

sanction the general rule that where a pauper is found destitute and relief is afforded, that the parish so affording relief will have a good claim of relief from the parish of settlement if there is an able-bodied father of the pauper accessible and able to maintain the pauper himself.

LORD DEAS concurred.

LORD MURE—I concur, but with difficulty, as the sixth plea-in-law for the defender, to the effect that on 24th December 1873 Higgins was an able-bodied man and his daughter was therefore at that date not a proper object of relief, seems to me sound. But on the ground of the specialties in the case mentioned by the Lord President I do not differ. And further, on the authorities I find that the Court is acting in accordance with the rule followed in the case of *Dinwoodie v. Graham*, January 27, 1870, 8 Macph. 436.

LORD SHAND—I concur. On 7th August 1874, when the parish of Maybole gave notice to the parish of Irvine, the pauper was a proper object for parish relief. For although the father was an able-bodied man, he was at a distance, and he had left the child destitute, and with no means of subsistence. It was then the duty of Maybole to relieve the child till some other provision was made. This being the case, the statute says that where any relief is given the parish which gives it shall recover from any parish to which the pauper belongs, or from the parents of the pauper. The statute gives the relieving parish an alternative, and here the parish of Maybole gets the benefit of the first alternative, which is all that is asked.

The Court adhered.

Counsel for Pursuer (Respondent)—Dean of Faculty (Fraser)—Moncreiff. Agent—J. Carmont, S.S.C.

Counsel for Defender (Appellant)—Guthrie Smith. Agents—Morton, Neilson, & Smart, W.S.

Wednesday, June 12.

## SECOND DIVISION.

[Lord Adam, Ordinary.]

SIVRIGHT v. STRAITON ESTATE COMPANY  
(LIMITED).

*Superior and Vassal—Casualty—Personal Title—Conveyancing Act 1874 (37 and 38 Vict. cap. 94), sec. 4, sub-sec. 4.*

Held (aff. Lord Adam, Ordinary) that under the 4th sub-section of the 4th clause of the Conveyancing Act 1874 a singular successor in whose favour in November 1876 a disposition was executed and recorded was liable to the superior in payment of a casualty of a year's rent, although the superior had in 1873 granted a precept of *clare constat* in favour of the heir of the last-entered vassal (who was still in life), but which was not recorded till after the institution of the action.

*Opinions (per curiam) that this case was*

ruled by the cases of *Ferrier's Trs. v. Bayley*, May 26, 1877, 4 R. 738, and *Rossmore's Trs. v. Brownlie and Others*, Nov. 23, 1877, 15 Scot. Law Rep. 129, and that the unrecorded precept of *clare constat* was merely a personal title which in virtue of the Conveyancing Act 1774 was swept away by the subsequently recorded disposition.

Counsel for Pursuer (Respondent)—Balfour—Pearson. Agents—Tods, Murray, & Jamieson, W.S.

Counsel for Defenders (Reclaimers)—Lord Advocate (Watson)—M'Laren. Agents—Welsh & Forbes, S.S.C.

Wednesday, June 12.

## FIRST DIVISION

[Sheriff of Dumfries and Galloway.]

BARCLAY v. NEILSON.

*Lease—Farm Buildings—Obligation on Landlord to put Buildings in Tenantable Order.*

A lease for nineteen years contained a declaration that the additions to the farm buildings and repairs thereon should be executed in a manner to be approved of by the landlord. There was no obligation on either landlord or tenant to execute them, and no specification of what they were to be. Held (1) that in the absence of any special stipulation to the contrary, the liability for repairs must fall on the landlord, and, on the principle *noscitur a sociis*, that the liability for additions must also fall on him; and (2) that the measure of his liability was what was required for the cultivation of the farm in terms of his lease, and should be ascertained by a remit to a man of skill.

This was an action raised in the Sheriff Court at Kirkcudbright by John Barclay, tenant of the farm of Barstobrick, against his landlord, and concluded for decree that the defender should be ordained to implement the lease of the farm granted by him to the pursuer of date February 1869, "by making and completing the repairs and alterations on the houses and buildings on said lands and others thereby let, referred to in said lease, and agreed to between the parties," &c. The particular repairs and alterations asked were specified in the summons, and the Court were alternatively asked to have these ascertained. There was a further alternative conclusion for damages.

The clauses in question of the lease provided—"And with respect to the houses and buildings upon the said lands and others hereby let, it is declared that the additions to and repairs thereon shall be made and completed in a manner to be approved by the said Walter Montgomerie Neilson or his foresaids; and on the same being completed they shall be upheld and maintained in good tenantable condition during the lease, and left in like condition at the expiry thereof by the said John Barclay and his foresaids, and the proprietor shall have full power and liberty to have the said houses and buildings annually inspected by a competent person or persons appointed by him, and in case and so often as repairs are necessary,