

1785.

[Mor. p. 1888.]

JOHNSTON,
&c.
v.
TENANT, &c.

ANDREW JOHNSTON and Others, Magistrates and Councillors of the Burgh of Anstru- ther Easter, - - - -	}	<i>Appellants;</i>
ALEX. TENANT and WILLIAM GRAY, Senior constituent Members of the Town Coun- cil of the said Burgh at Michaelmas Elec- tion 1784, - - - -	}	<i>Respondents.</i>

House of Lords, 28th April 1785.

BURGH ELECTION.—Held by the Court of Session, that non-resident burgesses of the burgh, were not eligible to be elected councillors or magistrates of the burgh, but reversed in the House of Lords.

This was a question as to the validity of an election of the Magistrates and Town Council of Anstruther. It was objected, that Sir John Anstruther, Philip Anstruther, and John Anstruther, and Gavin Hogg, Sir John's butler, were not qualified, nor legally elected councillors, in respect they were non-resident burgesses of the burgh.

Feb. 25, 1785. The Court of Session pronounced this interlocutor: “ Re-
“ pel the objection made to the service of the complaint
“ upon John Anstruther, Esq. of Lincoln's Inn, and find
“ the service on him sufficient: Find that the magistrates
“ of the said burgh of Anstruther Easter, and those put
“ upon the leet for bailies, ought to be resident in the
“ said burgh, and sustain the objection that the said
“ John Anstruther, Esq. was non-resident when put upon
“ the leet for bailie, at the annual election on the 14th
“ day of September last, and was thereby incapable of
“ being elected a bailie; and reduce the election of the ma-
“ gistrates and town councillors made for the said burgh at
“ said election; and decern and declare accordingly. And
“ find the respondents liable in full costs of suit to the com-
“ plainers, of which decerns an account to be given in.”

Against this interlocutor the present appeal was brought to the House of Lords.

After hearing counsel, it was

Ordered and adjudged that the interlocutor complained
of be reversed (*ex parte*).*

For Appellants, *Alex. Wight, Wm. Adam.*

For Respondents, *Ilay Campbell, W. Grant.*

* Note.— *Vide* next case.