any business he liked on his own account, so long as he did his duties as quarry manager; and the circumstance that the business of the store was so far collateral to the business of the quarry that the employees in the quarry were customers of the store, does not seem to impose any liability on the defender to account to the pursuer for his profits as a retail dealer.

I have hitherto considered the case of sales to quarriers of coals and fodder,—articles supplied for their private and family consumption—because it is the less complicated. The stronger case for the pursuer is, undoubtedly, the sale to the quarriers of dynamite for use in the quarry, and the charge made for sharpening their tools. The solution of the difficulty which at first sight arises on this head is to be found in the question,—what was the contract of service? Now, it is proved that the men worked on the footing that each supplied his own materials and kept his tools in order at his own expense. This being so, it seems to me that the purchase of those articles, and the payment of those repairs are at once relegated to the same category as the purchase of the coal and fodder,—they are personal debts and requirements of the quarriers. The reason is thus made apparent why the defender, with perfect consistency, charges the quarry only with cost price for articles supplied for the work, while he charges retail prices to the quarriers.

The conclusion to which I come at this stage of the argument is, that judging in the meantime by the terms of the agreement with the pursuer, the defender is not bound either to bring the profits of the store into the accounts of the quarry, or to re-state his wages account by crediting himself only with the moneys paid to the quarriers plus the wholesale price of the stores supplied.

When we proceed from the contract to the actings of the parties during the long course of years which ensued, this view received strong corroboration. I shall very briefly state the more salient points.

Payments were made on the states rendered to the landlord; those states were very clear and simple, and showed unambiguously that the profits were quarry profits pure and simple.

This is the more significant because it is proved by the pursuer's own evidence that he knew the defender was carrying on the store, supplying goods to the quarriers, and making profit thereby. He himself ordered for the defender a cargo of household coal for the very purpose.

His attention was called to the curious evidence given before the Crofters Commission about the relations of the quarriers to the defender's store; and the fact that the newspaper report was sent him by the defender shows that the matter was, as between them, entirely above board.

This incident corroborates the defender's account of an occasion, so long ago as 1884, when the defender, according to his testimony, in so many words explained to the pursuer that the store was a purely private adventure of his own, and that the pursuer had no share in its profits. The Lord Ordinary believes that this took place; it is quite consistent with the rest of the facts; and if it did take place, it is a fact of the highest importance, although, like the Lord Ordinary, I think that the defender's case is made out without it. I am for adhering.

LORD ADAM, LORD M'LAREN, and LORD KINNEAR concurred.

The Court adhered.

Counsel for the Pursuer — Guthrie — A. S. D. Thomson. Agent — J. Stewart Gellatly, S.S.C.

Counsel for the Defender—H. Johnston—C. K. Mackenzie. Agents—Murray, Beith, & Murray, W.S.

Thursday, March 18.

FIRST DIVISION.

[Lord Kyllachy, Ordinary.

CLARK *v.* SUTHERLAND.

(*Ante*, p. 153, December 23, 1896; *ante*, p. 349, February 4, 1897).

Election Law—Return respecting Election Expenses—Petition for Authorised Excuse — Inadvertence — Corrupt Practices Act 1883 (46 *and* 47 *Vict. c.* 51), *sec.* 34.

A candidate who had acted as his own agent at an election presented a petition under sec. 34 of the Corrupt Practices Act 1883 for an authorised excuse for certain errors and omissions made by him in his return and declaration respecting election expenses. These consisted, as regards the return, in omitting to enclose certain vouchers, to insert the date of the election, to give the correct Christian name of a person to whom he had paid a bill for hiring and, as regards the declaration, in omitting to insert the date of the election and the total sum paid for election expenses.

Circumstances in which the Court, after a proof, found that the errors and omissions arose by reason of inadvertence, and not by reason of any want of good faith on the part of the petitioner, and *granted* the prayer of the petition.

Observations as to what constitutes "inadvertence" in the sense of the above section.

Election Law — Petition for Authorised Excuse — Amendment — Notice to Constituency—Corrupt Practices Act 1883 (46 *and* 47 *Vict. c.* 51), *sec.* 34.

Section 34 of the Corrupt Practices Act 1883 provides that in a petition by a candidate under that section "the Court may, after such notice of the application in the said county or burgh, and on the production of such evidence

of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the Court seems fit, make such order for allowing an authorised excuse for the failure to transmit such return and declaration, or for an error or false statement in such return and declaration, as to the Court seems just."

