have a process before him, or that he is to hear parties, but that he is to read the order for himself and see that it is in the statutory form, and then pronounce decree. Now, the notion of there being an appeal to this Court against the decree in conformity with the Act is quite out of the question. Never was there such a thing heard of. The sole object of a decree conform to the Act is to make the order a basis for a diligence. If anything has gone wrong in the course of the proceedings, either before the Crofters Comission or in the deliverance of the Sheriff in pronouncing the decree as conform to the Act, of course that may be set aside in the ordinary way by suspension or reduction, but certainly it is not intended by the statute that there should be a process in the Sheriff Court. And there being no process in the Sheriff Court, there can be no judgment of the Sheriff which can form the subject of an appeal.

LORD MURE, LORD SHAND, and LORD ADAM concurred.

The Court dismissed the appeal as incompetent.

Counsel for the Appellant—Watt. Agents—Clark & Macdonald, S.S.C.

Counsel for the Respondent — Mackay — H. Johnston. Agents—Lindsay, Howe, & Company, W.S.

Thursday, November 22.

FIRST DIVISION.

[Lord Lee, Ordinary on the Bills.

LAURIE *v.* MOTHERWELL.

Bankruptcy — Sequestration—Recal—Affidavit—Right in Security—Bankruptcy (Scotland) Act 1856 (19 *and* 20 *Vict. cap.* 79), *sec.* 22.

Where the oath of a petitioning creditor in a sequestration was *ex facie* conform to statute, but omitted to specify as security of the debt certain valueless inhibitions, a petition for recal of sequestration *refused.*

The directors of a public company became jointly and severally liable under a bond for £4300 to one of their number, who, under a charge upon the bond, obtained sequestration of the estates of one of his co-obligants. The creditor deponed that the debtor owed him £3583, 6s. 8d., being the balance of £4300, less the sixth part due by himself in his character of co-obligant, and that he held the other co-obligants—naming them, but making no mention of himself—liable for the debt. He omitted to state among the securities held by him for the debt certain inhibitions over the creditor's estate which had attached nothing.

In a petition for recal of the sequestration —*held* (1) that the oath of the creditor specified all those who were, besides the bankrupt, liable for the debt, and (2) that it was within the discretion of the Court to consider that no prejudice had arisen from the omission to specify the inhibitions over the creditor's estate, and the petition *refused.*

This was a petition by John Laurie for recal of the sequestration of his estates. Answers to the petition were lodged by William Motherwell, the creditor at whose instance sequestration had been awarded.

The petitioner and respondent were both directors of the Rawyards Coal Company (Limited). The respondent had advanced various sums to the company, amounting in all to £4300, for which he received a bond dated 15th April 1884 by the company and its directors, William Mitchell, William Motherwell (the respondent), Andrew Aitken, John Laurie (the petitioner), John Motherwell, and George Walkinshaw. Under this bond the granters bound and obliged the company, and themselves as individuals, and their heirs, executors, and successors, all jointly and severally, without the necessity of discussing them in their order, to repay the sum of £4300 to the respondent with interest and penalties.

On 4th June 1888 the bond was recorded in the Books of Council and Session, and on 18th July the petitioner was charged to make payment of £3583, 6s. 8d., or five-sixths of the sum of £4300 due under the bond. The charge having expired without payment the respondent applied for sequestration of the petitioner's estate, and on 9th August 1888 sequestration was awarded by the Lord Ordinary on the Bills.

In the affidavit produced along with his application the respondent deponed that the petitioner owed him the sum of £3583, 6s. 8d., being the balance of the sum of £4300 contained in the bond above mentioned, after deduction of £716, 13s. 4d., "being the deponent's one-sixth share or proportion thereof as co-obligant" under the bond. He further deponed that no part of the debt had been paid or compensated, and that besides the petitioner he held "the said Rawyards Coal Company (Limited), the said Andrew Aitken, John Motherwell, William Mitchell, and George Walkinshaw, liable for the said debt;" that he held a security to the extent of £500 for the debt; and that he held "no other obligants or securities for the said debt than those above specified."

By the 22nd section of the Bankruptcy Act the creditor applying for sequestration of his debtor's estate is required to state "what other persons, if any, are, besides the bankrupt, liable for the debt or any part thereof, and specify any security which he holds over the estate of the bankrupt or of other obligants, and depone that he holds no other obligants or securities than those specified; and where he holds no other person than the bankrupt so bound and no security, he shall depone to that effect."

