separately, and the question is whether he is entitled to have this done. We have the material before us for making a separate valuation, for the assessor says that the stables would in his opinion be fully valued at £16, and that £100 would be a moderate valuation for the hotel. For the purposes of this case the appellant is willing that the subjects should be valued at these figures.

The material facts are fully set forth in the case. The hotel is situated in the High Street of Grantown-on-Spey. The stables are erected on part of the same feu, but entered from Spey Avenue. They are immediately behind and adjacent to the hotel, and there is access from the back door of the hotel to the stable yard. It is specially stated in the case that the stables being structurally separate could be separately let.

These being the facts, it appears to me that the matter is concluded by authority. In the case of the *Bank of Scotland* (18 R. 936) it was held that the premises of the bank, which included under one roof the banking offices and the dwelling-house of a bank official, which had no internal communication with the bank offices, ought to be separately valued. Lord Kyllachy said —"The test, I think, here is whether the houses in question are capable, not merely physically, but, all conditions being considered, of being separately let and having a separate rent or value attached to them." On the facts in the present case this test is completely satisfied. It does not appear to me to be of the smallest consequence that the appellant works his hiring business to some extent along with his hotel business. Even if he hired horses and carriages exclusively to hotel visitors the test laid down by Lord Kyllachy would be equally satisfied. In the case there before the Court the bank was the occupier of both the dwelling-house and the offices, the dwelling-house being occupied by one of their officials for bank purposes. Here, on the other hand, the only connection between the hiring business carried on in the stables and the hotel is that the 'bus which the hotel sends to meet passengers at certain stations and the horses which draw it are accommodated in the stable premises. This 'bus, while it conveys the customers and guests to and from the hotel, also conveys passengers who do not go to the hotel. There is no necessity for the appellant conducting the hiring business himself, for he could equally well make arrangements with a tenant by means of which he could get the same advantage.

Great stress was laid on the statement in the case that there is access from the back door of the hotel to the stable yard. That appears to me wholly immaterial in view of the decision in the case I have referred to, and also in the case of the same parties in 17 R. to which it was a sequel. If there is an internal communication between two parts of premises occupied by the same owner, it has been held that they fall to be valued as a *unum quid*, but that is mainly because in their actual condition they are not capable of being separately let. In the earlier case of the *Bank of Scotland* Lord Trayner dealt with the case of stables attached to a town house—"The stables of a gentleman in town are as much a convenience or accessory to his town residence as they are in the case of a country residence. They are not, however, valued along with the town residence, although situated in the adjoining street or mews. They are not so connected—as they were in the case of a country mansion or residence—as to make it impossible or difficult to let them separately." These words are entirely applicable to the circumstances disclosed here. On principle I consider the opinions from which I have quoted to be absolutely sound, and the rule established is capable of very easy application. It would be absurd to make a distinction between stables situated close to a hotel and stables at some little distance from the hotel but connected by telephone, and equally so to force a hotel-keeper, in order to escape undue taxation, to sublet his stables. For these reasons I am very clearly of opinion that the valuation committee were wrong; and that the value of the stables should be separately entered in the valuation roll.

LORD CULLEN—I concur with your Lordship in the Chair.

Stabling is a common adjunct of a country hotel. In the present case the hotel, the stabling, and the garden ground behind the stabling form one continuous property. There is communication between the different parts, and, in particular, between the hotel and the stabling. The subjects are thus suited for occupation as one holding, and they are in point of fact so occupied by the proprietor for the purposes of his hotel business. In these circumstances it appears to me they should be entered in the valuation roll as a *unum quid*.

The Court upheld the determination of the valuation committee.

Counsel for the Appellant—Chree—Keith. Agent—James Purves, S.S.C.

Counsel for the Assessor — Hon. W. Watson. Agent—Charles George, S.S.C.

Thursday, December 14.

(Before Lord Johnston, Lord Salvesen, and Lord Cullen.)

HAGGART *v.* LEITH ASSESSOR.

