

concurrent with that of the Justices of the Peace by the Summary Jurisdiction Act of 1908, that the jurisdiction which already existed in the Justices was a special and peculiar statutory jurisdiction. It was not a mere power of administering to litigants some particular department of the ordinary law, or some power to administer the ordinary law within particular limits of value or subject. It was a special and peculiar statutory jurisdiction involving the right to condemn and seize goods, for example, and so on, created by statute and specially appropriate to the particular objects of revenue legislation. Accordingly when a jurisdiction concurrent with that of the Justices was established in the Sheriff, it is difficult to resist the conclusion that the whole statutory powers and qualifications which were inherent in the jurisdiction of the Justices were intended to be communicated in their entirety to the Sheriff.

The Court answered the first question of law in the affirmative, and found it unnecessary to answer the second question.

Counsel for the Appellant—Solicitor General (Murray, K.C.)—Henderson. Agent—Robert Pringle, W.S.

Counsel for the Respondent—J. Macdonald. Agent—R. D. C. M'Kechnie, Solicitor.

COURT OF SESSION.

Wednesday, June 15.

FIRST DIVISION.

[Lord Anderson, Ordinary.

GORE v. WESTFIELD AUTOCAR COMPANY, LIMITED.

Process—Reclaiming Note—Signature of Counsel.

Objection having been taken to the competency of a reclaiming note on the ground that it was signed by the party reclaiming and not by counsel, the Court in view of the fact that the claimer was pleading his own case, and "as a special indulgence in the particular circumstances," allowed the note to be received.

Alexander Gore, Leith, raised an action for breach of contract against the Westfield Autocar Company, Limited, Edinburgh.

After proof the Lord Ordinary (ANDERSON) assoilzied the defenders.

The pursuer presented a reclaiming note signed by himself and not by counsel.

On 14th June 1921 the pursuer appeared in person and moved the Court to send the reclaiming note to the roll. Counsel for the defenders objected to the competency of the reclaiming note on the ground that it was not signed by counsel, and cited the following cases:—*Brown v. Whyte*, 1900, 2 F. 1039, 37 S.L.R. 784; *Hawks v. Donaldson*, 1889, 2 F. 95, 37 S.L.R. 70.

The 14th June being the last of the reclaiming days the Court dropped the note in order that the pursuer might in the course of the day have an opportunity of getting it signed by counsel.

In the Single Bills of 15th June the pursuer argued in person that he had a right to sign the reclaiming note himself. No authorities were cited.

The opinion of the Court (consisting of the LORD PRESIDENT, LORD SKERRINGTON, and LORD CULLEN) was delivered by the Lord President.

LORD PRESIDENT—I cannot say that the claimer has satisfied me that there is any good reason why his reclaiming note is not signed by counsel. There is no statute and no Act of Sederunt which regulates the matter, but the practice of the Court has invariably been that reclaiming notes should be signed by counsel. There are only one or two instances in the books—*Brown v. Whyte*, 1900, 2 F. 1039; *Davies v. Davies*, 1901, 4 F. 3—in which by indulgence a party litigant has been allowed to sign his own note. Now the present claimer is pleading his own case, and it may be that difficulties connected with his ignorance of the procedure of this Court are the cause of the note appearing before us in its present form. As a special indulgence in the particular circumstances we shall therefore allow the note to be received, but it must be clearly understood that this indulgence will form no precedent for other cases.

The Court sent the case to the roll.

Counsel for Pursuer and Reclaimer—Party. Agent—Party.

Counsel for Defenders and Respondents—Garrett. Agents—T. & W. Liddle MacLagan & Cameron, W.S.

Wednesday, June 15.

FIRST DIVISION.

[Sheriff Court at Inverness.

MACGILLIVRAY v. MACKENZIE.

Lease—Outgoing—Compensation for Improvements—Laying down Temporary Pasture—Whether Sown more than Two Years Prior to Determination of Tenancy—Lease for a Period of Years with Continuation thereafter from Year to Year—"Benefit" Given by Landlord—Agricultural Holdings (Scotland) Act 1908 (8 Edw. VII, cap. 64), sec. 1 (1) and (2) (a), and First Schedule, Part III (26).

The Agricultural Holdings (Scotland) Act 1908 (8 Edw. VII, cap. 64) enacts—Section 1—" (1) Where a tenant of a holding has made thereon any improvement comprised in the First Schedule to this Act, he shall, subject as in this Act mentioned, be entitled at the determination of a tenancy, on quitting his holding, to obtain from the landlord, as compensation under this Act for the

improvement, such sum as fairly represents the value of the improvement to an incoming tenant. (2) In the ascertainment of the amount of the compensation payable to a tenant under this section there shall be taken into account (a) any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement . . . First Schedule, Part III—Improvements in respect of which consent of or notice to landlord is not required. . . . (26) Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the determination of the tenancy.”

