at the next ensuing registration of voters."

Argued for the appellant—The occupation was as a lodger and as sole tenant. It was not necessary that any rent should be paid. From the facts stated it must be presumed that the lodgings were occupied under a contract—*Brown* v. *Martin, &c.*, November 6, 1885, 13 R. 159; *Ferguson* v. *Kerr*, November 6, 1879, 7 R. 7; *Parker* v. *Campion*, November 29, 1870, Ir. Rep., Registry & Land Act Appeals, 75.

Counsel for the respondent was not called upon.

At advising—

Lord Mure—I do not think it necessary to call upon the respondent here. It seems to me that the Sheriff has taken a sound view. The possession of two rooms in a father's house as a gift is no contract in any sense of the word. It was, as I understand it in this case, defeasible at any moment. In the case of *Brown* v *Martin*, and the other cases reported with it, the sons actually paid a rent in money or money's worth, and were living continuously and by contract in the rooms occupied by them for the period of time required by the statute. But I know of no authority under the statute to give to a son occupying a room in his father's house by permission of his father a right to be enrolled in respect of that permission, which may be withdrawn at any time.

Lord Lee—I come to the same conclusion. I have no doubt whatever that a father may agree with his son to give him rooms on such terms with or without payment as to give him a right to claim as a lodger, but the question is whether there is anything of that kind set out in this case. I think there is not. There is no adverse claim to be regarded as sole tenant stateable by the son here as against his father.

Lord Kinnear—I am of the same opinion. The qualification is that the claimant shall have as a lodger, and as sole tenant, occupied lodgings of a certain yearly value. A person who occupies lodgings as sole tenant must occupy them under a contract of lease, and the admission in this case is that the claimant has not occupied under any contract whatever, but by the gift or tolerance of the owner or occupier of the house. Upon the admitted state of the facts it seems perfectly clear that the occupancy of the claimant might have been determined by the will of his father at any moment during the twelve months. I think that is not a right qualifying under the statute.

The Court dismissed the appeal and confirmed the judgment of the Sheriff.

Counsel for Appellant — Crole. Agent — William Black, S.S.C.

Counsel for Respondent—A. S. Young. Agent —James Macdonald, W.S.

COURT OF SESSION.

Tuesday, November 27.

FIRST DIVISION.

[Exchequer Cause.

CHEAPE *v.* COMMISSIONERS OF INLAND REVENUE.

*Revenue—Inhabited House Duty—*14 *and* 15 *Vict. cap.* 36, *Schedule.*

By the schedule of this Act a duty of ninepence for every pound of annual value is imposed upon occupiers, with certain specified exceptions, "for every inhabited dwelling-house which, with the household and other offices, yards, and gardens therewith occupied and charged, is or shall be worth the rent of twenty pounds or upwards by the year."

By Schedule B of the Act 48 Geo. III. c. 55, to which the later Act above mentioned refers, it is enacted under rule 2 that "every coach-house, stable, wash-house, . . . and all other offices and gardens and pleasure grounds, belonging to and occupied with any dwelling-house, shall, in charging the said duties, be valued together with such dwelling-house: Provided no more than one acre of such gardens and pleasure grounds shall in any case be so valued."

The committee of subscribers to a pack of hounds rented certain premises, consisting of a house which was occupied by the huntsman, cottages occupied by a whip and a groom, kennels and stables. The annual value of these subjects, taken together, was over £20 a-year. *Held* that a duty of 9d. per £ was rightly imposed on the committee for the occupation of these premises.

Captain Cheape, Master of the Linlithgow and Stirlingshire Pack of Foxhounds, on behalf of himself and the other members of the committee of subscribers to the hounds, appealed against an assessment of £1, 10s. made upon them for inhabited-house-duty for the year ending 24th May 1888, at the rate of 9d. per £ on £40, the rent or annual value of premises occupied by the committee at Golfhall, in the parish of Corstorphine, and belonging to Sir James R. Gibson Maitland, Bart.

The premises consisted of—1, A two-storeyed dwelling-house of six apartments, occupied by the huntsman, of the probable annual value of £9; 2, a cottage of two apartments and a bed-closet, occupied by the whip, worth probably about £4 per annum; 3, a groom's house of three rooms, worth £4 per annum; 4, stables, with harness-room, and other accommodation for 20 horses; 5, a kennel, capable of holding about 50 dog hounds, with exercising yard attached; 6, a kennel, capable of holding 50 bitches, with exercising yard attached; 7, a small kennel, and yard attached; 8, two boiling-houses, and several other outhouses; 9, about 3 and a quarter acres of land on the east side of the kennels, which is used chiefly as a training and exercising yard.

These subjects were let at a *cumulo* rent of

£40, with £9, 15s. 8d. as for interest on expenditure on the kennels some years ago. The interest was regarded by all parties as equal to the rent of the land, and it was assumed that the balance of £40 represented the annual value of the whole buildings.

