

and under the same roof, shut in by one front door, and forming part of one tenement. These offices, under whatever tenure, were all held under the same tenure. The claimant was dismissible at the pleasure of the bank, and could be turned out of the bank at a moment's notice, and out of the other

LORD MANOR said that these were all cases of bank-agents occupying premises in connection with the bank, which they got as part of their remuneration. They had felt these to be cases in the decision of which there was very considerable difficulty and great anxiety in drawing a line of distinction. The inclination of the Court was, as far as possible, to admit gentlemen holding such substantial qualifications as these parties did. They were all on the roll, and that was a circumstance somewhat favourable to them. They thought that the objector disputing the right to the name on the roll was bound to adduce evidence of some sort which should go to show that they ought never to have been there. In the case of *Gilbert Brydone* there was no evidence adduced as conclusively showing that he held his position in such a precarious tenancy as not to entitle him to be continued on the roll. That was his opinion of the case of *David Guthrie*. As to the case of *George Agnew Main*, it was clearly proved that he was dismissible at pleasure; and he was disposed to affirm the decision of the Sheriff in the latter case, and reverse it in the cases of *Guthrie* and *Brydone*, and place their names on the roll.

LORDS BENHOLME and ARDMILLAN concurred.

Agents for Appellant—Hamilton & Kinnear, W.S.

Agents for Respondents—Tods, Murray, & Jameson, W.S.

APPEALS FROM WIGTOWN COUNTY.

M'GAW v. MAITLAND.

Act. Guthrie.

Al. Scott and Campbell.

Valuation Roll—Owner—31 and 32 Vict., c. 48, sec.

5. A party was entered in the valuation roll for the current year as owner of subjects of the value requisite under the 5th sec. of the Statute. In the previous valuation roll the subjects were entered at a lower value, and the value of the combined valuation rolls was insufficient. *Held* that the current valuation roll is conclusive as to value, but that the previous valuation roll is not so.

The following special case was stated in this appeal.—“At a Registration Court for the county of Wigtown, held by me at Stranraer on the 2d day of October 1868, under and in virtue of the Act of Parliament 31 and 32 Vict., c. 48, entitled the ‘Representation of the People (Scotland) Act 1868,’ and the other Statutes therein recited, John Maitland, gentleman, Balgreggan, Stonykirke, a voter on the roll, objected to Peter M'Gaw, joiner, Drumore, parish of Kirkmaiden, being entered or retained on the roll as a voter for the said county. The said Peter M'Gaw stood entered in the assessor's list of persons entitled to be registered as a voter as proprietor of dwelling-house and joiner's shop, Mill Street, Drumore, parish of Kirkmaiden, and county of Wigtown.

“It was objected by the said John Maitland, that the said Peter M'Gaw's name did not appear on the

valuation roll of the requisite value for last year; that he had not a sufficient title; and that the subjects specified in the assessor's list had not been of sufficient value for the requisite period.

“The following facts were proved, viz.:—The voter, the said Peter M'Gaw, is and has been for a period of six calendar months next preceding the 31st day of July 1868 the proprietor of said lands and heritages, of the yearly value required by the 5th section of said Act, but the said subjects appear on the valuation roll for the year ending at Whitsunday 1868 in name of said Peter M'Gaw as such proprietor of the value of only £4, subject to deduction of 14s. 6d. of feu-rent, and in the valuation roll for the current year of the value of £6, subject to the same deduction.

“I sustained the objection, and expunged the name of the said Peter M'Gaw from the roll. Whereupon the said Peter M'Gaw required from me a special case for the Court of Appeal, and in compliance therewith I have granted this case.

“The question of law for the decision of the Court of Appeal is, Whether the said Peter M'Gaw is entitled to be registered, although the yearly value of his subjects does not appear from the valuation roll of the county for the year ending at Whitsunday 1868 to have been so much as £5.”

LORD ARDMILLAN said he thought this was a bad objection. There could not be a doubt that under the 5th section of this Act the party must have been owner of a subject of the yearly value of £5 during six months. It was not merely the present value, but the value in question must have existed for more than six months. But when the existing value appeared from the existing valuation roll, he thought that it was not in the power of the claimant or owner, on the one hand, nor of the objector on the other, to challenge the value stated in the valuation roll. That valuation roll went no farther back than Whitsunday last, and he did not see any necessity for making the valuation roll *probatio probata* of the value between the months of January and Whitsunday. In fact, it would be *probatio probata* of a matter that was contrary to the truth, because the man was in possession of a house of the true value from the 1st January. The valuation roll of 1867-68 was framed before the six months' possession commenced, and it would be a very strange thing to hold it as conclusive proof of the possession. He thought they should repel this objection.

LORD BENHOLME said that if it was necessary to prove the value by the two rolls, they would then require to prove more than six months' possession. By such a construction of the Statute they would change the period of possession required by the Legislature from six months to twelve months. He thought it would be a strained construction of the Statute to require that the possession should be proved by the two valuation rolls. He was therefore of opinion that this was a bad objection, and that the decision of the Sheriff should be reversed and the name of the claimant restored to the roll.

LORD MANOR concurred.

Agents for Appellant—J. M. & J. Balfour, W.S.
Agents for Respondent—Maitland & Lyon, W.S.

KINNA v. M'CRINDLE.

Act. Guthrie. Al. Campbell.

Valuation Roll—Owner—Value. Held that subjects not being proved to be of the requisite value

for the statutory period of six months, did not afford the qualification although entered in the current valuation roll as of the necessary value.

