yearly entered at £100, and this it is said is excessive. The answer by the assessor is, that he made the value of £100 in 1878 in order to bring the valuation into harmony with the valuations of similar villas in the neighbourhood, and that the house is of the lettable value of £100. The only other statement in the Special Case is by the Commissioners, that the values stated are not excessive, but are fair and reasonable. No specification is given by the appellants of neighbouring villas of equal accommodation let at a less rent; and thus being left without any facts upon which to form an opinion contrary to that given effect to by the assessor and the Commissioners, no course is left open to this Court but to confirm the valuation upon this head also.

I am therefore of opinion that we must adhere to the determination of the Commissioners.

Lord Lee.—I concur in thinking that the determination of the Commissioners is right. But in arriving at this conclusion I do not find it necessary to say that the Board of Lunacy has exceeded its powers in any respect, or that the rules passed by the Secretary of State are contrary to the statute. My view is, that it is the duty of the Commissioners, under the Valuation of Lands Act, to make up the valuation roll for each parish in such a manner as to show, as to all the lands and heritages therein, the whole particulars required by that statute and by the Representation of the People Act 1868; and I do not think that it is consistent with the statutory provisions upon this matter that all the subjects mentioned in the case for the Barony Parochial Board should be valued as one. I am of opinion that nothing that has been done justifies the contention of the appellants that the valuation in this case is erroneous in principle, in so far as the subjects are not entered at one slump sum, and I think that the appellants have failed to show that the subjects are valued too high.

It appears to me that the Lunacy Board was entitled to assume, and probably did assume, that the Parochial Board, in providing for the pauper lunatics of the Barony Parish, was acting with the sanction of the Board of Supervision, and within the powers conferred by the 59th section of the Poor Law Act. But I find it impossible to say, upon the statements contained in this case, that the Parochial Board ever obtained the sanction of the Board of Supervision to the acquisition of all the different subjects mentioned, and to the undertaking of the extensive scheme of farming operations referred to in the argument. I am of opinion, therefore, that the whole subjects cannot be dealt with as *unum quid* entirely occupied for the purposes of the Poor Law Act.

The proper purpose of the lunatic department of a poorhouse (and I agree with Lord Fraser in thinking that that is the real character of this establishment) is the reception and maintenance of lunatic paupers, and I cannot find that the Board of Supervision ever sanctioned, or was asked to sanction, any provision for their treatment upon a farm or farms to be acquired by the Parochial Board.

The doctrine that all the parts and pertinents of a subject are to be valued as *unum quid* along with the principal subject itself is not to be carried too far. It cannot, in my opinion, be carried the length of preventing the separate valuation of the different subjects and kinds of subjects required to be valued separately for the purposes of the Valuation Act, and of the other statutes to which that act is ancillary. I think it can only be applied to the necessary appurtenances of the principal subjects, and I cannot say that the farms and other subjects included in the entries under appeal are of that nature.

Counsel for the Parochial Board—J Burnet. Agents—Mackenzie, Innes, & Logan, W.S.

# COURT OF SESSION.

*Thursday, June 22.*

## FIRST DIVISION.

(Before Lord President Inglis, Lords Deas and Shand.)

[Lord M'Laren, Ordinary.

### BAIRD *v.* BARTON.

*Process—Reclaiming Note — Competency — Court of Session Acts* 1850 *and* 1868 (13 *and* 14 *Vict. cap.* 36, *sec.* 11, *and* 31 *and* 32 *Vict. cap.* 100).

A pursuer reclaimed against an interlocutor pronounced in a cause by the Lord Ordinary after hearing the parties on the question of expenses, by which he found the defender entitled thereto, appointed an account thereof to be lodged, and remitted the same to the Auditor to tax, more than ten but less than twenty-one days after it had been pronounced. *Held* (repelling an objection taken by the respondent that under the 11th section of the Act of 1850 the time for reclaiming had elapsed)—(1) that the appellant was within the time allowed, this being in the opinion of the Court a twenty-one days' interlocutor; and (2) that until the question of expenses had been disposed of there could be no final judgment, and consequently no review, the "whole subject-matter of the cause" not having been finally disposed of, as required by section 53 of the Act of 1868.

In an action raised by Thomas Baird, builder, residing at Gardner's Crescent, Edinburgh, against James Barton, S.S.C., Lord M'Laren on 2d June 1882 pronounced the following interlocutor:—"The Lord Ordinary having heard parties' procurators on the question of expenses, Finds the defender entitled to expenses; appoints an account thereof to be lodged; and remits the same to the Auditor to tax and report."

Against this interlocutor the pursuer Baird, on 20th June 1882, lodged a reclaiming-note. This was objected to on the part of the respondent, on the ground that the reclaiming-note was lodged too late, and that if any objection was to be taken to this interlocutor it should have been stated within ten days.

Authorities—Court of Session Act 1850 (13 and 14 Vict. cap. 36), sec. 11; Court of Session Act 1868 (31 and 32 Vict. cap. 100); *Bannatine's Trustees* v. *Cunninghame*, Jan. 11, 1872, 10 Macph. 317; *Cowper* v. *Callender*, Jan. 19, 1872, 10 Macph. 353; *Lamond's Trustees* v. *Croom*, May 14, 1872, 10 Macph. 690.