A petitioner for an authorised excuse, under the above section, for certain errors and omissions, after a proof had been led, proposed to amend his petition by adding an averment of a further error which had come to his knowledge during the proof, and a prayer for its excuse. *Held* that the amendment was incompetent without further notice being given in the constituency.

Election Law—Return respecting Election Expenses—Petition for Authorised Excuse—Corrupt Practices Act 1883 (46 *and* 47 *Vict. c.* 51), *secs.* 23 *and* 34.

Held (*per* Lord Kyllachy, and acquiesced in) that where an application is made by a candidate for an "authorised excuse" under section 34 of the Corrupt Practices Act 1883, it is incompetent to crave in addition an order under section 23 of the same Act in respect of the same errors and omissions.

Process — Expenses — Reclaiming-Note — Motion for Outer House Expenses.

Where a party reclaiming against an interlocutor of the Lord Ordinary deciding against him both on the merits of the case and on the expenses, wishes to maintain that even if the interlocutor be right on the merits, it is wrong as regards expenses, he must make a motion to that effect in opening his case, and it is too late to move for the Outer House expenses after the judgment has been affirmed on the merits.

This was a petition presented by Dr Gavin Brown Clark, M.P. for the county of Caithness, craving the Court under sec. 34 of the Corrupt Practices Act 1883, "to make an order for allowing an authorised excuse for the petitioner's failure (1) to transmit the return of his election expenses within the time fixed by the Statute 46 and 47 Vict. c. 51, sec. 33; (2) to enclose as part of said return the receipt for £2, 2s. paid by the petitioner to the Lybster Temperance Hall Company; (3) to enclose as part of said return the receipt for £5, 15s. paid by the petitioner to James Nicol, Wick; (4) to insert the date of the election in the return which he made; (5) to state accurately the Christian name of the said James Nicol in the said return; (6) to insert the date of the election in the declaration as to the petitioner's expenses; and (7) to insert in the said declaration the amount paid by him for the purpose of the said election, or for his failure to do any of the above, wherein your Lordships shall consider that the petitioner has not complied with the statute, and further to make an order allowing all or any of the above failures or omissions, if found to have been committed, to be an exception or exceptions from the provisions of the said Act, which would otherwise make the same an illegal practice."

The election in question took place in July 1895, and the petitioner acted as his own election agent. Answers were lodged by Alexander Dugald Mackinnon and Robert Sutherland.

The averments of the petitioner and of the respondents, and the sections of the Corrupt Practices Act 1883 (46 and 47 Vict. c. 51) applicable to the case, will be found in the reports of the previous stages of the case (*ante*, pp. 153 and 349).

In terms of a remit from the Court the Lord Ordinary (KYLLACHY) granted the petitioner and the respondent Sutherland a proof of their averments.

On 5th January 1897, before the proof was taken, the petitioners lodged a minute craving leave to amend the original petition (*vide ante* p. 154) by adding to the prayer the heads 6 and 7 of the above amended petition. The respondent objected, but the Lord Ordinary allowed the amendment. In the course of the proof the petitioner intimated that he did not propose to insist in his application for an excuse for the omission first set forth in the petition.

In the course of the proof certain questions put in cross-examination to the petitioner, and certain evidence proposed to be led by the respondent as to irregularities not mentioned in the petition, were objected to, and the Lord Ordinary sustained the objections.

By an interlocutor dated 14th January 1897 the Lord Ordinary found the petitioner entitled to an order for an authorised excuse in terms of sec. 34 of the statute.

In the course of his opinion (the first part of which will be found *ante*, p. 350) his Lordship observed—"The other point is this. The petitioner asks to have an excuse under the 34th section of the statute, that being the section which deals specially with errors or omission in connection with the return of election expenses. He also, however, asks for an order under the 23rd section of the statute, which section deals generally, *inter alia*, with all acts or omissions of a candidate at any election, which, by reason of being in contravention of the provisions of the Act,' 'would be but for that section an illegal practice, payment, employment, or hiring."

"I do not know the precise object for which the double order so sought is desired. It perhaps has to do with a certain difference in the language of the two sections—the 23rd section providing that the Court shall make an order allowing 'an exception from the provisions of the Act,' and the 34th section providing for an order for allowing an 'authorised excuse.' It seems to me, however, that what the statute contemplated in the particular case with which we have here to deal, was that the order should be an order under the 34th section, and that that order should be sufficient. Indeed, I doubt whether, upon a strict construction of the words of the 23rd

section, an order under that section would be competent. For the exception there authorised is confined to the case where *but for that section* the omission would be an illegal practice. And that cannot, I apprehend, be predicated of errors or omissions with respect to the return of election expenses, seeing that by section 33 (sub-section 6) such errors or omissions constitute illegal practices only if and when they are without an 'authorised excuse'—that is to say, an excuse under section 34. For these reasons I have dismissed that part of the prayer which asks for an exception under section 23."

