

HOUSE OF COMMONS
SELECT COMMITTEE ON
PRIVATE BILLS (GROUP I)
Mercurii 6o die Aprilis 1859

The Honorable Eliot Thomas [Yorke](#) in the Chair

FALKIRK POLICE BILL.

LIST OF WITNESSES

	PAGE
Evidence of Mr. Robert Henderson	2
Evidence of Mr. Robert Robertson	26
Evidence of Mr. James Girdwood	34
Evidence of Mr. Thomas Kier	43
Evidence of John Gair Esq.	60
Evidence of Mr. Alexander Black	75

Mr Mundell stated from an intimation which he had received from the Opponents he should be prevented from shortening the Case in as much as they did not admit the statements which had been made to the Committee with regard to the sanitary condition of Falkirk.

The Chairman stated that in the opinion of the Committee a [prima facie](#) case had been established with regard to the bad supply of water insufficient drainage bad paving and with regard to the debt of the Stint Masters.

Mr Gloag stated that the Opponents of the Bill did not admit the Case as it had been laid before the Committee by the Promoters.

Mr Robert Henderson further examined by Mr Mundell.

You have a general knowledge of the Town of Falkirk and you have heard what has fallen from the Witnesses who have been called with reference to the state of cleansing paving lighting and so forth?

Yes.

Do you agree with those Gentlemen in their opinion from your knowledge.

I do

Some questions were asked yesterday as to the Nuisance Removal Act has your attention been drawn to the Clauses which are in the Special Act which we are now asking for

Yes

Will you be kind enough to point out to the Committee how far the benefits that might be derived from the Nuisance Removal Act are incorporated in the present special Act, for instance is there some portion of the Nuisance Act incorporated with regard to sewers

There is

As to Nuisances

Yes

As to Lodging Houses

Yes

As to unwholesome food

Yes

And as to Vagrants

Yes

Are the following streets unprovided for by the Nuisance Act namely a proper system of assessment.

Yes

Is that incorporated into the Special Bill

It is

Is there an omission in the Nuisance Act for proper paving and flagging of the Streets.

There is no provision for that.

Is there any provision for a regular system of Drainage in the Nuisance Act

There is no provision of that sort.

It only provides for the removal of obnoxious drains

Yes.

Is there any provision in the Nuisance Act for the cleansing of Streets?

There is no provision for cleaning and sweeping the streets

Is there any provision in the Nuisance Removal Act for the erection of other slaughter houses.

Yes.

By the Committee. It is abstractedly a sanitary act not a Municipal Act.

Yes.

Mr. Mundell. With reference to Street improvements all these points are omitted in the Nuisance Act are not they?

They are not provided for in the Nuisance Act

In point of fact these things which I have mentioned are provided for in the Special Act and are not provided for in the Nuisance Act at all

Quite so

Not to go thro' it generally I believe in the Special Act there are a great many more things that are provided for which are not in the General Act.

Yes.

And which things in your opinion are desirable for the Town.

Quite desirable.

Are there 10 or 12 in number different things provided for in the Special Act particularly with regard to the Stint Masters & feuars debts.

Yes.

You said that you were Clerk to the Stintmasters and have been so for 15 years I think I understood you

Yes.

I will first ask you as to their constitution – I believe there are 28 of them

Yes.

Four elected by the Craft of Merchants and two each from the other separate Trades in the Town.

Yes.

That makes 24 and then there are four distinct districts – Westbourne Gate, Eastbourne Gate and Randy Gate.

There is one Stintmaster from each of the four suburbs.

When you first acceded to the office of Clerk what was the state of the debt upon the Stintmasters fund, how much money was owing then.

I should think about £16,000 or £17,000.

Do you know of your own knowledge from inspecting the accounts in 1815 whether there was any and what sum due upon those funds.

In 1815 I think there were about £1300 or £1400 due.

So that it is a very old standing debt.

Yes it is an old standing debt.

I believe the chief debt was incurred and always has been incurred with respect to supplying Water to the Town.

Yes.

That appears from the accounts & appears also from the records of the Stintmasters.

Yes.

I believe also a sum of money was paid by them for the Gas, they pay half the expense of the Gas out of their moneys do not they.

Half the expense of lighting the Town with Gas.

Then with reference to the residue of the money I understand after payment of interest upon the debt and half the charge for Gas – the residue goes in paying the sums of money which we have named with reference to the cleansing of the Town the [Burgh of Regality](#).

Yes and there are some small details as ringing the Bells.

This is what is called in Scotland an assessment upon means and substances is it not.

Yes.

Are you familiar with the provisions of the Act of the [17 & 18 Victoria](#).

I have had occasion to look into those provisions with reference to the Stintmasters affairs & their assessments.

Is there a clause in that act which provides that this assessment upon means and substance shall no longer be continued.

The 33rd section

Is this the section of the 17 and 18 Victoria cap 91 section 33, Wherein any County Burgh or Town any County Municipal Parochial or other public assessment, or any other assessment Rate or Tax under any act of parliament, is authorised to be imposed or made upon are according to the real rent of Lands and Heritage the yearly rent or value of such lands and heritage as appearing from the Valuation Roll in force for the time under this act in such County Burgh or Town shall from and after the establishment of such valuation therein be always deemed and taken to be the just amount of real rent for the purposes of such County municipal parochial or other assessment Rate or Tax and the same shall be assessed and levied according to such yearly rent or value accordingly any law or usage to the contrary notwithstanding Provided always that when the are of any parish church heretofore erected has been allocated among the [heritors](#) according to their respective valued rents as appearing upon the present Valuation Rolls all assessment for the repair thereof shall be imposed according to such valued rent and where in any County Burgh (or) Town (&) any (County) Municipal, parochial or other public assessment or any assessment rate or tax under any act of Parliament other than poor Rates is or /

Mr Robert Henderson

might be assessed upon means and substance such assessment shall from and after the establishment of valuations under this act be assessed and levied upon the yearly rent or value in terms of this Act of such lands and Heritages within such County Burgh or Town – One half upon the Owners and the other half upon the tenants and occupiers of such lands and Heritages but subject to the provisions and exceptions hereinbefore made and provided as regards Lands and heritages separately let at a rent not amounting to Four [pounds](#) and all acts laws and usages to the contrary are hereby repealed in so far as necessary to give effect to this enactment but no further.”

In advising the Stentmasters I believe you have felt difficulties arising under that statute have you not

I have

Is the nature of this assessment such that the lowest amount to be assessed is 10^d½ upon a labourer.

Yes.

Do you find deficiencies arising in the sum total that you are empowered to levy from the small amounts (in) which the money is assessed. Are you able to give any statement of the total loss which (you have) sustained.

I have the three last years in the Stintmasters Books the Rolls of Assessment and a glance at it shews the amount assessed the Book is not added up but the amount assessed is £201.

What is the loss

The loss is very large generally speaking I should suppose that there would be 30 or 40 per cent of loss.

By the Committee I am to understand you to say that such a sum as 10^d½ is assessed.

Yes and we have no means of raising it supposing the person does not pay except by an expensive process in the Court.

Mr Mundell What is the highest amount of assessment you say that the lowest is 10^d½.

I think the highest is £5 there is one at £6.5.0 but that is an exceptional case.

Are there many of £2 and £3.

That is greatly above the average.

Are there many of £1.

It is above the average 15^s/-.

15^s/-.

15/- is about the average.

Is it true that (the) first charter granted to the Town was in the time of James 6th of Scotland.

I believe that was the first

Without going into it minutely is that a charter such as it was usual at those days to give parties containing power to appoint Bailies and Magistrates & to appoint Magistrates to regulate the different Guilds in the town.

Yes.

Are you aware from an inspection of the Charter that in the time of Charles 1st this Burgh was constituted a Burgh of Regality.

Yes after being a [Burgh of Barony](#) under this Charter.

With a [heritable jurisdiction](#).

Yes.

And a right to make prisons and so forth.

Yes.

Were not the Earls of Callander the Lords of that Burgh.

They were.

So far as you have been able to know was it about that time when the Earls of Callander were Lords of the Burgh that those feus were granted which have been spoken of

Yes perhaps some of them shortly before – some 60 years before.

I believe the original number of Feuars was 15 according to the old Titles.

Yes

I suppose in your profession as a solicitor at Falkirk you have had full opportunity of inspecting the original titles when you have made conveyances of land

I have

Therefore you are speaking from an intimate knowledge of the fact

Yes.

Do you know what is the number at present of these Feuars who claim the right of electing these Officers.

It is not very easy to fix the number of Feuars – these original feus have been divided and subdivided by a process which is well known in the Scotch Law and they have become very numerous now.

[Subinfeudation](#) is quite common in Scotland is it not

Yes.

And then you get a corresponding proportion of the rents & services advantages & disadvantages of the tenure.

Yes

You can do that [toties quoties](#).

Quite

With regard to these feus have you in your hand a copy of a Decree which was made in 1807 with reference to that matter.

I have.

Will you read that part of the decree which recites the title of the Feuars.

In the process of division certain parties to the action produced the titles upon which their rights were founded and amongst a great many others there is an appearance For Alexander Ramsay Merchant in Falkirk – First [Sasine](#) in favour of the said Alexander Ramsay recorded at Stirling the 19th day of September 1782 of 3 acres 2 roods and 36 falls of arable land lying to the east of Bainsford upon both sides of the Great Canal with a proportional part of the east and west muirs of Falkirk correspond to said lands—Second Sasine in favour of Alexander Ramsay recorded at Stirling the 15th day of May 1792 of a rood and half of ground on the north side of the Great Canal a little to the east of Bainsford with the pertinent privileges &c and Sasine in favour of the said Alexander Ramsay recorded at Stirling the 21st day of February 1788 of 2 acres 19 falls and 8 Ells of ground part of Grahams Muir with the liberties privileges and pertinents” Then the next is James Bread Flesher and so on.

Does your knowledge of the locality enable you to say that the limits of those feus are far beyond the bounds of the Regality.

They must have been on the north of the Canal marked blue and to the east of the ward of Bainsford.

Committee And none are within the municipal boundary.

Yes.

Mr. Mundell Under the terms of that Decree are not the 20 acres the Customs and the Market-place conveyed for the general benefit of the Feuars as a body and the inhabitants of the Town.

Yes

The Customers are for the exclusive good of the town.

Yes.

After the Decree does it appear from the Stintmasters books that the Stintmasters at any time had the management of the Feuars funds

It does

Will you first refer to your books and shew in what year that was

In 1810 I see the proceeds of the Feuars lands entered and the Stint Masters get credit for it in that year with their Collectors – then it goes in 1810 and then in 1811 there seems to have been a letting of grass and the rent was paid over—and the customs also they got £20 that year.

The Customs were at that time as low as £20 a year were they

I suppose that would be for a half year – then they go on in 1811 and they are still collected

Mr Hope Scott The arrangement existed for about 7 years with the permission of the Feuars

I cannot say in what way.

Mr Mundell The fact is that it did exist.

Yes it did exist.

And then it passed from their hands into the management of the Feuars again.

It goes down to 1813 — here is 1813, the customs £37 and £54 for the crop of the Muir.

Committee Did you take upon yourselves the debt of the Feuars at that time or were you simply the recipients of the Feuars Funds

This was before my time, at that time the Feuars would have no debt.

