

tances. It means a number of burghs grouped together for the purpose of electing a member of Parliament. But the burghs are still locally separate, and a man who is living within seven miles of one of them is not therefore within seven miles of another. The conditions of the present case therefore do not comply with the statutory requirements, and I think the decision of the Sheriff ought to be affirmed.

LORD TRAYNER—I agree. I have no doubt about the effect of section 11 of the 1832 Act. The section requires residence within seven miles of the burgh in which the vote is claimed, and I do not think that the provisions of the section have been affected or extended by the definition clause of the Act of 1868.

LORD KINCAIRNEY—I agree. I think the words of the interpretation clause in the Act of 1868 do not apply to the provision in the Act of 1832.

The Court refused the appeal.

Counsel for the Claimant and Appellant—Blackburn. Agents—Russell & Dunlop, W.S.

Counsel for the Respondent—A. M. Anderson. Agent—Alexander Ramsay, S.S.C.

Friday, November 25.

(Before Lord Kinnear, Lord Trayner, and Lord Kincairney.)

IRELAND v. BARR.

Election Law—Parliamentary Election—Lodger Franchise—Declaration—Bedroom and Use of Public Room—Evidence of Letting Value of Lodgings—Representation of the People (Scotland) Act 1868 (31 and 32 Vict. c. 48), sec. 4—Registration Amendment (Scotland) Act 1885 (48 and 49 Vict. c. 16), sec. 14.

A cabinetmaker claimed to be registered as a lodger in respect of lodgings which he described in his claim as "Bedroom and use of public room."

In the declaration annexed to his claim he stated that he had occupied these lodgings for the qualifying period, and that they were of the annual value of £10 unfurnished.

An objection having been taken, the Sheriff admitted the claim, finding that the claimant, who was the only witness examined, had the right to occupy as lodger the bedroom with board and use of public room for 20s. per week, but no evidence was led as to the value of the bedroom and the use of the public room separately. The objector appealed.

The Court sustained the appeal and disallowed the claim on the ground that no evidence of letting value was laid before the Sheriff.

Green v. Donaldson, November 29, 1901, 4 F. 245, 39 S.L.R. 186, followed.

The Representation of the People (Scotland) Act 1868 (31 and 32 Vict. c. 48), sec. 4, enacts—"Every man shall, in and after the year

One thousand eight hundred and sixty-eight be entitled to be registered as a voter, and, when registered, to vote for a member or members to serve in Parliament for a burgh, who is qualified as follows: that is to say . . . (2) As a lodger has occupied in the same burgh separately, and as sole tenant for the twelve months preceding the last day of July in any year, lodgings of a clear yearly value, if let unfurnished, of ten pounds or upwards." . . .

The form of declaration given in Schedule (I) relative to the claim of a lodger is as follows—"I, the above-named

hereby declare that I have been, during the twelve months immediately preceding the last day of July in this year the occupier as sole tenant of the above-mentioned lodgings, and that I have resided therein during the twelve months immediately preceding the said last day of July; and that such lodgings are of a clear yearly value, if let unfurnished, of ten pounds or upwards."

The Registration Amendment (Scotland) Act 1885 (48 and 49 Vict. c. 16), sec. 14, enacts—"In the case of a person claiming to vote as a lodger the declaration annexed to his notice of claim shall for the purposes of revision be *prima facie* evidence of his qualification."

At a Registration Court for the Burgh of St Andrews, held at St Andrews on 5th October 1904, Thomas Ireland, cabinet-maker, 23 Market Street, St Andrews, claimed to be enrolled on the register of voters for the Burgh of St Andrews as a lodger.

The particulars of the qualification set forth in the claim, and the relative declaration of the claimant, were as follows:—

"Christian Name and Surname at Full Length—Thomas Ireland. Profession, Trade, or Calling—Cabinetmaker. Description of Lodgings—Bedroom and use of Public Room. Description of House or Houses in which Lodgings situate, with Number, if any, and Name of Street—Dwelling-house, 23 Market Street, St Andrews. Name, Description, and Residence of Persons or Person to whom Rent Paid—Mrs Jessie Ireland, Widow, 23 Market Street, St Andrews.

"I, the above-named Thomas Ireland, hereby declare that I have been, during the twelve months immediately preceding the last day of July in this year, the occupier as lodger-tenant of the above-mentioned lodgings, and that I have resided therein during the twelve months immediately preceding the said last day of July; and that such lodgings are of a clear yearly value, if let unfurnished, of ten pounds or upwards.

"Signature of Claimant, THOMAS IRELAND."

