

Armour on Titles, 3rd ed., p. 306; Willis v. Earl Howe, [1893] 2 Ch. 545; Johnson v. Brock, [1907] 2 Ch. 533.]

The law is as laid down by Strong, C.J., in Handley v. Archibald, 30 S.C.R. 130, 137. . . .

If then the defendant could prove a continuous occupation adverse to the owner, his case would be made out. But there is a fatal gap of a whole year during Dobson's time. Neither he nor his tenant Hart exercised any acts of ownership on the land. The very stringent rule in the Short case, *supra*, must, therefore, be applied, and it must be held that the defence of the statute has not been made out.

Some argument was addressed to us that the plaintiff had not made out his case. But he proved possession by his predecessor in title: that was *prima facie* evidence of a fee simple: Allen v. Rivington, 2 Wms. Saund. 111; Doe v. Webber, 1 A. & E. 119; Doe v. Billyard, 3 Man. & Ry. 111; Doe v. Barnard, 13 Q.B. 945; Wallbridge v. Gilmour, 22 C.P. 135, 137; Williams and Yates on Ejectment, 2nd ed., p. 250.

KELLY and LENNOX, JJ., agreed in the result, each stating reasons in writing.

*Appeal dismissed with costs.*

LENNOX, J.

OCTOBER 16TH, 1912.

### GUNDY v. JOHNSTON.

*Solicitors—Costs and Charges—Statute Fixing Amount of Costs of Litigation Payable to Client—2 Geo. V. ch. 125, sec. 6—Construction and Effect—Solicitors Act, sec. 34—Premature Action by Solicitors—Delivery of Bill—Necessity for—Dismissal of Action without Prejudice to another.*

Action by a firm of solicitors for the recovery of solicitor and counsel fees.

M. Wilson, K.C., for the plaintiffs.

M. Houston and A. Clark, for the defendant.

LENNOX, J.:—The plaintiffs sue for the recovery of solicitor and counsel fees. They delivered a signed bill of costs on the