inhabitant occupier, and would not have lost his qualification. The next step is whether under section 13 of the Act, successive occupancy in the different characters of proprietor and tenant combined with occupancy amounts to the qualification of inhabitant occupier. After the best consideration of the section, which is neither accurately nor distinctly expressed, I think it clear that in burghs, where the basis is inhabitant occupancy, it is competent to combine ownership with tenancy. There must, of course, be continued occupancy. I am therefore of opinion that the Sheriff's judgment is right.

Lord Ormidale—I have come to the same conclusion with your Lordship, though I have felt some difficulty in consequence of the decision in the case of *Scott-Moncrieff* v. *Dalgleish* (19 Dec. 1868, 7 Macph. 315). It is quite true that that had reference to a county vote, and that there are differences pointed at between the two in the statute. The 13th section states that "successive occupancy of premises" is the qualification which is required, but fails to point out whether the occupancy is to be that of ownership or tenancy. That induces me to go back to the 3d section, which deals with burghs, but, independently of the 13th section, I can find no restriction of the vote here asked. The case is distinguishable from that of *Scott-Moncrieff*. In counties the ownership, which requires no occupancy, need only have continued for six months; the tenancy and occupancy must have continued for twelve. The statute could not therefore have contemplated the combination of ownership with occupancy as tenant in succession, nor of occupancy as tenant with ownership in succession to give a qualification for a county vote.

Lord Craighill concurred.

The Sheriff's judgment was affirmed.

Counsel for Appellant—Vary Campbell. Agents—Maitland & Lyon, W.S.

Counsel for Respondent—Maclaren. Agent—William M'Clure, Wigtown.

1*st November* 1875.

MACKENZIE *v.* KING.

Franchise—Poor's Rate—Notice of Assessment—31 *and* 32 *Vict. c.* 48, § 18.

Held that where a notice of assessment for poor's rates was left by the collector at the occupier's usual place of abode, they had been "duly demanded by a demand note," in terms of the 18th section of the statute.

King was struck off the roll of voters by the assessor owing to failure to pay by 20th June the poor's rates payable up to the preceding 15th May upon his farms of Little Duncryne, Gartenwall, and Cambusnoon, in the parish of Kilmarnock.

A notice of assessment was given on 5th February by being left by the collector at King's usual place of abode. It bore—"The above is payable to me at my house at Bridgend, Gartocharn, on Tuesday, 16th February 1875." No other notice was given, and the rates being unpaid, Mackenzie objected before the Sheriff to King's claim to be enrolled.

King maintained that he had had no notice in the terms of Schedule C, under the 18th section of the Act.

The Sheriff admitted the claim, and Mackenzie appealed.

At advising—

Lord Ardmillan—Notice usual and sufficient was given on 5th February that this rate was due on 16th February. Four months and more had elapsed between that last day and the 20th June, when the appellant became disqualified for non-payment of the rate. During all this term the rate remained unpaid, and we do not know whether it has been yet paid.

The notice of 5th February 1875 was given in terms of the Poor law Amendment Act, 1845, sections 39 and 90, and was in the usual form. It gave sufficient intimation that the debt was payable on a specified day, and past due after that day. The question is, Is the use of the English term "demand note" to introduce any change into our practice so as to make a new and separate notice necessary? I cannot think so. The collector might have proceeded to obtain a distress warrant for non-payment to recover the rate in arrear without any further notice. I am of opinion, therefore, that the objection is good.

Lords Ormidale and Craighill concurred.

The Sheriff's judgment was therefore reversed, and the name was struck off the roll.

Counsel for Appellants—Lancaster. Agents—J. & R. D. Ross, W.S.

Counsel for Respondents—Vary Campbell. Agents—T. & R. B. Ranken, W.S.

COURT OF SESSION.

Wednesday, November 2.

FIRST DIVISION.

PETITION—PITT DUNDAS (REGISTRAR-GENERAL).

Process—Registration Act, 17 *and* 18 *Vict. cap.* 80—*Lost Registers.*

Procedure followed in supplying of new the loss of Registers, of which some existed in duplicate, others not.

This was a petition at the instance of the Registrar-General for Scotland arising out of the accidental loss by fire of certain Registers of Births, Deaths, and Marriages, in the custody of the Rev. Charles Bruce, Registrar of the district of Glenrinnes, Banffshire. Thirty-six registers were destroyed, but the duplicates of twenty-four of these being in the hands of the petitioner, the petition prayed that their loss might be authorised to be made good in terms of the 55th section of 17 and 18 Vict. cap. 80. In the case of the remaining twelve—six relating to the births, deaths, and marriages of 1874, and six to those of 1875—both duplicates were in the Registrar's hands at the date of the fire, and both were destroyed.

