but I decline to accept this invitation. It is the duty of the Court to construe badly drawn deeds, but it is the duty of pleaders to draw pleadings which shall be self-explanatory. I should have considered with favour a motion to amend the record if it had been explained to us that the injuries were really of a serious character, but that the necessity for making this plain on the face of the pleadings had been overlooked when the record was closed in the Sheriff Court. No such motion was, however, made to us. I am of opinion that the case should be remitted to the Sheriff for proof, because the pursuer has failed to make it clear on her averments that the injuries complained of were such as might reasonably entitle her to an award of more than £50.

The Court refused the pursuer's application for a jury trial in the Court of Session, and remitted to the Sheriff to proceed in the case.

LORD MACKENZIE was not present.

Counsel for the Pursuer—A. M. Mackay. Agents—St Clair Swanson & Manson, W.S.

Counsel for the Defenders—Cooper, K.C. —W. Wilson. Agents—Campbell & Smith, S.S.C.

Tuesday, December 1.

FIRST DIVISION.

(SINGLE BILLS.)

STANDARD PROPERTY INVESTMENT COMPANY, LIMITED *v.* SCOTT.

Diligence—Expenses—Courts (Emergency Powers) Act 1914 (4 *and* 5 *Geo. V, cap.* 78), *sec.* 1 (1) (*a*)—*Unopposed Application for Leave to Proceed with Diligence.*

Where an application to proceed with diligence under the Courts (Emergency Powers) Act 1914, sec. 1 (1), is unopposed the Court will not grant the expenses of the application.

The Standard Property Investment Company, Limited, having presented an application to the Court of Session for leave to proceed with diligence on an extract registered bond in terms of the Courts (Emergency Powers) Act 1914 (4 and 5 Geo. V, cap. 78), sec. 1 (a), the application was not opposed and leave was granted.

On counsel moving for the expenses of the application, the Court refused the motion, the Lord President intimating that their Lordships had consulted with the learned Judges of the Second Division, and that where applications under the Courts (Emergency Powers) Act 1914 were unopposed, the expenses of the application would not be granted.

Counsel for the Applicants — Forbes. Agents—Duncan Smith & Maclaren, S.S.C.

Wednesday, December 2.

FIRST DIVISION.

(SINGLE BILLS.)

CROWE *v.* IRVINE.

Diligence — Stay of Execution — Courts (Emergency Powers) Act 1914 (4 *and* 5 *Geo. V, cap.* 78), *sec.* 1 (2)—*Inability to Pay Debt Owing to the War.*

Circumstances in which the Court *granted* a stay of execution for six weeks under sub-section (2) of section 1 of the Courts (Emergency Powers) Act 1914.

John Crowe, miner, Lochgelly, *pursuer*, brought an action in the Sheriff Court at Dunfermline against Roy Irvine, lessee of the picture house there, *defender*, for damages for injuries alleged to have been sustained by his son.

The Sheriff-Substitute having dismissed the action, the pursuer appealed and the First Division of the Court of Session recalled the interlocutor of the Sheriff-Substitute, remitted the case to him for proof, and found the defender liable to the pursuer in the expenses of the appeal. The expenses were taxed at £34, and decree was granted therefor in name of the agent-disburser.

Thereafter on December 1st 1914 the pursuer, having enrolled the case in the Single Bills, applied, as required by the Courts (Emergency Powers) Act 1914 (4 and 5 Geo. V, cap. 78), sec. 1 (1), for leave to proceed with diligence upon the decree for expenses.

Counsel for the defender opposed the motion, and argued—The present was a suitable occasion for applying the Courts (Emergency Powers) Act 1914 (4 and 5 Geo. V, cap. 78), sec. 1 (2), and staying execution. Lochgelly was a mining village whose industry had been severely curtailed by the war, and the defender's business had been in consequence ruined. From the point of view of equity it would be unjust to call upon the defender to pay at the present stage of the case while a proof was depending before the Sheriff-Substitute. A stay of execution of six months would in the circumstances be reasonable. Sections 1 (1), 1 (2), 2 (2) of the Act were referred to, and Act of Sederunt regulating proceedings under that Act of date 28th September 1914.

Argued for the pursuer—The case put by the defender was too vague, in respect that he did not show by what amount his receipts had fallen, and he made no proposal regarding the liquidation of the debt. In any event a suspension of six months was unreasonable.

