ference at all, unless we are prepared to sequstrate trust-estates wherever the testator has chosen English trustees. I therefore think that no cause has been shown for granting the prayer of this petition.

LORD ADAM—I concur. There is no ground for taking this step. The sole reason, the petitioner alleges, is that she is afraid of the Court of Chancery obtaining possession of this estate.

LORD M'LAREN—The motive of this petition is a fear that the trustees or legatees may approach the English Courts, which may affect the position of the next-of-kin in an action of reduction which they intend to prosecute. There are no doubt cases where the Court has appointed a judicial factor and removed trustees for the purpose of securing that the estate should not be removed to foreign parts. It is, however, a sufficient answer to that that the trustees here have disclaimed any intention of taking any step to prejudice the claim of the petitioner; and further, until actual proceedings are taken, and we know something of them, we cannot sequestrate, because we cannot tell whether they are legal or not.

LORD KINNEAR concurred.

The Court refused the prayer of the petition.

Counsel for the Petitioner — Sol.-Gen. Graham Murray, Q.C.—Kennedy—F. T. Cooper. Agents—Pringle, Dallas, & Company, W.S.

Counsel for the Trustees—D.-F. Balfour, Q.C.—Wilson. Agents—Duncan & Black, W.S.

Counsel for the Mildmay Mission to the Jews—Asher, Q.C.—Dundas. Agents—J. & J. H. Balfour, W.S.

Tuesday, December 1.

FIRST DIVISION.

WILSON AND ANOTHER, PETITIONERS.

Bankruptcy Act 1856 (18 *and* 19 *Vict. c.* 79)—*Computation of Time.*

Section 67 of the Bankruptcy Act provides — "The Lord Ordinary or the Sheriff by the deliverance which awards sequestration shall appoint a meeting of the creditors to be held at a specified hour on a specified day being not earlier than six nor later than twelve days from the date of the *Gazette* notice of sequestration having been awarded" . . . for the election of a trustee and other business.

On 5th October a Sheriff awarded sequestration, and appointed a meeting of creditors to be held on 12th October. Notice of sequestration was published in the *Gazette* on 6th October, being the first publication of the *Gazette* after the award of sequestration. The meeting was held on the 12th October. The Court *held* that an interval of six days must elapse after the close of the day of the *Gazette* notice, and before the commencement of the day of meeting, and appointed a new meeting of creditors to take place.

The estates of William Wilson were sequestrated by the Sheriff-Substitute of the county of Ayr at Kilmarnock on 5th October 1891, and in the deliverance awarding sequestration he appointed a meeting of the creditors to be held on the 12th day of October 1891 for the purpose of electing a trustee and commissioners.

In terms of sec. 67 of the Bankruptcy (Scotland) Act 1856 this meeting required to be held "on a specified day, being not earlier than six nor later than twelve days from the date of the *Gazette* notice of sequestration having been awarded." Notice of the sequestration and of the place and date of the said meeting was inserted in the *Edinburgh Gazette* of Tuesday the 6th of October 1891, which was the first publication of the *Gazette* after the deliverance awarding sequestration and appointing the meeting was pronounced. The meeting of creditors was duly held on 12th October 1891, and a protest was made on behalf of certain creditors against the legality of the proceedings, in respect that timeous notice of the meeting had not been given in the *Gazette* in terms of the Bankruptcy Statute. The creditors, notwithstanding the protest, elected a trustee and commissioners on the sequestrated estates. When the minutes of the meeting were reported to the Sheriff-Substitute he declined to confirm the election of the trustee on the ground that statutory notice of the meeting had not been given. He held that six clear days must elapse between the date of the *Gazette* notice and the date fixed for the meeting, and that the meeting having been held on the sixth day after the date of the *Gazette* notice the statutory notice had not been duly given.

The bankrupt and a concurring creditor presented this petition to the First Division of the Court of Session praying their Lordships "to remit to the Sheriff of the county of Ayr to declare the said Andrew Stewart to have been duly elected trustee on the sequestrated estates of the said William Wilson, and thereafter on the said Andrew Stewart finding caution, to confirm his election as such trustee, or otherwise to appoint a meeting of the creditors of the said William Wilson to be held within the George Hotel, Kilmarnock, on such day as your Lordships shall appoint, to elect a trustee, or trustees in succession, and commissioners upon the sequestrated estates of the said William Wilson, and to do the other acts provided by the Bankruptcy Statutes, and to appoint intimation of the said meeting to be made in the *Edinburgh Gazette*, and to remit to the said Sheriff of the county of Ayr to proceed further in the matter in terms of the Bankruptcy Statutes."