Do you recollect what was the moving cause in the transfer of the Feuars funds to the Stint Masters – was it a matter of convenience or was it a case of necessity

The Stintmasters being a public body administering the affairs of the Town I dare say these would be a common fund.

Mr Mundell The first time that money appears in the Stintmasters Accounts 1810 – the date of the decree being 1807.

Yes.

At that time the Feuars had no debt.

No.

From your knowledge after that time since you recollect Falk[irk] I am speaking now before the last 7 or 8 years in what way were the Funds of the Feuars managed and by whom.

The feuars funds were managed by 2 or 3 individuals – the [Preses](#), the Treasurer and the Clerk there might be other individuals nominally but really the affairs of the Feuars were managed in a very private way by two or three individuals.

That was before the last 7 or 8 years.

Yes.

Since that time in what mode have they been managed and how are they managed now.

They are managed by a Preses a Treasurer and a Clerk, with a Committee of perhaps 8 or 10, chosen annually at the end of the year and that Committee manages the affairs of the body until the recurring period of the year following.

I believe this alteration was brought about by a demonstration of public feeling at that time –is that so.

Yes, there was a knowledge that their affairs were managed very privately and public attention was directed to it, as the fund was increasing in amount it became desirable to bring the matter to light, and to make the funds available for the public – a good of discussion [sic] took place in the local papers and a movement was made by the parties who thought themselves Feuars, to open up the business a little, and popularise it.

By the Committee The old machine was oiled by popular opinion.

Yes, there was money at stake.

Mr Mundell What is the present extent of this Feuars Fund – what do do [sic] the customs let for at present, do you know.

I think it is £154.

What is the value of the 30 acres of land, not that this Bill touches them.

I think it is £45 a year I am not within a pound or so-

As to the Customs have you examined the printed paper that was handed to the Committee of the Customs is that a table of the Dues and customs leviable in Falkirk.

That is a copy of the Table, according to which the customs are let by the Feuars.

Something has been said in the Petition against this Bill as to levying these customs, when and where are these Customs leviable.

They are leviable in the Town of Falkirk.

Upon goods coming within the margin of the Town.

Yes

Not on their coming to any particular spot in the Town.

No.

Was not the Corn Market in Falkirk, before the present Corn Market was created, held in the high Street.

Yes.

So that all the corn was there sold at that time.

Yes.

How long (is it) since it was removed to the present Market place – how many years ago -

I suppose it would be somewhere about 20 years ago -

At that time the Feuars had nothing to do with the New Market.

No.

How long ago is it since the Feuars took upon themselves the regulation of the New Market.

I cannot speak particularly as to the time when they got possession of this New Market I understand that it was got up by two or three individuals.

Cannot you give an idea of the time.

I suppose it would be 20 years since the Corn Market was first got up by Mr Aikin [sic], Mr Fairley, and some one or two others, and afterwards it came to be managed by the Feuars.

When.

A good many years ago.

Is the present Market a roofed Market.

Yes.

When was that roofed Market made.

I suppose it has been finished within the last two months.

Is it consistent with your own knowledge that that New Market was roofed over or ordered to be roofed over before that meeting in February last, when that resolution was come to.

It would be somewhere about that time. I could not speak to the time.

Do you understand that it is with reference to that New roofed Market that the amount of debt upon the Feuars fund was mainly incurred.

It must be so.

Do you know the amount of the Feuars debt.

I do not know it very intimately. I suppose £1500 or £1600.

With reference to these Market tolls I think we have had it in evidence before that they have increased within the last year upon the letting.

They have.

Has that New Market had an influence upon the amount of the Tolls.

I do not know to what extent, but I should think it has.

Is there any change made for entrance into the New Market.

Yes.

What is that charge.

I think they issue tickets to parties who wish to enter the Market embracing a period of 4 to 5 years for which £1- is paid – that is one mode — and then there is a payment for the Corn sold in the Market.

Is there a payment of 1^d for the entrance of each person into the Market.

Yes.

By the Committee Have you any idea of what portion of the £170 which has been stated to be the amount raised by the Stint Masters is levied by the Market Dues alone.

Mr Robert Henderson

I cannot very well state how much it is — it is a small portion.

To what fund do these New Market tolls go.

They go into the Feuars fund.

And are accounted for by the Feuars.

It is a new thing – they will be in this years account for the first time.

Mr Mundell In fact the 1^d for entrance into the Market, of course is not included in the old Tolls. I collect that it is in access [sic] of these Customs, is that so.

Yes, that is a new thing, as the Market is new.

With reference to the Fairs and Markets held at Falkirk we have heard about a Horse Market, and about a Corn Market – are there not three great Trystes [sic] or Fairs held in August, in September, and in October, in the immediate neighbourhood of Falkirk.

There are three great cattle Markets to the North of Falkirk.

By the Committee Where is the famous Tryste held – it is some distance from Falkirk is not it.

I should say it is a mile and a half further north than you see upon the plan.

Are there any Tolls procured from that Fair.

No.

Is it held on the moor.

Yes, it is in the hands of a private proprietor I suppose who by the old Fair of Scotland had a right to levy Tolls, it belongs to Sir Michael Bruce.

Mr Mundell Is there a Market held every Thursday.

Not upon the Tryste ground.

In the Horse Fair where it is held in the High Street.

Yes.

Cross-examined by Mr Hope Scott

The Decree of the Court of Session regulates at present the rights of the Feuars and their power of disposing of their Income and their property.

That Decree is there [sic] Charter.

And the Decree is to the effect, as regards the Tolls or Customs that they shall be applied in the discretion of the Feuars for the common good of the Town.

I will read the very words in which they are given. To levy the said duties and customs and apply the profits resulting therefrom for the common good of the Town, in such manner as the said Feuars and proprietors or the Trustees appointed by them shall deem most for the Interest of the Town.”

The Rents of the land are to be applied in the same way, “be given up to be possessed and enjoyed in all time coming as the common property of the Feuars having an interest in the said common and inhabitants in the Town of Falkirk, to be possessed and enjoyed by them in common and managed, and the profits applied in such a manner, as the majority of the said Feuars or any committee to be by them appointed shall deem most expedient for them and the general good of the said Town” That is the case is it not.

Yes.

Has any money been spent by the Feuars at any time for other purposes than purposes for the benefit of the old Burgh of Falkirk.

I think there has been.

When and where.

So far back as 20 years ago I can very well recollect the money of the Feuars being appropriated for the improvement of a Road at the South side of the Regality - extending southward.

Was not that for the interest of the said Town.

It was beyond the Regality.

But for the interest of the said Town as being an access to it.

The improvement of any road round the Town must be an improvement to it.

They have unlimited power of applying it to the interest of the said Town as regards the Tolls, and the language is pretty similar although not exactly so as to the road, “for their and the general good of the said Town” – they have an unlimited discretion about that. Have they ever laid out any money except upon works in the nature of accesses to the Town, or for the interest of the old Burgh.

They have built this [Corn Exchange](#).

Is that within the old Burgh.

Yes.

You have alluded to the time when the Stint Masters had the regulation of the funds of the Feuars – I will now read the resolution of the Feuars “Falkirk 8th January 1810 – [Sederunt](#) of the Committee of Feuars” – so and so present and so and so Preses “ The Convener stated that he had given intimation to the members of the Committee to attend this Evening, And at some time laid before the Meeting a letter from the Preses of the Stint Masters of date 1st November last requesting that the Committee of Feuars should assign and vest all right which they have in the property decreed by the Court of Session to the Feuars of Falkirk in the action between them and William Forbes of Calandar [sic] in favour of the Stint Masters – The Committee are of opinion that they have no right or power to assign any of the rights conveyed to them agreeable to the decision of the Supreme Court and the General Resolutions of the Feuars at large at their meeting in _____ But the Committee think that during pleasure only the Funds assigned to them may be given to the Stint Masters to be managed under direction of the Committee for the good of the Town, but in order to do this the sanction of the Feuars at large will be necessary – And therefore the

Committee recommend this to the consideration of the first G Meeting of Feuars” – That is the whole that relates to that –then I find in 1816 at a Meeting of the 20th August – “Sederunt of a General Meeting of the Feuars of the Town of Falkirk having a right to the Common Moor called through the Town of Falkirk” The Meeting name the following Feuars as a Committee of their number for managing their property and funds for the space of two years from this date namely Thomas Johnstone, John Lithgow, Robert Ballock, Thomas Muirhead, Alexander Learmonth, John Rankine, John Black, James Simpson, Robert McKickine, any three to be a quorum and John Rankine to be convenor – The Meeting authorize their Committee forthwith to let the Town Lands on Lease for such a number of years as they may consider most advantageous for the interest of the Town for a period not exceeding nineteen years and that either by private bargain or [public Roup](#) as they shall think proper – The Committee are to take the management of the funds into their own hands without any intercourse with the Stint Masters of the town as has hereunto been done and they are to apply the proceeds arising from the Customs of the Town and the lands belonging to the Feuars all for the interest of the said Feuars and the Town of Falkirk and in such way as they shall think proper and in terms of the Decree of the Court of Session”. That is the history of the transaction – they seemed to have been dissatisfied with the Management of the Stint Masters and took it back into their own hands.

Correlative to that there is a Minute of the Stint Masters which shewed that the Stint Masters laid claim to it also.

What date is that.

In 1809 – It appears to the Committee of Stint Masters that in the agreement with the Forbes the property required thereby namely Ten acres of land for [feal and Divot](#) and for Quarrying Stone Twenty acres ditto for culture – One acre ditto on which the Fairs presently stands and the Customs in the Town was disposed over to the Committee of Feuars for the common good of the Town – To accomplish this good and therefore the Committee of Stint Masters are humbly of opinion that the Committee of Feuars should vest all right which they hold in that property in the hands of the Stint Masters who are the proper Representatives of the whole Town to manage in common with the other business of the Town – It is submitted to the Committee of Feuars how much at variance with good management it must be to have the affairs of the Town vested in the hands of two seperate [sic] Councils besides as the greatest part of the Stint Masters generally are themselves feuars such a division must be altogether unnecessary and if persisted in cannot fail to lead to much confusion and be very detrimental to the ornament of the Town good fits [sic] Inhabitants”

Waving [sic] that legal claim it seems that they made their application in 1810 which is mentioned in this Resolution of the Feuars. That the Feuars tried them for six years and found it would not do and took it away again – that was so was not it?

The fact is that they did manage it for six years, but what the peculiar circumstances were I cannot say.

From that date downwards the Feuars have had the exclusive management of the Rents and Tolls have not they.

Yes

They have managed in the tolerable economy and care have they not

I should say not until of late we did not know anything about it.

Do you or do you not know that they have laid out a great deal of money upon the improvement of the Town.

I know that a few years ago perhaps seven years or thereby the High Street of Falkirk was laid with blocks of stones and the Feuars contributed a considerable sum towards a private subscription that was got up for doing that but how much I do not know.

Did they not contribute in any other way.

They contributed one half of the expence [sic] of lighting the lamps.

Do you know no other way in which they have spent their money.

I know that they gave a few years ago £100 towards the expences [sic] of attempting to bring water in increased quantities to the Town.

When did they build the Market

I should say it was finished within the last two months

They have then from time to time made gifts in their own free discretion for the benefit of the Town- you have enumerated some and we shall be able to give you more – did they contribute anything within your knowledge to the erection of a Court House?

