

is enacted that "Where any house, being one property, shall be divided into and let in different tenements, and any of such tenements are occupied solely for the purposes of any trade or business, or of any profession or calling by which the occupier seeks a livelihood or profit, or are unoccupied, the person chargeable as occupier of the house shall be at liberty to give notice in writing at any time during the year of assessment to the surveyor of taxes for the parish or place in which the house is situate, stating therein the facts, and after the receipt of such notice by the surveyor, the Commissioners acting in the execution of the Acts relating to the inhabited house-duties shall, upon proof of the facts to their satisfaction, grant relief from the amount of the duty charged in the assessment so as to confine the same to the duty on the value according to which the house should in their opinion have been assessed if it had been a house comprising only the tenements other than such as are occupied as aforesaid or are unoccupied."

The Commissioners sustained the appeal, and the surveyor took a Case.

The surveyor argued that this case was distinguishable from *Corke v. Brims, supra cit.*, because here the person who occupied the dwelling-house was one of the proprietors.

The Court, without delivering opinions, held that the case was ruled by *Corke v. Brims*, and affirmed the determination of the Commissioners.

Counsel for Surveyor of Taxes—Trayner—Lorimer. Agent—D. Crole, Solicitor of Inland Revenue.

Counsel for M'Innes, Mackenzie, & Lochhead—Pearson. Agent—A. Kirk Mackie, S.S.C.

Tuesday, July 15.

## FIRST DIVISION.

[Exchequer Cause.

ALLAN (SURVEYOR OF TAXES) *v.* THOMSON.  
*Revenue—Inhabited House-Duty—Separate Tenements—Act 48 Geo. III., c. 55, Sched. B, Rule 6—Act 41 and 42 Vict., c. 15, sec. 13, sub-sec. 1.*

The proprietor of a two storied building let part of the ground floor as a public-house. The upper flat consisted of two houses, one let to the tenant of the public-house, the other being occupied by the proprietor. The public-house had a door to the street, and another to a back court, but there was no internal communication between it and the dwelling-house above. The upper flat was reached by means of a close running from the street to the back court, and an outside stair at the back of the building. At the top of the stair there was an outside door opening into a lobby, inside which there were two doors, one to each house. Held that the portion of the ground floor occupied as a public-house was not liable to be assessed for Inhabited House-Duty.

At a meeting of the Commissioners of Income Tax and Inhabited House-Duty for the Middle Ward of the county of Lanark, held at Hamilton on the

24th of April 1884, David Thomas Thomson, Campbell Street, Hamilton, appealed against a charge of £1, 11s. 6d. made upon him for Inhabited House-Duty, under 48 Geo. III, cap. 55, Sched. B, rule 6, for the year 1883-84, at the rate of 9d. per £ on £42 in respect of premises in Campbell Street of which he was proprietor.

The premises consisted of a building of two stories. On the ground floor there was a public-house let to John Ramage at a rent of £19, and a small house of two apartments, rent £7, with a close or passage running between the public-house and the small house from the street to the back court behind the building. The small house was entered by a door in the close, and was not included in the charge. The upper flat consisted of two houses, one let to and occupied by Ramage, the tenant of the public-house below, at a rent of £11, the other being occupied by the landlord Thomson, the appellant, the annual value of which was £12. The public-house had a door to the street and another to the back court, but there was no internal communication between it and the dwelling-house above. The upper flat of the building was reached by means of the close above mentioned and an outside stair at the back of the building, and the appellant and Ramage entered by the same outside door at the top of the stair, and from a small lobby inside this door there were two doors, one to each house. The house occupied by Ramage was directly over the public-house, and that occupied by the landlord was, to the extent of three apartments, over the small house and the passage below, but the remaining fourth apartment was over the public-house.

The appellant claimed relief on the ground that the houses occupied by Ramage and himself were two distinct houses, each having a separate door shutting it in.

The surveyor of taxes contended that as there was an outside door by which both houses were reached, and as the public-house was below, and thus attached to the house occupied by Ramage, who was also the occupier of the public-house, the whole—*i.e.*, the whole building except the small house below, should be held to be one house under the meaning of the House-Duty Acts, and accordingly he craved a confirmation of the charge.

He referred to Exchequer Cases Nos. 22 and 23, *viz.*, *Russell v. Webber*, and *Salmoud v. Webber*, March 6, 1877, not reported.

The Commissioners by a majority of two to one were of opinion that the public-house as forming part of a common tenement, and not communicating internally with the dwelling-house above, should not be included in the charge, and accordingly restricted the assessment to £23 at 9d.

The surveyor took a Case, and argued that the exemption in the Customs and Inland Revenue Act 1878 (41 and 42 Vict. cap. 15), sec. 13, sub-sec. 1 (quoted in the immediately preceding case of *Nisbet, supra p. 740*), did not apply.

There was no appearance for the respondent.

The Court, without delivering opinions, affirmed the determination of the Commissioners.

Counsel for Surveyor of Taxes—Trayner—Lorimer. Agent—D. Crole, Solicitor of Inland Revenue.