

interest to sign. These statements were made to a man of business who had read the deeds, and who had shown by his previous remarks that he understood there was a difference between them.

I therefore cannot take it that the pursuer was in any way misled by these representations, and as all the grounds of reduction have failed, I think the defenders should be assoilzied.

LORD KINNEAR—I am of the same opinion, and in particular I agree in attaching importance to the occurrence of delay before the raising of the action. Not that the mere passage of time operates as a bar to the action being sued, but because it is a significant and a most material consideration upon the question of fact which the action is raised to try.

But apart from that, I should agree upon the evidence as to what actually took place that the conclusion of the Lord Ordinary is well established upon both points. I think it is very clear that the pursuer John Harrison was not at the time he signed the deed incapable of understanding its meaning and effect; and upon the second point I think that he was not induced to sign it either in essential error or by misrepresentation. The whole evidence, to my mind, conclusively establishes this, and in particular the passage referred to by Lord Adam throws a very clear light upon John Harrison's mental condition when the deed was presented for his signature. He read it clause by clause until he came to the point at which provision was made for reconveyance of the estate to Arthur Harrison, when he flew into a passion and said Mr Fyfe had deceived him. If he had said that after signing the deed I could quite understand the force of the point made, but when the remark was made before he signed, it only makes more clear the reason of his anger, and the state of knowledge he was in when he signed. He gets the deed and reads it; he finds it differs from the previous deed, and he becomes in consequence angry, and says he was misled; but upon reconsideration, and after his wife had reasoned with him, he signs the deed, and does so in full knowledge of its terms.

LORD PRESIDENT—I take the same view of the evidence in this case as your Lordships, but I also attach importance to the length of time that elapsed from the date when the pursuer was fully aware of the provisions of the deed before challenge of it was made by action. The delay that occurred throws a good deal of light upon the question of fact as to whether the deed was signed erroneously, and the two parts of this case aid one another materially in pointing to the same conclusion.

The Court adhered.

Counsel for the Reclaimers—H. Johnston—M'Lennan. Agent—George Andrew, S.S.C.

Counsel for the Respondents—Comrie Thomson—Ure. Agent—Alexander Morrison, S.S.C.

Thursday, December 4.

FIRST DIVISION.
STAIR AGNEW, PETITIONER.

Public Records—Process—17 and 18 Vict. c. 80, sec. 55—Burnt Registers—Procedure Followed in Restoring Parish Registers which had been Destroyed by Fire.

The schoolhouse of Forteviot, in the county of Perth, the residence of William Sprunt, the registrar of births, deaths, and marriages for the parish of Forteviot, was burned on 21st September 1890, and the register books in the custody of the registrar were more or less injured or destroyed by fire.

The present petition was presented by Stair Agnew, C.B., the Registrar-General for Scotland, under the 55th section of 17 and 18 Vict. c. 80.

The petitioner stated that in most cases any entries which had been rendered illegible in the register books in the registrar's custody could be replaced from the duplicates of said registers which were in the petitioner's possession, but that both the duplicates of the register of deaths (which had been in the registrar's possession) had been totally destroyed, that the deaths registered in the parish during that year had been six in number, and that the petitioner had received complete information from the registrar as to all these deaths, so that new registers could be made up without difficulty.

The petitioner accordingly prayed the Court "to order this petition to be intimated on the walls and in the minute-book, and thereafter, on being satisfied of the accuracy of the statements made in this petition in regard to the whole or partial destruction of the said registers, to authorise the petitioner to complete such of the registers as require it by inserting therein copies of such of the entries therein as have been destroyed or rendered illegible, and to authorise new duplicates of the registers which have been totally destroyed to be made at the sight of the petitioner from the duplicates in his possession, and to direct that each of the said new duplicate registers, and each of the copies of entries so inserted in the registers which have been partially destroyed be authenticated by the signature of the petitioner; and to declare that when so authenticated they shall thereupon become in all respects of the same force and validity as the originals, and to authorise new register books to be supplied by the petitioner to the said William Sprunt, or the registrar for the time being, who shall engross therein in the ordinary way the particulars of all the entries which were contained in the said duplicates pertaining to the years 1889 and 1890, and to direct that each of the said new registers be thereafter authenticated by the signature of the petitioner, and to declare that when so authenticated they shall have the same force and validity as the originals."