The respondent reclaimed, and the Court recalled the Lord Ordinary's interlocutor, repelled the objections to the evidence proposed to be led by the respondents, and remitted to the Lord Ordinary to proceed (see *ante*, p. 349).

In the course of the proof the petitioner gave evidence which amounted substantially to the averments made by him in the petition, which are quoted at pages 154-5, *ante*. He further admitted that in sending the declaration he had inadvertently omitted to fill up the blanks in which it was intended that the date of the election and the amount of expenses should be inserted, but explained that he considered the return of election expenses to be the most important matter, and had accordingly not paid so much attention to the declaration.

In cross-examination the petitioner deponed as follows:—"(Q) You don't sign or declare anything as to the account of expenses, but only to the declaration?—(A) Evidently that is so. I read over the declaration myself before I signed it, and made deletions in it. In the first paragraph I have scored out the words 'by my election agent.' (Q) Was that done by yourself or by Mr Caldwell?—(A) I cannot say. I left in the words 'if the candidate is also his own election agent.' (Q) Immediately after the words 'by my election agent,' which you scored out, came the words 'the sum of pounds and no more.' Why didn't you fill that up, which occurs three words after those that you have deleted?—(A) I don't know; it was by pure inadvertence. It was not by inadvertence that I scored out the words 'to my election agent.' (Q) How do you account for your inadvertence in regard to the much more important matter three words further on, in omitting to put in the amount of pounds which represented your election expenses, and which you declare to be true?—(A) I don't know; I cannot explain it. (Q) How do you come to make a solemn and sincere declaration in regard to a blank sum like that?—(A) Because what I considered the principal and important portion of the paper was the statement of expenses, which showed the amount of every item."

The petitioner admitted that when he transmitted the return he had forgotten that he had incurred a hiring account of £2, 9s. to Henderson's Royal Hotel, Thurso, during his candidature. He stated that he had left Wick the night of the election without empowering anyone to pay accounts for him, and after speaking in various constituencies had gone abroad.

Mrs Clark, wife of the petitioner, deponed that the above account had been sent to her by Surgeon-General M'Lean while her husband was abroad, and that she had paid it, and had not told her husband till February 1896, when she informed him that she had paid an account without mentioning the nature of it.

Surgeon-General M'Lean spoke to having received the account in November or December 1896, and to having sent it to Mrs Clark.

The petitioner, after the proof was closed, craved leave by minute to further amend the petition by adding the following statement—"At the time when the petitioner transmitted the said return he had completely forgotten that he had incurred a hiring account to Henderson's Royal Hotel, Thurso, during his candidature. The account had not been sent in to the petitioner, and he had not paid it. The account, which amounted to £2, 9s., was sent in about November 1895 to Surgeon-General M'Lean, a supporter of the petitioner at Thurso, with whom the petitioner was residing at the time when the said account was incurred. Surgeon-General M'Lean sent it to Mrs Clark, who paid it with her own cheque, not knowing that it was an expense connected with the petitioner's election. The petitioner was at that time in India, and did not know till his return home, in or about March 1896, that his wife had paid the said account for him. He was not informed that the account which had been paid was one in connection with his election, and did not know that it was so until after the 5th January 1897, when the said account was referred to by the respondent Sutherland at the previous diet of proof in this petition. The petitioner omitted to mention the said account in his return through pure inadvertence, and he had no intention whatever of not returning any expense he had incurred."

He also craved leave to insert in the prayer of the petition, after the words "said election" in the 7th head, the following words: "'(8) To include as an unpaid claim in the return of his election expenses the sum of £2, 9s., incurred to Henderson's Royal Hotel, Thurso,' and (*Fourth*) To omit the first head of the prayer of the petition."

