

"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-