

Friday, December 3.

SECOND DIVISION.

THE LIQUIDATOR OF THE BRITISH CANADIAN LUMBERING AND TIMBER COMPANY (LIMITED).

Public Company—Winding-up—Liquidator—Supervision Order—Companies Act 1862 (25 and 26 Vict. cap. 86), sec. 100.

The liquidator of a land company, the property of which consisted of timber lots in America, and which was being wound up under a supervision order of the Court of Session, applied to the Court (1) under the Companies Act 1862 for an order on an alleged creditor of the company, who resided in America, to deliver to the liquidator there certain books and papers, the property of the company, which he retained in respect of an alleged lien over them; (2) for authority to the liquidator to give his concurrence to sales of the timber lots by private bargain, and not by public auction, as the former was more advantageous for the estate. *Held* that intimation of the order must be given to the person against whom the first part of the prayer was directed, and that the second part of the prayer should be granted.

The Companies Act 1862, sec. 100, provides—“The Court may at any time, after making an order for winding-up a company require any contributory for the time being settled on the list of contributories, trustee, receiver, banker, or agent or officer of the company, to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers, estate, or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.”

On 21st April 1884 the British Canadian Lumbering and Timber Company (Limited) adopted a resolution for the voluntary winding-up of the company in terms of the Companies Act. Geo. Todd Chiene, C.A., Edinburgh, was appointed liquidator. On 3d July 1884 the Court of Session pronounced a supervision order in common form.

The liquidator now presented a note to the Court, in which he stated that since his appointment he had found that the greater part of the lands of the company, consisting of timber lots situated in Canada, and to a small extent in the United States of America, were in the hands of creditors in those countries. These creditors claimed to be secured in the various properties by deeds granted by the company before the liquidation; that he was unable to discover the true position of the company for want of various books and papers which were in the hands of Mr Allan Grant, now or lately lumber merchant, Ottawa, Canada, and formerly an agent of the company there, who had got these books, &c., in that capacity, but who declined to give them up or exhibit them to the representative of the liquidator in Canada, on the ground that he had a lien over them for a debt due by the company to him personally in respect of a transaction connected with the purchase of right to cut

timber on certain lands. The liquidator further stated that he had been advised by Canadian counsel that proceedings should be taken in the Canadian Courts to compel Mr Grant to deliver up the said books and papers, but that antecedently an order should be given by the Court under the supervision of which the liquidation was proceeding under section 100 of the Companies Act of 1862 calling upon Mr Grant to deliver up the said documents. He therefore prayed the Court, as he was by the want of the said books prevented from proceeding with the settlement of the company's affairs, to order Mr Grant to deliver up to the liquidator in Canada all books and papers belonging to the company that were in his possession, and in the event of his failing to comply with that order to authorise the liquidator to proceed against him in the High Court of Justice in Canada. The liquidator further stated that the property of the company in America consisted principally of “timber limits”—*i.e.*, the right acquired from proprietors to cut down the timber on a piece of ground; that he had endeavoured to sell these lots by public auction, but had been unsuccessful; and that he was informed by his Canadian advisers the better way was to sell by private bargain, after advertising and giving the option of foreclosing at a particular figure, within a specified period intended to give an opportunity of examination; and he therefore prayed the Court to approve of his giving concurrence to the sale of these “timber lots” by private bargain instead of by public auction.

The Court granted the second part of the prayer of the petition, but ordered that intimation should be given to Mr Grant of that part of the prayer which was directed against him.

Counsel for Liquidator—Graham Murray.
Agents—Graham, Johnston, & Fleming, W.S.

Friday, December 3.

FIRST DIVISION.

THE INCORPORATED SOCIETY OF LAW-AGENTS IN SCOTLAND *v.* CLARK.

Law-Agent—Law-Agents (Scotland) Act 1873 (36 and 37 Vict. cap. 63), sec. 14—Petition to Strike Name off Roll.

A person practising as a law-agent, who had been convicted of an offence under the Criminal Law Amendment Act, sec. 11, and been, on the petition of the S.S.C. Society, struck off the roll of that body, was proceeded against by petition in name of the Incorporated Society of Law-Agents to have his name struck off the roll. Circumstances in which the Court *refused* to direct the Keeper of the Roll of Law-Agents to strike the name off the roll.

Observations on the nature of the jurisdiction of the Court in such proceedings.

This was a petition by the Incorporated Society of Law-Agents in Scotland praying the Court to direct the Keeper of the Roll of Law-Agents to strike the name of the respondent off the roll. The circumstances under which the application was made are sufficiently set out, *ante*,