enforce another claim on the part of Mr Kennedy's trust, they had had access to the accounts and papers and minutes of the trust, and were satisfied that the claim for payment of £4000 could not have been successfully resisted. It was only in course of defending the same action that they had ascertained for the first time that Mr Walker had been nominated the law-agent for the trust, and that "in gross neglect and violation of his duty he had failed to inform Messrs Adam and John Curror what their duty as trustees was in regard to the realisation of the estate, and in particular in regard to calling up the said loan."

The pursuers pleaded—"(1) The said John Walker, having in gross violation and neglect of his duty as law-agent and factor for said trust, failed to advise the said Adam Curror and John Curror that it was their duty as trustees to obtain payment of said loan, the defenders, as representing the said John Walker, are bound to make good to the pursuers, and relieve them of the loss sustained by them as representatives of the said John Curror through payment of the said loan not having been obtained."

The defenders pleaded—"(1) The pursuers' statements are not relevant or sufficient to support the conclusions of the summons. (2) The said John Walker not having been guilty of any violation or neglect of duty as law-agent and factor for the said trust, the defenders should be assoilzied."

The Lord Ordinary (Fraser) on 9th June 1888 found the averments of the pursuers irrelevant, and dismissed the action.

"*Opinion.*—This is an action of a kind which the Lord Ordinary has had occasion to deal with several times during the last two years. The law-agent is here once again sought to be made liable in damages for failure in duty. The ordinary case is where the law-agent bungles a title; omits to intimate an assignation; neglects to make proper inquiries in reference to investments which he recommends. But the present case is one which goes far beyond any precedent in this branch of the law. The liability for damages in the present case is sought to be enforced, not on account of any blunder which the law-agent committed, but on account of not having ultroneously given advice as to the risky character of an investment which had been made by the testator himself. The facts are simple enough. William Kennedy, W.S., Edinburgh, who died in 1877, had lent to his friend Adam Curror, Esq. of The Lee, £4000 upon Mr Curror's personal bond. Mr Curror was a shareholder in the City of Glasgow Bank, and by the failure of that bank he was ruined, while the £4000 remained unpaid. Mr Kennedy, by a codicil to his will, said, 'I wish John Walker, W.S., to be factor and agent for my trustees and executors.' And the trustees and executors at the first meeting after Kennedy's death nominated Mr Walker as factor and law-agent to the trust, 'to make up the trustees' title to the trust-estate, and to do whatever might be necessary for the confirmation of the executors, and in regard to the general management of the estate, and to make all necessary payments and disbursements therefor.' Mr Walker accepted this employment, and performed the various pieces of business thus confided to him. He died on the 27th of October 1879, and now, nine years after his death, an action is raised against his executors, claiming damages against them by reason of the fact that he did not advise the two trustees Adam and John Curror to compel payment from Adam Curror, one of the trustees, of the debt he owed to Kennedy's trust. The pursuers say that they have been 'advised that Mr Walker, in respect of his said failure of duty, became liable to relieve Mr John Curror, or his representatives, of any loss sustained by them in consequence of non-realisation of Mr Kennedy's estate, and that the same liability rests upon the defenders as Mr Walker's representatives.' The representatives of John Curror, the co-trustee of Adam Curror, were called upon to pay up the debt owing by Adam Curror, and did pay it with principal and interest, amounting altogether to £5479, 18s. 10d. John Curror's representatives were thus made

liable because he, John Curror, had not compelled his brother Adam Curror to make payment of the debt he owed to the trust, and now these representatives seek to make Mr Walker's executors liable for the sum of money that they have so paid, because he did not advise the trustees to proceed against one of their number for recovery of the money. There are no means of ascertaining now whether he gave such advice or not, nor are there any means of ascertaining whether, if he had given it, it would have been followed. But these points are of no importance, because there is no such duty laid upon an agent for trustees to watch over their investments, and to give them good counsel when the investments become dangerous. That is the duty of the trustees themselves, which they are not entitled to delegate to their agent, and for the due performance of which he is not responsible, unless indeed he agrees to perform work which is properly that of the trustees. If an agent for trustees is bound to be for ever looking around in order to ascertain whether any of the debts owing to the trust, or the investments upon which the trust moneys are laid out are in an unsecure condition, then in like manner an agent for any client would lie under the same responsibility. There is nothing special in the position of trustees in regard to this matter.

"It was admitted that there was no precedent for such an action as this, nor any *dictum* from the bench or by a writer of authority, and consequently the only course with this action is to dismiss it."

