

The Court reversed the Sheriff's judgment.  
 Agents for Appellant—Hughes & Mylne, W.S.  
 Agents for Respondent—Mackenzie & Black,  
 W.S.

STEWART v. GRANT.

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

*Burgh Franchise—Tenant and Occupant.* Circumstances in which held that tenancy was sufficiently established.

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, intitled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, George Grant, rope-maker, East Banks, claimed to be enrolled on the register of voters for the said burgh, as inhabitant occupier, as tenant of a dwelling-house at East Banks. The claimant produced in support of his claim a letter from Alexander Grant, his brother, of which the following is a copy:—'*Rockhampton, Jany. 12, 1865.*—I hereby authorise George Grant, ropemaker, Wick, to keep and remain in possession of that property near the South Toll, known as the deceased William Grant's property, I, the undersigned, being his lawful heir. (Signed) ALEXR. GRANT.'

"The following facts were also proved:—In the burgh valuation-roll for the year 1867–1868 the claimant is entered as proprietor of houses in East Banks of the yearly rent or value of £9, and in the valuation-roll for the year 1868–1869 he is entered as proprietor of houses at East Banks of the yearly value of £10, and as tenant and occupant of one of these houses of the yearly rent or value of £2, 10s. Farther proved that claimant has occupied dwelling-house for eleven years—that he keeps it in repair and pays taxes—that the letter above copied is holograph of the proprietor, who is claimant's brother; that brother wrote claimant that if he paid taxes and kept house in repair that would be equivalent to rent. John Stewart, coach-clerk, Bridge Street, Wick, a voter on the roll, objected to the said claim on the ground that he is not tenant.

"I admitted the claim. 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 the document produced and facts proved establish tenancy in the claimant?"

The Court, after hearing counsel, unanimously affirmed the judgment of the Sheriff, holding that the claimant was really tenant, and could not be turned out of the house without the ordinary warning given to tenants.

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

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

STEWART v. HARPER.

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

31 & 32 Vict., c. 48—*Burgh Franchise—Owner—Long Leaseholder.* Held that a party, whose right to be retained on the roll was objected

to on the ground that he had not established his claim as owner, had not lost his qualification, in respect that under the new Act a long lease, in virtue of which he was enrolled, constitutes ownership.

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., cap. 48, intitled, '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 Harper, shoemaker, Louisburgh, Wick, being continued on the roll as a voter for the said burgh. The said William Harper stood enrolled as a voter foresaid, as owner and occupant of house in Louisburgh, Wick.

It was objected by the said John Stewart that the said William Harper was not owner. The said William Harper is entered in the burgh valuation-rolls for the year 1867–1868, and also for the year 1868–1869, as proprietor of houses in Louisburgh of the yearly rent or value of £13, 10s., and is occupant of one of said houses of the yearly rent or value of £4, 10s.

"The following facts were proved:—That John Harper, the voter's father, now dead, was assignee to a sub-tack for ninety years from 1794 of the subjects claimed on; that the voter is his eldest son, and father left no settlement; and that voter since 1842, prior to which year his father died, has possessed and has paid the sub-tack duties and other burdens.

"I repelled the objection, and continued the name of the said William Harper 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 it necessary to produce a title vesting the subject in the party to enable him to be entered in the list as owner?"

The Court unanimously affirmed the judgment of the Sheriff, holding that, though under the old Act this party was not really owner, the new Act provided that a long lease constituted ownership.

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

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

STEWART v. JOHNSTON.

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

*Tenant and Occupant—Sufficiency of Occupation.* Circumstances in which held that tenancy and occupancy had been sufficiently established.

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., c. 48, intitled '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 Alexander Johnston, photographer, Willow Bank, being continued on the roll as a voter for the said burgh. The said Alexander Johnston stood enrolled as a voter foresaid as tenant and occupant of photographic rooms, Bridge Street, Wick.

"It was objected by the said John Stewart that the said Alexander Johnston is not tenant and occupant for full statutory period. The said Alexander Johnston is entered in the burgh valuation roll for the year 1867-1868 as tenant and occupant of photographic rooms in Bridge Street, Wick, of the yearly rent or value of £10, and in the valuation roll for the year 1868-1869 as tenant and occupier of photographic rooms in the same street, at a yearly rent of £20.