I am not aware

But they have permanently paid one half of the expence [sic] of the public lighting.

Yes

What does that amount to.

Something about £25 I should think

Per annum

Yes I think so

You have alluded to the fact that some of the Feuars in whose behalf the decree was made by the Court of Sessions in 1807 lived or owned land beyond the blue Boundary of the old Burgh of Regality

(A Yes)

The decree recognises the vicinity of the Town

(A Yes)

With regard to these Tolls – were not the Tolls in fact conveyed over by the former owner of them Mr Forbes of Calandar [sic] under the decree to the Feuars instead of land?

I do not know that it was instead of land they were certainly conveyed by an agreement which was followed by a judicial approbation in that process

Without reading the process and the decree was not it substantially this – between the Feuars who had the right of common over particular moors and land and Mr Forbes of Calandar [sic] there arose a question as to their respective rights

(A There did)

And there was a compromise of these questions – the result of which was the agreement confirmed by the Court of Session that they should have from Mr Forbes of Calandar [sic] the tolls and also a certain quantity of land

(A Yes)

With regard to those tolls are they in the nature of petty customs

(A They are)

Levyable over the whole area therefore of the Burgh of Regality

(A Yes)

The places where they have been collected as regards the Market have varied from time to time

(A They have)

I see there is a Horse Market marked on the plan is that the Market which belongs to the Feuars

(A Yes)

How did they acquire their land do you know

Under that decree

We know that they have built a Corn Exchange how did they acquire that land

There are two portions of it The Northern portion which they presently occupy has been acquired by lease from Mr Forbes of Calandar [sic]

Have they acquired any part of that land on which the Corn Exchange stands in Fee or in Feu

I suppose so though I have not seen their titles

Do you know what the length of lease from Mr Forbes of Calandar [sic] is

I should think it is a 99 years lease

Under this Bill you do not propose and in fact you cannot because your notices do not extend to it to take their land; therefore you cannot take their Horse Market and you cannot take the Corn Exchange

(A No)

You propose to come in and levy dues upon their property

We propose to levy dues over the whole Regality

In as much as Horses are sold in the Horse Market and Corn is sold in the Corn Exchange are not the duties which you propose to levy in respect of Horses and Corn to be levied on their property

Corn may be sold any where it is not obliged to be sold in the Corn Exchange

By the Committee These parties have property of their own which is designated by certain Markets

(A Yes)

And this Bill proposes to levy Tolls upon that which is their property is that so or not

(A Yes)

Mr Hope Scott As a matter of fact if this Bill passes in its present form the Feuars will remain the proprietors of the Corn Exchange and the Horse Market and will have the regulation of both these Markets and you will come in to collect Tolls

There is no regulation that Horses shall be sold in the Horse Market the duties are levied before the Horses get into the Market

At the entrance into the Market

At any part of the Street

In the Corn Exchange you will come in to collect your dues on your own property

We will collect dues wherever Corn is sold

If corn is sold in the Corn Exchange you will come in there and collect dues

Yes

Is corn sold anywhere else but in the Corn Exchange in Falkirk

That is the most frequent place

Is it sold anywhere else in the way of a Market

(A Yes)

Where

We had a case the other day in the small debts court in reference to a sale of corn not taking place in the Market at all and which fell under the operation or was contended to fall under the operation of the [Table of Customs](#)

It was contended that that was a surreptitious sale for evading the Customs

No

Where was the sale

Somewhere in the North of this Market

I will turn to the matters which you must know better than about the Feuars. The Stint Masters are authorities who have existed from time immemorial have they not in Falkirk

(A Yes)

They are elected I discover by your Bill from different Guilds and Incorporations

Trades and four districts

How many trades are there

(A About ten)

Are all these guilds and trades old associations

Very old associations

Are they self elective or are there free men, is it by apprenticeship that people come into them

(A No it is not)

Are they self elected

(A Yes)

Then they are self elected bodies who choose the Stint Masters

Yes, all the individuals of a trade elect a representative. Suppose there are Masons all the Masons meet together and elect their representative

Does every Mason belong to the Guild because he is a Mason simply

Yes

An inhabitant Mason

(A Yes)

These Stint Masters have been in the habit of levying some sort of Rates in Falkirk

(A Yes)

To the extent I think you said of about £201 a year

I have the Cash Book here now

And you stated that you had a loss in your collection of about 30 Per Cent

20 or 30 per cent I am not the Treasurer myself

You are the Law Clerk

(A Yes)

You say that doubts have been thrown upon the lawfulness of their power of Assessment

(A Yes)

Have you taken any opinion upon it

(A We have)

Have they been favorable [sic] or unfavorable [sic] to your power of Assessment

I should say unfavorable [sic]

Have you had no opinion favorable [sic] to it

We had one opinion very decidedly unfavorable [sic]

That is not an answer to my question, Have you had no opinion favorable [sic] to it

We have not had an opinion favorable [sic] to it

You cannot find a lawyer therefore to support your right to levy the Assessment which you make as Stint Masters

No; perhaps I may be allowed to explain that we have consulted eminent Scotch counsel and the inference I draw from his advice is that we should just say nothing about it but just go on as long as we are permitted

Have you got his advice in the shape of an opinion

(A Yes)

Have you got it here

I do not know that we have

How long have you been advised that this Assessment was illegal or of doubtful legality

The first intimation from the Lawyers that we got was a letter from the father of the Agent for the opposition M^r Russell an eminent lawyer in Falkirk who pointed out to us the operation of this Valuation Act and said that he was going to pay no more stint money

It is upon the construction of the recent Valuation Act

(A Yes)

I thought the recent Valuation Act for Scotland was not desinged [sic] to do anything more than fix the standard upon which the rates should be levied

It fixes the standard, and fixing the standard just takes away all our rate altogether we have only use and want and means and substance: as soon as you take another criterion than means and substance use and wont fly away

Have the Stint Masters property – Any land in property of that kind

The Stint Masters have the Town Steeple

That is not a commodious residence I suppose

There is a Shop in it

What do you let the Town Steeple for

We let one room in it for 2 Guineas to the Prison Board for a temporary Lock up house and we let the ground floor of it for a Butchers Shop the rent of which until the present year was £16 and it has been raised this year to £20

This is not a Steeple of a Church but the Steeple of the Town House is it not

It is neither the Steeple of a Church nor the Steeple of the Town House it is just a steeple containing a Shop a Clock and the Bells

That is the whole of the landed property of the Stint Masters

And the small [cisterns](#) that we spoke of yesterday to which the water is brought

Who built this Steeple did the Stint Masters build it with their own money

No

Who built it for them?

There was a large subscription I suppose it is a matter of nearly 40 years ago and not long ago I laid my hands upon the original Subscription List. A large proportion of the money seems to have been raised by subscription, it cost about £1400 I think

Did the Feuars contribute rather handsomely on that occasion

I believe they contributed some three or four hundred pounds

The Stint Masters have the property which you have mentioned is there a good title to it

There is no written title to it

It seems that the Stint Masters have a Steeple with no title and the power of levying rates which is unlawful and these are their names and substance on the other hand what are your debts about £2000

(A About that)

So that the Stint Masters are not in what you would call a very flourishing state of circumstances at present

No certainly not, but as I have mentioned the water establishment the wells of the Town, the leak pipes leading to them and all that kind of thing, and pipes leading from the fountains to the Cisterns must have cost very nearly that money in their day

What do they receive in the way of water rates

We have no water rates

Do not you charge the people who take water from you

We charge everybody, we lay on an assessment

How much a year do you get from that source. I think it was mentioned at about £50 or £60 a year

[Marginal note: £150 or £160]

No the whole matter is a kind of water Rate that is an assessment laid upon the Inhabatants [sic] by means of a substance

That is covered by the Assessment of £200 a year that includes water and everything

Yes

If this Bill does not pass what will happen to the Stint Masters and their clerk

I should think that the Stint Masters will go to the wall altogether, but I hope their Clerk will not. I doubt it will be an unfortunate business for the Stint Masters

Are they personally liable for the debt of £2000

That may be a question, the debt is constituted by Bills

They are not Bonds

(A No)

And not secured on the Rates in any way

No not at all

Therefore there is merely personal security, are you one of the persons signing these Bills

(A I am not)

Who are the Gentlemen whose names are to these Bills

Some of these Bills must be old, I have no doubt that some of them are ancient Bills

Renewed now and then I suppose

Some of them. I can give you an idea of the frequency with which they are renewed. I have the books here.

Who are the Creditors are they Bankers

(A No)

Private individuals

(A Private individuals)

What rate of interest do they pay

(A 5 P^t. Cent uniformly)

What is the oldest of these Bills, Have you any knowledge of that

I should say they range from one year to a dozen years

These probably are Bills replacing still older Bills

Some of them would be

You have the account, can you tell me when this debt of £2000 first assumed its present proportions

I have the Treasurers Account from 1802 There is no doubt that the debt was greatly above £1000. 60 years ago

When did it become £2000

I should say about 15 years ago, when I became the Clerk. I think the debt would be about £1600 or £1700

And it is now £1900 odd

(A Yes)

Full half of the debt you say was incurred 40 years ago

(A More)

Fifty years ago you said

Yes a great deal more than half the debt

May I take it as possible that £1400 was the debt 60 years ago

I think so something near it

I suppose no attempt has ever been made to pay off any part of this debt

So strictly are we confined to use and wont a practice that operates universally over our procedure that we cannot even stretch our assessment in any one year so as to form either a [sinking fund](#) or attempt to pay off a portion of this feudal debt, people would not submit to it we had a strong recommendation from [Lord Anderson](#) that was a good many years ago upon a memorial submitted to him to try and pay it off but we had not the power

One word about the water supply the Stint Masters have spent all the money that they have expended entirely within the old regality

Yes, their operation is within the old regality although the water is brought from a distance far beyond it

I think you say that there is something like £1000 sunk in the water works

I am sure it would take more than that to put that establishment down

That establishment which exists at present

(A Yes)

How much would it take to make that a really proper water supply for the old regality say 20 gallons a day to each of the inhabitants or something like it

I am not a very good judge of that

Have you a Surveyor who can tell us about that

(A Yes)

You are the Secretary of the Gas Company it seems

(A Yes)

Is there any other Gas Company in that neighbourhood

(A There is)

To which you are not the Secretary of course

(A No)

Is that in competition with the company of which you are Secretary

(A Yes)

It is with the Company to which you are Secretary that the contract with the Stint Masters at present is made

Within the last few months

Was not that the contract formerly with the other Company

Till the last few months

What is the duration of the contract entered into with your company

This is not in writing but the understanding is that it shall be for five years at least and for this reason because it would be unfair to change the Gas Company and make no move all our connections to supply only for one year

So that you have got the Stint Masters committed for five years to your Company

So far as the Stint Masters can commit themselves but as they go out every year they cannot bind their successors

Your company has no contract for five years

(A No)

You have an understanding that the contract shall last for five years – supposing that is disregarded what should you say

We should believe that we were ill used

Was that the usual way of contracting for Gas with the other company was there a similar understanding

Yes we had it before that – we have taken it from each others hands occasionally

By competition

(A Yes)

Upon Tender

(A Yes)

Having an understanding between the Town Council and the Board of your Company that they were to take up the agreement of the Stint Masters with your Company

(A It was never alluded to)

You have not had any anxiety upon that subject at all

(A Not in the slightest)

Nor your Company

(A No)

Have they made an alteration in the pipes and done all that is necessary for supplying the Gas

They have merely connected the pipes with the Gas lamps of the town

Both the Companies have pipes through the town

Nearly – I may say both – there is a trifling exception

Have the Stint Masters been in the habit of publishing their accounts

Not as a habit they have done it occasionally but not so frequently as would entitle me to say that it was a habit.