Argued for the petitioner—The words of

sec. 67 were ambiguous, but the intention of the statute that notice such as had been given here would be sufficient was shown by the language of the clause. If six clear days had been essential this would have been clearly required, and in the absence of any such words the opposite might be presumed—2 Bell's Comm. 197; *Scott* v. *Rutherfurd*, December 7, 1839, 2 D. 206; *Greig* v. *Anderson*, February 23, 1883, 20 S.L.R. 241.

No answers were lodged and no appearance was made on behalf of other creditors.

At advising—

LORD PRESIDENT—The Court hold that the terms of sec. 67 of the Bankruptcy (Scotland) Act of 1856 are such as to require that an interval of six days must elapse after the close of the day of the *Gazette* notice, and before the commencement of the day of meeting.

The meeting to which the petition relates was therefore not legal, and the Court will appoint a fresh meeting to take place.

Counsel for the Petitioners — Goudy. Agents—Carmichael & Miller, W.S.

Tuesday, December 1.

FIRST DIVISION.

THE MAGISTRATES OF STROMNESS, PETITIONERS.

Burgh — Burgh of Barony — Election of Magistrates — Police and Improvements Scotland Act 1862 (25 *and* 26 *Vict. cap.* 101)—*Failure to Elect Magistrates.*

A burgh of barony under the powers of its Crown charter elected its magistrates and councillors on the first Wednesday in September every third year, the electors being male owners or tenants of land of the annual value of £10.

In 1863 the burgh adopted the General Police Act of 1862, but in spite of the extension of the franchise under the Amendment Act of 1868 to occupiers of land of the yearly value of £4, and under the General Police Act 1882 to female occupiers of the same value, the elections continued to be conducted under the charter, the last being held in September 1888.

In November 1891, after the date of the election for that year under both the Charter and the Burgh Election Acts had elapsed, the Court was asked to direct the town-clerk of the burgh to make up the roll of electors, including male occupiers of lands or premises of the yearly value of £4 and upwards as appearing in the valuation roll, and female occupiers of lands or premises as aforesaid who were not married, or, being married, did not live in family with their husbands, or otherwise, including only persons qualified in terms of the said charter of Stromness, and to appoint a returning officer to hold the election under the provisions of the Ballot Act.

The Court *refused* to do more than appoint a returning officer to act at the election to be held on December 18th following.

The town of Stromness, in the county of Orkney, is a burgh of barony, incorporated by a Royal charter dated 18th February 1817, and written to the seal, registered and sealed at Edinburgh 21st March 1817, with all powers whatever pertaining to any free and independent burgh or barony, and in particular with power to the burgesses to elect their own magistrates and councillors, viz., two bailies and nine councillors, it being declared that all male inhabitants within the burgh, being of lawful age and infeft in any heritable subject within the said limits, or possessing as tenants any heritable subject within the same of a rent of £10 sterling yearly or upwards, should have the right of burgesses and be entitled to vote at the elections. By the charter provision was made for the first election by the burgesses of two bailies and nine councillors, who should continue in office till the first Wednesday of September 1819, when the burgesses should again meet for the purpose of electing magistrates, councillors, and town-clerk in like manner as in the original election, and it was declared that the like election should take place on the first Wednesday of September in every third year thereafter.

The first election of the Magistrates and Council of the burgh of Stromness was held as provided by said charter in the year 1817, and subsequent elections have been held on the first Wednesday of September in 1819, and every third year thereafter, the last having been held on the first Wednesday in September 1888.

In 1863 the burgh of Stromness adopted the General Police and Improvement (Scotland) Act 1862, but notwithstanding that fact and the extension of the franchise under the General Police Improvement Act Amendment Act of 1868 to male occupiers of premises of the value of £4 per annum, and under the Improvement Act of 1882 to female occupiers, no change was made in the municipal qualifications, and elections continued to be made every third year, and voting by ballot was not introduced in spite of the passing of the Ballot Act of 1872, as it had been considered that these statutes did not apply to the burgh of barony.

In a petition presented by the acting Magistrate and Councillors of the burgh, however, they stated that "when preparing for the election, which according to former practice would have taken place in September last, doubts arose in the minds of the petitioners on the subject, and, upon advice, they resolved not to hold the election in September on the old qualification, but that effect should be given to the changes above indicated, and