

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 Thomas Adam, bank-agent, Bridge Street, Wick, being continued on the roll as a voter for the said burgh. The said Thomas Adam stood enrolled as a voter foresaid, as tenant and occupant of house, Bridge Street, Wick.

"It was objected by the said John Stewart that the said Thomas Adam was not tenant of the said house. The said Thomas Adam is entered on the burgh valuation rolls for each of the years 1867-68 and 1868-69 as tenant and occupant of house in Bridge Street, Wick, of the yearly rent or value, the former year of £35, and the current year £25.

"The following facts were proved:—The voter is joint-agent at Wick for the Aberdeen Town and County Banking Company, his father being the other joint-agent, but who does not live in the house. The terms of his appointment were verbally arranged between his father and the bank. The voter has no writing instructing his appointment as joint-agent, or his right to occupy the dwelling-house on which he is enrolled. The house is the bank's property, and the bank office is part of the same building. There was nothing empowering the bank to remove him at will, neither was there anything to the contrary, so far as the voter knew, in his agreement with the bank. He has an annual salary. The right to occupy the house is part of his remuneration. Is under no obligation to reside in it, but a good house being provided for agent, he resides there.

"I repelled the objection, and continued the name of the said Thomas Adam 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 Adam is to be regarded in law as tenant?"

SHAND, for the appellant, contended that Mr Adam was removeable from the house at pleasure of the bank.

LORD BENHOLME said that this case must follow the case of the bank-agent already decided. The *onus* lay upon the appellant to prove that the right of the bank-agent to the house in this case was of a defeasible character. That had not been done, and the judgment of the Sheriff must be affirmed.

LORD ARDMILLAN concurred, remarking that the case was different from that of a claimant, because the party here was upon the roll, and that was *prima facie* evidence of his possessing an indefeasible right to the tenancy of the house; and unless that *prima facie* case could be set aside by proof upon the part of the objector, the name must be retained upon the roll.

LORD MANOR 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. BRUCE.

Act. Clark, Shand and Black.

Alt. Gifford and Mackintosh.

Joint-Tenant and Occupant—Burgh Voters Act, —Error in Description—Right of Sheriff to Alter. Held (affirming judgment of Sheriff) that the Sheriff was entitled to correct an error

in the description of subjects upon which the qualification depended, the name of one street having been substituted for another *per incuriam*.

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 George Bruce, fishcurer, Breadalbane Terrace, Pulteneytown, being continued on the roll as a voter for the said burgh. The said George Bruce stood enrolled as a voter foresaid as joint-tenant and occupant of cooperage and stores in Burn Street, Pulteneytown.

"It was objected by the said John Stewart that the said George Bruce was not joint-tenant of cooperage and stores in Burn Street, Pulteneytown, John Bruce and the voter are entered in the burgh valuation roll for the year 1867-1868, as joint-tenants and occupiers of cooperage and stores in Telford Street, Pulteneytown, of the yearly rent or value of £40, and in the valuation roll for the year 1868-1869 as joint-tenants and occupiers of cooperage and stores at 'Breast of Old Harbour,' of the yearly rent or value of £40.

"The following facts were proved:—The premises of which the party was admittedly joint-tenant are situated in an adjacent parallel street called 'Telford Street,' and the assessor explained that 'Burn' Street was inserted in this and previous years' lists *per incuriam*.

"The list of voters was altered by the Sheriff by deletion of the word 'Burn' and the insertion of the word 'Telford' in the description of the subjects.

"I repelled the objection, and continued the name of the said George Bruce 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 the Sheriff had power so to correct the list?"

SHAND, for the appellant, maintained that the Sheriff had no power to make a material alteration upon the description of the subjects claimed upon.

The Court unanimously sustained the judgment of the Sheriff.

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

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

#### STEWART v. AIRD.

Act. Clark, Shand and Black.

Alt. Gifford and Mackintosh.

31 and 32 Vict., c. 48—Burgh Franchise—Tenant and Occupant—Exemption from Assessment. A party desired to be enrolled as tenant and occupant of a whole dwelling, for which he paid a yearly rent of £2, 15s. He had occupied for the statutory period, but had never been assessed for poor-rates, the assessor having received instructions to omit from assessment all tenants and occupants of subjects under £4 of yearly value. Held (affirming the judgment of the Sheriff) that the claimant was entitled to be put 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 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