The Lord Ordinary (KYLLACHY) on 9th March 1897 pronounced the following interlocutor:—"Having considered the petition as amended, with the answers and the evidence led, including the additional evidence led of this date, Finds (1) that the petitioner does not insist in that part of the prayer of the petition which prays for an authorised excuse for the failure first mentioned in the prayer, except in so far as such failure may be held to be constituted by the omissions or errors second, third, fourth, fifth, sixth, and seventh mentioned in said prayer: Finds (2) that the said errors or omissions second, third,

fourth, fifth, sixth, and seventh mentioned in said prayer arose by reason of inadvertence, and not by reason of any want of good faith on the part of the petitioner: Finds (3) that in these circumstances the petitioner is entitled to an order for an authorised excuse in terms of the 34th section of the statute: Therefore excuses the said errors or omissions in terms of said section, and also excuses the petitioner's failure to transmit the return and declaration respecting his election expenses as required by the statute, in so far as the said errors or omissions imported or may be held to import such failure so to transmit: To the above extent and effect grants the prayer of the petition: *Quoad ultra* dismisses the same: Finds no expenses due to or by either party, and decerns: Further, refuses the motion made by the petitioner at the close of the discussion for leave to amend the petition as proposed by minute."

Opinion.—"I find nothing in this additional evidence to lead me to modify my former conclusion, that the errors and omissions for which an excuse was here sought were not inspired by any sinister motive, but were the result of inadvertence, and not of bad faith. Whether the petitioner requires to be excused for the alleged additional irregularities to which to-day's evidence applies, I of course say nothing. That will come up in another form. All I say at present is, that my present impression would not probably be different although these alleged additional irregularities should be held as proved. What I shall do is to repeat my former interlocutor, inserting merely the words 'as also the additional evidence led of this date.'"

The respondent reclaimed, and argued—(1) The amendment came too late, being put forward only at the very end of the proof. Nor could it be admitted, under section 34 of the Act, unless notice were given in the county, since it introduced new matter. It should have formed the ground of a new application. He now admitted in it a serious offence, which he had practically denied at the first proof. (2) The petitioner by his gross neglect of the provisions of the statute had exhibited a "want of good faith" which might be inferred from such neglect as well as from acts of a fraudulent nature. The various acts for which the petitioner asked to be excused were some of a trifling nature, but one, viz., the failure to fill up the blanks in the declaration, was most important. Where there were various offences such as these, the Court, while it might excuse one, would not excuse the occurrence of so many—*Hobbs*, February 11, 1889, 5 *Times L.R.* 272.

Argued for petitioner and respondent—(1) The notice required to be given in the county was not specified in section 34 of the Act. There had been an advertisement stating that the petition was being presented, and it was in the discretion of the Court to hold that it was enough to cover this amendment. The respondent Sutherland had been the only person to come forward in answer to that advertisement, and he was in no way prejudiced by this amendment. (2) The proof showed that there had been no wilful disregard of the statute by the petitioner, and that his omissions were all due to inadvertence. He had £700 or £800 to come and go upon, and there was no reason why he should make his return smaller by wilfully omitting items. He might have included all his hiring expenses in his "personal expenses" which required no vouchers, and thus it would have been unnecessary to ask for an excuse for failing to send James Nicol's receipts.

At advising—

LORD PRESIDENT — The petitioner, in order to obtain the excuse prayed for, has to satisfy the Court that the omissions to be excused arose from inadvertence and not from want of good faith. The ease or difficulty of making out such a case must depend to some extent on the nature of the omissions in each individual instance, and, it might be, on the number of them. Now, it cannot be said that the things specified in the prayer of this petition are in themselves unlikely to have arisen from inadvertence or are presumptive of bad faith. The omission to send in the return in sufficient time has been withdrawn from the prayer of the petition, and accordingly we have no occasion to consider the merits of that question except in so far as the evidence relating to it may bear on the question of conduct. The omission of the hiring account has the less importance, because this was, properly speaking, an item of personal expenditure, the amount of which might have been added to the sum of personal expenses, and never have appeared as a separate item at all. The other omissions are in matters of detail.

The question of inadvertence and good faith being a question of fact and of conduct, I should find it extremely difficult to differ with the Judge who heard the evidence of the petitioner and the other testimony, and who has found that the omissions were caused by inadvertence.

