

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.

"The following facts were proved:—That Major William Macleay held an assignation to a tack of the subjects for ninety-nine years from 1791; that voter has possessed since 1829, and paid 1s. a year of tack-duty, and paid all other burdens as owner; that he has no title in his own person except an unstamped letter from the late Mr Robert Rose, who was agent for Alexander Macleay, the eldest son, and Catherine Macleay, a daughter of Major Macleay, of which the following is a copy:—*Wick, 20th November 1829.* SIR.—As authorised by Miss Macleay, and as acting for the Honourable Alexander Macleay, Colonial Secretary for New South Wales, I hereby acknowledge to have received from you the sum of £25, and a bill accepted by you at six months after date for the like amount, in payment of the price of that house and piece of ground acquired by the late Provost Macleay from Donald Robb, and situated in Louisburgh, and now sold to you by Mr Macleay,—it being understood that you are to get a regular assignation to the said piece of ground and lease thereof. Your entry to the premises to be at Whitsunday next, and the expense of the conveyance to be paid by you, as well as the rent stipulated by the conveyance to Provost Macleay for the remainder of the lease. I am, Sir, your obt. servt. (Signed) ROB. ROSE. Mr John Flett, joiner, Louisburgh. P.S.—The conveyance to Provost Macleay, and other titles, are now delivered to you. (Signed) R. ROSE."

"I repelled the objection, and continued the name of John Flett 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—Is the voter entitled to be registered as tenant under the Statutes."

BLACK, for the appellant, maintained that tenancy had not been proved except by an unstamped letter.

The Court, without calling for an answer, adhered.

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

STEWART v. CAMPBELL.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

Burgh Franchise—Husband and Wife—Property of Wife occupied by Husband—Exclusion of jus mariti and Right of Administration. Held that a husband is entitled to be enrolled in respect of his wife's property occupied by him, although his *jus mariti* and right of administration are excluded,

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 7th day of October 1868, under and in virtue of the Act of Parliament 31 & 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, Robertson Campbell, fisherman, Nicolson Street, Pulteneytown, claimed to be enrolled on the register of voters for the said burgh as inhabitant occupier, formerly as tenant, now as husband of owner, Nicolson Street, Pulteneytown, No. 14.

"The following facts were proved:—That the claimant has occupied the property, a self-contained dwelling-house, during the statutory period, and

that on 11th May last his wife became owner of the property by a deed excluding the *jus mariti* and right of administration of her husband. John Stewart, coach-clerk, Bridge Street, Wick, a voter on the roll, objected to the said claim, on the ground that he is not entitled to enrolment as owner, in respect that the property belongs to his wife, and his *jus mariti* and right of administration are excluded.

"I admitted the claim of the said Robertson Campbell. 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 a husband is entitled to be enrolled in respect of his wife's property, occupied by him, where his *jus mariti* and right of administration are excluded?"

The Court adhered to the judgment of the Sheriff.

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

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

STEWART v. CUMMING.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

Burgh Franchise—Dwelling-House—Part of a House—Rating. Circumstances in which held that a party was disqualified as not being rated to the relief of the poor.

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 7th day of October 1868, under and in virtue of the Act of Parliament 31 & 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, John Cumming, harbour constable, Vansittart Street, Pulteneytown, claimed to be enrolled on the register of voters for the said burgh, as inhabitant occupier, as tenant of a dwelling-house in Vansittart Street, No. 17—prior to Whitsunday, Vansittart Street, No. 29.

"The following facts were proved:—The claimant was for several years prior to Whitsunday last tenant and occupant of a self-contained dwelling-house in Vansittart Street; at Whitsunday 1868 he removed to his present dwelling-house, which is part of a house. He was not rated in former years for the relief of the poor, but he appears in the valuation-roll of this year as tenant of his present house, and will be assessed for the present year. The assessment has already been imposed, and ordered to be levied according to the valuation-roll, but the assessment-roll has not yet been made up. John Stewart, coach-clerk, Bridge Street, Wick, a voter on the roll, objected to the said claim, on the ground that he is not rated to the relief of the poor.

"I admitted the claim of the said John Cumming. 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, being previous to Whitsunday 1868 tenant of a self-contained dwelling-house, and not being assessed for the relief of poor, his claim is affected by such non-assessment? and (2), Whether he is now properly held as separately rated for the relief of the poor in respect of the part of a house which he presently occupies?"