The pursuers reclaimed, and argued—The loan to Adam Curror was clearly an improper investment for the trustees to hold, for two reasons—(1) personal security was not a proper security for a trust investment, and (2) the loan was to one of the trustees. It was not merely an imprudent investment, it was an illegal one for trustees to hold. A person who was selected as the law adviser of trustees was bound to acquaint them with the ordinary rules which must govern their action, and to warn them that certain investments held by them were not proper investments for a trust-estate, and that they held them at the risk of becoming personally responsible for loss arising therefrom. One of the duties of the law-agent was to ingather the estate. In doing so it was clearly his duty to realise such securities as it was illegal to hold. If, in the presence of the law-agent, the trustees had proposed to make an improper investment, would it not have been his duty to advise them as to the law on the subject? No sound distinction could be drawn between the giving of bad advice and the failure to give sound advice where the law-agent saw the trustees to be in error. The law-agent accordingly had in this case been guilty of a neglect of duty, and the defenders were liable to make good the loss caused to the pursuers thereby—*Rae* v. *Meek*, July 20, 1888, 15 R. 1033, *per* Lord Mure and Lord Shand, 1049-1051; *Guild* v. *Glasgow Educational Endowments Board*, July 16, 1887, 14 R. 944; *Mackinnon* v. *Miller's Trustees*, August 7, 1888, 15 R. (H. of L.) 83; *Stewart* v. *M'Clure, Naismith, Brodie, & Macfarlane*, July 22, 1887, 15 R. (H. of L.) 1; *Brownlie* v. *Brownlie's Trustees*, July 11, 1879, 6 R. 1233; M'Laren on Wills, ii. 320; Lewin on Trusts (5th ed.) 250, *et seq.*

The respondents argued—The loss had not arisen from an illegal investment. The question before the trustees was the sufficiency of Adam Curror's security. Of that they were the judges. There was here no averment that the trustee were ever asked for his advice, and it was not the duty of a law-agent to trustees to volunteer advice unasked. The averments of the pursuers were incapable of proof. No one could tell what would have been the result of the law-agent's advice had he given it.

At advising—

Lord President—In this case I agree with the Lord Ordinary. The trustees of the late Mr Kennedy were the late Mr Adam Curror of The Lee and his brother the late Mr John Curror. In compliance with a wish expressed by Mr Kennedy's settlement, they appointed the late Mr John Walker, W.S., Edinburgh, to be their factor and law-agent As the averment in article 4 of the condescendence states it, "he was formally authorised to act as factor and law-agent to the trust." The explanation of his duties is familiar, and means no more than this, that he was factor and law-agent for the trustees—that he was employed as lawyer by them. Now, the duties of a factor and law-agent on a trust-estate are perfectly well defined and known in law, and they are accurately expressed in the 4th article of the condescendence. He was "to make up the trustees' title to the trust-estate, and to do whatever might be necessary for the confirmation of the executors, and in regard to the general management of the estate, and to make all necessary payments and disbursements therefor." That is just an enumeration of the ordinary duties of factor and law-agent. The estate consisted of a very large sum of money invested in a number of different securities, and it was to be held by the trustees for a considerable period—until the beneficiary, the truster's grand-nephew, who was in infancy, attained the age of twenty-one years. One of the assets of the trust-estate was a sum of £4000 owing to Mr Kennedy by Mr Adam Curror, one of the trustees. It was explained by the pursuers that Mr Kennedy had frequently during the fifteen or twenty years prior to his death advanced considerable sums of money to Mr Adam Curror, and in December 1876 Curror was indebted to Mr Kennedy in £4000. He granted to Mr Kennedy a bond for that amount dated 13th December 1876, and he gave him also an assignation in security of certain shares in the City of Glasgow Bank, and of certain shares in the Union Bank of Scotland. It is added in condescendence 5 that it was "arranged that Mr Kennedy should not intimate the assignation of the said bank stock, and he wrote a letter to Mr Adam Curror dated the 11th December 1876, undertaking not to do so." That therefore was an unsecured debt, standing upon the personal credit of the debtor Mr Adam Curror, and there can be no doubt that it was not a proper investment for the trust-estate. In the first place, it was dependent entirely upon the personal credit of the debtor; and in the second place, it was a debt due by one of the trustees to a trust-estate. In both of these particulars it was not an investment which should have been kept up. Notwithstanding, the two trustees, Mr Adam Curror being himself the

debtor and the other trustee being his brother, thought fit to keep up that debt as a proper investment for the estates, or, at all events, they did not call it up or interfere with it. The money was lost in consequence of Mr Adam Curror being a partner in the City of Glasgow Bank, and being ruined by the failure of that bank. At the time the trustees entered upon the management of the estate it is not disputed that Mr Adam Curror was a perfectly solvent man, in good circumstances, and quite able to meet all his liabilities. In consequence of the loss of his money Mr John Curror's representatives were found liable to replace the sum lost, which, with interest, amounted to £5479, 18s. 10d., and that is the sum now sued for; and they bring this action for the purpose of making the representatives of Mr John Walker, the factor and agent, liable to the trustees for failure of duty on his part towards them.