The respondents, however, have shown that other omissions have occurred on the part of the petitioner for which relief is now sought in this petition. These are relevant to the present question in so far as they may, by their quality or circumstances, throw light on the spirit in which the petitioner performed his duties under the statute in relation to expenditure and accounts. One of these is certainly, until accounted for, a very grave omission. Every candidate is required to make a solemn declaration stating the total sum which he has spent on the election. In one sense this may be regarded as the most important of all those statutory returns. Yet this candidate attested this return with a blank in the place for the sum, and sent this (which was no return at all) to the statutory officer. The explanation of what at first sight seems gross carelessness, outside the region of inadvertence, is to be found in the fact that the petitioner has

acted as his own election agent, and had, at the same time as this skeleton candidate's return was signed, filled up and signed in his own name the election agent's return, showing the total expenditure and the particulars. When this is known we see how much more readily the same gentleman might treat what in his case he might regard as virtually a repetition of what he had already attested on his personal responsibility.

It was also disclosed in evidence that another hiring account had not been stated in the accounts, and had been paid by the petitioner's wife after the time allowed by statute. Our attention was also drawn to the fact that the petitioner had taken no pains to get in accounts, and had immediately after the election gone abroad, making no provision for these matters being attended to. It was argued that this, combined with the other omissions, showed that no honest attention had been paid by this gentleman to the duties imposed upon him in the two capacities which he chose to combine in his own person, and that each of the omissions was thus traced, not to inadvertence, but to a deliberate disregard of the statute.

I do not think that the facts come up to this, although I accede to the view that a deliberate disregard of the statute could never be treated as inadvertent. The inadvertence must be inadvertence regarding the particulars in question; there must be a failure in an individual matter, or individual matters, of a general attention. Now, while it is necessary to consider the proceedings of the petitioner in both his qualities (of candidate and of election agent), we are directly concerned with his omissions as candidate. I think—and it is necessary to say this—that the petitioner's duties as agent were performed in a negligent manner. But the fact that he is not a good or efficient agent must not affect our consideration of the manner in which he has done or left undone the statutory duties of candidate. And while, in face of these several violations of the statute, it is impossible to speak of them otherwise than with reprehension, yet we have to remember that in the exercise of our present jurisdiction we are necessarily in the region of what is in greater or less degree blameable, because it requires an excuse. And as we are sitting as a Court of Appeal I am not prepared to disturb the judgment of the Lord Ordinary on the evidence taken before him.

I also agree with the Lord Ordinary in declining to allow the proposed amendment of the petition. The petitioner did not desire that this fresh case of omission should be brought within the present petition unless we could go on and dispose of it without intimation being made in the county. Now, the so-called amendment is simply the introduction of a separate and substantive omission, which, requiring a new prayer for excuse, might of itself form the subject of an application to the Court. It seems to me, therefore, to be clear that under section 34 we would have no option but to appoint some intimation within the county.

Without anticipating anything that may occur in any other proceedings, it may be right to say that, as evidence was led relating to this new omission, it has been within the circumstances which I have found it necessary to consider in disposing of the present application.

LORD M'LAREN—I entirely concur and wish only to make one observation. Your Lordship has stated that there may be a breach of the statute which is not excusable without a corrupt motive—that a wilful disregard of the statutory requirements is sufficient to void an election.

Now, although the Act of Parliament deals liberally with a certain kind of expenditure, and allows a candidate to put down any personal outlays not exceeding £100 as personal expenditure without requiring him to give details, I do not think that it is a compliance with the Act to put down a merely nominal sum of £2, 2s., because, although details are not required, the actual total expenditure must be stated. I am satisfied, however, that in this case there was no intention to evade the statute by putting down a nominal sum. Mr Clark's personal expenditure was really very small, because he took advantage of the hospitality of his friends during the period of his election tour. Accordingly he had very little to pay except these hires, which for some reason appears to have been overlooked.

LORD ADAM concurred.

LORD KINNEAR was absent.

Counsel for the reclaimer moved for expenses both in the Inner and Outer House, on the ground that he had been doing a public service in coming forward, and that he had shown that errors had been committed which but for his appearance would never have been known.

LORD PRESIDENT—We must deal with the question of expenses on the footing that the Lord Ordinary's interlocutor stands as to the expenses as well as to the merits of the case.

I have always understood the correct practice to be as follows. When the reclaimer says that the Lord Ordinary is wrong on the merits of the case, and asks that his judgment should be reversed, if this be done there must be a fresh discussion as to expenses, because the standing disposal of that question has gone by the board and the new disposal of expenses must be consequential on the new determination of the merits, whatever it may be. But when he says that even if the Lord Ordinary's decision be right on the merits it is wrong on the expenses, in that case he should in opening make a motion on that point. Nothing of the kind has been done here, and on that account, and not because we are of opinion that the Lord Ordinary's decision was right, we must hold that the respondent is not

entitled to Outer House expenses. What then of the Inner House expenses? We have adhered to the interlocutor reclaimed against, and in accordance with the well-known rule in such cases we must find Dr Clark entitled to the expenses of the reclaiming-note simply because the reclaiming-note is refused.