The petitioner averred, *inter alia*, in his petition that the affidavit made by William Motherwell in support of his application for the petitioner's sequestration did not comply with the statutory requisites above described. In particular, (1) it did not specify among the securities held by William Motherwell for the debt two inhibitions duly executed on 4th June 1888 over the estates of the petitioner and William Mitchell, a co-obligant; and (2) it did not specify all the co-obligants. William Motherwell, the creditor in the bond, was also debtor in the bond for the whole debt, the parties being liable *singuli in solidum.* He was not therefore entitled to

charge the petitioner for payment of the whole debt under deduction only of his own *pro rata* share. A *pro rata* share might not be the ultimate liability of the petitioner or William Motherwell.

In his answers William Motherwell admitted that he had omitted to specify in his oath the inhibitions executed over the estates of the petitioner and William Mitchell, but explained that no security had been created by them. He further stated that in his examination before the Sheriff under the proceedings in his sequestration the petitioner had deponed to having executed in May preceding a general trust conveyance of his whole means and estate for behoof of his wife and daughter to take effect during his life. He had thus attempted to defeat the claims of his creditors.

The Lord Ordinary (LEE) pronounced the following interlocutor:—"In respect that the affidavit of the petitioning creditor is not conform to the requirements of the Bankruptcy (Scotland) Act 1856, recals the sequestration of the estates of the petitioner John Laurie awarded by the Lord Ordinary on 9th August 1888: Prohibits any further proceedings therein: Appoints the judgment of recal to be entered in the Register of Sequestrations, and marked on the margin of the Record of Inhibitions, and decerns; and in the circumstances finds no expenses due.

"*Opinion.*—Although the sequestration was competently awarded, seeing that notour bankruptcy was proved, and that the affidavit produced with the petition was *prima facie* sufficient, the objections urged in the petition for recal must be considered in the light of the documents now produced, and of the undisputed averments.

"So considered, it appears (1) that the respondent, besides being creditor in the bond, was one of the joint obligants for the debt of the Rawyards Coal Company along with the petitioner and four others; and (2) that the answers contain no denial of the allegation that the respondent (the petitioning creditor) held an inhibition which he had used on 4th June against the present petitioner and another of the joint obligants.

"It was incumbent on the respondent, under section 22 of the statute, to state in his oath 'what other persons, if any, are liable for the debt, or any part thereof,' and also to specify 'any security which he holds over the estate of the bankrupt, or of other obligants.' It appears to be settled that an inhibition is a security which ought to be specified.

"My opinion is that the affidavit in this case did not comply with the requirements of the statute. It is framed on the assumption, which I think erroneous, that the respondent's liability as one of the joint debtors was limited to one-sixth. It states that for the amount which the bankrupt was charged to pay the respondent held no other obligants than the Rawyards Coal Company and the four other obligants named. But he himself was an obligant exactly in the same position as all the others.

"I think that it was a mistake on the part of the respondent to assume that because he was the creditor in the bond he was entitled to deal with himself as one of the joint and several obligants in any other way than he deals with the rest. He himself was an obligant for every part of the debt just as much as the others. Yet this is not stated. In fact the oath by its terms leaves it to be understood that he was under no liability after deducting one-sixth.

"Further, the affidavit is defective in not specifying the inhibition, the use of which is not denied.

"These omissions in the affidavit are not mere technicalities. They give rise to a substantial objection. For, whether the Rawyards Coal Company is insolvent or not, it puts the petitioner in a very disadvantageous position to be forced to work out his rights of relief as a sequestrated bankrupt. It is admitted in the answers that his other debts are of small amount. The respondent may have been within his legal rights in giving the petitioner a charge to pay under the bond. But he has not satisfactorily explained either why he did not mention himself as liable for the whole debt, or why he did not proceed against the proper debtor, viz., the Rawyards Coal Company. To use the process of sequestration for the purpose of gaining an undue advantage over a co-obligant is to abuse it, and there is sufficient authority to show that the Court, even where the proceedings are *ex facie* regular, can prevent this—*Gardner* v. *Woodside*, 24 D. 1133."

