

John Cuthbert is entered in the valuation roll for the year 1867-68 as occupant of a house in Burn Street of the yearly rent or value of £6, and in the valuation roll for the year 1868-69 as tenant and occupier of a house in Burn Street of the same yearly rent or value.

"The following facts were proved:—The claimant is gas-manager in Pulteneytown, and a servant of the gas company, engaged at so much per annum. He occupies a house belonging to the Gas Company, which is considered part of his remuneration. There is no written agreement regarding it. If he had not got a house he would have had larger money payment. There was nothing, so far as the voter knew, in his agreement with the Gas Company, empowering the Gas Company to remove him at will; neither was there anything to the contrary. On the death of his predecessor, his family occupied the house till the next term.

"I repelled the objection, and continued the name of the said John Cuthbert on the roll. Whereupon the said John Stewart 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 Mr Cuthbert is to be regarded in law as tenant?"

SHAND, for the appellant, admitted that this case was ruled by the previous cases of bank agents.

The Court unanimously affirmed the judgment of the Sheriff.

Agents for Appellant—Hughes & Mylne, W.S.  
Agents for Respondent—Mackenzie & Black, W.S.

#### STEWART v. DOULL.

Act. Clark, Shand, and Gifford.

Alt. Gifford and Mackintosh.

*Tenant and Occupant—Residence—Absence.* Held (affirming judgment of the Sheriff) that a party who, on account of bad health, had left his residence at Whitsunday 1868 and gone elsewhere, but who retained the keys of the house, and could operate access to it whenever he chose, had not ceased to be tenant and occupant within the 12 months preceding.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Wick, held by me at Wick on the 6th 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, John Stewart, coach clerk, Bridge Street, Wick, a voter on the roll, objected to William Doull, cooper, Argyle Square, Pulteneytown, being continued on the roll as a voter for the said burgh. The said William Doull stood enrolled as a voter foresaid, as tenant and occupant of house in Argyle Square, Pulteneytown.

"It was objected by the said John Stewart that the said William Doull was non-resident. The said William Doull is entered in the burgh valuation roll for each of the years 1867-1868, and 1868-1869, as tenant and occupant of a house in Argyle Square, of the yearly rent or value of £7, 10s.

"The following facts were proved:—The said William Doull is a married man, with a family. He occupied the dwelling-house referred to in the list and valuation rolls during the year preceding Whitsunday 1868, and took it as his dwelling-

place for the current year. He found himself in bad health about Whitsunday 1868, and then went to Dunbeath, where his son is in business as a fish-curer, and he remained there till now. His wife and family were chiefly with him at Dunbeath, but he left his furniture in the house, and held the keys, and from time to time his daughter went there to look to the furniture, and for other purposes. The state of his health was the sole cause of his going to Dunbeath (which is in the county, 20 miles off), and of his stay there. He intends to return, as soon as his health improves, during the month of August; helped his son a little by looking after the women employed in curing the herrings. He still holds the dwelling-house, and stays and sleeps there on this his present visit to town.

"I repelled the objection, and continued the name of the said William Doull on the roll. Whereupon the said John Stewart 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—Does the voter's absence from his dwelling-house in town disfranchise him?"

BLACK, for the appellant, contended that the circumstances of this case amounted to the non-residence of the party, and that he was not entitled to the franchise.

LORD BENHOLME said that the Court must affirm the judgment of the Sheriff in this case. The man held the house, still retained the keys, and was merely absent temporarily on account of ill-health.

The judgment of the Sheriff was affirmed.

Agents for Appellant—Hughes & Mylne, W.S.  
Agents for Respondent—Mackenzie & Black, W.S.

#### DAVIDSON v. GRAY.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

*31 and 32 Vict., cap. 48—Burgh Franchise—Ownership—Possession.* Held that a party who stood on the roll as owner of subjects, but had not had possession for a year, fell to be expunged from the roll.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Wick, held by me at Wick on the 5th 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, William Gray, writer, Sinclair Terrace, Pulteneytown, a voter on the roll, objected to Charles Davidson, farmer, Cogill Watten, being continued on the roll as a voter for the said burgh. The said Charles Davidson stood enrolled as a voter foresaid as owner of houses, Huddart Street, Pulteneytown.

"It was objected by the said William Gray that the said Charles Davidson had not possessed for 12 months preceding 31st July 1868 in the character of owner.

"The following facts were proved:—The voter is entered in the valuation roll for the year 1868-1869 as proprietor of houses in Huddart Street of the yearly rent or value of £14. The title in his favour is dated 26th June 1868, and his entry is declared to have been at Whitsunday 1868. He resided within seven miles of the burgh for more than 12 months before 31st July, but did not

occupy any part of the property, the same being wholly in the occupancy of tenants.