At advising—

Lord President—The objection here is that this reclaiming-note should have been presented within ten days of the date of the interlocutor reclaimed against. The objection is founded on the 11th section of the Act of 1850, which provides—"That it shall not be competent to reclaim against any interlocutor of the Lord Ordinary at any time after the expiration of ten days from the date of signing such interlocutor, with the exception only of reclaiming-notes against interlocutors disposing in whole or in part of the merits of the cause, and against decrees in absence, which reclaiming-notes shall continue to be competent in like manner as at the passing of this Act." Now, the question is whether the interlocutor before us disposes in whole or in part of the merits of the cause? As matters stood under the Act of 1850 it might have been difficult to say that a decision upon a mere question of expenses could in any sense be called "disposing in whole" of the merits of the cause. But in the Act of 1868 a material alteration has been made upon the phraseology. In the first place, the 52d section, in explaining the effect of a reclaiming-note against a final judgment, provides that "Every reclaiming-note, whether presented before or after the whole cause has been decided in the Outer House, shall have the effect of submitting to the review of the Inner House the whole of the prior interlocutors of the Lord Ordinary of whatever date, not only at the instance of the party reclaiming, but also at the instance of all or any of the other parties who have appeared in the cause, to the effect of enabling the Court to do complete justice without hindrance from the terms of any interlocutor which may have been pronounced by the Lord Ordinary, and without the necessity of any counter reclaiming-note; and after a reclaiming-note has been presented, the reclaimer shall not be at liberty to withdraw it without the consent of the other parties as aforesaid, and if he shall not insist therein, any other party in the cause may do so, in the same way as if it had been presented at his own instance." Then in the following section, the 53d, we have a definition of what is to be deemed a final judgment in the Outer House—the only judgment which can be brought under review without the leave of the Lord Ordinary, except in a few specified cases, such as interlocutors allowing proof. The section provides—"It shall be held that the whole cause has been decided in the Outer House when an interlocutor has been pronounced by the Lord Ordinary which either by itself or taken along with a previous interlocutor or interlocutors disposes of the whole subject-matter of the cause, or of the competition between the parties in a process of competition, although judgment shall not have been pronounced upon all the questions of law or fact raised in the cause; but it shall not prevent a cause from being held as so decided that expenses, if found due, have not been taxed, modified, or decerned for." Now, it is to be observed that the words used in the 1868 Act are the "whole subject-matter of the cause," whereas the words made use of in the Act of 1850 are "whole merits" of the cause. And although it may be a question whether expenses can be said to form part of the merits of the cause, it may very well be held that they are a part, and often a very important part, of the "subject-matter" of the cause. This change of language, therefore, seems to me on that account of great importance, and when we go on the matter is made very clear, for the statute in the 54th section provides by the clearest implication, until the question of expenses is determined no final judgment can be pronounced, and if so, then the "whole subject-matter" of the cause, in the language of the statute, has not been disposed of. In short, until the question of expenses has been determined, the "whole subject-matter" has not been finally disposed of, and until such final disposal there can be no review. It appears to me accordingly that the subject-matter of the case was not finally disposed of till the interlocutor of the 2d June, and consequently that the appellant is within the time allowed by the statute.

Lords Deas and Shand concurred.

Lord Mure was absent.

Counsel for Pursuer and Reclaimer — J. A. Reid. Agent—A. Rodan Hogg, Solicitor.

Counsel for Defender and Respondent — Strachan. Agent—Party.

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*Thursday, June* 22.

## FIRST DIVISION.

(Before Lord President Inglis, Lords Deas and Shand.)

### THE ANGLO-AMERICAN BRUSH ELECTRIC LIGHT CORPORATION (LIMITED), PETITIONERS.

*Public Company—Companies Act* 1862, *sec.* 79—*Winding-up—Allotment of Shares subsequent to Presenting of Petition.*

By section 79 of the Companies Act 1862 (25 and 26 Vict. cap. 89) it is enacted, *inter alia*—"That a company under this Act may be wound up by the Court as hereinafter defined under the following circumstances, that is to say— . . . . 5. Whenever the Court is of opinion that it is just and equitable that the company should be wound up."

Circumstances in which a petition for the judicial winding-up of a company was *refused*, on the grounds (1st) that if granted some advantage might be conferred on the petitioners over the other shareholders; and (2d) that as the company was in the immediate prospect of being wound up voluntarily, this application was premature.

The Anglo-American Brush Electric Light Corporation (Limited) on the 17th May 1882 presented a petition asking that the Scottish Brush Electric Light and Power Company (Limited) should be wound up by the Court under the provisions of section 79 of the Companies Act of 1862.

It appeared from the terms of various agreements referred to in the course of the discussion, the more important passages of which are quoted in the opinion of the Lord President, that the Anglo-American Company were proprietors of a valuable patent which they