The petition prayed their Lordships, "on being satisfied of the accuracy of the statements made in this petition in regard to the destruction of the

said twenty-four registers, and the said register of corrected entries, to authorise new duplicates of them to be made at the sight of the petitioner, and to direct that each of the said new duplicate registers 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 with regard to the remaining twelve registers, to remit to a proper and qualified person to make inquiry and report as above set forth, and, if satisfied with such report, your Lordships to authorise new register books to be supplied by the petitioner to the said Charles Bruce, or the registrar for the time being, who shall engross therein, in the ordinary way, the particulars of all the entries referred to such report; 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."

The Court ordered intimation upon the walls and in the minute book, and a minute was put in by the petitioner stating that it was proposed that the party to whom the Court should remit to investigate should (1) Ascertain the actual number of events that were recorded, by communicating in person with the registrar, session-clerk, medical practitioners, sexton, and such other parties as may be found likely to possess information. (2) Extract from suitable informants and documents, and insert in appropriate schedules, if possible, all the particulars required to be registered; and (3) Report the result, setting forth the sources of information in each case, and transmitting such schedules to the Court.

The following interlocutor was pronounced:—

"Nominate and appoint Mr George Smythe Dundas, advocate, to inquire and report in terms of the prayer of the petition, with power to him to take and report the evidence of witnesses upon oath; grant commission to Mr Dundas accordingly; and grant diligence against witnesses and havers at the petitioner's instance."

Counsel—J. P. B. Robertson. Crown Agent—James Auldjo Jamieson, W.S.

Wednesday, November 3.

SECOND DIVISION.

SPECIAL CASE—FARQUHAR AND OTHERS.

Succession—Residue—Heir-at-Law—Succession ab intestato*—Intention of Testator.*

A person domiciled in England, and possessed of heritable estate in Scotland, left a will in the English form, in which, after the bequest of various legacies, there was a clause to the following effect: "Whereas I am possessed of an estate in Scotland, and it is at present mortgaged or charged to the extent of £30,000. Now I do declare that it is my intention to free the said estate during my lifetime, but should I fail to do so, then I give and bequeath to my eldest son such a sum of money as will equal the amount of such mortgage or charge as shall remain due at my decease. And as to all the rest, residue, and remainder of my estate and effects," he directed the same to be divided in a particular manner among his children. *Held* that the eldest son was entitled as heir-at-law *ab intestato* of his father to the heritable estate in Scotland.

Testament—Construction.

Observations as to the competency in construing a will of taking into consideration written instructions to an agent as to the terms of the will, and letters of the testator before and after its execution.

This was a Special Case, submitted to the Court for opinion and judgment by the following parties—(1) James Farquhar, formerly captain in the 10th Regiment, and eldest son and heir-at-law of the late James Farquhar, Esq., of Sunnyside, Surrey, and of Hallgreen, Kincardine, *of the first part;* (2) Mrs Diana Farquhar, widow of the said deceased James Farquhar, Esq., Hercules Scott, Esq., of Brotherton, Kincardine, and St Barbe Sladen, Esq., of Reigate, the executors, together with the Rev. E. Farquhar, Captain Francis Farquhar, Captain H. Farquhar, sons of the said deceased James Farquhar, Esq., and Mrs Diana Farquhar, as guardian to her five minor children by the said deceased James Farquhar, Esq., *all of the second part.*

The late Mr Farquhar was twice married, and was survived by eight younger children, besides the first party, and also by his second wife. He was domiciled in England, where most of his personal estate was situated; but he also owned the estate of Hallgreen in Kincardineshire, and certain small heritable properties adjoining, which he had purchased from time to time prior to October 1866, and had incorporated with the estate of Hallgreen bequeathed to him by his uncle. His whole means, real and personal, was at the time of his death on 8th March 1875 valued at £260,000, and of this Hallgreen was estimated to be worth £70,000, with a rental of £2,590.

Mr Farquhar left a will, executed in the English form, dated 6th October 1866, and six relative codicils. After certain directions as to provisions in his marriage settlement and the bequest of various legacies, the will contained the following clause:—"Whereas I am possessed of an estate in Scotland called Hallgreen, and it is at present mortgaged or charged to the extent of £30,000 or thereabouts in all. Now I do declare that it is my intention to free the said estate during my lifetime, but should I fail so to do then I give and bequeath unto my said son James Farquhar such a sum of money as will equal the amount of such mortgage or charge and the interest thereof as shall remain due at my decease. And as to all the rest residue and remainder of my estate and effects whatsoever and wheresoever I direct the same shall be divided into five equal parts, and as to one equal fifth part thereof I give and bequeath the same to my said son James Farquhar one other fifth part thereof to my said son Francis Glennie Farquhar one other fifth part thereof to my said son Edward Mainwaring Farquhar one other fifth part thereof to my said son Harry Rich Farquhar and the remaining one-fifth part thereof I give and bequeath the same unto and equally between all my children and any my child by my present wife Diana Octavia who being sons or a son shall attain