Valuation Cases—Value—Public-House—Principle of Valuation—Business Turnover—Percentage of Gross Drawings.

As the result of an agreement between the assessor and a representative of the licensed traders of a burgh, with a view to securing uniformity in the valuation of public-houses in the burgh which were in the occupation of the

proprietors, the assessor valued a large number of such premises on the basis of annual turnover, by taking seven per cent. thereof as the yearly value in each case. In about sixty cases the valuations thus brought out were acquiesced in, but the owner of one public-house, whose valuation had been thereby increased, appealed.

Held that, in the circumstances, the assessor's valuation should be upheld.

At the Burgh of Leith Valuation Court held at Leith on Tuesday, 12th September 1911, James Haggart, wine and spirit merchant, 156-158 Albert Street, Leith, appealed against the following entry in the valuation roll of the burgh for the year ending Whitsunday 1912—

Description.	Situation.	Proprietor.	Occupier.	Yearly Rent or Value.
Shop & Cellar	156-158 Albert Street	James Haggart	James Haggart	£210

and craved that £80 be substituted for £210.

The Committee, after evidence had been led, determined that the subject should be entered in the roll at £175, whereupon the appellant craved a Case.

The Case gave the following *facts*—"1. The premises in question are situated at 156-158 Albert Street, Leith, and are occupied as a licensed public-house. The appellant has been owner and occupier of the premises since the year 1894. The shop is a corner one, with an area of about 1062 square yards, has about 63 feet of frontage, and is situated in a populous locality. The premises have a large bar and suitable cellarage, and are well adapted for carrying on an extensive business.

"2. From 1900 to 1910 the yearly rent or value as appearing in the valuation roll was £80. In 1910, in consequence of the increase of licence duty imposed by the Finance Act 1909-10, representations were made to the assessor by many of the licence-holders in Leith, including the appellant, for a reduction of the valuation of their premises. The appellant also lodged an appeal against the valuation of his premises at £80, and craved that it should be reduced to £60; but by agreement between his agent and the assessor the rental was allowed to remain at £80 for another year, as it was anticipated that some general principle of fixing assessable rentals for public-houses might be laid down by the next Lands Valuation Court.

"3. At meetings which the assessor had in 1910 with Mr Garden, S.S.C., secretary and agent of the Leith Wine, Spirit, and Beer Trade Association, who represented the majority of the licence-holders within the burgh, including the present appellant, there were for the first time furnished to the assessor, at his request, returns of the spirit turn-over per permit books, the beer turn-over, also notes as to the weekly and annual drawings of various public-houses the assessable rentals of which were under consideration by the assessor. After consideration and discussion, Mr Garden and the assessor agreed that, after taking into account various elements, including situation, extent of premises, and the character of the business, a fair basis of rental and equitable principle of assessment would be reached by taking a certain fixed percentage of the annual turn over of each shop. On this basis, accordingly, the Assessor adjusted with Mr Garden a great number of assessed rentals of licensed premises, the result being that (including additional outgoings in respect of the increased licence duty) seven per cent. or thereby of the gross turn-over was fixed as the assessable rental in these cases. On the foregoing basis, in 1910-11 a number of the rents of licensed premises were reduced, and in one case increased. In other cases, including the appellant's, the fixing of the assessed rental was held over in the expectation, as above explained, that some general principle of assessing the rentals of public-houses might be laid down at the next Lands Valuation Judges' Court.

"4. In five public-house appeals decided by the Valuation Judges last year, in which turn-over was an element in the case, the resultant rental, after making allowance for half the increased licence duty, varied from six to ten per cent. of the gross turn-over from three weeks to five and a quarter weeks average weekly drawings, and from 17 to 29½ per cent. of the gross profit. The appellant's turn-over of spirits has been as follows—1900-1, 2383 proof gallons; 1908-9, 1778 proof gallons; 1909-10, 1218 proof gallons; 1910-11, 1367 proof gallons. The appellant's turn-over in beer amounted in 1900 to £1087, in 1909 to £689, and in 1910 to £758, 12s. His total turn-over in 1900 was £4179, in 1909 £2983, and in 1910 £3058; equal in the last-mentioned year to £58, 16s. per week. Under the Finance Act 1909-10 the appellant's licence duty has been increased from £21, 18s. 6d. to £34, 5s. 9d. on the basis of an assessed rental of £80, and will be £70, 14s. 5d. on the assessed rental of £175 now fixed by the Court.