LORD ADAM—I agree. I think that your Lordship's statement of the principle which regulates expenses in such circumstances as we have here is correct. This is not a case in which the expenses follow the merits. Mr Jameson's position is this. He says—*esto* that the Lord Ordinary is right on the merits, he is wrong on the question of expenses. That is a substantive ground for reclaiming against the interlocutor, and should have been opened on.

LORD M'LAREN — I think it is a fair question for consideration whether, when a respondent in a petition of this kind confines himself to fair cross-examination of the witnesses and criticism of the evidence, he is not entitled to get expenses on the ground that he appears in the interests of the general body of electors to assist the Court in scrutinising the evidence. If this point had been taken in reclaiming against the Lord Ordinary's finding with regard to expenses, I should have been prepared to give it favourable consideration, but as the point was not opened on we cannot deal with it.

The expenses of the reclaiming-note are in a different position, because I am inclined to think that the integrity and purity of elections are sufficiently vindicated if the questions are submitted to the judge of first instance. The reclaimer would appear to have persisted rather in the interests of party than in the interests of the constituency as a whole.

The Court refused the motion and adhered to the interlocutor reclaimed against with expenses.

Counsel for Petitioner — Ure — Cooper. Agents—M'Naught & M'Queen, S.S.C.

Counsel for Respondent—A. Jameson—Crole. Agents—A. & S. F. Sutherland, S.S.C.

Friday, March 19.

FIRST DIVISION.

[Edinburgh Dean of Guild Court.

LORD SALTOUN AND OTHERS, PETITIONERS.

(*Ante*, July 3, 1896, 33 S.L.R. 694, 23 R. 956.)

Burgh—Dean of Guild—Edinburgh Police and Municipal Amendment Act 1891 (54 *and* 55 *Vict. cap. cxxxvi.*) *secs.* 49 *and* 50.

Section 49 of the above Act provides that on a petition being presented to the Dean of Guild Court for the alteration of the structure of any existing house or building the burgh engineer shall report to the Court, "and the Dean of Guild may decline to grant warrant until the Court is satisfied that the plans provide suitably for . . . light, ventilation, and other sanitary requirements."

In a petition for warrant to build a room over an existing lobby, the burgh engineer reported that "This place is already sufficiently built on, having regard to the light and ventilation of existing buildings." No objections were made to the sufficiency of light and ventilation in the proposed addition. The Dean of Guild refused the prayer of the petition.

Held that the provisions of the section as regards light, ventilation, and other sanitary requirements applied only to the proposed additions and not to existing buildings, and that accordingly the judgment of the Dean of Guild fell to be *recalled* and the warrant granted.

Section 49 of the Edinburgh Municipal and Police Amendment Act 1891 provides that "The Clerk of the Dean of Guild Court shall forthwith, on receiving" a petition for the erection of any house or building, or the alteration of the structure of any existing house or building, "give notice to the Burgh Engineer, who shall, before such petition is heard, report to the Court whether in his opinion the plans are in conformity with the provisions and requirements of the Edinburgh Municipal and Police Acts: And the Dean of Guild Court may decline to grant warrant for the erection of any house or building, or for the alteration of any existing house or building. until the said Court is satisfied that the plans provide suitably for strength of materials, stability, mode of access, light, ventilation, and other sanitary requirements, and are otherwise in conformity with the provisions of the Edinburgh Municipal and Police Acts."

Section 50 of the Act, as amended by section 34, sub-section 7, of the Edinburgh Improvement and Municipal Police Amendment Act 1893 (56 and 57 Vict. cap. 144), enacts that "Every new house, and any building altered for the purpose of being used as a house," shall have at the rear thereof a specified amount of open space, "provided also that in the case of the erection of houses with shops on the ground floor, or of the conversion of a house into a building to be used for business premises only, the Dean of Guild Court may sanction the erection of saloons upon such open space of such height and construction as to them shall seem proper, such saloons to continue so long only as such building is so used for business purposes, but where any building is to be used for business premises as much open space shall be required as in the discretion of the Dean of Guild Court shall be sufficient for the purposes of light and ventilation."

Lord Saltoun and others, the trustees of an order of Freemasons, proprietors of the premises No. 74 Queen Street, presented a