It is not at all a regular practice

They have not done so for 4 or 5 or 6 years

Mr Robert Henderson

Did they do it 7 years ago

I think perhaps at the most they have done it four times and no more

Four times within your recollection

Certainly oftener than twice and certainly not so often as 8 times I think speaking over 15 years they have done it about four times and those not consecutively

Every now and then they are seized with a fit of accounting and published their accounts and showed the state of their debt to the world

(A No)

What did they publish then when they published their accounts

They published a mere statement of the years accounts, so much for interest, so much for gas, so much for cleansing and so much for ringing the Bells

They never showed their debt in any of the balance sheets that they published

No – the public have the utmost confidence in the management of the Stint Masters because they are so popular – it is in fact a disagreeable duty to be a Stint Master and a man makes a sacrifice to be a Stint Master – he is the best representative of his trade and generally an honest man

Rexamined by M^r. Mundell

At any rate when the accounts were vouchsafed they contained the amount of interest

(A Yes)

With regard to whether there is any fund out of which this debt or interest can be paid does not the 17 and 18 Victoria C91 sweep away the power of levying upon means and substance and substitute the power to levy according to valuations – one half upon the owner and the other half upon the occupier of these tenements over which the use and wont extend

(A Yes)

So far from being without the means of payment you have substantially the means of levying the amount of the debt under this Act

There would be a change of the mode of levying

Therefore you would not be without the means of levying £200 a year under the Act of Parliament

I hope not

Are you so advised by your Council

Our Council said that we should continue to levy the assessment as we are doing just now

Mr Robert Henderson

That is the effect of that Act of Parliament

Certainly as it changes from(s) means and substance to another criterion

You have been asked with regard to the mode in which these tolls are levied according to the table of tolls looking at the first item it is not necessary for the payment of toll upon a horse that it should be sold in the market but only that it should come to be sold on fair day

Distinctly

Therefore when it comes into the Burgh of Regality it is liable to the tolls

Yes

Does that extend also to loads of meal or beans and corn.

Yes

Then the toll is levied on articles that are brought to be sold from the mere fact of them coming to be sold

Yes indeed the horses are shown in the High Street

I believe that there is a toll traverse for sheep passing through the town whether they are sold or not

Yes there is a toll upon things that go out of the town to be sold

There is a toll upon animals being sold, a toll upon some which came to ~~the~~ be sold and a toll upon some that are merely going out of the town.

Yes

Do you think there would be any difficulty if they were transferred to you in levying these tolls

Not the least

Mr Hope Scott (through the Committee)

.... How many Stintmasters are there

28

Had they a meeting about this Bill

They had

How many attended

They have had several meetings about it.

They had a meeting about petitioning

Yes

How many attended that meeting

I do not Know

Were you present

Yes

Mr Robert Henderson

Were there 12 present?

I think thereabouts

Were there 13

I dare say

How many signed the Petition in favour of the Bill

18

The Witness withdrew

Robert Robertson Esq^r, Sworn Examined by **M^r. Mundell**

I believe you are the acting Sheriff Substitute for one of the Divisions of the County of Stirling.

I am

It may be necessary to tell the Committee that there is a Sheriff Substitute and a Sheriff Depute under the Sheriff

Yes, the person who has the name of Sheriff is the Lord Lieutenant of the County the Sheriff depute is a member of the Bar who resides at Edinburgh and cannot reside in the County, but the Sheriff Substitute always resides in the vicinity

You are a member of the Bar residing in the District

I am a member of the Faculty of Advocates

I will call your attention in the first instance to the Nuisance Removal Act which put before the Committee yesterday that under the 16th section there was power given by means of an application to the Sheriff to obtain damages for not covering a running open ditch in cases where it was a nuisance is that so

Yes

Damages are to be awarded and then the local authorities under that clause have the power to assess the premises which use the drain in question – is that so

I think that is the fair interpretation of the Clause

Under that section they have the power to recover in such manner as the prison assessment is recovered the sum to be levied on the premises is that so

Certainly for each separate offence

What is the mode pointed out by the Prison Assessment Act for Scotland for levying the prison assessment – is it by warrant or distress.

By the warrant of the Sheriff

You have had to deal with this Act I believe

Yes

Directing your attention to the 56th section which says “All charges & expenses incurred by the Local authority in executing this Act and not recovered as hereinbefore provided may be defrayed out of an assessment to be levied along with and in like manner and under the powers which are hereby given as – The Prison or Police Assessment as the Town Council or Police Commissioners shall resolve, when the Local authority is a Town Council or Police Commissioners. The assessment for the relief of the Poor, where the local authority is a Parochial Board or where there is no such Assessment by an Assessment levied in such manner as an assessment might have been levied for the relief of the Poor” In your opinion do these words “all charges and expenses” in any way refer to the amount to be levied by an assessment.

A I think these charges and expenses refer so far to the 16th clause that they ought to include expenses incurred in shutting up any particular drain or putting down any particular offence.

Q. And not to the assessment itself in the event of there being a deficiency in the assessment

No not at all

M^r. Hope Scott The words “charges and expenses” would cover any expenditure under Section 16 made by the local authorities.

I think so

(By the Committee) Is not that involved in the words “executing this Act.”

Yes, in carrying out the provisions of the Act

Mr. Mundell Supposing there was a distress warrant for a partition of the assessment unpaid in the event of that not being recovered is it your opinion that under this latter clause that amount of assessment so unrecovered could be recovered as a charge and expense according to the 56th section would the balance be included in the words expenses in executing the Act

I should say as part of the charges and expenses incurred with regard to that particular matter but there is no general power of assessment where the expense has been incurred in stopping a drain or covering a water course – I presume if the expenses are not recovered from the party primarily liable it is possible although I never had anything of the kind before me that they might be charged in the terms of the Act

(By the Committee) There is a very material distinction in the two sections. I do not pretend to resolve the difficulty – one is the 16th and the other the 56th. As I understand the two the one deals with the money raised by assessment

All charges and expenses incurred by the local authority in executing this Act.

Will you look at the 16th. The 16th section is applicable simply to monies levied by assessment and you have the means of recovery. I understand by putting in force a certain Act of Parliament

Yes there is a very important clause which points out the form of the process to be observed namely Clause 44

The question is whether charges and expenses incurred in executing the act of parliament are to be considered as monies obtained by assessment

The expenses of the Act may be defrayed out of the assessment. I never had occasion to consider this point, and I can make no more of it than the Committee can by looking at the Clause

Then it is an arguable point at this moment

It appears to me that these words would cover the expense to which the local authorities might be entitled

M^r. Hope Scott submitted that as M^r. Sheriff Robertson might be called upon to adjudicate under the Act in Falkirk it would perhaps be better that he should not be pressed for his opinion

Witness I am very unwilling to offer to give any opinion

M^r. Mundell Under the 44th. Section if I understand the form of application to the Sheriff under this Act would be by summary Petition

It is called a summary petition in the 44th. section - I had better explain to the Committee exactly what the form of process is – with regard to a matter of this kind. If a party finds himself aggrieved by a nuisance and wishes to have the nuisance abated or wishes to have something interdicted or prevented he presents a petition: ~~to~~ The Sheriff under the 44th. section is to order an answer to that petition. That petition and answer contain the whole of the case made by both parties – the petition contains the whole statement of facts made by the Complainer and the Answer contains the whole ~~of the case made by both parties~~ statement of facts made by the Defender or Respondent as we call him, and those documents complete the record and no further written statements are allowed but the petition and answer – The record being made up in this way it becomes the duty of the Sheriff to order the proof – that is to say a proof in chief to each party and (to each a) conjoint proof. The Sheriff allows each party to prove the statements made in the petition and in the answer and it may be that each party may have a conjoint proof that is a (proof) ~~statement~~ rebutting the proof of each, that is the course that any process naturally takes. If you look at the latter portion of that section you see that if the proof be not on a particular day & completed the Sheriff may adjourn the case until completed, and within three days after such completion he shall give decree, and he may find either party (liable) in costs.

By the Committee He finds the party liable in expenses and the word “expenses” is afterwards recognised in the 56th. section as charges and expenses incurred in this process which you have mentioned

I am not going to offer any opinion at all but - supporting the party should not be able to pay the expenses how is the local authority to recover the expenses?

M^r. Mundell As a general rule are the proceedings before Sheriff Substitute conclusive – are they binding and final.

The whole statutory jurisdiction I should say as a general rule of the Sheriff Substitute is not liable to appeal

In this case is it liable to appeal

By this particular statute it happens that it is liable to appeal to the Sheriff Depute – in another case, in the 36th. section it is liable to appeal to the Court of Session and this becomes a regular process – a regular litigation.

The appeal is limited by the Act in question if the amount is above £25, the parties can appeal to the Court of Session

If the sum is above £25 they can appeal to the Court of Session

Does not that make the process dilatory and expensive

Very

In one case which came before you the expenses upon one side exceeded £60 did not they

I heard that they were considerably above £60. An action was brought for filling up a water course – a stagnant drain it was covered over, and an action was brought before me to have the expense of that paid it was bitterly defended and it went by appeal to the Sheriff Depute who, held that the subject was under £25 and therefore he had no jurisdiction. It came back to me and one way and another I understood that the expenses were very large I think I understood it from one of the parties

If that was the expense of a person going to the Sheriff Depute what would be the expense of a person going to the Court of Session - would it be hundreds

It would be more expensive

As to the slaughter houses there is a process before you with reference to them under the [Nuisances Removal Act](#), and I believe the only power you have with reference to Slaughter Houses is to order that they may be drained and cleaned - but you cannot remove them.

I can order them to be cleaned and any offensive drain to be filled up but I have no power to order the removal of Slaughter houses.

I believe there is no process in Scotland, by which when there is a prescriptive title to Slaughter Houses you can do away with them as is the case in England

Not that I am aware of – it is a question of degree. I fancy if a party has been (accustomed) ~~cautioned~~ to slaughter half a dozen bullocks and his trade increases and he slaughters 50 I think an injunction or an interdict might be got.