Alexander Barr, a voter on the roll, objected to the claim in respect that the claimant did not occupy the rooms separately and as sole tenant.

The Sheriff (KINCAID MACKENZIE) admitted the claim, and at the request of the objector stated a case for appeal.

The facts found by the Sheriff were as follows:—"That the claimant, who was

the only witness examined, had for the qualifying period under contract with his mother, the said Mrs Jessie Ireland, the right to occupy as a lodger the said bedroom, with board and use of public room, that for this the claimant paid 20s. per week, that there are three rooms in the house and five of a family, that other members of the family use the public room. No evidence was led as to the rental of the house, or as to the value of the bedroom and the use of public room separately, nor was there any evidence adduced that any one but the claimant used the bedroom."

The question of law was—"Whether under the said contract, in the circumstances of the case, the claimant could be held to have occupied separately and as sole tenant, within the meaning of the statute, lodgings of sufficient value?"

Argued for the appellant—The claim was made for bedroom and use of public room, and there was no evidence as to the value of the bedroom, and no finding had been made by the Sheriff as to its value. The sum paid by the claimant was for three things, bedroom, use of public room, and board. The case of *Green v. Donaldson*, November 29, 1901, 4 F. 245, 39 S.L.R. 186, was conclusive, and the claim should have been disallowed.

No appearance was made for the claimant and respondent.

LORD KINNEAR—I think this case is governed by the decision in the case of *Green v. Donaldson*, in the reasoning of which I entirely concur.

The question must therefore be answered in the negative and the claimant's name struck out of the list of voters.

LORD TRAYNER and LORD KINCAIRNEY concurred.

The Court sustained the appeal.

Council for the Objector and Appellant—A. M. Anderson. Agent—Norman M. Macpherson, S.S.C.

COURT OF SESSION.

Wednesday, November 23.

FIRST DIVISION.

YOUNG v. ANDERSON.

Process—Proving of the Tenor—Admicle.

In an action, brought in 1903, of proving of the tenor of an unrecorded *mortis causa* disposition executed in 1848, no witness was adduced who could speak to having seen the deed itself but there was produced what purported to be a compared copy, after execution, written in the handwriting of a clerk who was known to have been in the office of the testator's law-agent. It was proved that the law-agent and the other instrumental witness to the deed were dead. The

testator's daughter gave evidence that the law-agent and the other witness had called on her father on the date of the deed, which was also the date of the testator's death, and the account of the law-agent was produced, which, besides containing items as to the preparation of a trust-disposition, included under the said date a charge for attendance getting the deed executed. It was also proved that after the testator's death the actings of all parties concerned had been in accordance with the provisions contained in the copy produced.

Held that the copy produced was an admicle which, supported by the proof, established the terms of the deed.

Process—Proving of the Tenor—Casus amissionis.

In an action, brought in 1903, of proving of the tenor of an unrecorded *mortis causa* disposition executed in 1848, and held to have been in existence after the testator's death, it was proved that the law-agent who had prepared the deed had died in 1872, when his clerks had for some time been left in the office, his clients being allowed to remove documents belonging to them, and that the law-agent to whom the remaining papers had afterwards been taken had on more than one occasion changed his chambers.

Held that the *casus amissionis* had been sufficiently proved.

On 9th November 1903 Mrs Joan Anderson or Young, and Mrs Margaret Anderson or Nutter, two of the four surviving children of Thomas Anderson, lathsplitter in Greenock, who had died about 13th November 1848, brought an action of proving of the tenor against Thomas Anderson, engineer, and Grace Anderson, both residing in Glasgow, the two other surviving children. In it the pursuers sought to have it found and declared that their father, the said Thomas Anderson, lathsplitter in Greenock, had executed a trust-disposition and deed of settlement in favour of Ann Gillies or Anderson, his spouse, and others, of date 13th November 1848, and that said trust-disposition and deed of settlement was of the tenor given. The son, Thomas Anderson, engineer, residing in Glasgow, lodged answers as defender.

The estate left by the said Thomas Anderson, the father, had consisted almost entirely of heritage—viz., of certain property in Greenock. By the trust-disposition sought to be established he had disposed this property, together with his whole means and estate, to his spouse in liferent during her widowhood, and to his children equally, share and share alike. It contained a direction to his spouse, who was appointed executrix, to maintain and educate the children till they could provide for themselves, and a declaration that, should she enter into a second marriage, she should lose all right and benefit enjoyed under it.

The pursuers averred that, pursuant to the provisions of this trust-disposition, the