"5. The average rate of profit in Leith from public-house businesses is about 33⅓ per cent.—equal to 6s. 8d. per £ of the gross turn-over—but as a considerable part of the appellant's business is a family trade (that is, in liquor sold for consumption off the premises) the gross profit on his turn-over is only 5s. 7½d. per £.

"The assessor, following out the principle of arriving at a fair assessable rental by taking a percentage of the turn-over, fixed the assessable rental of the appellant's premises at £210, being 7 per cent. on the turn-over for the year 1910-11."

In his evidence the assessor stated that in the case of about sixty public-houses occupied by the proprietors, he had fixed the yearly value by agreement on the same principle as he proposed to apply to the appellant's premises.

The Committee were of opinion that the said principle adopted by the assessor was fair and equitable. They, however, in view of the fact that a considerable part of appellant's trade was for consumption off the premises, and that consequently his profits were below the average of public-houses in general, decided to reduce the assessor's valuation appealed against by

one-sixth, making it £175, which they considered to be in the whole circumstances a fair yearly rent for the appellant's premises, conditioned as the fair annual value thereof without grassum or consideration other than rent."

The *contentions* of the appellant were, *inter alia*, stated as follows:—"1. That the average weekly drawings have decreased from £80 in 1900 to £58 in 1911.

"2. That the annual turnover has gone down from £4179 in 1900 to £3239, 0s. 3d. for the year to 31st March 1909; to £3058, 12s. 6d. for the year to 31st March 1911.

"3. That sales have gone down. The gallons of proof spirits as per permit book are as follows:—1900-1, 2383; 1901-2, 2137; 1902-3, 2615; 1903-4, 2287; 1904-5, 2299; 1905-6, 2335; 1906-7, 2040; 1907-8, 2247; 1908-9, 1778; 1909-10, 1218; 1910-11, 1367.

"4. That the Finance Act of 1910 imposed a new duty on spirits equal to 3s. 9d. per gallon, only 2s. 8d. per gallon of which was recovered from the customers of the business or the wholesale trader. There was no change in the quality of spirits supplied.

"5. The valuation of the shop has been £80 since 1900 till the present year. The old licence duty on this rental was £21, 8s. 6d., and the new licence duty £34, 5s. 9d., an increase of £12, 17s. 3d. With the rental assessed at the figure of £175, the new licence duty will be £70, 14s. 5d., or an increase of £49, 7s. 11. of annual burden on the business, no part of which is transferred to the customers.

"6. That owing to the general slump in licensed property, due to depression in trade and other causes, several businesses for sale cannot find purchasers. . . .

"8. That according to expert evidence for the appellant, to which there was no counter evidence, the highest rent which the premises and business would likely secure if let to a tenant in the open market would be £80.

"9. That the appellant in 1910, after furnishing the assessor with the details of his drawings for the previous ten years, withdrew his appeal for reduction from £80 to £60, the assessor agreeing that the former figure was the true value of the premises, and that without any reservation.

"10. That the method adopted by the assessor of valuing by adding a widely varying number of weeks' drawings is entirely wanting in principle and is arbitrary and unjust in its incidence."

The assessor's *contention* in answer was thus stated—"Hitherto there has been great inequality in assessment of public-houses and consequent inequality in the relative incidence of rates. This has arisen from the absence of any fundamental guiding principle, from the arbitrary allocation of sums paid for goodwill, and from the lack of data as to the value of goodwill in the case of premises in the possession of an occupying owner.

