

1849. It appeared by the answer that, since the filing of the bill, a new election of officers had been had, and that *Paterson*, *Overfield*, *J. B. Ewart*, *James Smith* and the plaintiff *Hamilton*, were chosen directors, and *Paterson* was subsequently re-elected president; and two schedules were attached to the answer, shewing what securities were held by the company for the moneys loaned. And defendant submitted that under such circumstances, it was not competent for the minority of the shareholders of an incorporated company, who are not liable for debts, &c., beyond the stock paid in, to call upon defendant, under the decree of the court, nor for the court to enjoin him against carrying on the affairs of the company, after having been elected so to do by a majority of the votes of the shareholders.

The other directors, and the company also, answered to the same effect.

Statement.

Upon these answers coming in, a motion was made for an order directing *Paterson* to pay into court the several sums admitted to have been loaned, and also the sum of £350, made use of by *Paterson*, together with interest, &c., or that he might be ordered to pay in £2351, the sum charged against him in the books; and that *Paterson*, and the other directors, should be ordered to pay the costs of the application.

On the motion coming on—Mr. *Adam Wilson* and Mr. *R. J. Turner* for the plaintiffs.—We contend, that as the defendants admit that the sum of £2351 15s. 3d. of the corporation funds have been lent by the president, and has not been called in, but permitted to remain out by the other defendants, jointly with *Paterson*, while they were directors and had the power to call it in; and as they have, while in office, adopted these loans as proper acts, that they are individually responsible for this sum, and that they should be either ordered to bring it into court, or otherwise to appropriate it according to their duty and the statutes.

Several objections, we understand, are to be urged by the other side: 1st. That the Attorney-General ought to have been made a party;

2ndly. That the company should have been made plaintiffs instead of defendants;