

tices of Ayrshire had no power to pronounce a decret for expenses against the pursuer; and reduce, decern, and declare in terms of the second conclusion of the summons: Find no expenses due to or by either party.

Agents for Pursuer—Tods, Murray, & Jamieson, W.S.

Agents for Defender—J. & R. D. Ross, W.S.

LANDS VALUATION APPEAL COURT.

(Before Lords Ormisdale and Mure.)

No. 88.—(LANARK.)

28th May 1872.

ROBERT BINNING.

Value—Dwelling-House (Glasgow)—Owner the Occupier—Comparison with other Houses—One House less in size in same Terrace let—Last year's value fixed at £140—This year reduced to £135.

The appellant is owner and occupier of a house in Princes Terrace, Glasgow, which is assessed at the value of £175. Last year it was assessed at £155, and was reduced on appeal to £140. The terrace consists of 12 houses, all of the same size, excepting Nos. 6 and 7, which are two-thirds the size of the appellant's, and all occupied by the owners, excepting No. 7, which is let at £125. The appellant referred to the value, as assessed, of other houses in the West End of Glasgow, and stated if his house were valued at the same rate of floorage the assessment would be £115. The assessor alleged the houses referred to were entered at too low a rate, and although houses of the same description were seldom let, yet, where let, the rent obtained bore out his valuation. The Commissioners reduced the valuation to £135.

Held that the Commissioners were wrong, and that the assessable value of appellant's house should be £140.

No. 89.—(LANARK.)

28th May 1872.

CALEDONIAN RAILWAY COMPANY.

Railway (Caledonian)—Dwelling-Houses outside the Railway Fence—Occupiers Employees of Railway Company—Whether they should be in Railway Assessment or County Assessment?

Dwelling-houses belonging to the Caledonian Railway Company, in the parishes of Dalziel and Bothwell, situated beyond the railway fence, occupied by employees of the Railway, are entered in the County Lands Valuation Roll—the Caledonian Railway Company as proprietors, and the employees as occupiers. The employees occupy the houses only while in the service, and on leaving service must vacate the houses without formal notice. They pay rent, which is deducted from their wages. They consist of five classes, who are entitled to different periods of warning: 1. Heads of departments, three months; 2. Chief clerks, &c., two months; 3. Other clerks, one month; 4. Guards, &c., two weeks; 5. Porters, &c., one week. They are all liable to immediate dismissal for disobedience, &c.

The appellants alleged the houses were included in the Valuation Roll made up by the Assessor of Railways, and fell within "stations, wharfs, docks, depots, counting-houses, and other houses and places of business," in § 21 of 17 and 18 Vict., cap. 91.

The Commissioners refused the appeal.
Held that the Commissioners were right.

COURT OF SESSION.

Friday, May 31.

FIRST DIVISION.

STOPFORD BLAIR'S TRUSTEES AND OTHERS,
PETITIONERS.

(FOR OPINION OF THE COURT.)

An unfortunate error has crept into our report of this case, on pp. 490, 491, which we take the earliest opportunity of correcting.

The conclusion of the report should be, as is correctly set forth in the rubric,—The Court answered the first alternative in the negative, and the second in the affirmative.

Saturday, June 8.

SECOND DIVISION.

SPECIAL CASE—TENNETT (MURRAY'S
TRUSTEE) AND OTHERS.

Apportionment.

A father (in implement of a reserved power of dividing his estate among his children in such share and proportion, or shares and proportions, as he might appoint by a writing under his hand, which failing, equally among them), disposed one third of his estate to his second son. This deed was delivered, and infetment followed on it. Ten years afterwards, his second son being alive, he executed a settlement in which he directed his trustee at his death to sell his estate, and divide the proceeds among his children in certain proportions, viz., to his eldest son the sum of £3000, the balance to be equally divided among his other children. *Held* that the first deed was a valid exercise of the reserved power of apportionment, and irrevocable; that the second deed was inept; and that the second son was entitled to share the two thirds unapportioned, equally with the other children.

By disposition in trust, dated 3d April 1829, granted by Robert Rollo, writer in Edinburgh, he sold and disposed to Dorothy Elizabeth Boehm, Mark Kennoway, and Henry Charles Gibbs, and to the survivors or survivor of them, and to the heirs of the longest liver, as trustees and fiduciaries, and in trust for the use and behoof of Margaret Maxwell Hamilton, otherwise Murray, wife of John Murray, Esquire, in liferent, for her liferent alimentary use alienarly, and exclusive always of the *jus mariti* and right of administration of the said John Murray, her husband, and not affectable or attachable by the debts or deeds of her, or of her said husband, or by any diligence or execution