

occupy any part of the property, the same being wholly in the occupancy of tenants.

"I sustained the objection, and expunged the name of the said Charles Davidson from the roll. Whereupon the said Charles Davidson 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 a party acquiring a right as owner to property in a burgh before 31st July in any year entitled to be entered on the roll of voters for the same year; or is possession for 12 months previous to 31st July of that year necessary?"

The Court unanimously adhered to the judgment of the Sheriff, with expenses.

Agents for Appellant—Hughes & Mylne, W.S.
Agents for Respondent—Mackenzie & Black, W.S.

FORBES v. MITCHELL.

Act. Gifford and Mackintosh.

Alt. Clark, Shand, and Black.

Tenant and Occupant—Burgh Franchise—Rating—

Exemption. Held that a party who had been exempted by the collector of poor-rates on the ground that he did not consider the voter able to pay,—the collector having received no instructions to that effect from the Board,—and who had not been assessed for relief of the poor, retained his qualification.

The following special case was stated in this appeal:—"At a Registration Court for the burgh of Tain, held by me at Tain on the 1st 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, Alexander Forbes, solicitor in Tain, a voter on the roll, objected to David Mitchell being continued on the roll as a voter for the said burgh. The said David Mitchell stood enrolled as a voter for the burgh as tenant and occupant of dwelling-house in Ross Street.

"It was objected by the said Alexander Forbes that the said David Mitchell had not been assessed for poor-rates applicable to the period of his occupancy of said house, in respect of his occupancy or otherwise, and so was not entitled to be enrolled as a voter. The said David Mitchell produced, in support of his right to be continued as a voter on the roll, the writs, of which copies, so far as material, are appended hereto, and which are to be held as embodied in this case, and to constitute part thereof, viz.:—(1) Extract minute of Parochial Board of Tain, dated 15th July 1847; (2) Extract minute of said Parochial Board, dated 31st October 1855.

"The following facts were also proved:—(1) That Mitchell occupied as tenant the whole of the house referred to in the description of his qualification, and for the requisite period; (2) that the value of the said house, as appearing on the valuation roll, was £3, 4s.; (3) that there is an assessment for poor-rates in the parish of Tain upon owners and occupiers of heritages, but no assessment for poor-rates was made upon Mitchell for the year 1867-68; (4) that his name was omitted from the assessment roll by the collector, in respect that the collector considered him unable to pay, but without instructions from the Parochial Board; (5) that no application to be exempted from assess-

ment was ever made by Mitchell, nor did the collector ever communicate to him that he had been exempted; (6) that no demand for payment of any poor-rates in respect of his occupancy of the said house was ever made upon Mitchell, nor any tender of payment of any such rates made by him.

"I repelled the objection, and continued the name of the said David Mitchell upon the roll. Whereupon the said Alexander Forbes required from me a special case for the Court of Appeal; and in compliance therewith I have granted this case.

"The questions of law for the decision of the Court of Appeal are—1. Whether, in the circumstances above set forth, David Mitchell is disqualified, in respect that he has not been rated or assessed for the relief of the poor in respect of his occupancy of the said house, or any other account? 2. Whether the exclusion of Mitchell's name from the assessment roll of the parish of Tain as aforesaid, amounts, in the sense of section 3 of 'The Representation of the People (Scotland) Act, 1868,' to an exemption from payment of poor-rates on the ground of inability to pay? 3. Whether, in the circumstances above set forth, Mitchell can be held to have failed to pay any poor-rates in respect of his occupancy, and on that account to be disqualified?"

LORD BENHOLME said this was a somewhat similar case to that of *Bain*. Mitchell occupied a whole house, and for the requisite period. The value of the house was £3, 4s. He was not assessed for poor-rates, his name having been omitted from the roll in respect that the collector considered him unable to pay, but the collector did so without instructions from the Parochial Board. He was of opinion that claimant should not be disqualified.

LORDS ARDMILLAN and MANOR concurred; and the Sheriff's decision was adhered to.

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

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

STEWART v. FLETT.

Act. Clark, Shand, and Black.

Alt. Gifford and Mackintosh.

Tenant and Occupant—Sufficiency of Evidence—Valuation Roll. Circumstances in which held that there was sufficient evidence of the tenancy of a voter who stood in the valuation roll of the burgh as proprietor, tenant, and occupant.

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., c. 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 Flett, merchant, Louisburgh, Wick, being continued on the roll as a voter for the said burgh. The said John Flett stood enrolled as a voter aforesaid, as tenant and occupant of house and shop in Louisburgh.

"It was objected by the said John Stewart that the said John Flett is not tenant and occupant. The said John Flett is entered in the burgh valuation rolls for 1867-1868 and for 1868-1869 as proprietor, tenant, and occupant of house of the yearly rent or value of £10, and of shop and workshop of the yearly rent or value of £9, 10s., all in Louisburgh.