

"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?"

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.