"Last year, consequent on the increase of the licence duty under the Finance Act 1909-10, numerous requests for reduction of assessed rentals were made by owners and occupants of licensed premises in Leith of previous years' valuation of their premises. As the result of many meetings which the assessor had with the secretary of the Leith Wine and Beer Trade Association, who also acted for owners and occupiers and others licence-holders not connected with the association, he and they and the assessor agreed that an equitable basis of assessment would be—after taking into account the situation and extent of the premises and character of the business—a rental based on actual turn-over, and on this basis the said secretary and the assessor adjusted valuations in a considerable number of cases, the figure adopted being 7 per cent. of the gross turn-over or 20 per cent. of the gross profits. The result of applying this principle was to reduce rents in certain cases and to increase them in one case. By agreement with the appellant's agent in the case under appeal and in some other cases the previous year's rentals were allowed to remain pending the decision of cases which, it was anticipated, would be submitted to the Lands Valuation Judges from other burghs.

"In assessing the appellant's premises at £210 for the present year the assessor was only carrying out the agreement provisionally made with the secretary and agent for the trade the previous year. The decisions of the Appeal Judges, however, did not expressly deal with a general principle of fixing assessable rentals on the basis of annual turnover or weekly drawings.

"The former rental of the appellant's premises was adjusted in 1901 at £80 per annum. When that rental was fixed the turnover was not known to the assessor, and therefore could not be taken into account. Though it is conceded that in common with almost every public-house in the burgh the turnover of this house has decreased, it is obvious that on the basis of turnover or on any other fair basis these premises, which are owned and occupied by the appellant, were inadequately assessed.

"Since 1901 there have been extensive building operations and an increase of population in the district. There is also an open space, which is used at New Year time as a carnival and in the summer time for shows. These attract a large number of people to the district and increase the custom of the public-house.

"Applying the principle which the assessor in a large number of cases adopted last year, with the concurrence of the representative of the trade in Leith and other licence-holders, the assessor in order to bring the appellant's rental into equality with the rental of other licensed premises—arrived at on the basis of turnover—increased the valuation of the appellant's premises from £80 to £210, which is equal to 7 per cent. of the annual turnover or three and two-third weeks' drawings."

Argued for the appellant—Hitherto the recognised rule had been to value this class of property by comparison with other similar premises—*Noble* v. *Leith Assessor*,

February 16, 1879, 1 F. 584, 36 S.L.R. 599. The annual turnover of the business might be considered as an element in determining the question, but it was incompetent to take it as the sole criterion of value. In England the proposed principle of valuation on the basis of drawings had been applied to a limited extent, only, however, where it was found impossible to proceed by comparison—*Dodds* v. *South Shields Assessment Committee*, L.R., 1895, 2 Q.B. 133; *Cartwright* v. *Sculcoats Union* (1st report), L.R., 1899, 1 Q.B. 667. The proposed principle was unfair, because it ignored the personal element which went far to build up a good business. Counsel also referred to *Hughes* v. *Stirling Assessor*, March 2, 1892, 19 R. 840, 29 S.L.R. 625.

Argued for the assessor—Annual turnover afforded the best general basis for fixing the fair rent in the case of licensed premises which enjoyed a quasi-monopoly, although this might not be true in the case of an ordinary trader—*Cartwright* v. *Sculcoates Union*, 1900 A.C. 150; *Oakbank Oil Company* v. *Midlothian Assessor*, March 15, 1902, 4 F. 520, 39 S.L.R. 581. That principle might no doubt in particular cases have to yield to other considerations, but in the present case all the circumstances were in favour of its adoption.

At advising—

LORD SALVESEN—The appellant in this case is the owner and occupier of a public-house in Leith, and he appeals against the determination of the valuation committee, who have fixed the fair rental of his premises at £175. For a number of years the same premises in the same physical condition have been entered in the valuation roll at the sum of £80, and the appellant claims that his valuation should be reduced to that figure. He has, besides, led evidence to show that there has been a marked falling off in his turnover during the past few years, and in addition there has been a considerable increase in the licence duty which he has to pay. If, therefore, the premises were fairly valued in 1905 at £80, there is no reason for increasing the valuation, but very good grounds on which it might be reduced.