The pursuers of course represent the last solvent trustee who made that investment, or, rather, who kept up that investment, and therefore if there was any ground of liability on the part of Mr Walker to his clients, the trustees, it is not disputed that the pursuers are quite entitled to avail themselves of that, and to enforce liability against Mr Walker. But the question comes to be, what was the nature of the liability, or whether such liability existed at all in the circumstances? The trustees, according to the statement of the pursuers in the 6th article of the condescendence, applied their minds to the question whether that money should be called up or not, because they say that "the Messrs Curror believed that the security for the said loan was ample (and in fact it was ample until the failure of the City of Glasgow Bank in October 1878, when Mr Adam Curror was ruined as after mentioned), and as Mr Adam Curror was paying 5 per cent. upon the money, it is believed and averred that it did not occur either to him or to Mr John Curror that there was any necessity for calling up the loan, especially as Mr Kennedy had himself been satisfied with the security." One cannot read that averment without seeing that it was not a matter in which the two trustees did absolutely nothing, or failed to take the matter into consideration. On the contrary, that averment shows that the trustees did consider the matter, and believed the security to be ample, which indeed it was at the time, and therefore they came to the conclusion that there was no necessity for calling up the loan. There cannot be any doubt, I suppose, that the trustees in so acting, acted quite wrongfully and in breach of their trust. But then, how does Mr Walker come in as a party liable for that proceeding? The averment is this—"The Messrs Curror were not lawyers, and they trusted, as they were entitled to trust, to Mr Walker to keep them right in matters of law. Mr Adam Curror paid the interest upon the loan up to and including Whitsunday 1878 to Mr Walker as factor for the trust. Mr Walker gave receipts to Mr Adam Curror for the said interest, but never advised that the loan should be paid up. Mr Walker also in 1877 paid Mr Adam Curror a legacy of £500 left to him by Mr Kennedy in his said trust-disposition and settlement." Of course it naturally fell to Mr Walker as factor to ingather the annual payment of interest, and therefore he necessarily received from Mr Adam Curror the interest upon that debt of £4000. As to Mr Walker's paying the legacy of £500 to Mr Adam Curror, that comes to no more than this, that that was a legacy which the trustees had to pay to Mr Adam Curror as a legatee of Mr Kennedy. The payment therefore was a payment by the trustees, although as a matter of fact the cheque may have gone through the hands of Mr Walker. There is another passage in the earlier part of the same article which perhaps I ought to read—"Mr Walker, however, through gross and culpable recklessness, or in gross neglect and breach of his duty, failed to advise Mr Adam Curror or Mr John Curror that it was their duty as trustees to obtain payment of the said loan." Now, was Mr Walker in such a position that he was bound without being asked to volunteer the statement to the trustees that they were bound to call up the loan? I think Mr Walker was under no obligation to volunteer such advice. The law-agent of a trust is the law-agent of the trustees no doubt. They employ him to advise them, but if upon any point they do not want advice, they are not bound to take it, and if they do not ask advice the law-agent is not bound to volunteer it. These gentlemen may have been quite conscious that they ran considerable risk in allowing that loan to lie, but still they probably thought the risk a small one and resolved to run it. They were men of understanding and men of business, and quite capable of judging on a matter of that kind. The fact is obvious that they did not ask Mr Walker's advice. If they did that would have been stated as a matter of course. The complaint is that he did not volunteer it, and that I think he was not bound to do.

But one cannot help, in a case of this kind, looking at the record to see what would be the nature of the case in the proof if one were allowed. All the parties who had to do with the transaction in question are dead. Both the Currors are dead, Mr Walker is dead, and the clerk who acted under Mr Walker in the management of the estate is dead also. The averment of the pursuer is that Mr Walker failed to give the trustees advice. How is it to be established that no verbal communications passed between the trustees and Mr Walker which may have been quite sufficient to discharge any such duty on his part? At the same time, I may say there seems to be no reason to complain of the pursuers' delay, but if they were allowed to have a proof, it would be a proof in the absence of every human being who could speak to the facts. It would therefore be a proof by writings only, and as is stated by them on record they had access in a former action "to the accounts, papers, and minutes of Mr Kennedy's trust." If that be so, they are in a position to aver any fact appearing on the face of the minutes and other papers relevant to support their claim, but none is averred. I cannot therefore help feeling some confidence in the safety of the judgment we are going to pronounce, from the circumstance that the pursuers have failed to find anything in the papers of the trust relevant to support their claim.

Lord Mure—I am of the same opinion as your Lordship, and think that this record contains no relevant ground of liability. It is not the duty of an agent of trustees to set about examining the securities held by them, unless specially em-

ployed for that purpose, or to advise them as to part of the securities whether they should be retained or not, unless he is asked for his advice.

