

upon him for payment; that he is therefore not legally liable, and that he cannot be said to have failed to pay.

LORD BENHOLME—I am of the same opinion, and consider that this is a very clear case.

The judgment of the Sheriff was affirmed, with expenses.

Agents for Appellant—Hughes & Mylne, W.S.

Agents for Respondents—Mackenzie & Black, W.S.

BRUCE v. ROSE.

Act. Gifford and Mackintosh.

Alt. Clark, Shand, and Black.

31 and 32 Vict., c. 48, § 20—Assessor—Timeous delivery of claim. Held (affirming judgment of the Sheriff) that a claim which was posted at the last post of the day allowed by the Statute for lodging claims, and which could not and did not reach the assessor until the following day, was not timeously delivered. Observed, per LORD BENHOLME, that the claim might be in time if the failure of the assessor to receive the claim on the last day was attributable to a miscarriage over which the claimant had no control.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Tain, held by me at Tain, on the 2d day of October 1868, under and in virtue of the Act of Parliament, 31 and 32 Vict., c. 48, intituled, 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, William Bruce, draper in Tain, claimed to be enrolled on the Register of Voters for the said burgh, as tenant and occupant of a house in Market Street of Tain.

"The following facts were proved:—(1) That the claimant was, and had been for the requisite period, tenant and occupant of the premises in respect of which he claimed to be enrolled; (2) that he was assessed for and had paid poor-rates in respect of the said premises; (3) that he transmitted his claim to the assessor by posting the same at Tain, about ten o'clock, p.m., in the post-office at Tain, on 21st September 1868, duly addressed to the assessor; (4) that the latest mail from Tain to Inverness leaves Tain at twenty-five minutes past five, p.m., and that the claimant was aware, when he posted his claim, that this was so, and posted it in order that it might be transmitted to Inverness by the earliest mail on 22d September; (5) that the claim was accordingly received by the assessor on the morning of 22d September.

"John Rose, a voter on the roll, objected to the said claim, on the ground that it had not been timeously sent to the assessor.

"I rejected the claim upon the ground stated by the objector. Whereupon the said William Bruce required from me a special case for the Court of Appeal; and in compliance therewith I have granted this case.

"The question of law for the decision of the Court of Appeal is,—Whether the claim was duly and timeously sent to the assessor in terms of sects. 3 and 9 of the 'Registration of Voters (Scotland) Act 1856,' and sect. 20 of the 'Representation of the People (Scotland) Act 1868?'"

MACKINTOSH, for the appellant, maintained that it was sufficient if claims were posted on the day mentioned in the Statute.

SHAND, for the respondent, contended that, to

comply with the provision of the Statute, the claim must be posted in time to reach the assessor on the statutory day in the ordinary course of post.

LORD BENHOLME, in giving his opinion, said that if a claim was posted in time to reach the assessor in the ordinary course of post within the statutory period he might be in time even though, by any miscarriage in the post for which he was not responsible, the claim did not actually reach the assessor on the statutory day. In this case, however, the claims was posted at a time when the party must have known that it could not reach the assessor on the statutory day. He was clearly of opinion, therefore, that the provision of the Statute as to notice had not been complied with, and that the judgment of the Sheriff rejecting the claim should be affirmed.

LORD ARDMILLAN said it was clear that a party did not comply with the requirement of the Statute if he posted his claim at a time too late to reach the assessor within the statutory period in the ordinary course of post.

LORD MANOR concurred, and said that extreme inconvenience might arise if it was held that a claim posted on the statutory day was lodged in time, though it could not possibly reach the assessor upon that day.

The judgment of the Sheriff was affirmed, with expenses.

Agents for Appellant—Mackenzie & Black, W.S.

Agents for Respondent—Hughes & Mylne W.S.

FORBES v. WEBSTER.

Act. Gifford and Mackintosh.

Alt. Clark, Shand, and Black.

Tenant and Occupant—Servant of Railway Company—Defeasibility. Held (altering judgment of the Sheriff) that a station-master who occupied a house belonging to the railway company as part of the consideration stipulated for his services, and was liable to be dismissed and entitled to leave upon fourteen days' notice, had not the qualification of tenant and occupant entitling him to the franchise.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Tain, held by me at Tain on the 2d day of October 1868, under and in virtue of the Act of Parliament 31 and 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, James Webster, station-master, Tain, claimed to be enrolled on the register of voters for the said burgh, as tenant and occupant of dwelling-house and land attached, situated at the railway station, Tain.

"The following facts were proved:—(1) That the claimant occupied, under the railway company, a dwelling-house at the station, with a garden and certain land attached, and had done so for the requisite period; (2) that the claimant paid no money rent for the house and garden, but occupies the same as part of the consideration stipulated for his services as station-master, but paid a rent of £2 for the ground other than the garden; (3) that the yearly value of the house, together with the land, was upwards of £10; (4) that the claimant had been for several years in the service of the company, and was paid by yearly salary, but was liable to be dismissed, and, on the other hand, entitled to leave the service of the company on fourteen days' notice; (5) that the company are rated to the relief of the poor, both as owners and occupants