

appealed. The Court held that though the proceedings before the presbytery had not been instituted under the 3d section of the Ecclesiastical Buildings Act, their deliverance fell within its action as being "a proceeding before a presbytery relating to repairs of a manse," and was properly transferred under the statute from the presbytery to the Sheriff Court, and therefore that the Court could not take the interlocutor of the Sheriff under review, as the Lord Ordinary on Teinds was the proper person to whom to appeal from the Sheriff Court.

Counsel for Petitioner (Respondent)—Kinnear—Jameson. Agents—Stuart & Cheyne, W.S.

Counsel for Respondent (Appellant)—Asher—Darling. Agent—A. Morison, S.S.C.

Friday, June 20.

FIRST DIVISION.

Lord Adam, Ordinary.

WILLS (BRAND'S CURATOR), PETITIONER.

Judicial Factor—Curator Bonis—Special Powers to Grant discharge of Security.

A *curator bonis* may grant a valid discharge of a bond and disposition in security executed by his ward without first obtaining the authority of the Court to do so.

Certain lands over which there was a bond and disposition in security for £250 were sold and the amount of the bond deposited in bank pending appointment of a *curator bonis* to the party in right of the bond, who was a lunatic. After the curator's appointment he applied to the debtor to pay over the £250 in exchange for a discharge of the bond which he, viz., the curator, was to grant. The debtor, however, refused to do this unless the discharge was granted by the curator in virtue of special powers obtained by him from the Court. The curator upon this presented a note to the Accountant of Court asking an opinion on the following points—(1) Whether the curator can in the circumstances grant a valid discharge of said bond and disposition in security without special powers to discharge the bond? and (2) Whether special powers should be applied for, or what other course the curator should adopt in order to recover payment of the amount due under said bond? The Accountant gave the following opinion:—

"*Edinburgh, 26th February 1879.*

"The heritable bond referred to being in name of the ward, the Accountant is of opinion that the factor requires special powers from the Court to enable him to grant a valid discharge. Though in practice discharges may in some cases be accepted by debtors from a factor without special powers, it appears to the Accountant that authority from the Court is necessary when insisted on by a debtor."

The curator then presented a petition to the Lord Ordinary (ADAM) praying for special powers. This petition was at the request of the petitioner reported to the First Division, in order to have it decided whether special powers were necessary.

The Court took the case to *avizandum* in order to consult with the Judges of the Second Division.

When the case was put to the roll the Lord President announced that the Judges of the two Divisions were unanimously of opinion that in such cases it was not necessary for curators to obtain the sanction of the Court in order to grant a valid discharge.

Counsel for Petitioner—Kinnear—Jameson. Agents—Webster, Will, & Ritchie, S.S.C.

Friday, June 20.

FIRST DIVISION.

THE LORD PROVOST AND MAGISTRATES OF
EDINBURGH *v.* A. & G. WATSON.

Edinburgh Markets and Customs Act 1874, sec. 28
—*Slaughter-house—American Meat—"Cured and Preserved Meat."*

The 28th section of the Edinburgh Markets and Customs Act 1874 provides—"In order to prevent the evasion of the use of the slaughter-houses, all persons" bringing within the city for sale or consumption the carcase of any cattle slaughtered beyond two miles distance of the Police bounds shall be liable in "payment" of the same dues as are leviable on cattle slaughtered in the booths of the market. "Cured or preserved butcher's meat" was excepted from these provisions. *Held* that meat preserved in ice during transit from America, and introduced into Edinburgh in a fresh state, was liable to pay dues (a) as being slaughtered beyond two miles' distance of the police bounds of the city, and so being struck at by the statute, and (b) as not falling within the exception of "cured and preserved butcher's meat."

Statute.

Observations per the Lord President (Inglis) on the construction of remedial statutes.

Messrs A. & G. Watson, the second parties in this case, had for some time carried on the trade of dead meat salesmen within the police boundaries of Edinburgh. They traded in meat slaughtered in America and brought over to Scotland in ice in vessels specially prepared for that purpose. The meat was thus preserved during transit, and delivered in Edinburgh as fresh meat. The Lord Provost and Magistrates and Council of the City (the first parties in the case), as representing the community, and having the slaughter-house of the city under their management, claimed that they were entitled to levy a tax upon their meat in terms of the 28th section of the Edinburgh Markets and Customs Act, which proceeded on the narrative of the Edinburgh Slaughter-houses Act 1850, and enacted—"In order to prevent the evasion of the use of the slaughter-houses, all persons who shall bring within the city, for sale or consumption therein, the carcase, or part of a carcase, of any cattle or other animal, shall, on their bringing such carcase, or part of a carcase, within the city, be liable in payment to the corporation, or their chamberlain or collector for the