Under the schedule of the Act 14 and 15 Vict. cap. 36, a duty of ninepence for every pound of annual value is imposed, with certain specified exceptions, "for every inhabited dwelling-house which, with the household and other offices, yards, and gardens therewith occupied and charged, is or shall be worth the rent of £20 or upwards by the year."

Special reference is made by this Act to Schedule B of the Act 48 Geo. III. cap. 55, rule 2 of which enacts—"Every coach-house, stable, brew-house, wash-house, laundry, wood-house, bake-house, dairy, and all other offices, and all yards, courts, and curtilages, and gardens and pleasure grounds, belonging to and occupied with any dwelling-house, shall, in charging the said duties, be valued together with such dwelling-house: Provided no more than one acre of such gardens and pleasure grounds shall, in any case, be so valued."

By rule 3 it is enacted that all shops and warehouses which are attached to the dwelling-house, and have any communication therewith, shall be valued together with the dwelling-house. An exception is made of such warehouses as are distinct and separate buildings from the dwelling-houses and shops attached thereto, employed solely for the lodging of goods or the carrying on of a manufacture (notwithstanding the same may adjoin to or have communication with the dwelling-house or shop).

The Commissioners refused the appeal, and the appellant requested a case to be stated for the opinion of the Court under the Taxes Management Act 1880 (43 and 44 Vict. c. 19).

Argued for the appellant—The premises in question were not such as were properly subject to inhabited-house-duty. They were not the pertinents of a gentleman's residence, but rather premises occupied for the business, so to speak, of hunting—*Douglas* v. *Young*, November 14, 1878, 7 R. 229. They more nearly resembled a home farm, or a farm where the tenant did not reside, which it was the invariable practice of the Inland Revenue to exempt from this duty. The houses of the servants of the hunt were merely accessions to the stables and kennels. If they did not fall under rule 2 of Schedule B of the Act Geo. III., they certainly did not fall under rule 3, as none of the separate houses was by itself of the annual value of £20, and there was no internal communication between them. Even were the huntsman's house of the annual value of £20, the assessment should be laid on him, as the occupant, and not on the committee of subscribers, who were assessed already in the same duty for their residences elsewhere.

Argued for the respondent—The committee were the real occupants of these premises, which were leased for the purposes of the hunt. The assessment was therefore rightly laid on them. There was a dwelling-house here, and the stables and kennels were occupied in connection therewith. Rule 2 therefore applied, and the argument based on the want of internal communication fell to the ground.

At advising—

Lord President—The Act which imposes the duty which is now laid on the appellant is 14 and 15 Vict. c. 36, and the schedule, which is the important part of that Act, authorises duties to be levied upon inhabited dwelling-houses according to the annual value thereof—that is to say, on "every inhabited dwelling-house which, together with the household and other offices, yards, and gardens therewith occupied and charged, is or shall be worth the rent of £20 a-year." There must be an inhabited dwelling-house in order to bring the subject of the assessment within the scope of the schedule, but that inhabited dwelling-house need not of itself be of the value of £20 if the household and other offices, yards, and gardens therewith occupied and charged make it up to that amount. And with regard to the different modes of occupation we have it provided in the schedule that where the dwelling-house is occupied by any person in trade who shall expose for sale and sell any goods in any shop or warehouse, being part of a dwelling-house, and also where a dwelling-house shall be occupied by any person who shall be duly licensed to sell beer, ale, wine, or other liquors, and also where any dwelling-house shall be a farm-house occupied by the tenant or farm-servants, and *bona fide* used for the purposes of husbandry only, the assessment is to be at the rate of 6d. per £. But in all other cases, except these three, the assessment is to be at the rate of 9d. per £. But it is obvious that what is contemplated in all these cases is that the dwelling-house may be occupied by a person other than the person assessed, for there is given, as one example, a dwelling-house, being a farm house, occupied by a farm servant, upon which nevertheless the owner or tenant may be assessed. Now, the schedule of the old Act of 48 Geo. III., to which this later statute refers us back, has this rule—"Every coach-house, stable, brew-house, and so forth belonging to and occupied with any dwelling-house shall, in charging the said duties, be valued together with such dwelling-house," provided that no more than one acre of garden ground shall in any case be so valued. Then the question comes to be, have we in this case a dwelling-house to begin with? Now, undoubtedly there is; there is a dwelling-house of some importance. It is said not to be quite of the value of £20 in itself, but nevertheless it is a two-storeyed house with six rooms, and is occupied by the huntsman who, of course, is the chief man in the premises. The other houses consist of stables and kennels which are occupied along with the dwelling-house in this sense, that they are all occupied for the purposes of the hunt; they are all occupied for one and the same general purpose, and therefore they seem to me to fall within the description both of the schedule in the old Act and of the schedule in the new Act. Now, it is not pretended that these premises are under the value of £20; on the contrary, they are very much above it, and therefore it appears to me that the Acts of Parliament are directly applicable. Some reference was made to the fact of the different buildings constituting these premises having separate entrances and no internal communication, but that has no relevancy in regard to a subject of this kind. But the second rule in the schedule

of the Act of 48 Geo. III. makes no reference to internal communication or anything of the kind as being necessary; on the contrary, it is quite obvious that the sort of premises there in view are premises occupied in connection with the dwelling-house, but not by any means necessarily communicating with the dwelling-house in any way. And just as little is there any such idea to be found in the schedule of the more recent statute. I therefore think this assessment is well laid on.