Section 55 of the Act 17 and 18 Vict. c. 80,

provides—"If any duplicate register in the custody of the registrar shall be lost, destroyed, or mutilated, or shall have become illegible in whole or in part, such part shall be forthwith communicated by the registrar to the Registrar-General, who shall require the registrar immediately to transmit to him the duplicate register which shall have been mutilated or become illegible, and the Registrar-General shall thereupon present a petition to one of the Divisions of the Court of Session setting forth the fact of the loss, destruction, mutilation, or total or partial illegibility, as the case may be, of such duplicate register, and the date of the discovery of such loss, destruction, mutilation, or total or partial illegibility of such duplicate, and the Court, on being satisfied regarding the same, and after such intimation as they may think proper, shall direct such register to be corrected or completed or a new duplicate to be made at the sight of the Registrar-General, and such corrected or completed duplicate or new duplicate, authenticated by the signature of the Registrar-General, shall thereupon become in all respects of the same force and validity as the original duplicate."

Reference was made for the petitioner to the case of *Dundas, Petitioner*, December 17, 1875, 3 R. 273.

After intimation had been made upon the walls and in the minute-book in common form, the Court, before further answer, appointed the petitioner to report all the information he possessed regarding the deaths which had occurred in the parish of Forteviot mentioned in the petition during the year 1890, and prior to the occurrence of the fire on 21st September 1890.

The petitioner, in pursuance of that interlocutor, reported as follows—“(1) Immediately after the fire your petitioner directed the registrar of Forteviot to obtain and enter in the appropriate forms of schedules the particulars of every death which had been registered by him in the duplicate books for the year 1890 which had been destroyed, and also to apply to the medical practitioners who had certified the cause of death in each case for a new certificate. (2) In compliance with the petitioner's directions the registrar of Forteviot accordingly communicated with the persons who had acted as informants of the several deaths in question at the time of the original registration, and from their statements filled into appropriate schedules the particulars required to be registered, which schedules were thereafter signed by the said informants. The schedules are herewith produced. The registrar also communicated with the medical men who had granted certificates of the cause of death in the several cases in question, and obtained new certificates in each of the said cases, which certificates are herewith produced.”

The petitioner also appended to his report a draft of the entries of the several deaths in question in the form in which it was proposed that they should be entered in a new register.

The Court thereafter, by interlocutor of 4th December, granted the prayer of the petition.

Counsel for the Petitioner—Maconochie. Agent—James Auldjo Jamieson, W.S., Crown Agent.

REGISTRATION APPEAL COURT.

Monday, December 1.

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

SMITH v. FALCONER.

Election Law—Burgh Occupation Franchise—Residence within Burgh—Sheriff-Substitute necessarily Resident out of Burgh—Act 1 and 2 Vict. c. 119, sec. 5.

The Act 1 and 2 Vict. c. 119, sec. 5, provides that “Every person holding the office of sheriff-substitute, and receiving salary on that account, shall reside personally within his jurisdiction, and shall not be absent therefrom more than six weeks in any year, nor for more than two weeks at any one time . . . without the special consent in writing of the sheriff of the county for the time being.”

The Act 2 and 3 Will. IV. c. 65, sec. 11, provides, with reference to the burgh occupation franchise, “That no such person shall be entitled to be registered or to vote in the present or any future year unless he shall have resided for six calendar months next previous to the last day of July within such city, burgh, or town, or within seven statute miles of some part thereof.”

The Sheriff-Substitute of Forfarshire at Dundee claimed to be entered on the roll of voters for the burgh of Edinburgh as owner of a house within the burgh. His wife and family resided within the burgh, and he resided with them at certain times. He contended that his residence was such as to satisfy the condition in the statute. *Held* that he must be assumed to be in compliance with the provisions of the statute first above recited, and to be resident in Dundee, and that his residence in Edinburgh could only be incidental.

At a Registration Court for the burgh of Edinburgh, held on the 2nd of October 1890, James Falconer, W.S., a voter on the roll, objected to the following entry:—

No. in [Nelson] Street.	Christian Name of each Person objected to.	Place of Abode.	Occupation.	Nature of supposed Qualification.
16	John Campbell Smith	9 Northumberland St.	Advocate	Proprietor

The Sheriff (CRICHTON) sustained the objection. The claimant took a special case. In the case the following facts were set