

funds held for the general trust purposes does not fall on all equally, there will not be an equal division. The only result of the loss must be that the sons get so much less than they would have done had it not been for the loss, because the trustees have less funds in their hands.

LORD M'LAREN was absent at the hearing.

The Court found and declared that in a question between the beneficiaries under the settlement of the late William Teacher, the loss sustained upon investments of the trust-funds made by the trustees falls to be borne by the whole children of the testator other than Adam Teacher, equally, and decerned.

Counsel for the First Parties—Low. Agents—Ronald & Ritchie, S.S.C.

Counsel for the Second and Fourth Parties—Sir Charles Pearson—Wallace. Agents—John C. Brodie & Sons, W.S.

Counsel for the Third Parties—Asher, Q.C.—Ure. Agents—Ronald & Ritchie, S.S.C.

Counsel for the Fifth Parties—W. Campbell. Agents—J. & A. F. Adam, W.S.

Friday, January 10.

FIRST DIVISION.

MOLLESON (PRINGLE PATTISON'S CURATOR), PETITIONER.

*Curator Bonis—Power to Grant Leases and Abatements of Rent—Trusts Acts 1867, 1884, and 1887—Judicial Factors Act 1889.*

A *curator bonis* has power to grant leases of agricultural subjects for a duration not exceeding twenty-one years, and to grant abatements of rent.

J. A. Molleson, C.A., who was appointed *curator bonis* to Mrs Pringle Pattison in July 1888, let a farm forming part of the ward's estate for fifteen years from Whit-sunday 1889, and at the collection of rents in August 1888 he granted to the tenants of six other farms abatements of rent. Thereafter in February 1889 he presented this note craving the Court to find that he was empowered by the Trusts Acts of 1867, 1884, and 1887 to grant the lease and the abatements of rent mentioned without the necessity of applying to the Court for the sanction contemplated by section 7 of the Pupils Protection Act.

The 2nd section of the Act of 1867 gave power to certain classes of trustees to grant agricultural leases for periods not exceeding twenty-one years.

The Act of 1884, which conferred increased powers of investment upon trustees, enacted in its 2nd section that "trustee" should in the Acts of 1861 and 1867 include, *inter alia*, *curator bonis*.

Section 2 of the Act of 1887 provided that, in addition to the powers conferred upon trustees by the 2nd section of the Act of

1867, in all trusts to which that section applied trustees should have power to grant abatements of rent, and section 3 provided that abatements granted prior to the passing of the Act should not be liable to challenge.

The Lord Ordinary (WELLWOOD) reported the matter to the First Division, who, after hearing counsel for the curator and the Accountant of Court, ordered the case to be argued before Seven Judges. Before the case was heard the Judicial Factors (Scotland) Act 1889 came into operation, by section 19 of which it was enacted that the provisions of the Trusts Act of 1867 should apply to and include all trusts and trustees as defined by the 2nd section of the Act of 1884.

On 10th January 1890 the Court recalled their interlocutor ordering the case to be argued before Seven Judges as no longer necessary, and found that in terms of the Trusts Act 1867, as amended and extended by the Act of 1884, and of the Trusts Act 1887, and of the 19th section of the Judicial Factors Act 1889, the *curator bonis* was empowered to grant the lease and the abatements of rent already mentioned without the necessity of applying to the Court for the sanction required by section 7 of the Pupils Protection Act.

Counsel for the *Curator Bonis*—R. Johnstone—C. K. Mackenzie. Agent—Robert Strathern, W.S.

Counsel for the Accountant of Court—W. Campbell. Agents—Mackenzie, Innes, & Logan, W.S.

Thursday, January 16.

FIRST DIVISION.

[Lord Wellwood, Ordinary.]

MORE AND OTHERS v. WATT'S TRUSTEES.

*Process—Reclaiming-Note—Competency—Boxing on Monday where Reclaiming-Days had Expired on Saturday—Judicature Act (6 Geo. IV. cap. 120), sec. 18.*

An objection was taken to the competency of a reclaiming-note that it had been boxed on Monday, January 13, instead of on the previous Saturday, which was the last of the reclaiming-days. Objection *sustained*.

Reference made to the remedies under the Administration of Justice and Appeals Act 1808 (48 Geo. III. cap. 151), sec. 16, and *Steedman v. Steedman*, March 19, 1887, 14 R. 682.

By the 18th section of the Judicature Act (6 Geo. IV. cap. 120) it is provided that "When any interlocutor shall have been pronounced by the Lord Ordinary, either of the parties dissatisfied therewith shall be entitled to apply for a review of it to the Inner House of the Division to which the Lord Ordinary belongs, provided that such party shall, within twenty-one days