LORD PRESIDENT—We have already approved of the Auditor's report here, and decerned in name of the agent-disburser. But, in respect of the application now presented by the pursuer for leave to proceed with his diligence upon his decree, we think that *prima facie* evidence has been laid before us to the effect that the defender is unable to pay by reason of circumstances attributable directly or indirectly to the present war, and accordingly we think that

the decree should not be enforced for six weeks from this date, when it will be open to the applicant to renew his application under the Act. But meantime I desire to express the opinion of the Court that the defender ought to endeavour to pay the pursuer, before the six weeks have elapsed, the outlays incurred in the case so that we may, if possible, only have to consider, on the lapse of time I have stated, the question of the propriety of allowing the decree to be enforced for the remainder of the bill of expenses.

The Court (the LORD PRESIDENT, LORD MACKENZIE, and LORD SKERRINGTON) pronounced this interlocutor :—

"The Lords having considered the application and heard counsel for the parties, suspend execution on the decrees therein mentioned for six weeks from this date."

Counsel for the Pursuer—J. A. Christie. Agent—E. Rolland M'Nab, S.S.C.

Counsel for the Defender—D. Jamieson. Agents—Wallace & Begg, W.S.

Thursday, December 3.

FIRST DIVISION.

MACFARLANE, STRANG, & COMPANY, LIMITED, PETITIONERS.

Company—Memorandum of Association—Alteration — Companies (Consolidation) Act 1908 (8 *Edw. VII, cap.* 69), *sec.* 9 (1).

The Companies (Consolidation) Act 1908, sec. 9 (1), enacts—"Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it (*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 which under existing circumstances may conveniently or advantageously be combined with the business of the company. . . ."

A company, having power to amalgamate with companies with similar objects, by special resolution altered its memorandum of association so as to include certain additional powers. The Court, on a petition by the company, *confirmed, inter alia*, the following powers—(*a*) of amalgamation, either by sale or purchase, with any other company whose objects were within the objects of the company; (*b*) of promotion of any other company to purchase or take over the undertaking of the company or any part thereof; (*c*) of guarantee of the stock, shares, debentures, debenture stock, and securities of any company so promoted.

The Companies (Consolidation) Act 1908 (8 Edw. VII, cap. 69), sec. 9 (1), is quoted *supra in the rubric.*

Messrs Macfarlane, Strang, & Company, Limited, incorporated under the Companies Acts 1862 and 1867, *petitioners*, brought a petition in the Court of Session for confirmation of a number of alterations in its memorandum of association.

The petition, *inter alia*, set forth—"The objects for which the company was established, as set forth in the original memorandum of association, were as follow :—. . . 'Art. 4. . . . To make for the purposes of the company any arrangements with respect to the union of interests or operations, or the amalgamation either in whole or in part of the company with any other company or companies, person or persons, carrying on business within the objects of this company; and to accept and take, hold, or sell shares or stock in any company, society, concession, contract, or undertaking, the objects of which shall, either in whole or in part, be similar to those of this company, or such as may be likely to promote or advance the interests of this company. . . .' 5. At an extraordinary general meeting of the company duly convened, held on 28th April 1914, the following resolution was duly passed, and at a subsequent extraordinary general meeting, also duly convened, held on 26th May 1914, the same was duly confirmed so as to become a special resolution of the company, viz. — 'That the memorandum of association of the company be amended in manner following, viz.—That articles 4 and 5 thereof be deleted, and that there be substituted therefor the following paragraphs at the end of article 3 thereof :—'(12) Amalgamating with any other company whose objects are or include objects similar to those of the company; and that either by sale of the undertaking of the company, subject to its liabilities, or by purchase of the undertaking of such other company; and that with or without winding-up either company, or by sale or purchase of all the shares, stock, or securities of the company or any such other company as aforesaid, or by partnership, or an arrangement of the nature of partnership, or in any other manner. . . . (18) Selling, transferring, or disposing of the businesses or undertakings of the company or any of them, with the assets and liabilities thereof, to any other company, or to any person or persons, on such terms as may be arranged, and, in particular, for stock, shares, debentures, debenture stock, or securities of any other company. (19) Promoting or establishing, or concurring in promoting or establishing, any other company to purchase or take over the undertaking of the company or any part thereof, or for undertaking any business or operation which may appear likely to assist or benefit the company or enhance the value of its property and business, and obtaining any Act or Acts of Parliament or any legislative or legal sanction that may be deemed necessary or expedient for that purpose. (20) Guaranteeing the stock, shares, debentures, debenture stock, and securities of any company which shall be promoted or estab-