The respondent reclaimed, and argued—The question whether a sequestration was to be recalled or not was a matter for the discretion of the Court, unless there were *ex facie* of the proceedings in the application for sequestration an omission of some essential step ordained by the statute—*Barr* v. *Ballantyne*, January 29, 1867, 5 Macph. 330. Here there was no such omission. (1) The debt due by the petitioner was rightly stated in the oath to be the balance of the whole sum due under the bond after deducting one-sixth. That was the extent of the respondent's liability in an action of contribution. It could not be supposed that his position as co-obligant deprived him of all the advantages of his position as creditor. (2) The omission to mention the inhibitions did not appear *ex facie* of the oath. In the exercise of its discretion the Court would not in the circumstances of the case recal the sequestration. The inhibitions had attached nothing, and the omission to mention them had caused the petitioner no detriment. On the other hand, he had attempted to denude himself of his estate, and so defeat the claims of his creditors. A distinction must be drawn between objections to the oath of a petitioning creditor and to oaths necessary for voting—*Hay* v. *Durham*, February 5, 1850, 12 D. 676; *Learmonth* v. *Patten*, July 18, 1845, 7 D. 1094; *Mackay* v. *His Creditors*, November 19, 1864, 3 Macph. 74.

The petitioner argued—The argument founded on *Barr* v. *Ballantyne* was really founded on an *obiter dictum* of Lord Benholme's which was misleading. The real distinction was not between cases where omissions appeared *ex facie* of the proceedings, and where it required inquiry to discover them, but between cases where the statutory requisites had and had not been complied with. Only in the latter case had the Court a discretion—*Tennent* v. *Martin*, March 6, 1879, 6 R. 786. No valid distinction could be taken between the construction of oaths neces-

sary for voting and the original oath of the petitioning creditor. In the present case the omission to comply with statutory requisites was twofold—(1) The respondent not having mentioned himself, had not specified all the obligants whom he held liable for the debt besides the petitioner. His right as creditor did not divest him of his obligations as one of the co-obligants. The omission of his name was not a merely formal defect, as his ultimate liability might come to be more than the one-sixth deducted. (2) He had not specified the inhibitions. No doubt this was a purely technical objection, but technical objections had been held sufficient to justify recal —*Kinnes* v. *Adam*, March 8, 1882, 9 R. 698; *Joel* v. *Gill*, June 10, 1859, 21 D. 937; *Campbell* v. *Myles*, May 27, 1853, 15 D. 685; *M'Ewan* v. *Cleugh*, December 7, 1842, 5 D. 273; *Wright* v. *Corrie*, November 19, 1842, 5 D. 164; *Imrie* v. *Commercial Bank*, July 6, 1842, 4 D. 1532.

At advising—

Lord President—In this case the Lord Ordinary has recalled the sequestration of the petitioner on two grounds. These require separate consideration, for this reason, that one appears and is said to be an *ex facie* defect in the petition for sequestration, and the other depends on matters of fact not appearing on the face of the proceedings.

As regards the first of these, the complaint is that the petitioning creditor failed to comply with that part of the provision in the 22nd section of the Bankruptcy Act which requires him to state in his oath what other persons, if any, are, besides the bankrupt, liable for the debt or any part thereof. The debt must be the debt which the petitioning creditor claims, and therefore the inquiry is, whether it appears on the face of the affidavit that there are other persons liable to pay that debt beyond those specified in the affidavit.

The bond out of which the claim of the creditor arises is a peculiar deed, and requires careful consideration. The object with which it was granted was to raise money to carry on the business of the Rawyards Coal Company. That company had no credit, and the directors of the company interponed their personal security in order to obtain the money. The way in which it was done was this. One of the directors Mr Motherwell advanced the money required, namely, £4300, and the bond bears that it was advanced by him, and the obligation in the bond is to repay that money. Motherwell became one of six co-obligants bound under the bond. In a question with his co-obligants he is only liable to pay one-sixth part of the debt, viz., £716, 13s. 4d., though *ex facie* of the bond he is liable for the full sum of £4300. The letter of the bond makes him a debtor in £4300, but it is perfectly plain that he was never so bound, because beyond his debt as a co-obligant the debt was due to himself. The way Motherwell puts the matter in his affidavit is that he deducts one-sixth part of the debt from his claim. His position is—"My co-obligants and I are each liable for one-sixth part of the debt in an action of contribution, and therefore I make no claim as creditor in the bond for one-sixth part of the debt, but claim payment of the debt minus that sixth, viz., of £3583, 6s. 8d. That is the debt which is mentioned in the 22nd section of the statute, and the creditor in his affidavit is bound to set out what other persons are liable for that debt. My opinion of the true construction and effect of this bond is that Motherwell is not liable for any part of that debt. He cannot be a debtor to himself, and he is a debtor to his co-obligants only to the extent of £716, 13s. 4d., and in no part of the £3583, 6s. 8d. claimed in the affidavit. I think it is perfectly clear that neither the affidavit nor the bond shows any person liable for the debt who is not mentioned in the affidavit. The first objection accordingly is disposed of. I may say, however, that if well founded it would have been a relevant objection, and indeed one which we could not have resisted, because it was grounded on a failure to comply *ex facie* of the proceedings with a statutory provision.