The case for the assessor is that the premises have been very much undervalued in the past, and that he only discovered this when he ascertained from the appellant himself what were his annual drawings. The present valuation has been admittedly made on the basis of these annual drawings. The assessor's original valuation was £210, which represents 7 per cent. on last year's drawings, or approximately three and a half times the weekly drawings.

One of the grounds of the appeal is that in September 1910 the valuation of the appellant's premises was settled by agreement between him and the assessor at the former figure of £80. This arrangement, however, was and could only be binding for one year, and at the time when it was made the assessor had not the particulars with regard to the appellant's business on which he has since proceeded. I attach no importance, therefore, to this so-called settlement.

The ordinary way in which the assessable value of a public-house in the owner's occupation has been hitherto ascertained is by comparison with other public-houses in the neighbourhood which are let under *bona-fide* leases. In the absence of information as to the extent and character of the business conducted in a particular public-house this is probably the only way open to the assessor, but the application of this method must often be difficult, and in many cases I think it is likely to lead to very inequitable results. The actual size of the premises affords no safe criterion of the value of the business conducted within them, nor can the amount of custom be accurately gauged from the situation of a particular public-house, although situation is perhaps the most important factor in the value of licensed premises. Two shops of equal size situated at a short distance from each other in the same thoroughfare may have a very unequal turnover, and yet this inequality may not be due in any degree to the personal qualities of the licence-holder, but to some reasons which are more or less occult. The assessor here was of opinion, and the valuation committee have agreed with him, that when he has reliable information as to the drawings of a particular shop, these drawings afford the very best basis upon which to estimate the rental which one year with another a tenant would pay for the premises.

There is high authority in support of the assessor's view. In the case of *Cartwright* (A.C. 1900, p. 150) Lord Macnaghten said—"It appears to me that the volume of business done in a public-house as apparent to the man in the street, if I may use such an expression, is the very first thing that a tenant proposing to make an offer for such a house would take into consideration . . . That is clearly one of the circumstances which would influence persons bargaining about the rent of such a house as this." Lord Morris expressed the same view; and added that "the best way of ascertaining what the trade was which was going on would be the production of the books of the then tenant"; and the other judges concurred. Now in this case the assessor in making his valuation had before him the actual volume of trade that the appellant was doing. It may very well be that he could not have compelled him to have furnished the information; but the appellant cannot complain if the figures which he himself has furnished of his own free will should be used against him. His object in furnishing them no doubt was to show that his business had diminished and so to secure a reduction of his assessed rental. He may be entitled to refuse similar information in future; and in a case where the assessor has no information as to the actual volume of business done in a particular house, he may, as Lord Morris expressed it, be "obliged to forage about for the purpose of ascertaining in the best way he can under those circum-

stances what the profits would be," as, for instance, by comparison with the actual lets of public-houses in the district. But when he has actually been furnished with the tenant's turnover, and, as in this case, with the additional statement by the appellant as to his gross profits, I cannot assent to the idea that he should leave out of view what Lord Shand terms "the element of all others which a tenant might be expected to take into view in fixing the rent he ought to give for the premises."

