

furd Clark, heard counsel on the report, and expressed opinions that it was not contemplated by the Act that such general powers as were contained in articles (e), (f), and (g) should be granted to the company before any necessity for using them arose, but that they would be willing to consider any special transaction which the company might wish to carry out in terms of these articles when it arose definitely.

The Court refused to confirm the proposed alterations contained in articles (e), (f), and (g).

Counsel for Petitioner—Lorimer. Agents—Maconochie & Hare, W.S.

Saturday, January 13.

FIRST DIVISION.

BUNTEN AND ROBERTSON, PETITIONERS.

*Trust—Trustee—Resignation—Implied Authority to Resign in Trust-Disposition.*

A trust-disposition and settlement which did not expressly empower the trustees therein named to resign, contained a declaration that upon any of the trustees resigning, the remaining trustees should be bound to discharge the persons so resigning of their offices. By letter of instructions of later date than the trust-disposition and settlement the testator directed that a sum of £200 should be paid to each of his trustees who should accept and act as such. *Held* that power to resign was impliedly conferred upon the trustees by the settlement, and a petition by certain of the trustees for authority to resign *refused* as unnecessary.

Matthew Andrew Muir died on 23rd January 1880 leaving a trust-disposition and settlement dated 26th April 1876, whereby he conveyed his whole estates to the trustees therein named or who might be assumed into the trust. The deed did not expressly confer power upon the trustees to resign, but contained the following declaration:—“Declaring that upon any of the trustees, executors, and curators herein named, or to be nominated or assumed as aforesaid, resigning the said offices of trustee, executor, tutor, or curator, and accounting for his or their intrusions with my trust-estate, my remaining trustees or trustee, or if there be no remaining trustee, then the beneficiaries under the trust hereby created, are hereby empowered, and shall be bound to discharge the person or persons so resigning of his or their office or offices.” . . .

By separate letter of instructions dated 9th August 1879 the testator directed that a sum of £200 should be paid to each of his trustees and executors “who shall accept and act as such under my trust-disposition and settlement.”

In 1893 James Clark Bunten and Thomas Robertson, two of the trustees nominated under the above settlement, presented a petition to the Court, *inter alia*, for authority to resign.

Answers were lodged objecting to the other parts of the prayer of the petition being granted, but in so far as it craved authority to resign the petition was not opposed.

After certain procedure had taken place the petitioners moved the Court to grant them authority to resign.

At advising—

LORD PRESIDENT—I am satisfied that there is a power to resign here. The clause in question plainly implies that resignation is an act which may be done by any one of the trustees, for it declares that upon any trustee resigning, the remaining trustees shall be bound to discharge him of his office.

In these circumstances we are not called upon to exercise the jurisdiction given us by the Trusts Acts, and accordingly I think we should refuse the latter part of the prayer of the petition on that express ground.

LORDS ADAM, M'LAREN, and KINNEAR concurred.

The Court refused the part of the prayer of the petition in which authority to resign was craved “as unnecessary, having regard to the terms of the trust-disposition and settlement.”

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

Counsel for the Respondents—C. S. Dickson—Aitken. Agents—Forrester & Davidson, W.S.

Counsel for W. J. Dundas, Curator *ad litem* to Beneficiaries under Mr Muir's Settlement, who were in Pupillarity—Blackburn. Agents—Dundas & Wilson, C.S.

Friday, January 19.

SECOND DIVISION.

[Lord Low, Ordinary.]

ROSS v. M'FARLANE.

*Master and Servant—Contract between Proprietor and Manager of Newspaper—Personal Contract—Delectus Personæ—Right of Proprietor to Sell Newspaper.*

In 1888 A, the proprietor of a daily newspaper, appointed B to be manager of the paper by letter as follows—“I hereby accept your offer to serve me as general manager of the *Scottish Leader*.” In 1890 the engagement was renewed by letter, signed by both parties, commencing “We have to-day arranged your reappointment as general manager of the *Scottish Leader*.”

In 1892 A sold the paper to C, the