The second ground of objection is of a different kind, namely, that the oath fails to specify a security which the creditor holds over the estate of the bankrupt or other obligant for the debt. In point of fact he held the security, which might be more or less valuable, over the estate of the bankrupt in the shape of an inhibition, and no mention is made of the inhibition in the affidavit. Here there is an objection, not *ex facie* of the affidavit, but requiring to be made a matter of extrinsic publication, and if necessary proved. That is a perfectly different kind of objection, and I think it is necessary that I should say at once that in my opinion the case of *Barr* v. *Ballantyne* decides this, not by way of an *obiter dictum*, but as the essence of the judgment, that there is a distinction to be made between two classes of objections, namely, those which appear *ex facie* of the proceedings, and those which do not appear *ex facie*, but require to be shown otherwise. In the first class *Ballantyne* v. *Barr* decides that the Court is bound to recal the sequestration, in the other that the Court is entitled to exercise its discretion. The reason is very obvious. In the latter class, although there may be a failure to specify on oath some security or obligant for the debt, it may turn out that the matter is of slight importance, and that no one has been harmed by the omission, while on the other hand, when a petitioning creditor has presented his affidavit and vouchers, to all appearance good and sufficient, the whole other creditors are entitled to rely that sequestration will be awarded, and be available to them. If it is open to have the sequestration ended by a latent objection there is no security for the other creditors who are standing by, and going to avail themselves of it, that they have a good sequestration at all. All the creditors are entitled to rely that the sequestration is good if the proceedings are *ex facie* regular. I do not say that it may not be recalled if the debt of the petitioning creditor is discovered to be bad. The Court will then recal the sequestration, but it will recal it in the exercise of its discretion, and not on a failure to comply with the statute, as the oath appears to be on the face of it everything which the statute requires. Therefore it is within the power of the Court, when any objection of this class is taken, to inquire if there is any substance in it, and if there is not to refuse to recal the sequestration.

Now, it has been explained that the security created by the inhibition is worth nothing, because the bankrupt had no heritable estate. But

even supposing the inhibition to have secured something, it would not have disturbed the sequestration or given a reason for its recal. Only the claim would have been wrong, and would have required to have been rectified.

I am of opinion that in the exercise of our discretion we should refuse to give effect to this objection.

Lord Mure—I am of the same opinion. There are two objections on which the Lord Ordinary has recalled the sequestration. One has to do with the amount of debt incurred under the bond, and as to the parties liable for the debt. The objection that has been raised here is *ex facie* of the proceedings, and I am of opinion that it is not well founded. I think that the respondent in his affidavit made quite a fair disclosure of his position as to the other parties liable for the debt, and therefore that the Lord Ordinary is wrong in thinking that there is any fatal objection *ex facie* of the affidavit.

The second objection is that the petitioning creditor omitted to specify a security which he held, as he was bound to do under the 22nd section of the Bankruptcy Act. What he is said to have omitted to do was to state that he held an inhibition, and there is no doubt that he did not state that. *Ex facie* of the affidavit that omission did not make the affidavit objectionable. The affidavit was *ex facie* good, and sequestration was awarded. It appears that there was an inhibition held by the respondent, and probably the Lord Ordinary is right in saying that it was an omission on the part of the respondent not to have stated that, and that he was bound, according to the strict interpretation of the clause of the Bankruptcy Act, to have mentioned in his affidavit the fact that he held an inhibition. The cases, I think, go that length. An inhibition is a security in the sense of the interpretation clause of the statute. In some cases also, of which the case of *Hay* v. *Durham* is an instance, it has been held necessary to value an inhibition in the oath, though in that case it was only of the value of about £2. I accordingly hold that the Lord Ordinary was right in thinking that the inhibition should have been mentioned in the affidavit, but it is, I think, in the discretion of the Court to consider whether the sequestration should be recalled on that ground, and I do not think it is such an omission as to make that course necessary.