"I sustained the objection, and expunged the name of the said Charles Davidson from the roll. Whereupon the said Charles Davidson 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—Is a party acquiring a right as owner to property in a burgh before 31st July in any year entitled to be entered on the roll of voters for the same year; or is possession for 12 months previous to 31st July of that year necessary?"

The Court unanimously adhered to the judgment of the Sheriff, with expenses.

Agents for Appellant—Hughes & Mylne, W.S.  
Agents for Respondent—Mackenzie & Black, W.S.

#### FORBES v. MITCHELL.

*Act.* Gifford and Mackintosh.  
*Alt.* Clark, Shand, and Black.

*Tenant and Occupant—Burgh Franchise—Rating—*

*Exemption.* Held that a party who had been exempted by the collector of poor-rates on the ground that he did not consider the voter able to pay,—the collector having received no instructions to that effect from the Board,—and who had not been assessed for relief of the poor, retained his qualification.

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 1st 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, Alexander Forbes, solicitor in Tain, a voter on the roll, objected to David Mitchell being continued on the roll as a voter for the said burgh. The said David Mitchell stood enrolled as a voter for the burgh as tenant and occupant of dwelling-house in Ross Street.

"It was objected by the said Alexander Forbes that the said David Mitchell had not been assessed for poor-rates applicable to the period of his occupancy of said house, in respect of his occupancy or otherwise, and so was not entitled to be enrolled as a voter. The said David Mitchell produced, in support of his right to be continued as a voter on the roll, the writs, of which copies, so far as material, are appended hereto, and which are to be held as embodied in this case, and to constitute part thereof, viz.:—(1) Extract minute of Parochial Board of Tain, dated 15th July 1847; (2) Extract minute of said Parochial Board, dated 31st October 1855.

"The following facts were also proved:—(1) That Mitchell occupied as tenant the whole of the house referred to in the description of his qualification, and for the requisite period; (2) that the value of the said house, as appearing on the valuation roll, was £3, 4s.; (3) that there is an assessment for poor-rates in the parish of Tain upon owners and occupiers of heritages, but no assessment for poor-rates was made upon Mitchell for the year 1867-68; (4) that his name was omitted from the assessment roll by the collector, in respect that the collector considered him unable to pay, but without instructions from the Parochial Board; (5) that no application to be exempted from assess-

ment was ever made by Mitchell, nor did the collector ever communicate to him that he had been exempted; (6) that no demand for payment of any poor-rates in respect of his occupancy of the said house was ever made upon Mitchell, nor any tender of payment of any such rates made by him.

"I repelled the objection, and continued the name of the said David Mitchell upon the roll. Whereupon the said Alexander Forbes required from me a special case for the Court of Appeal; and in compliance therewith I have granted this case.

"The questions of law for the decision of the Court of Appeal are—1. Whether, in the circumstances above set forth, David Mitchell is disqualified, in respect that he has not been rated or assessed for the relief of the poor in respect of his occupancy of the said house, or any other account? 2. Whether the exclusion of Mitchell's name from the assessment roll of the parish of Tain as aforesaid, amounts, in the sense of section 3 of 'The Representation of the People (Scotland) Act, 1868,' to an exemption from payment of poor-rates on the ground of inability to pay? 3. Whether, in the circumstances above set forth, Mitchell can be held to have failed to pay any poor-rates in respect of his occupancy, and on that account to be disqualified?"

LORD BENHOLME said this was a somewhat similar case to that of *Bain*. Mitchell occupied a whole house, and for the requisite period. The value of the house was £3, 4s. He was not assessed for poor-rates, his name having been omitted from the roll in respect that the collector considered him unable to pay, but the collector did so without instructions from the Parochial Board. He was of opinion that claimant should not be disqualified.

LORDS ARDMILLAN and MANOR concurred; and the Sheriff's decision was adhered to.

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

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

#### STEWART v. FLETT.

*Act.* Clark, Shand, and Black.  
*Alt.* Gifford and Mackintosh.

*Tenant and Occupant—Sufficiency of Evidence—Valuation Roll.* Circumstances in which held that there was sufficient evidence of the tenancy of a voter who stood in the valuation roll of the burgh as proprietor, tenant, and occupant.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Wick, held by me at Wick on the 5th day of October 1868, under and in virtue of the Act of Parliament 31 & 32 Vict., c. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other statutes therein recited, John Stewart, coach-clerk, Bridge Street, Wick, a voter on the roll, objected to John Flett, merchant, Louisburgh, Wick, being continued on the roll as a voter for the said burgh. The said John Flett stood enrolled as a voter aforesaid, as tenant and occupant of house and shop in Louisburgh.

"It was objected by the said John Stewart that the said John Flett is not tenant and occupant. The said John Flett is entered in the burgh valuation rolls for 1867-1868 and for 1868-1869 as proprietor, tenant, and occupant of house of the yearly rent or value of £10, and of shop and workshop of the yearly rent or value of £9, 10s., all in Louisburgh.