man, instead of producing a piece of work as his *essay-piece*, must be allowed to produce a hammerman's daughter, and to say, *that* is my *essay-piece*.

AUCHINLECK. The use of corporations, and for which the law allows them, is, that the lieges may be insured of having persons capable to work in the several trades necessary for society. Hence, when I hear of a corporation of tailors, I send for one of them, and desire him to make me a suit of clothes; but, on conversing with him, I learn that he cannot draw a thread, but is a fishmonger. [When I want to have my horse shod, must I go to a shoemaker; myself shod, to a hammerman?]

BRAXFIELD. The regulations sought to be declared are absurd and ridiculous, and inconsistent with the law of the land. It would, however, have been better had a reduction been brought of the strange and unconstitutional act of the corporation of hammermen in 1770.

PRESIDENT. I would have had the same difficulty, were it not that the pursuers have brought a declarator.

On the 13th December 1776, "The Lords sustained the defences;" adhering to Lord Kennet's interlocutor.

Act. D. Rae. *Alt*. A. Wight.

1776. *December* 13. AGNES PEADIE *against* ARCHIBALD HAMILTON.

PROCESS—ADJUDICATION.

In a process of adjudication, the defender is entitled to take a day to produce a progress, whatever may be the consequence, to the pursuer, of the delay.

[*Faculty Collection, VII.* 329; *Dictionary, App. I.; Pro. No. II.; Sup. V.* 457.]

PRESIDENT. Your Lordships will consider this cause as independent of the Christmas vacation altogether; and you will determine whether, if the demand now made, were made during the sitting of the Court, you would grant it. I never understood that a first adjudication could be on one diet. *Ex æquitate* there has been an indulgence in order to establish a *pari passu* preference. But the Court has never relaxed from its forms in order to establish a preference; and yet *that* is here sought.

BRAXFIELD. I know no case where a *first* adjudication can be allowed to proceed on one diet. A *second* may, because a second adjudication admits of no defence. Defences only *contra executionem* are reserved in a second adjudication. It is common to make two diets of compearance; but, in the case of *Hamilton of Bourtreehill*, the Lords allowed the summons to be enrolled in one, for it was thought that a summons was not the worse for having an unnecessary diet of compearance. In this case, how can we dispense with the Act 1672, which allows a day to produce a progress? Besides, the intention here is not to obtain a *pari passu* preference; but, on the contrary, there is a *jus quæsitum* to the other creditors, through the negligence of this petitioner; and *that* we cannot frustrate.

KENNET. We cannot go beyond the regulations of the law.

KAIMES. The case comes to this, "*Three years* are allowed for completing my diligence; but I find that three years are not enough, and therefore you must give me a week or a month more."

On the 13th December 1776, "The Lords refused the petition."

For the petitioner, J. Boswell, Mat. Ross.

1776. *December* 14. HERITORS of the PARISH of ECCLES *against* The EARL of MARCHMONT and OTHERS.

KIRK.

Division of a Kirk. Area, after being seated, how to be divided.

[*Faculty Collection, VII.* 336; *Dictionary,* 7924, and *App.* —.]

HAILES. If this interlocutor were to be altered, a greater confusion would ensue than if all the churches in Scotland were to be settled by popular elections. The plan of the petition is, that the inhabitants of a parish are to have seats at random and indiscriminately, so that he who comes first to the church will have his choice: this might have done very well in former times when the area of the church was left void, and people brought their stools with them, which they threw at the minister if they did not like his doctrine; but it will not do in our age,—there is no necessity for a particular law in order to divide the seats in churches. Good order requires a division, and no better rule can be devised than that which practice has adopted, *that* of dividing by the valued rent: this may be attended with inconveniencies, as every human institution is; but it is surely better than that of putting the churches in Scotland in the state of the commonties of royal burghs, which cannot be divided.

BRAXFIELD. Altogether of the same opinion. In a parish where there is a burgh and a landwart parish, a different rule must, from necessity, be observed, and an area equal to the wants of the burgh must be set aside.

KAIMES. In cases like this, there can be no rule but the valued rent.

PRESIDENT. I have no notion that any other rule can be followed: many decisions of the Court have proceeded on the opinion that this was law. In the case of *The Parish of Bathgate,* the Court found that Lord Torphichen, as patron, was entitled to the first choice.

On the 14th December 1776, "The Lords found, that the division of the church must be according to the valued rent;" adhering to Lord Kennet's interlocutor.

Act. A. Crosbie. *Alt.* H. Dundas.