I agree with your Lordship that the case of *Barr* v. *Ballantyne* decided that a distinction should be made between objections which arise *ex facie* of the proceedings and those which arise by virtue of inquiry.

Lord Shand—I concur with your Lordships.

It appears to me that the passage which occurs in the case of *Barr* v. *Ballantyne* at the close of Lord Benholme's opinion (5 Macph. 334) supplies the rule to be applied in questions of this kind. His Lordship there says—"I am anxious to state my view on this matter, that where there is no nullity *ex facie* of the proceedings, though nullity may be made out on investigation, the Court may exercise its discretion as to recalling or not recalling the sequestration, but where an objection founded on the statute appears *ex facie* of the proceedings the Court cannot exercise any discretion, but is bound to recal." The provisions of the 29th and 30th sections of the Bankruptcy Act, which direct the Lord Ordinary or the Sheriff to give sequestration, plainly indicate that the procedure is to be of a summary nature. If the petition is presented by the debtor himself, or with his consent, the judge is "forthwith" to grant sequestration. If the petition is not presented with his consent, the bankrupt must on citation show that sequestration cannot competently be granted, and if he fail to do so, and does not pay the debt, the judge is to grant sequestration, and by section 31 it is provided that the deliverance awarding sequestration shall not be subject to review. The statute does not contemplate or warrant the making up of records or other detailed procedure as between persons seeking and opposing sequestration. In cases which raise such a question as whether the bankrupt is subject to the jurisdiction of the Court, or whether notour bankruptcy has been constituted, there must be some sort of investigation. Beyond that, if the affidavit and the vouchers are *ex facie* in terms of the statute, and the debt in any view which can be prescribed by or for the debtor amounts to £50, it is not intended that the Judge should refuse to grant sequestration.

Here it is not disputed that the affidavit was in all respects *ex facie* regular, subject only to this observation, that it is said the petitioner was a creditor of himself as well as of the other obligants, and that therefore he ought to have mentioned himself as one of the obligants whom he held liable to himself for the debt. The debt deponed to in the affidavit amounts to £3583, 6s. 8d. The affidavit bears that certain other persons named besides the bankrupt are obligants for the debt, and that the deponent holds no other obligants and no securities for the debt beyond one heritable security which is specified. Everything is *ex facie* regular, and sequestration was properly granted. Applying the *dictum* of Lord Benholme, we should refuse, I think, to recal the sequestration, unless indeed it can be shown that in justice to the bankrupt or the other creditors it ought to be recalled.

The Lord Ordinary has thought that in justice to the bankrupt it ought to be recalled. That view, I think, has been shown to be erroneous. The bankrupt has attempted to put away his means and effects, and for that reason it is proper that a trustee for creditors should have a title under the sequestration to reduce the deed granted. But even apart from this specialty, I think there is nothing in the position of the bankrupt which would entitle him to say that the sequestration should be recalled. A creditor is entitled to use the diligence of sequestration against a debtor who cannot meet his debt.

It is said that the debt is overstated in the affidavit. But assuming that it may turn out to be overstated, or subject to deduction or repetition of a part, because it may be eventually found that certain of the obligants cannot pay their shares, and that the creditor himself must bear a share of the deficiency, yet if it appears that in any view there is a debt of £50, that is sufficient to warrant sequestration, and I should regret if the practice to give effect to this rule were altered. In any possible view, at least £2000 is due by the debtor, even supposing the other obligants could

pay nothing. The two points pleaded are technical. First, it is said the creditor should have stated that he held himself liable for part of the debt. Apparently he held he was not so liable, and your Lordship has indicated an opinion favourable to that view. That is not I think clear. But really the affidavit discloses the whole facts on which the question turns, and the affidavit does not preclude the question being raised and properly determined in the sequestration, it may be, in accordance with the bankrupt's contention.