The particular percentage which it would be right to apply to an ascertained turnover must, however, be justified on grounds which are consistent with the Valuation Act. There is no reason *a priori* why 7 per cent. of the drawings of a public-house should be presumed to represent its fair rental; and it may well be that the percentage will vary in different localities. But if in a particular burgh it were ascertained as matter of fact that tenants for public-houses could always be obtained apart from certain circumstances at a rental which worked out at 7 per cent. of the turnover, that would go a long way towards solving the problem what a hypothetical tenant would give in the case of a particular public-house. The peculiarity of this case is that neither the appellant nor the assessor had adduced any evidence based upon actual lets of public-houses in Leith. What the assessor, however, proved was that in the case of sixty publicans who occupied their own premises he had assessed their rentals by agreement with their agent on the same basis which he proposed to apply to the appellant. It is not to be assumed that these sixty traders agreed to have their premises assessed on a rental which they could not obtain if they were compelled to let them; and there is therefore a sufficiently large body of evidence to the effect that the rental of an ordinary public-house in Leith may fairly be taken as representing 7 per cent. of the gross drawings. I do not find that there is any evidence for the appellant which displaces the *prima facie* case so established. He has indeed led evidence to the effect that the ratio of profits which he makes in his particular business is less than that which is made in public-houses as a whole, and the valuation committee have made full allowance for this peculiarity; but he has not led any evidence of actual lets which work out at a less ratio, and which, after comparison of these premises with his own, as regards accommodation and situation show that he has been over assessed. He has indeed nothing to rely upon but the fact that the assessor since 1900 has allowed his premises to be entered in the valuation roll at the yearly value of £80—a fact which is of very small importance when it is ascertained that the valuation was made in entire ignorance of the extent of the business which was done in them.

I have therefore come to the conclusion that there is no ground for disturbing the determination of the valuation committee. I desire to say, however, that in reaching this conclusion I am not laying down any rule that in any particular locality the rent of a public-house may be fixed on the principle of taking 7 per cent. of the turnover; and it will be quite open for the appellant to lead evidence next year to show that the sixty publicans who were willing to be assessed on that footing in Leith had entirely misapprehended their true rights, and that on comparison with actual *bona fide* lets it would be found that a tenant would not pay so large a rent. In the present case we are presented with the alternative of either accepting the valuation of the Court below or of reducing the hypothetical rent to £80 for no other reason than that that figure had been fixed by the assessor in 1900. There are no materials on which we could fix any intermediate figure. I have no difficulty in preferring the former alternative, which has at least the merit of being supported by *prima facie* evidence of a cogent kind, and also of placing the appellant on the same footing *quoad* his contribution to the public taxes as sixty of his brother publicans in Leith.

LORD CULLEN—I concur.

LORD JOHNSTON — I am by no means satisfied that justice is being done to the appellant by the decision which we are about to pronounce, although on the case as presented to us I agree with your Lordships that there is no alternative open except to affirm the determination of the valuation committee. I wish, however, to protest emphatically against the idea that we are countenancing, far less fixing, a rule by which assessors are in the future simply to ascertain the turnover of a public-house and then fix the valuation by taking 7 per cent., or any other fixed percentage, of that turnover. I know assessors would be very glad to have such a rule, and I think it probable that the case has been presented with the object of obtaining the Court's sanction to what might be read as such a rule. But however agreeable such a course might be to assessors, in my opinion it is a most improper one for them to take or the Court to sanction. Because though turnover, where it is known, may be in many cases a factor in the valuation of a public-house, there are great differences between public-houses even in the same town, and all of these different considerations must be weighed by the assessor in fixing his valuation. There are the rents of other public-houses in the locality, the relative situation of the particular house as compared with that of others, its surroundings, its accommodation and condition, and generally all those matters which in the experience of practical men are known to affect the value of such premises. I am the more emphatic in my protest because I am averse to the idea of compelling a licence-holder to adduce evidence of his turnover. If an idea got abroad that turnover was the only, or even a necessary, consideration to be taken account of by assessors in fixing valuations, it would practically compel

publicans to produce their business books—a proceeding which, although apparently countenanced in some quarters in England, has been generally recognised both in Scotland and England as inquisitorial and to be discountenanced. I think that to compel production of proof of turnover might very well be an indirect compulsitor to production of business books, because I can imagine in many cases that the deductions attempted to be drawn from turnover might be incapable of being rebutted except by an examination of the licencee's actual business books.

I must also add that I am doubtful whether a safe guide in this case can be found in the alleged agreement between sixty publicans in Leith and the assessor, as we have no knowledge of the circumstances or the footing on which it was made or of its result as a satisfactory basis for valuation.

