

# SUMMER SESSION, 1914

## COURT OF SESSION.

Wednesday, May 13, 1914.

### SECOND DIVISION.

M'GOVERN v. WEST CALDER  
CO-OPERATIVE SOCIETY, LIMITED.

*Expenses—Taxation—Jury Trial—Motion for a Rule—Fees to Counsel for Opposite Party Attending Motion.*

Fee paid to pursuer's junior counsel for attending in Single Bills when defenders' motion for rule sent to summar roll *disallowed*. Fee to pursuer's senior counsel for attending when rule moved for *disallowed*, and fee to his junior counsel *reduced* to two guineas.

The defenders in an action of damages moved for a rule upon the pursuer to show cause why a new trial should not be granted. The motion was refused, with expenses. On the Auditor's report on the pursuer's account of expenses coming up for approval the defenders objected to his allowance of a fee of one guinea to junior counsel for attending in Single Bills when the motion for a rule was sent to the summar roll, and of fees of eight guineas to senior counsel and six guineas to junior counsel for attending when the rule was moved for.

The Court, which consisted of the LORD JUSTICE-CLERK, LORDS DUNDAS, SALVESEN, and GUTHRIE, without delivering opinions, disallowed the fee to junior counsel for attending in Single Bills, reduced his fee for attending when the rule was moved for from £6, 6s. to £2, 2s., and disallowed the fee to senior counsel.

*Observed per LORD SALVESEN*—I think parties should understand that we are deciding this as a matter of principle in order to settle the practice as to allowing fees to the opposing counsel for attending when a rule is moved for.

Counsel for Pursuer—Ingram. Agent—J. Ferguson Reekie, S.S.C.

Counsel for Defenders—MacRobert. Agents—Bonar, Hunter, & Johnstone, W.S.

## HIGH COURT OF JUSTICIARY.

Monday, May 18.

(Before the Lord Justice-Clerk, Lord Dundas, and Lord Anderson.)

PATERSON v. MACLENNAN.

*Justiciary Cases—Form of Sentence—"Guilty as Libelled"—Accused Found "Guilty"—Complaint Containing Twenty Charges—Summary Jurisdiction (Scotland) Act (8 Edw. VII, cap. 65), sec. 53, Schedule E.*

The Summary Jurisdiction (Scotland) Act 1908 provides a form (Schedule E) for minuting sentences in complaints under the Act. *Held* that a sentence which was disconform to the schedule, in respect that the words "as libelled" were omitted, but from which it was otherwise clear that the accused had been found guilty of all the offences charged, was not invalid, and that in the circumstances the conviction might stand.

*Observed (per the Lord Justice-Clerk)* that the forms prescribed by the schedule should be followed.

The Summary Jurisdiction (Scotland) Act 1908 (8 Edw. VII, cap. 645) enacts:—Section 53—"The finding and sentence and orders of Court . . . shall be minuted in the forms contained in Schedule E to this Act. . . . Where several charges at common law or under any statute or order are embraced in one complaint a *cumulo* penalty may be imposed in respect of all or any of such charges of which the accused is convicted." . . . Schedule E—. . . "The Court found the accused guilty as libelled, [or as first (or last) alternately libelled, or state to what extent found guilty . . .]."

On 14th August 1913 Thomas MacLennan, Procurator-Fiscal, presented a complaint in the Sheriff Court at Aberdeen against Robert Paterson, farmer, Lendrum, in which he was charged in respect of eight servants who were alleged to be employed contributors within the meaning of the "National Insurance Act 1911" with having failed be-