The following special case was stated in this appeal:—"At a Registration Court for the county of Wigtown, held by me at Stranraer on the 2d day of October 1868, under and in virtue of the Act of Parliament 31 and 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, Thomas M'Crindle, Portwilliam, claimed to be enrolled on the Register of Voters for the said county, as 'proprietor or tenant under a building lease of ground and houses, Portwilliam, Mochrum. I found that the said subjects are contained in a lease granted by Sir William Maxwell, Bart., to the claimant and spouse in liferent for their liferent use only, and to his or her heirs or assignees in fee, dated 10th January 1854, and of which lease the stipulated endurance is ninety-nine years from and since Whitsunday 1851.

"It was admitted that the subjects described in said lease did not appear in the Valuation Roll for the year ending at Whitsunday last 1868, as of sufficient value, but that they appeared as of sufficient value in the current year's Valuation Roll for 1868-69. It was admitted also that the claimant was holder of other subjects in Portwilliam, not in said lease, but which appeared in the Valuation Roll for the year ending at Whitsunday 1868 as of the value of £14 sterling, but that he ceased to be holder of the said subjects at Whitsunday 1868. He held these under a similar long lease for ninety-nine years. James Kinna, residing at Machermore Castle, Minnigaff, a voter on the roll, objected to the said claim, on the ground that the subjects mentioned in said building lease did not appear in the Valuation Roll for the period of six months next preceding the 31st day of July, as of the requisite value. I admitted the claim. Whereupon the said James Kinna required from me a special case for the Court of Appeal, and in compliance therewith I granted him this case.

"The question of law for the decision of the Court of Appeal is—Whether the claimant, having been owner or long lease-holder of subjects of sufficient value for the requisite period, but having ceased to be owner of part at Whitsunday last, and the remainder appearing of sufficient value only in the Valuation Roll for the current year from Whitsunday last, he is not entitled to be registered?"

GUTHRIE appeared for the appellant, and stated that in this case the subjects claimed on had not increased in value so as to have been of the requisite value at 31st January 1868; but the claimant maintained that he was owner of other subjects up till Whitsunday 1868, which he then sold, and that he was entitled to take these into account in estimating the value of his qualification. Mr Guthrie maintained that the value required under the Statute could not be made up in this way, and that the name ought to be expunged from the roll.

LORD BENHOLME thought the claim could not be sustained, as the particular subject on which it rested was not of sufficient value for the six months prior to the time specified. He did not go into the question of whether the value of the two subjects would have been sufficient to give the qualification. The other Judges concurred.

The name of the claimant was expunged from the roll.

Agents for Appellant—J. M. & J. Balfour, W.S.
Agents for Respondent—Maitland & Lyon, W.S.

MARTIN v. M'LURG.

Act. Guthrie. Alt. Campbell.

2 & 3 Will. IV., c. 65, sec. 7—31 & 32 Vict., c. 48, sec. 5—Owner—Claim. Circumstances in which held that a party claiming to be admitted to the roll, was not owner in the sense either of the new or the old Reform Act.

The following special case was stated in this appeal:—"At a Registration Court for the county of Wigtown, held by me at Stranraer, on the 2d day of October 1868, under and in virtue of the Act of Parliament 31 and 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, Charles M'Lurg, Newton-Stewart, claimed to be enrolled on the Register of Voters for the said county as liferent proprietor of dwelling-houses and pertinents, Queen Street, Newton-Stewart, parish of Penninghame.

"The subjects claimed on are vested in feudal form in trustees, but under a direction to them 'to allow my brother, Charles M'Lurg' (the claimant) 'the rents of the dwelling-house, garden, and premises herein-before described and conveyed to them,' during 'his life, after deduction of the feu-duty, and all rates, taxes, and charges payable for or in respect of the same, and at his death the same to be sold.'

"It was proved that Charles M'Lurg, the claimant, has received the rents of the premises claimed on, subject to public and other burdens and charges since November 1866, the date of the death of the claimant's brother William, who in his trust-settlement gave the above direction. The subjects appear in the Valuation Roll of 1867-8 under the names of Charles and James M'Lurg, his brother, as proprietors of the value of £22 odds; and in the Valuation Roll of the current year under the name of Charles M'Lurg alone as proprietor, at the value of £17, 16s. David Martin, notary-public, Newton-Stewart, a voter on the roll objected to the said claim, on the ground that the claimant was not owner of the subjects claimed on in the sense of sect. 7 of the Act 2 & 3 Will. IV., cap. 65, or of sect. 5 of The Representation of the People (Scotland) Act 1868, in respect that his right under the settlement of William M'Lurg, and the other deeds produced was moveable, and that he had no real right in the subjects.

"I admitted the claim. Whereupon the said David Martin required from me a special case for the Court of Appeal, and in compliance therewith I have granted this case.

"The question of law for the decision of the Court of Appeal is—Whether the claimant is owner of the subjects in the sense of the said sections of the said recited Acts, or either of them?"

The Court reversed the decision, and ordered the name to be expunged from the roll.

Agents for Appellant—J. M. & J. Balfour, W.S.
Agents for Respondent—Maitland & Lyon, W.S.

M'MASTER v. BRAY.

Act. Campbell. Alt. Guthrie.

Tenant and Occupant—Valuation Roll. Circumstances in which a party admitted to the roll, although the requisite value did not appear in the valuation roll.

The following special case was stated in this appeal:—"At a Registration Court for the county