"The following facts were proved:—That the premises on which voter is entered were taken in April 1867, on the understanding that the premises then in course of fitting up as a photographic studio should be finished as soon as possible; that they were so far completed prior to Whitsunday 1867 that he took a photograph in them, and went in and out to them superintending the progress of the fittings, and he began to use them permanently as his place of business in September 1867. He paid £11 of rent.

"I repelled the objection, and continued the name of the said Alexander Johnston 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—Do the facts proved establish tenancy and occupancy for the statutory period?"

SHAND and CLARK, for the appellant, contended that the occupancy of the premises did not commence till September 1867.

MACKINTOSH and GIFFORD pointed out that the new premises were merely an extension of the old premises, and they maintained that the tenant's occupancy had commenced when the internal fitting-up commenced, and not when it was finished.

LORD ARDMILLAN was of opinion that the tenant was really occupant of the house from the time that the internal fittings commenced.

LORDS MANOR and BENHOLME concurred.

The Court affirmed the judgment of the Sheriff, with expenses.

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

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

#### STEWART v. MACBEATH.

Act. Clark, Shand and Black.

Alt. Gifford and Mackintosh.

*Burgh Franchise—Owner—Title.* A party on the roll, without a written title, had occupied a house as owner, paid taxes, &c., since 1845. He was objected to that he was not owner. Objection sustained, a title of ownership being indispensable.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Wick, held at Wick on the 5th day of October 1868, under and in virtue of the Act of Parliament 31 and 32 Vict., c. 48, intitled, '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 Peter Macbeath, blacksmith, Louisburgh, Wick, being continued on the roll as a voter for the said burgh. The said Peter Macbeath stood enrolled as a voter foresaid, as owner and occupant of house in Louisburgh, Wick.

"It was objected by the said John Stewart that the said Peter Macbeath is not owner. The said Peter Macbeath is entered in the burgh valuation-

rolls for the year 1867-68, and for the year 1868-69, as proprietor and occupant of a house of the yearly rent or value of £3.

"The following facts were proved:—That he has no written title; that he has possessed as owner, and paid all public and parochial burdens as owner, and expended money on property since 1845; and his possession has not been disturbed by any one.

"I repelled the objection, and continued the name of the said Peter Macbeath 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 it necessary to instruct ownership under 'The Representation of the People (Scotland) Act 1868' by production of a written title? or, Is the voter entitled to be registered on the facts proved, without such title?"

LORD ARDMILLAN said that he was very sorry to come to the conclusion that this was a bad vote, because he entertained strongly the opinion that it was not necessary to produce a conclusive and complete written title to make a man owner in the sense of the Statute. He thought that if a man, upon the facts stated to them, had clearly the means of establishing by action that he had a good title, and of enforcing the giving him of a good title as owner, they might sustain his title, although he could not produce now a good written title. In this case, however, there was nothing of this kind; and it was not the law of Scotland that possession without any scrap of title made a man owner. He thought they must reverse the judgment of the Sheriff in this case.

LORD MANOR concurred with Lord Ardmillan. A title of ownership was absolutely indispensable. It might not be completed, but there must be a regular formal written title.

LORD BENHOLME concurred.

The Court unanimously reversed the judgment of the Sheriff, and ordered the names of Peter Macbeath and other five voters, whose qualification depended upon the same question of law, to be expunged from the roll.

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

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

#### MANSON v. SINCLAIR.

Act. Clark, Shand and Black.

Alt. Gifford and Mackintosh.

*Tenant and Occupant—Continuity of Residence—Absence for 12 Months.* Held that absence for 12 months from one's house, although he intended to return and did return, and the premises were not in the interval let for hire, but were occupied by members of the claimant's family, was fatal to a claim.

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., c. 48, intitled 'The Representation of the People (Scotland) Act 1868,' and the other Statutes therein recited, George Manson, fisherman, Bank Row, Pulteneytown, claimed to be enrolled on the Register of Voters for the said burgh, as inhabitant occupier, as tenant of a dwelling-house, Bank Row, Pulteneytown.

"The following facts were proved:—That the voter has been for some years tenant of the premises claimed on; the furniture in the house be-