You could not remove a prescriptive nuisance

No certainly not

By the Committee Will you look at the Nuisances Removal Act under the head of “Description of Nuisances under this Act.” “The word Nuisances under this Act shall include” it then designates what may be a nuisance and it says “Any Work Manufactory Trade or Business offensive or injurious to the health of the neighbourhood” Would not that general Law bring a slaughter house within your jurisdiction

The words of this section seem to be very general #
I cannot conceive it possible that any words by implication

The question is whether a Slaughter House which has a prescriptive right could be removed by you or affected by you under these words of the Act “Any Work Manufactory Trade or Business offensive or injurious to the health of the neighbourhood” would you be justified in allowing such a nuisance to go on, if it was within your jurisdiction

I do not see any words applicable to it

Not “Trade or Business”

I do not see how a trade or business could be removed without removing the Building

Of course my suggestion rests upon those words “offensive or injurious – if a trade or business be carried on – a slaughter house may be or it may not be offensive

I never heard of such an attempt to remove an existing nuisance of that kind

Are you of opinion then that those words would not give you jurisdiction over a slaughter house

That is my opinion

Cross examined by Mr Hope Scott

It would not be on the ground of its being a business offensive and injurious to the health of the neighbourhood

No it would be on the ground that the party must have a title to his property and that that nuisance which then existed had existed for a sufficient period of prescription to give him a title to continue it

Am I to understand that a person having a prescriptive title to a nuisance renders the Nuisance Removal Act of Scotland inoperative

The title to a nuisance is not putting it right. I do not think there can be a title to a nuisance although there may be a title to a slaughter house

I will put a case to you that I have suffered from myself – supposing there has been a long established business of a Cow Keeper or Cow feeder and that the whole neighbourhood is poisoned in particular states of the weather by this Cow keeper’s nuisance would it be a defence under this Act that he had a prescriptive title to carry on his business in that way at that place.

I am inclined to think so – I will illustrate that by giving this case in which it was urged before I left (the) Scotch Bar. It was an Action from the Town of Alloa and was brought by a party who was a Brewer against a Gas Company for the creation of their works

You are going to speak of an Action at [Common Law](#)

Yes

You are aware that the Common Law jurisdiction is reserved and saved by section 59 - I can understand that prescriptive usage would be a bar to such an action - but that is not my question - my question is whether under the usage of this Statute (I do not wish to pledge you to an opinion) you would be inclined to say that prescription would bar the operation of the statute – if so this Act is plainly inoperative I want to know whether the other Act is more operative which they rely upon

I have never considered this Act – I should be glad if I had it in my power to remove an established slaughter house or anything of the kind for I have suffered myself excessively - I have these slaughter houses close to the Court house.

This Act has been very ill drawn if it does not get over prescription in these matters I do not wish to pledge you to an opinion but supporting this Act not to have an effect over a nuisance which is there prescriptively can you tell me whether the Act of 1850, the Police Improvement Act, has any greater power – does that deal with prescriptive nuisances any more than this Act.

I should not think it did to that extent

You have had parties summoned before you have you not by the existing Committee

I may mention that the last case that came before me was not at all at the instance of the Committee but at the instance of the party aggrieved by a very offensive drain - M^r. Russell appeared for the case on one side

Then private parties may bring the matter before you may they not under this Act.

They may under that Act if they think fit.

An action may be brought at Common Law – and there must be another machinery for putting in operation the act I suppose it is under section 12 that private Individuals come before you, under which section of that act did the case come before you

It was upwards of a year ago and I do not recollect the particulars of it.

Section 43 I think which is “procedure if local authority neglect its duty under this Act” now was the application made to you in the nature of a summary proceeding under this Act by a private individual or was it in the ordinary nature of an action at common law – do you remember that.

It was in the nature of a summary proceeding – that I recollect but summary proceeding with us in matters of this kind proceed exactly in the same way as at common law

You do not remember whether it was a proceeding under the act or not

I am not quite certain – my impression rather is that it was a proceeding at the instance of private parties the former case that I alluded to was a case on the part of the local authority

Was the title of the local authorities to proceed in that instance disputed

No there could be no dispute in that instance – it was the Parish authorities of Polemont [sic] who happened to be the Parish Board

Have you had any proceedings under this Act for Falkirk

Not that I recollect

The case at Polemont [sic] exceeded £60 I think you say

The expenses incurred by one party exceeded £60 as I understand

Supposing there had been a dozen parties each at £60 that would be a very heavy expenditure indeed

If there had been a dozen parties I suppose the expense would have been the same - I do not see why they should not – One party would have been Defender – the decision in that case ruled a great number of other cases and I suppose the other parties in some measure would contribute to the expense

Do you really think as a matter of general policy and general justice that when such a question is raised for instance as requiring a total new sewerage for Falkirk that the matter should be decided by the Sheriff without appeal to the Court of Session. If the sum exceeds £50 in each particular instance do you think it reasonable that it should be settled without appeal.

I must say if summary applications of that kind are to come before the Sheriff unless they are to lead to interminable litigation bad law from the Sheriff would be of more benefit than better law from the higher authority because it would not lead to great expense.

You must be aware looking at this question that the Removal of Nuisances may involve enormous interests – interests to the extent of thousands of pounds - for instance the question of a work, manufactory trade or business. – We had a question lately here as to whether the City Gas Company with an expenditure of something like £300,000 was not a Nuisance - such a question might be raised under this Act, do you think it would be proper that interests to that extent should be dealt with without appeal.

I think very likely that it would be inadvisable and unwise. I alluded to the cumbruous [sic] nature of the Act for this reason I understand from the examination that I heard that it was seriously contemplated that this Nuisance Removal Act was quite sufficient to supply the place of the Police Bill

There are a great many things in the Police Bill which are not in this Act – dealing simply with this question of the removal of nuisances do you mean to intimate to the Committee that in your opinion in cases which amount to hundreds of thousands of pounds there ought to be final jurisdiction being in the Sheriff.

I have not intimated such an opinion nor intended to intimate such an opinion
The final jurisdiction is certain is it not in all cases under £25 by this Act

To the Sheriff Depute

Up to £50 it cannot go beyond the Sheriff Substitute

If it exceeds the sum of £25

Up to £25 your jurisdiction is final

If it is below £25

Up to £25 all cases below £25 your jurisdiction is final and when it reaches £50 and does not exceed £50 then the jurisdiction of the Sheriff Substitute is final and when it exceeds £50 it can go to the Court of Session

My jurisdiction is not final up to £25 because it may go to the Sheriff Depute

Where it shall appear to the Sheriff that the true value of the subject complained of as a nuisance, or the cost of the operations necessary to remove or amend it as ordered, or the value of the Trade or business interfered with, exceeds the sum of £25 or the sum of £50 respectively he shall certify his opinion to that in his decree

The Sheriff Substitute certifies his opinion

Mr Robert Robertson

Those are the only cases in which your opinion is not final - "No appeal shall be competent save in cases so certified" therefore you have final jurisdiction up to £25

Yes

Do not you think that is a sufficient margin for the final decision of the Sheriff Substitute

I think it is

By the Committee Do you consider under the existing Act you would have any power to proceed against a Burial Ground Nuisance for instance

The whole subject of Intramural Burial Grounds is a matter of great uncertainty in the law with respect to the rights of parties and I should be very unwilling to offer any opinion upon it.

Are you aware that proceedings are taken in London very often against Burial Grounds

Yes

Mr Hope Scott Can you tell me what the mode of proceedings is under the [Police Act](#) of 1850 - Lord Rutherfords Act

That Act has not been adopted in the Town of Falkirk and I have not recently had occasion to pay any particular attention to it.

Inasmuch as the Bill incorporates it very nearly you cannot tell what change of the Law will be introduced.

When I came to Falkirk in 1850 it was then very much pressed upon me by [Lord Handyside](#) that I should exert myself to get Lord Rutherfords Act adopted by the Town of Falkirk. – I did exert myself and in 1851 a meeting was held and a large number of the Voters decided against the adoption of Lord Rutherfords Act—Since then I have not had occasion to turn my attention to it.

The whole principle under Lord Rutherfords Act was to enable the parties if they thought fit to vote for its adoption

Yes

It differs from the Nuisance Removal Act which is compulsory upon everybody

Yes Lord Rutherfords Act followed one which was passed 3 or 4 years before and rendered a certain number of votes necessary

Is not the whole principle of the Police Act that it shall be adopted at the voluntary pleasure of the Inhabitants

Yes

It involves sanitary questions and questions of Police convenience & so on but the Nuisance Removal Act ~~will~~ which is the subsequent Act deals only with sanitary questions and does not give any option to the inhabitants but imposes the law upon them, that is the case it is it not

(A.) Yes

The Witness withdrew.

Mr James Girdwood Sworn. – Examined by Mr Mundell

You are a Surgeon living in Grahamston

I am

Are you an Owner of property in Grahams Road which connects Falkirk with Grahamston and Bainsford

(A) Yes

I believe you have been in extensive practice as a Surgeon in both the Burgh of Regality, Grahamston and Bainsford

For upwards of 40 years

Before I go to the sanitary question upon which I shall examine you more minutely I believe you say that you have (live) in Grahamston will you tell me what is the value per acre of the frontage there when it is applied to building purposes

£24 in the front & in the back streets £16 per Scotch acre

And the Agricultural value of the land is about £3 an acre [*MARGINAL NOTE £4*]

(A) Yes

The Scotch Acre is 1/5th larger than the English acre is it not.

(A) 1/4th I think

What is the Sanitary state of Falkirk Grahamston & Bainsford generally, do you consider that they are in a good Sanitary state or bad

I would say bad and worse in some Districts than others.

Were you employed some years ago in inspecting places where those nuisances abounded

I was employed I believe in every case of prosecution and there were a great many of them.

You were employed in collecting evidence and with regard to or moving those nuisances [*MARGINAL NOTE: inspecting places*]

I was made a Witness in the trials by the Procurator Fiscal

From that you were enabled to examine the state of many parts of the back lanes of Falkirk for instance to the West was that so

It was

Will you describe to the Committee when you examined them in what state you found some of these back streets of Falkirk, as to the habitations of the poor

It is scarcely possible to state in strong language the condition in which they were –There was an accumulation of human dung, horse dung, pig dung and everything that was bad – in the very houses they had large collections of those matters.

Mr Irvine spoke yesterday as to the houses in the immediate vicinity of the Church Yard—had you occasion to inspect them at any time

Yes

What is the Sanitary state of those houses near the Church Yard.

