

have acquiesced. In the present case there had been no delay in taking the appeal, and the exceptions were attended with difficulty; interest, accordingly, would not be allowed.

Agents for Pursuers—Henry and Shiress, S.S.C.
Agents for Defenders—White-Millar & Robson, S.S.C.

Friday, March 20

CREDITORS OF THE LOCHFINE GUNPOWDER CO. (LIMITED), PETITIONERS.

Liquidation—Winding-up of Company—Companies Act 1851, sec. 147—Removal from Office. In this petition for winding-up, subject to supervision of the Court, certain creditors appeared and craved removal of the liquidators already appointed, but the Court held that no sufficient ground of removal had been alleged.

This petition was presented by creditors of the Lochfine Gunpowder Company (Limited), At a meeting on 22d January last, it had been unanimously resolved that the business of the company should be voluntarily wound-up. At a subsequent meeting this resolution was confirmed, and Mr George Shand, writer, Denny, and Mr James Weir, commercial traveller, Airdrie, were appointed liquidators. These gentlemen proceeded to realise the funds, with a view to distribution. Various actions and diligence, however, were threatened against the company, and accordingly this petition was presented, under section 147 of the Companies Act 1862, craving the Court to make an order directing that the voluntary winding-up of the company shall continue, but subject to the supervision of the Court, and with such liberty for creditors, contributories, and others to apply to the Court as the Court thinks just. Answers were lodged for Martin, Turner, and Co., creditors of the company, objecting to the company being wound up under the present liquidators, and craving the Court to order a meeting of the creditors, to ascertain their views as to the appointment of liquidators by whom the winding-up might be carried on. Similar answers were lodged by two other creditors. Counsel were heard on the petition and answers.

BALFOUR for petitioner.

A MONCRIEFF and D. MARSHALL for respondents.

At advising—

LORD PRESIDENT—I don't think the respondents have made out a case either for removing the liquidators or for appointing additional liquidators. The power of the Court to remove liquidators is under the 141st section of the Act; but it contemplates it being done only "on due cause shown." No sufficient cause has here been shown for removing the gentlemen who were appointed unanimously to the office of liquidators; and as to the appointment of additional liquidators, that is an unnecessary expense to incur in so small a concern. It does not appear that there is so much complication in the winding-up of this company that greater skill must be possessed by the liquidators than may be presumed to be possessed by these gentlemen, one of whom held the position of traveller to the company while it carried on business, and the other of whom is a writer and bank agent. As a matter of judicial discretion, I am against interfering.

LORD CURRIE—If this proposal were to remove the present liquidators, or appoint additional liquidators, I should be against that course. The

present proposal seems rather to be that we should appoint a meeting of creditors, that they may express their views. I am against allowing this. I think that no case has been made out for interfering with the liquidation.

LORD DEAS—I am of the same opinion. Nothing has been stated to authorise the removal of the present liquidators, or the calling of a meeting of creditors, which would be attended with expense and trouble to all parties. No ground has been suggested at all, except that a certain number of creditors would prefer some one else. If they see ground for thinking that the interests of the creditors are not attended to, they may come, and if they are able to state some tangible ground for removal, they may be listened to then.

LORD ARMILLAN concurred.

Agents for petitioner—Maclachlan, Ivory, & Rodger, W.S.

Agents for respondents—Cheyne & Stuart, W.S., A. R. Morison, S.S.C., and W. G. Roy, S.S.C.

Friday, March 20.

SECOND DIVISION.

GREIG v. MACKENZIE, ETC.

Heritable and moveable—Trust—Succession. Circumstances in which a beneficiary's interest in a trust fund was declared to be moveable, and held to be *quoad* succession in a question with the beneficiary's representatives.

This is a multiplepointing brought by Mr George Greig, W.S., sole surviving accepting trustee and executor of the late Miss Margaret Mackenzie. The fund, *in medio*, consists of the free proceeds of a house in Princes Street, Edinburgh. There are three claimants on the fund—Mrs Teresa Margaret Mackenzie, &c., John Alexander Cochran Mackenzie, and Miss Helen Teresa Mackenzie.

The late Miss Margaret Mackenzie, of Princes Street, Edinburgh, died on 4th November 1847, leaving a trust-disposition in favour of certain trustees, of whom the raiser, Mr Greig, is now the surviving acceptor.

By this disposition, Miss Mackenzie conveyed to her trustees her whole property, real and personal, and particularly her house in Edinburgh, No. 143 Princes Street. She authorises her trustees to collect all debts due to her so soon as they should think fit; "and they are likewise hereby authorised and empowered, at such period or periods as they may think most advisable for fulfilling the foresaid purposes, to sell and dispose of, and convert into cash, the whole estate, heritable and moveable, belonging to me at the time of my death, excepting always the articles hereinafter specially bequeathed by me, or such articles as by any writing under my hand I may direct my said trustees to make over and deliver to any person or persons, and that either by public roup or private sale, or in such other manner as my said trustees shall think proper, and to invest the proceeds thereof as they may consider advisable, so far as may be necessary to carry into effect the purposes of this trust."

By the third direction of the trust, the trustees are instructed to pay to the sister of the testatrix, Mrs Bayley, the rents and annual produce of the subjects in Princes Street, "so long as the said subjects should remain unsold," and the deed afterwards proceeds:—"Declaring always hereby, that