

eight new feus under eight new charters, and one to the Messrs Forbes, putting them all under the same restrictions and conditions. On the one hand, the Messrs Forbes were bound as in a question with the feuars; on the other they had a right to object to contravention of the restrictions by any feuair, and similarly the disponees of the Messrs Forbes' disponees were bound as well as the disponees of the Messrs Forbes themselves.

But has the clause on which the Lord Ordinary has founded changed all this, and placed the feuars practically at the mercy of the superior. I should be slow to adopt any construction of that clause which could lead to so unreasonable a result, and I do not think that the Lord Ordinary's construction is the right one. We are familiar with clauses intended to effectuate restrictions and prohibitions of this kind—usually simply a clause irritant. But here we have the addition of an alternative option to the superior to insist on a double payment of the feu-duty during the contravention of the restriction. But I think that that alternative has been inserted for the purpose of securing more efficiently the enforcement of the restrictions—to give the superior a prompt remedy whenever there is a contravention—not to give him the power to allow the vassal to contract himself out of the mutual obligation he lies under not only to the superior but also to his co-feuars.

The LORD PRESIDENT concurred.

The Court pronounced the following interlocutor:—

“The Lords having heard counsel on the reclaiming note for the complainers against Lord Curriehill's interlocutor dated 18th July 1877, Recal the said interlocutor; continue the interdict formerly granted; and remit the cause to the Lord Ordinary to proceed further: Find the complainers entitled to expenses since the date of the interlocutor reclaimed against: Allow an account thereof to be given in, and remit the same when lodged to the Auditor to tax and to report to the Lord Ordinary, with power to his Lordship to decern for the taxed amount.”

Counsel for Complainer (Reclaimer)—M'Laren—Keir. Agents, Lindsay, Howe, Tytler & Co., W.S.

Counsel for Defenders (Respondents)—Trayner—Robertson. Agents—Cunror & Cowper, S.S.C.

Thursday, June 6.

SECOND DIVISION.

SDEUARD, LIQUIDATOR OF PROVINCIAL
HERITABLE TRUST ASSOCIATION
(LIMITED)—PETITIONER.

Public Company—“Companies Acts 1862 and 1867”
—Power of a Liquidator in a Voluntary Liquidation
to obtain Decree for Payment of Calls.

The liquidator of a limited liability company, which was in course of being wound up voluntarily, applied to the Court, under the 138th and 121st sections of the “Companies Act 1862,” to enforce certain calls which he had made upon the shareholders, and which they had failed to meet. The Court was asked “to find that the required exercise of power will be just and beneficial; and to pronounce forthwith a decree against “the several contributories named in the said list for payment to the petitioner of the sums therein certified in the same way and to the same effect as if they had severally consented to registration for execution on a charge of six days, of a legal obligation to pay such sums and interest, and to grant warrant for extracting said decree immediately, or otherwise to accede wholly or partially to this application, upon such terms and subject to such conditions as your Lordships think fit; or to make such other order, interlocutor or decree on this application as your Lordships think just.”

The Court granted the application without intimation.

Counsel for Petitioner—Lang. Agents—
Hagart & Burn Murdoch, W.S.

Thursday, June 6.

SECOND DIVISION.

[Exchequer Case.]

SUMNER v. MIDDLETON.

*Process—Appeal—Statute 33 and 34 Viet. cap. 57
(Gun Licence Act)—Statute 7 and 8 Geo. IV. cap.
53, (General Management and Regulation Excise
Act) secs. 83 and 84.*

By the Statute 7 and 8 Geo. IV. cap. 53, sec. 83, an appeal against a judgment by Justices of Peace is directed to be taken “at and immediately upon the giving of the judgment.” Held that an appeal taken ten days after was incompetent.

Opinions (per curiam) that after judgment has been pronounced by the Justices at Quarter Sessions it is irregular to state a case for the opinion and direction of the Court.

*Expenses.—Statute, 7 and 8 Geo. IV. cap. 53
(General Management and Regulation Excise Act)
secs. 83 and 84.*

Held, distinguishing the case from that of *R. v. Beattie* (December 18, 1866, 5 Macph.