

## COURT OF TEINDS.

Monday, December 12.

(Before the Lord President, Lord Mure, Lord Craighill, and Lord Kinnear.)

STEWART, PETITIONER.

*Church—Glebe—Authority to Feu—Right of Pre-emption—Glebe Lands (Scotland) Act 1866 (29 and 30 Vict. c. 71), sec. 17.*

In a case where a minister had received authority to feu a part of his glebe, which, however, remained unfeued for several years—*held*, following the case of *Inveresk* (June 30, 1881, not reported), that the conterminous proprietors, although they had failed to exercise their right of pre-emption within the statutory period, might still be allowed to purchase that portion of the glebe if all parties interested were willing they should do so.

By interlocutors of the Court of Teinds, dated 19th March 1877 and 13th January 1879, pronounced in a petition at the instance of the Rev. James Stewart, minister of the parish of Peterhead, in the Presbytery of Deer and county of Aberdeen, presented on 31st May 1876, authority was granted in terms of the Glebe Lands (Scotland) Act 1866 (29 and 30 Vict. c. 71) to feu the three parts of which the glebe consisted. Of these three parts two were subsequently feued for building purposes, but the rest remained unfeued.

The conterminous proprietors of the portion unfeued were the Governors of the Merchant Maiden Hospital of Edinburgh. By the 17th section of the Glebe Lands (Scotland) Act 1866 it is enacted—"When the Court shall have made an order or interlocutor granting authority to feu or let on building lease and fixing the minimum feu-duty or rent, any proprietor whose lands are conterminous with the glebe mentioned in such order or interlocutor may, within thirty days of the date of such order or interlocutor, intimate his willingness to feu or lease or to purchase so much of the said glebe at such a rate of feu-duty or rent or price as the Court may, on a consideration of the whole circumstances of the case, and after directing such inquiry as they may consider necessary, determine."

The Governors of the Merchant Maiden Hospital of Edinburgh, and the petitioner, with the consent of the Presbytery of Deer and of the heritors of the parish, lodged a minute in the petition on 8th December 1887, praying the Court to allow the Governors, notwithstanding the fact that they had not exercised their right of pre-emption within the statutory period, to purchase that part of the glebe which was unfeued, at such a price as the Court after due inquiry should fix.

The Court, following the course adopted in regard to the minute for *The Heritors of Inveresk and the Rev. John G. Beveridge* (dated 30th June 1881) in petition the said *John G. Beveridge* (boxed 16th November 1867) [not reported], granted the prayer of the minuters, and pronounced the following interlocutor:—

"The Lords having considered the minute for the Governors of the Maiden Hospital founded by the Company of Merchants of the City of Edinburgh and Mary Erskine, and for the Rev. James Stewart, petitioner, and heard counsel thereon, Find that the price or value of the piece of ground marked field No. 1 in plan, forming part of the glebe of the parish of Peterhead authorised to be feued, shall be £836, 5s. sterling; and the Lords, in terms of the 17th section of the statute, sell, dispoise, adjudge, decern, and declare the said piece of ground . . . to pertain and belong, heritably and irredeemably, to the Governors of said Hospital: . . . But supersede extract until consignation of the price shall be made in the hands of the Royal Bank of Scotland, and the receipt be deposited in the hands of the Clerk of Court, and decern."

Counsel for the Minuters—W. K. Dickson.  
Agent—R. C. Gray, S.S.C.

## COURT OF SESSION.

Friday, December 16.

## FIRST DIVISION.

[Sheriff of Forfarshire

FRASER v. HOOD.

*Reparation—Master and Servant—Bodily Injury—Servant Working in face of known Danger—Employers Liability Act 1880 (43 and 44 Vict. c. 42), sec. 1, sub-sec. 1.*

*Held* that a stableman who undertook the management of a horse which he knew to be vicious, was not entitled to reparation for injuries caused by a bite from the horse.

James Fraser, stableman, Brechin, sued his employer John Hood, carting contractor there, for damages for injuries sustained by him from the bite of a horse, the property of the defender.

He averred—"The pursuer was in the employment of the defender as a carter for about five years till 1st January last, when he was appointed stableman, and continued in that situation until the occurrence of the accident after mentioned. It formed part of the pursuer's duties as stableman to attend to the feeding of the horses kept in Mr Hood's stable, and before leaving for the night to look round all the horses in the stable and see that they were properly fastened up." "On or about the evening of Tuesday the 31st of May last, the pursuer entered the stable about nine o'clock for the above purpose. He was immediately followed by the defender, who called his attention to the fact that one of the horses had broken loose from its halter, and desired him to fasten it on again. The pursuer proceeded up the stall to do this, but on his stooping down to lift up the halter, the horse bit and seized his left arm, crushing it severely. This occurred in the presence of the defender." "The horse in question, which was an entire horse, was a vicious and dangerous animal, and on several