It is further said that there has been an omission to make mention of a certain security held by the creditor; that an inhibition has been used, and that it ought to have been stated and valued in the affidavit. I am not prepared to say that a creditor is bound to mention a security of that kind where the debtor has no heritable property. It must be borne in mind that inhibition is no longer available against future acquisitions of estate. It is not even now said that either of the debtors had any heritable property. If a creditor uses an arrestment, and it attaches no funds, is he bound to specify the arrestment as a security? I think not. He has attempted to get a security but failed, and an inhibition which affects no heritage is not in my view a security. Supposing, however, that the debtor has heritable property, the question comes to be whether the neglect to mention the use of an inhibition is a sufficient reason for recalling the sequestration. No prejudice to anyone has been done by the absence of notice of the inhibition, and none by the failure of the creditor to refer to his own obligation to share in a deficiency caused by any obligant failing ultimately to pay his share of the debt.

In the matter of recalling a sequestration the Statute of 1856 has no provisions relative to the grounds on which a sequestration should be recalled. I think the views expressed by the Judges in the case of *Barr* v. *Ballantyne* are sound, and I am for giving effect to them. If the debtor meant to contest his liability for the debt, he should have brought a suspension of the charge, which he did not do. A sequestration once granted is very important in its effects from the date of the first deliverance under section 42 of the statute, and the provisions of section 107 and the following sections relating to diligence and prescription. Creditors may very reasonably rely on a sequestration duly obtained on an affidavit and claim in all respects *ex facie* regular and duly vouched, and indeed are in such circumstances I think precluded from having a second sequestration where one has been already granted. It would be an injustice to them to recal the sequestration on any technical grounds or on any grounds which do not go to the root or substance of the petitioning creditor's claim, or which at least go the length of showing that an injustice has been done to the bankrupt in awarding sequestration. That is certainly not the case here. I think the Lord Ordinary's interlocutor should be recalled and the petition refused.

Lord Adam was absent.

The Court recalled the Lord Ordinary's interlocutor, and refused the petition for recal of the sequestration.

Counsel for the Reclaimer—Sir Charles Pearson—Low. Agents—Drummond & Reid, S.S.C.

Counsel for the Petitioner—Graham Murray—Shaw. Agent—Thomas Carmichael, S.S.C.

REGISTRATION APPEAL COURT.

Monday, November 26.

(Before Lord Mure, Lord Lee, and Lord Kinnear.)

MACDONALD *v.* DICKSON.

Election Law—Burgh Franchise—Lodger—Occupation by Tolerance—The Representation of the People (Scotland) Act 1868 (31 *and* 32 *Vict. cap.* 48), *sec.* 4.

A son had the sole use of two rooms in his father's house, of the value and for the period required by the statute, as a gift and as part of his allowance from his father, and paid no rent for them. *Held* that he was not entitled to be enrolled as a lodger.

At a Registration Court for the burgh of Edinburgh held at Edinburgh on the 1st day of October 1888, William Kirk Dickson, No. 38 York Place, Edinburgh, claimed to be enrolled on the register of voters for the said burgh of Edinburgh (West Division) as a lodger. James Macdonald, Writer to the Signet, No. 21 Thistle Street, Edinburgh, a voter on the roll, objected to the said claim, on the ground that the said claimant did not pay rent for his lodgings. The Sheriff (Crichton) rejected the claim.

The claimant took a case. The admitted facts were stated in the case as follows, viz.—"That the claimant has occupied for some years past two rooms at No. 38 York Place, of a clear yearly value, if let unfurnished, of upwards of £10; that he has had the sole use of these rooms; that he has paid no rent for them, but has enjoyed them as a gift and as part of his allowance from his father."

The question of law for the decision of the Court of Appeal was—"Whether, in order to constitute a lodger qualification, it is essential that the claimant should have paid rent for the rooms occupied by him, or whether enjoying the use of them as part of an allowance as a gift is sufficient?"

The Representation of the People (Scotland) Act 1868 (31 and 32 Vict. cap. 48), section 4, provides as follows, viz.—"Every man shall, in and after the year One thousand eight hundred and sixty-eight, be entitled to be registered as a voter, and when registered to vote for a member or members to serve in Parliament for a burgh, who is qualified as follows, that is to say—1, if of full age and not subject to any legal incapacity; and 2, as a lodger has occupied in the same burgh separately, and as sole tenant, for the twelve months preceding the last day of July in any year, lodgings of a clear yearly value, if let unfurnished, of £10 and upwards; and 3, has resided in such lodgings during the twelve months immediately preceding the last day of July, and has claimed to be registered as a voter