In a lease for a period of five years from Whitsunday 1900 it was provided that after the expiry of the five years the tenancy would be continued from year to year so long as the same was not terminated by either party by giving one year's notice. At the commencement of the lease the farm consisted of 700 acres of permanent pasture and 105 acres of arable land. The tenant, who had vacated the farm at Whitsunday 1920, claimed compensation in respect of the laying down of 96½ acres of the arable land in temporary pasture more than two years before leaving the farm. *Held* (1) that the tenancy after 1905 was not by tacit relocation from year to year, but was a tenancy in terms of the provisions of the lease of 1900, and that accordingly the Agricultural Holdings Act 1908 was applicable; (2) that in the circumstances stated it was competent for the arbiter to hold that the laying down of the temporary pasture was an improvement entitling the tenant to compensation under the Act; and (3) that the mere fact that the landlord did not terminate the tenancy earlier did not constitute a “benefit” in the sense of section 1 (2) (a) of the Act.

The Agricultural Holdings (Scotland) Act 1908 (8 Edw. VII, cap. 64), sec. 1 (1) and (2) (a), and First Schedule, Part III (26), is quoted *supra in rubric*.

In an arbitration under the Agricultural Holdings (Scotland) Act 1908 between William Macgillivray, formerly tenant of the farm of Garbole in the county of Inverness, and William Dalziel Mackenzie of Farr, the landlord, the arbiter George Alexander Ferguson, Surradale, Elgin, stated a Case for the opinion of the Sheriff.

The Case set forth, *inter alia*—“The claimant, the said William Macgillivray, claimed from the respondent, the said William Dalziel Mackenzie, the sum of £348 for the laying down of temporary pasture on 96½ acres or thereby of the said farm of Garbole more than two years prior to the determination of the tenancy at Whitsunday 1920.

“The claimant entered the farm of Garbole at Whitsunday 1886, and vacated the farm at Whitsunday 1920 with the exception of the arable land under crop, which he vacated at the separation of crop 1920 from the ground.

“Under the general articles, conditions, and regulations of the respondent's estate, by which the claimant was bound for the period from 1886 to 1900, it was, *inter alia*, provided that ‘tenants shall not be restricted to any system or particular course of cropping. . . . Tenants may, if they choose, lay the whole of their farms under grass, provided the land be first properly cleaned and liberally manured and sown down with a sufficient quantity of good seeds.’

“By lease entered into between the parties, dated 29th February and 5th March 1904 (in which said general regulations, articles, conditions, and regulations were not incorporated or referred to), the respondent let to the claimant the said farm of Garbole for the space of five years and crops from and after the following terms and periods:—As regards the fallow land the first day of April 1900; as regards the houses, second year's grass, and pasture land, at the term of Whitsunday 1900; and as regards the arable land under crop, including hay crop, at the separation of the crop of the year 1900 from the ground, it being provided and agreed that after the term of Whitsunday 1905 the tenancy should be continued from year to year so long as the same was not terminated by either party at the term of Whitsunday on giving at least one year's written notice to the other party of his intention to terminate the same. With regard to the cultivation and management of the said farm, the lease does not prescribe any course of cropping, but provided and conditioned that the cultivation and management should be according to the most approved rules of good husbandry, and it was further thereby specially conditioned and agreed that the tenant should not break up or bring under cultivation any land on the said farm which at his entry was not cultivated as arable land without the express consent of the proprietor. At the claimant's outgo the proprietor or incoming tenant was bound to take over the whole corn crop, dung, and fallow land, and the first and second year's grass, and also the third year's grass in the event of the arable land being then worked under the six course rotation.

“When the claimant entered in 1886 the arable land on the farm extended to 111·376 acres (exclusive of permanent pasture), which were in first and second year's grass, corn crop, and fallow. At his entry the claimant took over from his predecessor all the first and second year's grass, corn crop, and fallow, and paid therefor. Prior to the year 1900 a field, extending to about six acres, was resumed by the respondent. Thus the above 111·376 acres was reduced to 105 acres or thereby. Up to the year 1900 the said arable land was cultivated in a five-shift course.

“In 1900, when a new lease was entered into, the claimant received no payment and no other consideration from the respondent in respect of grass or pasture on the farm nor for corn crop and fallow land. He constructively entered on the new lease in succession to himself as awaygoing tenant under the old lease. At entry under the new lease there was no temporary pasture