The houses in the Church Yard abut on one side there are not many houses

What is the character of those houses

Unhealthy

Is there a Ditch which interferes with the health of the inhabitants

Water runs between the houses and the Church yard not above a foot wide – it is several feet above the level of the houses

As to Grahamstown, and the state of the houses there – will you describe to the Committee what is the state of the houses in the lower part of Grahamstown

The [cholera](#) existed there in a very fatal form – in one house there were four lying dead at one time – the whole neighbourhood was one mass of filth – human dung and filth were thrown out into the street at that period the parties residing in that neighbourhood were exceedingly ashamed of their conducts— they came to me and regretted, having opposed the attempt that was made to introduce a better state of things and I remember saying

“When the Devil was sick The Devil a monk would be
When the Devil got well the Devil a Monk was he”

What is the state of the drains in Grahamstown

I do not know that there are any Drains at all

Are there any stagnant pools

On the west end of the road it is just one mass of filth I have great difficulty in finding a clean place when I jump out of my [gig](#)

Does that nuisance arise from the refuse from the houses being thrown out there

Yes

As to Bainsford what state is that in

The west side is probably still worse

From what diseases do the Children suffer in these localities

I remember once going into a house where I found two children dying from the Croup from the excessive filth of the place I could attribute it to no other cause there was an immense accumulation of human dung lying on the floor of the house and the smell was enough to suffocate anybody those children sunk from diseases brought about by stench and consequent debility

Am I to understand you to say that disease - is prevalent amongst the children of the poor in Grahamstown and Bainsford

Yes I would say it is, all sorts of affections of the lungs

Is typhus fever at all prevalent in those localities

It has not been for several years, it was three or four years back very severe a severe epidemic – a low fever — scarcely typhus fever

Fever of a typhus class

Yes

In Falkirk are the diseases of the Children of the same Class

Yes – a great proportion die, more than should die

Does the same class of fever exist in Falkirk

It did to a very great extent

Is that fever epidemic or endemic

Both epidemic and Endemic

You have occasion to ride a great deal about this neighbourhood what is the state of the pavements in Falkirk generally

There is no pavement at all except where there is a Conesway [sic] some small round stones which just form places for the filth to accumulate in – they are getting better in consequence of the dreadful falls of rain we have had, but in the main Street on Monday forenoon, on Sunday last and on Saturday in 300 yards I counted 10 large accumulations of human dung ashes and filth of every sort thrown into the main street

Was that in Falkirk proper

In the Western extremely among the poor, there were large masses of dung ashes and all that sort of thing – on Sunday and Monday when I went there

Is there any sufficient side drainage to carry off [sic] the surface water

In the main Street of the Town of Falkirk there is plenty

In the back lanes are there side gutters

Very few they are filled up with filth straw and accumulations of mud

Wherever the pavement is uneven is not the result that the surface water stops

Yes any water flowing out from the Stables Bayres (sic) stinking water

You have occasion to be out at night – will you state what in your experience is the state of the lighting

There is not a sufficient supply of lights –there is none in Bainsford but there is some in Grahamstown supplied till 11 o'clock by subscription – the only lamp that burns all night is one at my own house in Grahamstown

By the Committee You make a distinction between Epidemic and Endemic

Yes Epidemic is a disease occurs every two or three years

And Endemic may be local like a gne [sic: an ague?]

Yes a disease Existing in a certain locality

Is there any particular disease peculiar to Bainsford, is there any low fever there?

There is a place called [St David's lane](#) in which there is a large gutter containing filthy putrid water and all the summer the smell is most extremely oppressive – I find the Children die there in greater numbers than in other places

In that particular period when there are exhalations from the heat

Yes the Constant stench makes the people unhealthy and they do not stand disease so well

Are you able to say whether in the vicinity of the bad Spot there (sic) is a peculiar disease

I have more disease there altogether particularly with Children and not such successful results as in other places, they are very unhealthy

Taking Grahamstown does the said remark apply

Yes particularly on the Western side, the whole of the West side of Grahamstown and Bainsford to a place called Mill opening is exceedingly filthy you can hardly put down your foot without getting it covered with human dung it is scarcely creditable that such filth should exist anywhere

Is it the same every year

It has been so ever since I can recollect more or less

Is the health of the residents in that locality more or less affected every year

There is a great quantity of disease

Is the disease peculiar to the neighbourhood

The people are very unhealthy and do not go successfully through disease like those living in a better [atmosphere](#)

Is the disease (sic) generally such as would arise from malaria

Sometimes but what I meant to point out was that the Children living in this filthy district have not the same Stamina to resist disease as the Children living in a purer atmosphere

Q. The miasma predisposes them to disorders

Yes and weakens them altogether

Mr Mundell you have directed your enquiries as to the state of disease in other Towns for instance Stirling

I have had occasion to be in Stirling very frequently for many years probably once every month or less months and in talking to the Medical Men there I find that we have more disease than they have

The result of your Enquiries there is that there is much more disease [sic] with that class of people in Falkirk than in Stirling

(A) Yes although I am unable to specify particular data

By the Committee have the Authorities made no attempt to mitigate this state of things

They have no power to do it they have no funds they may clean the Streets at their own Expense if they think proper

Have none of the funds of the Feuars ever been appropriated to that purpose

Not a sixpence in Grahamstown and Bainsford not a farthing -

Mr Hope Scott That is beyond the Regality is it not

I believe the Feuars are cheating us out of our rights we have a right to the funds as well as they have - The further of the Town Clerk insisted in a long correspondence that we were Entitled to it

By the Committee according to the decree it is not the duty nor could the Stint Masters and Feuars take convey the money from Grahamstown and appropriate it to Falkirk proper

That is the view of it they have taken hitherto

According to all wholesome interpretation they would have no power of relieving Grahamstown from anything

Not the Slightest

If they did their duty they must for to the Regality according to the terms of the decree

Yes, which I believe was the Case but we have a right to it also

In Grahamstown

Yes I believe we have great deal of learned ingenuity was exhibited lately to shew that we had a right

You take a wider view of this decree than I do. -

Because we did not appear at that time that is no reason why we may not now if we consider that we are Feuars I do not go into the legal question at all

By the Committee - There is no Street in the Regality in such a bad condition as [St Davids Lane](#) is there

The back lanes are nearly as bad

My question is directed more especially to this you have watched the Cross Examination on the part of Mr Hope Scott to show that the petitioners have done their duty with regard to the Regality. -

No I say that they have not done so, they have not kept the place clean

That has been the tendency of the Cross examination. -

I say most distinctly that a filthier place did not exist till the last three or four years

Mr Hope Scott stated that whatever power the Feuars had over the land in Grahamstown and the Old Moor. That they did in point of fact spend their funds properly within the regality. -

That is what I understood

Cross Examined by M^f Hope Scott

Has not that been done for upwards of 400 years

(A) Yes

Q. 400 years is an awkward time in Scotland is it not

I believe it is

Have you studied the Nuisances Removal Act

No not as a lawyer

Have you studied it as a physician

(A) I have read only the Clauses

Q. Do not you think it would enable the Local Authorities to remove human dung from human habitations

It has not been done except in particular times when the proclamation of the privy Council gave them power to do so. - I understand it requires the permission of the privy Council

The house only had the Nuisances Removal Act in operation in Falkirk for about a year

(A) I do not know the Exact time

When was it that you went up and saw everything in such a bad state as you have described, so as it in the Cholera year

(A) No

Was it this last year

Within the last two or three days, that state of things exists at this very moment

In the main streets

(A) Yes, I saw it on Sunday last, on Monday and on Saturday

Ashes in Scotland means the whole refuse of the houses in fact

(A) Yes

It means everything which people cannot keep in their houses

(A) Yes

Whose business as [sic] it to remove these ashes and things from the streets

It is no persons business at all in Falkirk it is let to large parties engage to take it away and get £40 or £50 with the dung itself

Who forms the Contrast [sic] with these people

(A) The Stint Masters I believe

The Contractors do not seem to perform their duty in removing these things

Mr James Girdwood

Certainly not, they will not remove more than they can make money by, it is their object to be at as little expence as possible

Does not the Contractor remove everything that is put out in this way

She [sic] ought to do so I had nothing to do with the removal

Are there not some good houses near the Kirk yard

Yes some of the West [sic] in the Town are there

Does not D^r Hamilton live in a house near the Kirk Yard

(A) Yes

Has he not a garden alongside the Kirk Yard

The Garden is towards the back of his house

He is a Medical Gentleman

(A) Yes

And he has recently planted himself close to this Kirk Yard

The House was for sale and he bought it about 10 or 15 years ago but it is situated at a considerable distance from the Kirk Yard

Does not his garden join it

Yes, I must say that I have known people express a considerable prejudice against eating the gooseberries and vegetables -

Surely you must know that the best fruit and sweetest flowers All [sic] produced by manure

I am quite aware of that

Nevertheless there has been a prejudice about this ditch

The ditch is on the other side of the Church Yard

It is the Church Yard itself that courses [sic] the objections is it supposed that the Church Yard fertilizes the Doctors garden

Yes

One of the Nuisances we have heard of in Kirkirk [sic] is the Constant keeping of pigs

Yes they say so at least

Do you keep any pigs

(A) Yes

You are rather a pig fancier I believe

(A) I am

How many pigs do you keep

(A) I have at present young and old 8 pigs

In Falkirk itself

(A) No in Grahamstown

Are you one of the parties whose pigs have been sent away and have come back again

No my pigs are treated like Gentlemen they are kept clean and well fed and make Capital for R.- [sic]

Is this pig Establishment adjoining your house

(A) Yes

How far from the public street is it

(A) I think about 100 yards

How near is the pigstye to the public street is it so close upon the public Streets

It is a little way off

Does the lane go past it

(A) Yes

Have you considered how you will stand under the Police Act as to these pigs

I have not considered that point, all my place is perfectly Clean there is a stormy Westerly wind blows and nobody can be annoyed

That could send the smell of the pigs to other peoples

Only in one house I never heard the slightest bad smell from them

Just tell me about the Grahamstown road are there no drains there

I believe there is an old ditch that has been filled up many years ago there is a gutter along the side of the road and I think it would be better away it is never swept and it is constantly filled with filthy water

Then there is no Drain except this surface Drain which does not carry away the Water

That is on the opposite side of the Road and it is in such a state that when the Water is thrown out it runs upon the Road itself, there is nothing to carry it away

Where is this land that is worth £24 per acre

I paid that sum for my own feu

Is that Land very valuable along that Road

I believe it is all in feu at that rate £24 in the front & at the back £16

At the rate of £24 the Scotch acre in the frontage, you mean the solid acre

Yes

Can you tell us what we could not ascertain yesterday, the per Centage of death in Falkirk

No I cannot but I saw a return the other day in which it was attempted to shew that the deaths in the Town were in a far greater proportion than the landward part of the Parish

Mr James Girdwood

That is generally the Case is it not

Yes there was a great disproportion but I cannot give you figures

[The Witness withdrew]

Mr Thomas Kier sworn

Examined by Mr Mundell

You are I believe the present Provost of Falkirk

I am

Are you also Chairman of the Parochial Board that has been spoken of

I am

You have been Provost since 1858 & Chairman of the Parochial Board since 1857 I think

Since June 1858 I have been Provost of the Burgh and since March 1857 I think I have been Chairman of the Parochial Board

I believe you are a native of the Town

Yes I was born there

And carried on business there for about 24 years

Yes

What is the population within the Parliamentary Burgh as near as you can form an Opinion

So far as I can form an Opinion & what I have heard it is between 9000 & 10,000

Within the Burgh of Regality what is the population

Nearly 6000

Grahamstown and Bainsford about 10,000

Yes altogether about 10,000

I believe the number of inhabited houses is about 3000 in the whole Area

Yes I understand so

Therefore with the same population there would be about 2000 inhabited houses in the Burgh of Regality is that so according to your Opinion

It could be determined within a few, so far as I think that will be about the proportion

What is the annual value of the entire heritable property within the Area. I believe there has been a return prepared from the Parochial Board Office with regard to that

Yes £19,391.9.6 is the gross value of the property of the Burgh of Falkirk

By the Committee Is that the Regality

The Parliamentary Burgh

[The following paper was delivered in]

“Table showing annual Valuation of Properties within the Burgh of Falkirk and rate of poundage to realize an assessment of £100 for the purposes of the Police Bill.

