excepting in so far as these are specially provided for in the statute.

The remainder of the sub-section relates to matters which are not material to the present question. But there were two results which might have been contended for had the section not been qualified. On one hand, it might have been maintained, that as the entry by this implied confirmation required no act of the superior, his right to casualties necessarily fell. On the other hand, it might have been maintained by the superior that he was entitled to his casualty at the date when the confirmation was assumed to have been granted. These two matters are dealt with in the 3d sub-section, in which it is provided in substance—1st, that the superior, should retain all rights to casualties which he formerly had; and 2d, that he shall not claim them sooner than he could have done under the former law. But it is not, I imagine, a logical deduction from these provisions, that a vassal whom the statute says is entered with the superior, shall be held in this matter of composition not to be entered because before the statute passed he would not have been held to be so. The meaning of the provision, is that the superior shall have the same right against his vassal on his entering by virtue of the statute, as he would have had if he had granted a charter of confirmation; and the defender being entered as a singular successor must pay as such. No doubt it is said that the superior's right to his casualties is not to be affected by the statute, and it has been urged with great force that no greater change could be made on the superior's right than to give him a right to a composition as from a singular successor, when by the former law he would or might have been compelled to accept the heir of the last entered vassal, and could only have recovered the duties payable by an heir. But there seems to be a fallacy in this view. The defender is a singular successor entered with the superior, and the superior must have all the rights which in this respect he would have had against a singular successor, entering or proposing to enter by obtaining a charter of confirmation. He cannot, however, enforce his right until the period at which the fee would have been vacant under the former law, had the statute not passed. The opposite view would lead to very anomalous results; for the defender maintains that he is entitled to all the rights of a singular successor already entered with the superior without paying any composition, while the superior's claim is said to lie against one who might be a third party, and who is not and never can be the superior's vassal. This would hardly be to leave the law as it stood.

The 4th section simply abolishes the declarator of non-entry, and substitutes such an action as the present to enable the superior to recover his casualties.

Such are the provisions of this section of the statute. I am by no means insensible to the many perplexing questions which may arise from holding a sasine on an indefinite precept to be equivalent to a charter of confirmation. How far a disponee so infeft, who succeeds his author by a title of inheritance, can make his right as heir available to any extent, I forbear to inquire. It would certainly seem that a person in the position of the defender could not consolidate he property-title with the mid-superiority which is extinguished, and questions might be raised to appreciate the effect which might be attributed on this head to the 6th clause of the Conveyancing Act, which provides for *ipso facto* consolidation of such rights. But I am of opinion that in this matter of the superior's claim to composition the defender is a singular successor, that he was entered as such at the date of the statute, and that he became liable to pay composition as such at the death of the last entered vassal.

The Court adhered to the interlocutor of the Lord Ordinary.

Counsel for Pursuers—Dean of Faculty (Horn)—J. C. Smith. Agent—T. H. Ferrier, W.S.

Counsel for Defender—Fraser—Balfour. Agents—Macritchie, Bayley, & Henderson, W.S.

Friday, May 25.

FIRST DIVISION.

MILLER AND BROWN *v.* THE PAROCHIAL BOARD OF GREENOCK.

Process—Appeal from Sheriff-Court—Competency—Court of Session Act 1868, *sec.* 53.

In a petition to the Sheriff-Court for implement of certain conditions in a building contract, the Sheriff pronounced an interlocutor in which the whole conclusions were disposed of excepting one for interdict against the defenders being allowed to proceed further with the work, and the question of expenses. The Court (reference being made to the case of the *Duke of Roxburgh* v. *Marquis of Lothian*, May 26, 1875, 12 S. L. R. 472) dismissed an appeal against the said interlocutor as incompetent under the 53d section of the Court of Session Act 1868, (31 and 32 Vict. cap. 100).

Counsel for Pursuers (Respondents)—M'Laren. Agents—Duncan & Black, W.S.

Counsel for Defenders (Appellants)—Trayner. Agent—William Archibald, S.S.C.

OUTER HOUSE.

[Lord Adam, Ordinary on the Bills.

BOYD *v.* THE COMMISSIONERS OF SUPPLY OF LANARK.

Public Officer—Commissioner of Supply—Qualification of Factor under Stat. 17 *and* 18 *Vic. cap.* 91, *secs.* 19 *and* 42.

A factor for trustees infeft in lands and heritages of the requisite amount of rent or value may be enrolled as a Commissioner of Supply under sections 19 and 42 of the Statute 17 and 18 Vic. cap. 91.

This was an appeal presented to the Lord Ordinary on the Bills under the provisions of 19 and