

Magistrates is anything but that of a person employed under a contract of employment, they are not applicable. Therefore I quite agree that we could not refuse to apply the statute in this case without disturbing a whole course of decisions on the construction of the statute. I concur in holding that the plea cannot apply except to those debts which might have been sued for before the statutory period began to run.

LORD M'LAREN concurred.

The LORD PRESIDENT, who was present at the hearing, having in the interval been appointed a Lord of Appeal in Ordinary, gave no opinion.

The Court recalled the interlocutor of the Lord Ordinary, and remitted to him to proceed.

Counsel for the Reclaimers—Shaw, Q.C.—Craigie. Agent—R. D. Ker, W.S.

Counsel for the Respondent—Clyde—Cook. Agents—Macpherson & Mackay, W.S.

Friday, November 17.

#### FIRST DIVISION.

#### JAMIESON'S TRUSTEES v. JAMIESON.

*Process—Transmission of Documents in Hands of Sheriff-Clerk.*

An application was presented to the Court by parties to a special case for warrant to transmit to the Clerk of Court certain documents, the construction of which formed the subject of the case. The documents were in the hands of the Sheriff-Clerk of Elgin. The applicants founded upon the provisions of sec. 20 of A.S., 16th February 1841, with reference to the procedure in jury cases in the Outer House. The Court pronounced the following interlocutor:—“Grant warrant to the Sheriff-Clerk at Elgin to transmit the trust-disposition and deed of settlement and codicils mentioned in said note to the Clerk of the First Division, to lie in his hands *in retentis* till the case comes on for hearing, under this condition, that said documents are not to be allowed to be borrowed.”

Counsel for Applicants—M'Lennan. Agent—Alex. Mustard, S.S.C.

Friday, November 17.

#### FIRST DIVISION.

[Sheriff Court of Renfrew.]

#### COMMISSIONERS OF BURGH OF POLLOKSHAW v. M'LEAN.

*Sheriff—Jurisdiction—Possession of Heritable Property within County.*

The commissioners of a burgh brought an action in the Sheriff Court against the owner of certain heritable subjects within the sheriffdom to recover part of the expense incurred by them in repairing a private street upon which these subjects abutted. The defender resided beyond, and was not personally cited within the sheriffdom. *Held* that the Sheriff had no jurisdiction to deal with the action.

*M'Bev v. Knight*, November 22, 1879, 7 R. 255, followed; *Culross Special Water Supply District v. Smith Sligo's Trustees*, November 6, 1891, 19 R. 58, distinguished.

An action was raised in the Sheriff Court of Renfrew and Bute by the Commissioners of the burgh of barony of Pollokshaws against Mary Gardner M'Lean, residing at 109 South Portland Street, Glasgow, owner of the heritable subjects No. 53 New Street, Pollokshaws, and against Robert Millar, contractor, tenant and occupier of the said subjects.

The pursuers craved the Court to grant decree against the defenders jointly and severally for payment of a sum of £26, which the pursuers averred was the proportionate share due by Miss M'Lean as owner of the subjects, in respect of repairs executed by them on the street upon which the subjects abutted. The decree craved against the tenant was restricted to the amount of rent due by him for the subjects to Miss M'Lean.

No appearance was made for the tenant.

Miss M'Lean pleaded—“(1) No jurisdiction. The defender Mary Gardner M'Lean has no domicile within the sheriffdom of Renfrew and Bute.”

The Sheriff-Substitute (HENDERSON) on 4th July pronounced the following interlocutor:—“Sustains the first plea-in-law for the defender Miss Mary Gardner M'Lean, to the effect that he has no jurisdiction in the action as it at present stands, the said defender residing outwith the county of Renfrew, and not having been personally cited: Accordingly dismisses the petition so far as it is directed against the defender, the said Mary Gardner M'Lean,” &c.

The pursuers appealed to the Sheriff (CHEYNE), who on 9th September 1898 sustained the appeal, recalled the interlocutor of the Sheriff-Substitute, repelled the defender's preliminary pleas, and allowed the parties a proof.

*Note.*—“While it is quite true that the fact of possession of heritable property in a county does not by itself give the Sheriff of that county jurisdiction over the owner