	Annual Valuation within the bounds of the Burgh of Regality						
	Burgh of Regality						
1	Agricultural lands	£490	19				
.							
2	Gardens separately let from dwelling houses	172	13		663	12	
.							
	Annual Valuation beyond the bounds of the Burgh of Regality and within the limits of the Parliamentary Burgh						
1	Agricultural lands	845	2	-			
.							
2	Gardens separately let from dwelling houses	34	6		879	8	
.							
					Together £	1543	- -
	Annual value of Railway and Canal property						
1	Midland Junction Branch	753	-	-			
.							
2	Forth and Clyde Canal	1031	5	1	1784	5	1
.							
	Total amount of the foregoing Valuations proposed to be excluded in assessing under the Police Bill					3327	5 1
	Annual Valuation of properties other than Agricultural lands Gardens Railway and Canal within the bounds of the Burgh of Regality	10,214	15	6			
	d°. d°. beyond the Bounds of the Burgh of Regality and within the Parliamentary Burgh	5849	8	11			
	Total annual Valuation on which it is proposed to levy assessment for the purposes of the Police Bill					10,064	4 5
	Gross Valuation of the Burgh of Falkirk				£	19,391	9 6

Rates of Poundage to realize an assessment of £100

1. To realize £100 of Assessment on the valuation of £10,214.15.6 within the Burgh of Regality will require about $2\frac{3}{8}$ in the £1- But if the assessment be levied exclusively and directly on all Companies it will require an additional Rate of $\frac{5}{8}$ ^{ths} of a penny in the £1 to meet the amount of exemptions of Occupiers of the smaller properties who are in poor circumstances and unable to pay assessment, or 3^d. in all on the £1 to realize an assessment of £100.

Mr Thomas Kier

2. To realize £100 of Assessment on the Valuation of £5849.8.11 beyond the Burgh of Regality and within the Parliamentary Burgh, will require a Rate of about $4 \frac{1}{8}$ in the £1, and to meet the exemption mentioned above in the event of the Assessment being levied exclusively on Occupiers will require an additional Rate of $\frac{5}{8}$ of a penny or $4 \frac{3}{4}$ in all to realize an assessment of £100
3. To realize £100 of Assessment on the Valuation of £10,604.4.5 of the whole Burgh exclusive of Valuation of the Agricultural lands and Gardens Railway and Canal a Rate of $1 \frac{1}{2}$ in the £1 will be required, and to meet the exemptions formerly mentioned, an additional Rate of $\frac{1}{2}$ of a penny in the £1 will be required or $1 \frac{3}{4}$ in all, to realize an assessment of £100.

The above is calculated according to the scale of Rating for assessment within the Burgh of Falkirk for Prisons Registration of Voters, Births, Deaths and Marriages &^c &^c and is certified by

(signed) John Beeby, Collector

Falkirk 14 March 1859

The Poor Rates within the Burgh of Falkirk are levied according to the following scale.

1. On dwellinghouses, as one or say 6 per cent
2. Works and Shops and all places of business as one half or say 3 per Cent
3. Agricultural lands as $\frac{1}{3}$ or say 2 per cent

Or in other words, works and places of business all assessed at the Rate and in the proportion of one half of the Rate of dwellinghouses and lands at the rate or in the proportion of $\frac{1}{3}$ rd of the rate of dwellinghouses.

Certified by (signed) John Beeby, Collector

Falkirk 14 March 1859”

Is the value of land and other properties of the old Burgh of Regality £10,878.7.6 or what amount is it. I want the entire value of the heritable property including every thing in the Burgh of Regality – give it without the Railway

£10,214 without the Railway and without the agricultural lands

I want the entire valuation of the Agricultural lands and the other property is that £10,878?

The agricultural lands is £845 the total amount of the valuation proposed to be excluded in assessing under the Police Bill £3327.5.1 – the annual valuation of properties other than Agricultural lands gardens Railway & Canal within the bounds of the Burgh of Regality £10,214.15.6

Mr Hope Scott The property is not fully taxed in the old Regality

Yes exclusive of Agricultural property & Railway

Mr Mundell What is the value of the Agricultural lands to be taxed within the Old Burgh of Regality is it £490 or are my figures wrong

£490.19/-

In Grahamstown and Bainsford are the properties which are there to be taxed to the full rate £5883.14.11

(A) I have them here £5849.8.11

What is the value of the Agricultural land in Grahamstown and Bainsford that is to be taxed within the Parliamentary limits

(A) £845

That makes a total of £6,000 was that it when added up

(A) No

As to the Railway is the entire Railway brought within the old Regality the [Mid Junction Railway](#) £624.5.1

(A) It is £723

What is the valuation of the Forth & Clyde Canal within the Parliamentary Burgh

(A) £10,031

The Canal and Railway are assenting parties to the Bill now they have withdrawn their petition

(A) They have

You have been Provost since June 1858 – we understand there was a Meeting of the Town Council as to this Bill last Saturday the Bill as amended by [Lord Redesdale](#) was submitted by you to that Meeting

It was

In December 1858 did you call a Meeting of the Town Council and submit to them the draft of the Bill as proposed to be laid before Parliament

I had a meeting of the Town Council and there was a meeting of the inhabitants

Did you also call a Meeting of the inhabitants to submit to them that Bill

I did

Was the meeting called by you and duly held

(A) Yes

Was it a numerous meeting

It was not so numerous as I expected

Did you at that meeting go through the Clauses

(A) I did

Did you read the Preamble of the Bill

(A) I did

Were objections raised and a counter proposition put at that Meeting

Yes

Was a resolution carried in favour of adopting the Bill

(A) It was

I will ask you generally have you heard the evidence that has been given by witnesses with regard to the town the state of the paving lighting the water and so forth and do you agree with the evidence that has been given before the Committee upon these heads

I have heard a great portion of it & I agree with it fully

Cross-examined by Mr Hope Scott

What day in December was the meeting of the Town Council

I cannot descend upon the day

I think you said it was a meeting in December was not it of the Town Council

Previous to the Public Meeting

Can you tell me when the public Meeting took place

No I have no note of it

Was that in December

(A) I think it was — I am sure it was

You do not seem to attach much importance to this Meeting if you do not remember its date

(A) I do not recollect

How many were present at that meeting

(A) I do not know

Were there 20 people at that meeting

(A) More

30

(A) More

40

(A) More

Are you prepared to say there were 37?

I am prepared to say there were more than that to the best of my knowledge and belief

You did not count them

(A) I did not

You told us there were 10,000 inhabitants within the Parliamentary Burgh how many Electors are there

350 I think or about

How many are there who pay Stint Masters duty

I have no knowledge of that

How many would be rated under the Bill you have introduced

I cannot say the number

Of the 40 I told you of the inhabitants who met were 12 of them connected with the Town Council the direct Promoters of the Bill

I really could not say they were all present that comprehend the whole Town Council – there was a number of them including a number of Gentlemen who were appointed at the public Meeting previous to that to frame the Bill

Was there a division at the meeting at which those 40 people were present

There was

How did they vote

(A) The one party voted against

In what numbers

I cannot tell you I forget the exact number I made no note at the time

Was the majority a large one

For the number that was present it was

Is that the only Meeting at which this Bill has been submitted to the inhabitants of Falkirk

(A) Yes the only Public Meeting

Upon two previous occasions I believe an attempt has been made to induce the inhabitants of Falkirk to adopt the Police Act

I recollect two I think three times

In which they rejected the Police Act

(A) Yes

You are now seeking with some exceptions to impose the Police Act upon Falkirk by this private Bill having had only one Meeting of the inhabitants at which you are not prepared to say that more than 40 people were present

I called a Meeting — In fact to begin with my position of Provost at all – I was elected in the room of Mr Young who got into bad health I was favourable to the police Bill and my understanding was this that I was elected into the Council by the Council itself my full conviction was that the Town generally was favourable for the police Bill but they thought that to adopt the General Act would leave the three bodies existing as they are now and that by getting a special Act and adopting what was necessary from the General Act that it would suit their purposes far better. In November by some mistake it was found that I should be elected again being elected ad interim by the constituents and when that was found out I was again elected by the inhabitants previous to my election at the time of November there were four gentlemen elected by the inhabitants in the room of those retiring and it seemed to be made a real question to elect only those who were favourable to a Police Bill and that was done by a majority

That is to say the Electors constitute 300 people of the whole population of Falkirk and you wish the Committee to understand you to state that practically the last Elections were made of parties favourable to the introduction of a private Bill that is so

(A) Yes

Did they vote in Wards

(A) No

Did they vote generally

(A) Yes

Do you know at this moment what the state of feeling of the Electors is with regard to the inhabitants

Till the moment the fences commenced an excitement I believe the town was generally in favour of this Bill since the agitation was got at by a few interested parties amongst the working classes down about Grahamstown and Bainsford a number waited upon their Masters some of the Feuars did and the Masters signed and of course the men followed

As a matter of fact there is a great preponderance of feeling amongst the Electors at this moment against the Bill

Not with the intelligent portion of the community

I used the word preponderance

I do not know even that though they got a petition largely signed they know best by what statements they got it signed

As a matter of fact the petition represents a large opposition on the part of the Electors

I will not say Electors I do not think there is half the Electors who signed that petition

Supposing the Bill was to pass and by that means the Police Act was to become inoperative to the extent the Bill proposes upon the people of Falkirk would there be much gained if you were to be turned out of the Town Council at the next Election

If I had the pleasure of seeing the Bill carried that was to regulate the sanitary condition of the town I would be most willing to go out the day after that

You would have done every thing worth living for & you would retire

I should be glad to retire having done something for Falkirk

You think that is not an improbable result

I have already stated they mean to ---

The next Election is the thing we are all looking at the next Election

The Council that elected me was not of the same politics I take it could be for no other purpose than that I should carry out some improvement there were 11 liberals and one conservative and I was elected by that Council

You must be a Conservative of the first Water

Yes

By the Committee There is the Petition

I have looked at it there are an immense number

Have you looked at the names in this petition

I have looked at a great many of them I see some Ladies amongst them

Mr Hope Scott Ladies would have to pay the rates

I have no doubt if they have funds every one who gets the benefit should contribute

This one Meeting of the inhabitants to which you cannot give a date under what notice was it called when there were about 40 present

It was called by advertisement in the Local paper

Have you got that

(A) No

By the Committee Do you know Mr James Wisers hand writing

I think I might

Is he the Clerk to the Feuars do you think that is it

I could not say that

You have talked of the agitation that disposed the inhabitants to get up the petition

Not the slightest doubt of it They waited upon persons and statements were made to them most discreditable

Mr Hope Scott Did not the Town Council wait upon an individual numbers to solicit subscriptions to another petition

(A) They called upon a few

They did not call upon the Feuars as you understand but they did make a few calls to get the petition signed

There were far more called to subscribe than were waited upon
More called at the Office than the Office waited upon

(A) Yes

There was a Canvass by the Town Council also was not there for the purpose of getting signatures to the petition favourable to the Bill

I cannot call it a Canvass by the Town Council it was began by a Gentlemen not connected with the Council it was in the hands of another Gentleman I know

Was he connected with the Council

(A) Yes

Some individual member of the Town Council did apply for signatures — here is the Falkirk Improvement Bill — Petition to the House of Commons by the Electors of the Burgh lies for signature in the shop of Messrs Ronald Grocers” Is he a member of the Town Council

No

Mr Charles Jeffreys, Stationer is he a member of the Town Council

(A) No

Mr Joseph Garrison is he

(A) He is a member of the Town Council

Who are the Committee does not that mean the Town Council Committee

No the Committee was appointed by the Town Council to frame the Bill

Is that the Committee that took charge of this petition or is it the Committee of the Town Council with whom that petition lay

