

ship council, as required by sec. 14 (1) of the Dog Tax and Sheep Protection Act, 1918, appointed sheep-valuers, who made the investigation called for by the statute, and found damages amounting to \$225. The plaintiff, considering that sum inadequate, appealed to the Minister of Agriculture, who, under sec. 14 (2), appointed one Brien as arbitrator to make a further investigation. Brien, in the absence of and without notice to the defendant corporation, made an investigation, in the course of which he examined the plaintiff as to the value of the sheep, and fixed the plaintiff's damages at \$331. The council of the defendant corporation not having paid the amount awarded by Brien, the plaintiff brought this action in the County Court to recover the same. The defendant corporation admitted liability to the extent of \$225, and paid that amount into Court. The County Court Judge tried the action and found that the award was bad and that the plaintiff was entitled to recover only the \$225. The plaintiff refusing to accept judgment for that sum without costs, the action was dismissed with costs, "without prejudice to the right of the plaintiff to have a new investigation in respect of damages."

The appeal was from that judgment.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, AND MASTEN, JJ.

F. D. Davis, for the appellant.

J. H. Rodd, for the defendant corporation, respondent.

MULOCK, C.J.Ex., read a judgment in which, after setting out the facts as above, he said that, in his opinion, the County Court Judge was right in his view that the award of Brien was bad. Sub-section 2 of sec. 14 of the Act requires the arbitrator to conduct an investigation. It is a principle of general application in the administration of justice that both parties to a judicial inquiry shall have an opportunity of being heard; and, though the words of the sub-section do not so provide, it must be assumed that the Legislature intended that that principle should apply to the conduct of the investigation.

Brien was not acting as an expert to determine the matters in difference according to his own judgment, unaided by evidence, but was to investigate, that is, ascertain the extent of the damage sustained by the plaintiff. This involved his ascertaining the facts, not from one of the parties to the difference only, but from both parties, and then determining the extent of the damage in accordance with the facts thus learned. This duty constituted him an arbitrator.

When not expressly absolved from so doing, an arbitrator is bound to observe in his proceedings the ordinary rules which are