Lord Mure concurred.

Lord Shand—It appears to me upon the statement of the case that we have here a dwelling-house and pertinents such as are described in rule second of the Act of 48 Geo. III., in the occupation of the committee of the hunt, upon whom the assessment has been laid, and as these are to be regarded, as I think, as one subject, and are above the value which renders the subjects liable to assessment, I have no doubt the assessment has been well laid on.

Lord Adam concurred.

The Court affirmed the determination of the Commissioners.

Counsel for the Appellant—Chisholm. Agents—Wallace & Begg, W.S.

Counsel for the Commissioners — Young. Agent—Solicitor of Inland Revenue.

Tuesday, November 27.

FIRST DIVISION.

[Exchequer Cause.

HENDERSON *v.* THE LORD ADVOCATE.

*Revenue — Public-House — Licence-Duty—Early Closing—Deduction—*25 *and* 26 *Vict. cap.* 35 —37 *and* 38 *Vict. cap.* 94, *sec.* 7—50 *and* 51 *Vict. cap.* 38, *sec.* 4.

By section 7 of the Act 37 and 38 Vict. cap. 94, made applicable to Scotland by a later Act, the holder of an early closing licence is obliged to close his premises one hour earlier than the ordinary hour provided by the Act, and is entitled to a deduction of one-seventh from the licence-duty which he would otherwise have to pay.

By the form of certificate contained in Schedule A of the Act 25 and 26 Vict. cap. 35, the hour of closing for public-houses in Scotland was fixed at eleven at night. By section 4 of the Act 50 and 51 Vict. cap. 38 (which does not apply to places of over 50,000 inhabitants), the form of certificate was altered, and it was prohibited to sell or give out liquor "after such hour at night of any day, not earlier than ten, and not later than eleven, as the licensing authority may direct."

Acting under the power so conferred upon them, the justices of a county passed a resolution closing all public-houses in the county at ten p.m. In an action by a publican in the county to recover from the Commissioners of Inland Revenue one-seventh of the licence-duty, as calculated on their rental—*held* that he was not entitled to recover the amount claimed, not being the holder of an early closing licence in the sense of 37 and 38 Vict. cap. 49, sec. 7.

This action was raised by William Henderson, wine and spirit merchant at Straiton, in the county of Midlothian, against the Lord Advocate, as representing the Commissioners of Inland Revenue. The sum sued for was £4, 5s. 9d., being part of the sum paid by the pursuer to the defenders as licence-duty, and to which extent he maintained he had been overcharged by them.

Section 49 of 35 and 36 Vict. cap. 94, dealing with Sunday trading, enacts that "where on the occasion of an application for a new licence or transfer or renewal of a licence which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant at the time of his application applies to the licensing justices to insert in his licence a condition that he shall keep the premises in respect of which such licence is or is to be granted closed during the whole of Sunday, the justices shall insert the said condition in such licence. The holder of a licence in which such condition is inserted (in this Act referred to as a six-day licence) shall keep his premises closed during the whole of Sunday, and the provisions of this Act with respect to the closing of licensed premises during certain hours on Sunday shall apply to the premises in respect of which a six-day licence is granted as if the whole of Sunday were mentioned in those provisions instead of certain hours only. The holder of a six-day licence may obtain from the Commissioners of Inland Revenue any licence granted by such Commissioners which he is entitled to obtain in pursuance of such six-day licence, upon payment of six-seventh parts of the duty which would otherwise be payable by him for a similar licence not limited to six days; and if he sell any intoxicating liquor on Sunday, he shall be deemed to be selling intoxicating liquor without a licence."

By section 7 of 37 and 38 Vict. cap. 49, it is enacted that "where on the occasion of any application for a new licence, or the removal or renewal of a licence which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant applies to the licensing justices to insert in his licence a condition that he shall close the premises, in respect of which such licence is or is to be granted, one hour earlier at night than that at which such premises would otherwise have to be closed, the justices shall insert the said condition in such license. The holder of an early closing licence in which such condition is inserted (in this Act referred to as an early closing licence) shall close his premises at night one hour earlier than the ordinary hour at which such premises would be closed under the provisions of this Act." It is further enacted "that the holder of an early closing licence may obtain from the Commissioners of Inland Revenue any licence granted by such Commissioners which he is entitled to obtain in pursuance of such early closing licence, upon payment of a sum representing six-sevenths of the duty which would otherwise be payable by him for a similar licence not limited