Lord Shand—I also am of the same opinion. I think even if an inquiry were to be allowed, it is quite evident that the pursuers would labour under very great difficulty in the course of that inquiry. Ten or eleven years have elapsed since the occurrences with regard to which the action arises. All the parties — the two Currors, Walker himself, and the clerk, who acted under Walker in the management of this estate—are dead. If the parties got to the stage of an inquiry there would be a great deal of groping in the dark as to the facts. There would be a question as to what may have passed between the Currors and Walker in conversation, and it appears to me if there was conversation between them, and Walker explained the law on this matter to the Currors, they may very well have said that they were satisfied of the soundness of the security, and that they would run the risk of holding it.

Undoubtedly the amount of difficulty attending the inquiry might be very great, but I would rather take the case on the assumption that the pursuers can prove the averments they make on record, and they aver that Mr Walker "through gross and culpable recklessness, or in gross neglect and breach of his duty failed to advise Mr Adam Curror or Mr John Curror that it was their duty as trustees to obtain payment of the said loan, or that the security upon which the money stood was not such as trustees were entitled to hold as a trust investment."

Now, the question is whether that is a statement relevant to support a claim for damages, and I do not think it is a relevant statement, even if it were proved in the circumstances as they are stated on record. I assume, and with no difficulty, that the investment was of a class not allowed in the case of trust-estates. I assume that not only was it of that class, but that it was peculiarly objectionable as being a loan to one of the trustees themselves. I assume that the trustees were bound within a reasonable time to realise the debt due by Adam Curror, and that if they continued to hold it as an investment they could only do so by a breach of trust for which they became personally responsible—that is to say, I assume rather more than the Lord Ordinary has done in favour of the pursuers, for the Lord Ordinary has taken it only to have been an imprudent investment, whereas I agree on the criticism which has been made on the Lord Ordinary's note, that it was more than an imprudent investment, that it was an investment not sanctioned but condemned by our law; and I assume further, that if advice or information had been asked of him it was the agent's duty to tell the trustees of the character of the investment, and that they might incur personal responsibility by holding it. But assuming all that, I see nothing in the case which raised on his part the duty of giving advice. If he had been asked for advice of course he was bound to know the law, and he would no doubt have advised the trustees that this investment was not a proper one for them to hold. But there is no suggestion on record that his advice was ever asked, and the question comes to be whether from the mere relation of agent and client a duty of this kind arises to give advice when advice has never been asked, and when we may perhaps assume it was not wanted.

All that is alleged here is a general appointment as factor and law-agent "to make up the trustees' title to the trust-estate, and to do whatever might be necessary for the confirmation of the executors, and in regard to the general management of the estate, and to make all necessary payments and disbursements therefor." There is nothing more than an averment that Mr Walker was employed as agent for the trustees, and the case is that his general appointment as agent imposed on him a duty to go over the investments, and say which are to be realised under a penalty of personal responsibility for failure.

I do not think that the duty of a law-agent goes that length. Some circumstances must occur to create such a duty. Either the subject of the propriety of the investments must have come up for discussion or his advice must have been asked, or some circumstance must have occurred to impose the duty.

An illustration was given in the argument from what was said to be an analogous case, namely, the proposal of an investment. I do not think that any argument can be founded on the analogy between the two cases for this reason—When we are dealing with the question of the liability of an agent for not having given advice as to an investment we must have the whole circumstances; we must know whether the trustees looked to the agent for advice, or whether the subject was ever talked between them. In this case nothing of the kind is averred, but it is said that although the Currors never spoke to Walker on the subject, he was bound as agent to volunteer his advice. I cannot carry the obligation of an agent that length. I do not think such an obligation arises necessarily out of the relation of agent and client, and there is no further averment here than an averment of that relation. I therefore agree with the conclusion to which the Lord Ordinary has come.

Lord Adam concurred.

The Court adhered.

Counsel for Pursuers—D.-F. Mackintosh, Q.C. —Low. Agents—A. P. Purves & Aitken, W.S.

Counsel for Defenders — Muirhead — Blair. Agents—Blair & Finlay, W.S.

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*Friday, December* 21, 1888.

## FIRST DIVISION.

[Lord Kinnear, Ordinary.

## CUNNINGHAM *v.* COLVILS, LOWDEN, & COMPANY.

*Ship—Seaworthiness—Charter-Party—Exception —"Errors or Negligence of Navigation."*

A charter-party exempted the owners of a steamship from liability for loss arising from "the act of God, the Queen's enemies, fire, and all and every other dangers and accidents of the seas, rivers, and error or negligence of navigation, of whatsoever nature and kind