

other place where the property is situate, and number of the house, if any."

The notice of claim in the County Voters Act, as given in Schedule C of that Act, and which I have already quoted, did not require more information to be given than under the Burgh Voters Act. Construing the words "nature of qualification" without the aid of the decision in *Hill v. Anderson*, I would come to the conclusion that what was required was simply that the claimant should set forth the character in which he claimed, as proprietor or tenant, or as husband in right of wife, or as joint proprietor, or other character; and it would be out of place to insert in the column, along with the character of the qualification, the subjects in respect of which the qualification was had.

When a point of practice is once settled by decision of this Court the ruling should be adhered to unless it be shown to be clearly wrong. Unless this is recognised and acted on, the administration of the law of registration will get again into its old confusion and uncertainty, to prevent which was the cause of creating this Appeal Court.

I am of opinion that the appeal should be sustained, and a remit made to the Sheriff to hear and dispose of the claim.

The Court refused the appeal.

Counsel for Appellant — Brand. Agent—  
William Archibald, S.S.C.

Counsel for Respondent—Dickson. Agent—  
W. G. L. Winchester, W.S.

## COURT OF SESSION.

Thursday, November 22.

### FIRST DIVISION.

[Lord Kinnear, Ordinary.

BRUCE *v.* BRUCE AND OTHERS.

*Commonly—Division of Commonly—Act 1695, c. 23—Discretion of Commissioner.*

The Court will not interfere with the commissioner appointed in a process of division of commonly in regard to matters of detail, but only if he goes wrong in principle.

William Arthur Bruce, Esq. of Symbister, Shetland, raised an action of division of the scattalds or commonly of North Cunningsburgh, Haddabister, and Cliff Hill, in Shetland, in the year 1878.

In July 1878 the Lord Ordinary (RUTHERFURD CLARK) remitted to the Sheriff-Substitute of Shetland as commissioner. After two separate schemes of allocation had been prepared by a surveyor under the directions of the commissioner, to which one or other of the parties lodged objections, a third scheme of division was prepared, and by interlocutor dated 5th June 1882 was allowed to be seen by the parties.

Thereafter Nicol Bain and other small proprietors, who claimed in the division, lodged objections to this scheme. These objections raised

no question of principle, but dealt entirely with minor matters of detail.

The Lord Ordinary (KINNEAR), before whom the case came to depend, repelled the objections, and remitted to the Sheriff-Commissioner to proceed further in the cause.

The objectors reclaimed.

At advising—

LORD PRESIDENT—It appears to me that in a process of division of commonly the whole practical work must necessarily be done on the spot by the commissioners and surveyors appointed by him, and in every matter of detail the Court must necessarily trust to them to carry out the Act of 1695, and if, as in this case, the Act is not strictly applicable to the circumstances, then to conform as nearly as possible to it. The office of this Court is really to give effect to the scheme of division prepared by the commissioner. Its control over the commissioner consists in this, that if he goes wrong in principle it will set him right, or if he comes for instructions on any doubtful point it will advise him, but as for interfering with his decision in practical matters, that is a thing which I have never heard of the Court doing. The objections here raise no question of principle; they are all objections to matters of detail in the scheme of division. If we were to interfere in such matters we should be taking a leap in the dark, and might upset the whole process so far as it has gone. I am not prepared to do that, and therefore I think the decision of the Lord Ordinary should be affirmed.

LORDS DEAS, MURE, and SHAND concurred.

The Court adhered.

Counsel for Pursuers (Respondents)—Henderson. Agents—Mackenzie & Kermack, W.S.

Counsel for Defenders (Reclaimers)—Galloway. Agent—Thomas Carmichael, S.S.C.

Friday, November 23.

### FIRST DIVISION.

[Sheriff of Argyleshire.

NELMES & COMPANY *v.* EWING.

*Landlord and Tenant—Urban Lease—Hypothec—Invecta et Illata—Furniture Hired by Tenant for Purposes of his Business.*

The tenant of a billiard-room hired the tables and other furnishings forming the stock-in-trade at a weekly rate. After they had been for several years in his possession he fell into arrear with the hire, and the proprietor of them removed them. The landlord thereupon used sequestration, and obtained warrant to have them carried back in order to subject them to his hypothec for rent to become due for the current year. In a petition for interdict against the landlord's selling or interfering with them—held that they were subject to the landlord's hypothec.

Henry Nelmes & Company, billiard and bagatelle table manufacturers, Wellington Street, Glasgow, on 30th July 1876 agreed to let on hire to John