

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 and 32 Vict., c. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, James Aird, labourer, Coach Road, claimed to be enrolled on the Register of Voters for the said burgh, as inhabitant occupier, as tenant of a dwelling-house in Coach Road, Wick.

"The following facts were proved:—In 1855 the Magistrates of Wick, in virtue of the 'Act for the Valuation of Lands and Heritages in Scotland 1854,' in appointing the assessor, instructed him to omit the names of all tenants and occupants of subjects under £4 of yearly value, and in consequence the Parochial Board did not assess such tenants and occupants for relief of the poor, Wick being a parish in which poor-rates are levied. The claimant being tenant of a dwelling-house at £2, 15s. of yearly rent, was not assessed for, and had not paid or tendered payment of poor-rates; he had as tenant occupied for the statutory period, and the subjects possessed by him were not part of a house, but a self contained dwelling-house, having only one door to the street, by which no other tenant had right of entry.

"John Stewart, coach-clerk, Bridge Street, Wick, a voter on the roll, objected to the said claim, on the ground that the claimant has not been rated to the relief of the poor.

"I admitted the claim of the said John Aird. 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 assessment for relief of the poor an essential condition of the Burgh Tenancy Franchise under 'The Representation of the People (Scotland) Act 1868'?"

The Court affirmed the judgment of the Sheriff, admitting without discussion.

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

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

STEWART v. BARNETSON.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

31 and 32 Vict., cap. 48, sec. 30—*Exemption from Assessment—Tenant and Occupant.* Held (reversing the judgment of the Sheriff) that a party who had *de facto* received exemption from assessment within the year preceding the last day of July fell under the disqualification of the Statute. *Observed, per Lord Ardmillan,* that exemption from arrears of poor-rates does not operate the disqualification, even although the award exempting should be pronounced within the year.

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 and 32 Vict., cap. 48, intituled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, Alexander Barnetson, sheriff-officer, Riverside, Wick, claimed to be enrolled on the register of voters for the said burgh, as inhabitant occupier, as tenant of a dwelling-house, Riverside, Wick,—prior to Whitsunday 1868, Dempster Street, No. 29.

"The following facts were proved:—That on 27th September 1867 the claimant was exempted from payment of the poor-rates due by him for the year from the first Tuesday of August 1866 to the first Tuesday of August 1867, payable at date of assessment. The claimant had timeously paid the rates due for the year subsequent to the 1st day of August 1867, but had not paid or tendered payment of the rates from payment of which he had been exempted.

"John Stewart, coach clerk, Bridge Street, Wick, a voter on the roll, objected to the said claim, on the ground that the claimant was exempted from poor-rates on the ground of inability to pay, and that within the period of twelve months immediately preceding the 31st July 1868.

"I admitted the claim of the said Alexander Barnetson. 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 exemption from payment of poor-rates within twelve months preceding 31st July 1868, set forth in the Statute, mean the exemption from payment of rates assessed during such period of twelve months? or does the fact of exemption from payment of previous assessments in arrears operate the statutory disqualification?"

The Court unanimously reversed the judgment of the Sheriff, and rejected the claimant.

LORD ARDMILLAN, in giving his opinion, said that if a person had been exempted from an arrear of an old assessment, the mere fact that the award of exemption was within the year would not destroy the franchise. He did not think that exemption of arrears of poor-rates was properly within the Statute. In this case, however, the party had had the benefit of the exemption up to August 1867, and as that was past the 31st July 1867, it was within the year. As he had enjoyed the benefit of exemption from poor-rates within the year, he was of opinion that on that ground the judgment ought to be reversed.

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

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

STEWART v. CUTHBERT.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

Tenant and Occupant—Gas Manager—Register of Voters. Circumstances in which held (affirming judgment of the Sheriff) that a gas manager, who occupied a house belonging to the company and who stood already on the roll, was entitled to be continued on 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 3d 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 John Cuthbert, gas manager, Burn Street, Pulteneytown, being continued on the roll as a voter for the said burgh. The said John Cuthbert stood enrolled as a voter foresaid, as tenant and occupant of house.

"It was objected by the said John Stewart that the said John Cuthbert was not tenant. The said

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