With this protest I concur in disposing of the present appeal as your Lordships propose.

The Court were of opinion that the determination of the valuation committee was right.

Counsel for the Appellant—J. Wilson, K.C — Macquisten. Agents — Garden & Robertson, S.S.C.

Counsel for the Assessor—M'Clure, K.C. —Lippe. Agent—R. H. Miller, S.S.C.

Friday, December 15.

(Before Lord Johnston, Lord Salvesen, and Lord Cullen.)

DUMFRIES ASSESSOR *v.* KIRK'S TRUSTEES.

Valuation Cases—Value—Condition other than Rent—Trustees Letting a Farm to One of their Own Number.

A farm owned by a body of testamentary trustees, of whom one was the widow of the testator, was, without advertising for a tenant, let on lease to one of their own number, the son of the testator, at a rent which was lower than the figure at which the farm had stood in the valuation roll for a number of immediately preceding years, when it had been owned and occupied by the trustees and their author. The lease contained a provision by which the tenant renounced certain claims, competent to him at outgoing, under the Agricultural Holdings (Scotland) Act 1908. The assessor disregarded the lease and entered the subjects in the valuation roll at the former valuation.

Held that in the circumstances the assessor's valuation was right.

At a meeting of the County Valuation Committee of Dumfries, held on the 13th day of September 1911, the trustees of the late Thomas Kirk as proprietors, and Thomas Kirk as tenant, appealed against the following entries in the valuation roll for the year ending Whitsunday 1912, viz.—

No.	Description and Situation of Subject.	Proprietor.	Tenant.	Occupier.	Yearly Rent or Value.
185	Farm & House, Williamsfield	Kirk, Trustees of late Thomas, farmer, per Mrs Janet Kirk, 5 Portland Place, Maxwelltown	Thomas Kirk, farmer	Tenant	£140
187	Farm & House, Charlesfield	Do.	Do.	Do.	90
189	Shootings, Do.	Do.	Do.	Do.	5

The appellants craved that the entries Nos. 185 and 187 should be reduced to £100 and £70 respectively. The Committee sustained the appeal and reduced the valuation as craved, whereupon the assessor took a Case.

The Case set forth the following *facts* as admitted or within the knowledge of the committee — "1. The appeal to the committee was at the instance of the proprietors and tenant of the two farms of Williamsfield and Charlesfield in the parish of Holywood. The proprietors are the surviving trustees (being also the widow and two sons) of Thomas Kirk, who was the proprietor and occupier of these farms for some thirteen years prior to his death in 1909. The tenant is the elder son and one of the trustees of said Thomas Kirk. At the date of the missive of let produced, the parties were residing in family together at Williamsfield.

"2. The annual value (£230) entered by the assessor in the valuation roll for 1911-12, and appealed against, is the amount at which the farms stood in the roll during the occupation of the late proprietor, and also in the years 1909-10 and 1910-11, when the occupiers were the trustees of the late proprietor (*i.e.*, the present appellants). Prior to the late proprietor entering upon occupation of the farms they were let to a tenant at a rent of £250, 18s. 11d. The two farms contain 237 acres, and the annual value appealed against was equal to 19s. 5d. per acre. The rent stipulated in the missive of let produced and founded on is equal to 14s. 4d. per acre.

"3. The subjects of appeal were not advertised to let, nor was any attempt made to let them to a neutral tenant prior to conclusion of the missive of lease produced."

The missive of let produced and referred to provided, *inter alia*, as follows—"The first parties hereby let to the second party and his heirs, but expressly excluding assignees and sub-tenants, legal or conventional, and creditors or managers for creditors in any shape or form, and declaring that this lease shall in their option terminate in the event of the bankruptcy or declared insolvency of the second party, all and whole the farms of Williamsfield and Charlesfield, with the shootings thereon, all lying in the parish of Holywood and county of Dumfries, and all as at present occupied by the second party, and that for and during the space of one year from the term of Martinmas Nineteen hundred and ten, which is hereby declared