I rather think it would refer to the Committee appointed at the public Meeting to frame the Bill

That is the old previous public meeting

(A) Yes

You do not know the members of the Committee to whom the reference is made

That is the only Committee ever appointed

There was a Committee of the Town Council

No Committee of the Town Council

What was the form of the notice under which the public meeting was held at which 40 people were present

The form of the Notice merely was to call them together to hear & deliberate upon the Bill that had been framed by that Committee

Is the Town Council united about the Bill

Nearly so – There is the Clerk of the Feuars who has (been) always opposed

How many members of the Town Council are there

(A) 12

How many support the Bill & how many are against it

There are eight who unanimously support the Bill out and out –There is one that has not voted against it – I think there is one that has voted against it & I think once for it & the other two the one the Preses of the Feuars and the Clerk has uniformly come forward as the black sheep and said no, no I might draw your attention to another public meeting—I think there is a Gentleman here to speak to that

Have I got the figures rightly — The total assessable value within the Parliamentary Borough is £19,391 is that so

(A) That is it

Including Railways and everything else

(A) Yes

Within the Regality deducting Railways and Agricultural Land it is £10,214

Exactly

Beyond the Regality & within the Parliamentary boundary making the same deductions it is £5,849 I am right in these figures

(A) Yes

What is the maximum taxation you propose under this Bill

It was proposed 1/^s for lighting cleaning watching and 9^d for water

That is the total power of taxation

(A) No 3^d in the pound to pay off the debt

That is to say to pay off the Stint Masters debt

The Feuars too if we get the transfer of the Custom or a portion of it at any rate

You would get property worth more than the debt then of the Feuars

It is a portion of my own I am a Feuar as well as these Gentlemen

You have two capacities –your original plan was to take the whole land of the Feuars as well as the Tolls

Yes

The whole property of the Feuars is a good deal more valuable than their debt

(A) Yes

They can pay their way

(A) Most decidedly

The Stint Masters cannot and their debt must fall absolutely upon the rates

No the Stint Masters have no available property that they can sell to pay their debts

That must fall wholly upon the Town

It is entirely the Town's debt created for public purposes and the town must pay it

Those assessments you have spoken of are without reference to assessment in the Police Act

They are for the purposes mentioned in the Bill lighting and cleaning

For the general purposes besides that all private sewage would be done by special Assessments you understand that do not you

I understand if there was a faulty sewer or a sewer wanted the party upon whose property it was situated would be called upon to make it right

Have you given your Surveyor any instructions to consider a general plan for sewerage

He has made calculations upon that subject I believe

Under your directions

No not under my directions

Under the directions of the Town Council

I believe he will be called to speak to that

With regard to the Water supply have you also directed calculations

In the same way I think

Have you at present any treaty with the Trustees of the [Turnpike](#) and Statute Labor Roads as to what arrangements may be made under section 39 if the Bill passes

No we have not we have taken powers to make arrangements

You have made none

Probably there will be a change in the Law with regard to Roads

You mean the new views with regard to [Turnpike Gates](#) and so on

(A) Yes

You expect Grahamstown Road will be dealt with by a General Act

I hope so or some other way to make it better

That would apply to the road to Stirling that passes thro' the Burgh that is the Turnpike Road

Yes

By the Committee What is the value of the property of the Feuars do you happen to know

I know it intimately the value of the Customs have raised this last year I think — I have known it as low as £90 but it has now reached £154 I understand this year

You are speaking now of the Market Tolls

No this was previous to the Market Tolls being thought of

What might be the Capital sum for the property belonging to them under this Decree

It may be £50 an acre or so

What is the whole value of it giving a rough calculation

£1500 — It may be overstating it being inferior land and difficult of access from the Town it stands high it would not be very suitable for fencing purposes & I think £50 would be a full price for it

Would you say £1200 in round numbers

(A) £1200 I think would be a fair price for it

Do you know what the Stint Masters property might be worth

To put down the Stint Masters property if it was to begin just now it would not be done for £2,300

It would be worth that

If it would take that to put it down

To sell

It cannot sell — the Steeple is a great portion of it

What would be the portion to sell

(A) I think it would be worth £3000

£2500

(A) I think so

Mr Hope Scott Are you speaking of lead pipes and iron pipes

Lead pipes and a great number of fine little Wells

By the Committee That would be £3500 provided the property of both the Stint Masters and the Feuars was sold

(A) Yes

That would rather more than extinguish the debt

(A) Yes

What might the Tolls be worth supposing they were capitalized

To pay 4 per cent on the £120

The advantages which are derived from the income of these sums has been entirely confined to the Regality

Entirely confined to the Regality

Bainsford and Grahamstown have derived in point of fact no advantage from whatever has been raised within their precincts

None

What induces me to ask this question is that in this Petition which cannot be altogether neglected I observe almost all the persons who sign it are Labourers and probably persons who will not be assessed

(A) A great many of them

The Petition professes to be a Petition of Ratepayers

Yes but they are Moulders or Smiths

They are artizans

(A) Yes

Are those the men that would come under the 10^d½

The principal part of those petitioners

Are the Artizans of this Class who have signed this Petition a class of persons who come within that book and are assessed at 10^d½ or any higher sum than 10^d½

I think the great majority who are there have not been assessed at all under 10^d½ they are in the suburbs of Grahamstown that 10^d½ is only for the supply of water in the Old Regality

The Clause is "Your Petitioners object to the provisions for paying off the debt of the Stint Masters and Feuars of Falkirk by means of an assessment to be levied upon the Owners and Occupiers of property within the Burgh and as that debt was incurred solely for purposes within the Old Burgh of Regality it is most unjust that those of your Petitioners who reside in the district of Grahamstown and Bainsford and whose property is situated beyond the limits of the old Burgh of Regality should be liable to pay the assessment for the said debt with the contraction of which they had no concern and for which they and their property are in no respect liable" That is the Clause in this Petition which made me ask you the question as to the value of the property

That is just what I was explaining those districts of Grahamstown and Bainsford never have been assessed for water at all neither will they be assessed for water under our Bill unless we really send it – the Clause in the Bill is that until the majority of the householders in Grahamstown and Bainsford may request water to be sent to them they shall not be charged for it

Is there any Clause in this Bill for an Extension of the Water by the Stint Masters and Feuars by means of the sale of their property

There is a Clause affording power to assess them up to 3^d in the pound but the framers of the Bill in inserting that Clause had in view that the transfer of those customs which would be put into a Common Purse to be distributed over the whole Burgh was an equivalent to their paying a share of the Stint Masters debt

I understand first of all the property of the Shipmasters [sic] and Feuars is to be vested in the new Town Council

To make a Common Fund for the whole Burgh

In addition to that you have the power of saddling the inhabitants with 3^d more to pay off the debt

Yes in addition to that the Feuars Customs which the Feuars have been managing by themselves and expending in the old Burgh are to be put in a common purse to be spent over the whole

It appears to me that the justice of the case would be better met if there was a sale of the property which belongs to the Feuars and Stint Masters for the purpose of paying off the debt rather than by saddling the town with a rate of 3^d in the pound – If you can make the Town Council the Masters of the Assessment and sell the property of the Feuars and Stint Masters at once to extinguish the debt although you would lose the property you would not require the additional tax of 3^d. in the pound

That would meet the case quite – the understanding of the Promoters of the Bill is to this effect that if they do not get the transfer of those customs that that three pence in the pound will be taken out of the Bill and the debt as regards Grahamstown and Bainsford

If you get the transfer you have no right to saddle the Inhabitants with threepence extra in the debt with the property of the Feuars and the Stint Masters you should satisfy the interest of the debt or pay it off gradually — you should not saddle the ratepayers with this additional threepence

Yes

Re-Examined by Mr Mundell

As I understand the Bill as it at present is framed it is not proposed to deal with the 30 acres of land at all which you have valued at £1200 — that remains the property of the Feuars is that so

Yes

The value of whatever may be bought about 15 years purchase upon the customs would be taken by the Town and would bear the relative proportion of the £1500 or £1600 debt

That is what I understand

As the Bill is at present framed you mean to leave the debt so much upon the land and so much of the Feuars debt upon the customs

Yes

As the regards the proportion which is to be paid off by the threepenny rate that would be part of the Feuars debt which is to be so paid

Decidedly

Though you have valued the Stint Masters property at £2500 in your judgment excepting for the purpose of supplying water to the Town that is not saleable at present

(A) It is not

Therefore though you have valued it at that if it is to be available to that extent in price it must be taken by the Town

(A) Yes

As to this Meeting you have spoken if there was a Meeting as I understand in the February of last year that is 1857 at which it was agreed by the majority that you should have a special act

I was not present at that meeting

You know of it

(A) Yes I know of it

You have spoken of a committee

(A) I have

Was that a Committee of Electors

(A) A Committee of Electors

Was there a Meeting of Electors called in September 1858 to consider the propriety of a special act of Parliament

(A) Yes

Was there a Committee of Electors called

(A) Yes

Named at the time and selected from the Meeting was that so

(A) Yes

Now the committee is the committee you have spoken of as having the Bill submitted to them

(A) Yes

In point of fact this Committee of Electors have throughout approved the Bill is that so

(A) Yes

You have also asked as to the names to that petition — the chairman has with propriety pointed out that many of those people are Labourers — have you gone through the names upon that petition and do you find among others the name of Kinnaird and sons of the Falkirk Iron Works

I do

Immediately after that signature does there appear a considerable number of names of Labourers Artificers Workmen and Moulders people of that class who would be employed in Ironworks

(A) Yes

Do you also find it is signed by Hardy of the Castletown Foundry

I do

Does there appear after his name the like following as they call it in Scotland of these little people

Yes

I believe you do have upon the petition the names of some leading ratepayers and respectable people

Yes

As to the bulk of them in your judgment you have gone through the petition do they appear to be leading people Ratepayers or Electors

They are neither a great portion of them

For instance is there one name of any clergyman or resident Gentleman for the most part?

(A) No I do not see the name of one clergyman in the Town

Or of a Medical Man in the Town?

Yes I think I saw one Gentleman –I remember that Gentleman has been now pulled up for having a nuisance on his property

Mr Hope Scott Pigs?

No Slaughterhouses

By the Committee Who is Mr. Ord

He is a Cowkeeper and Dung Factor

Mr. Aitken Solicitor Mr. James Wise

Both Feuars.

I understand that the Stint Masters property is more valuable than that of the Feuars

It is more valuable in respect of this it would take more money to put it in its place in keeping off the customs I think the Steeple itself could not be built for less maybe than £1600 or £1700

It would not fetch so much in the market

It would not fetch anything

Have there been any Counter Meetings against this Bill

There were two such

Who were they called by?

One called by Mr Adam Smith the Writer

Who was he?

(A) He is present now

Was there any other – was that a numerously attended meeting

I understand there was about 50 attended it, it was a meeting called in this way so far as I recollect calling all those that were opposed to the Bill by handbill posted there

Mr Hope Scott Were you present

I was not I saw the Bill

By the Committee Is there any Petition from that meeting

They could not form a meeting nobody would take the Chair

There were two other meetings that is all you know of it

I know the character of them

Was there any result

There was no result at that meeting I am told they immediately proposed to adjourn to the Public House and get a dram that was the whole resolution they came to — The other public meeting I think you have heard it already described was got up by beating drums and the great fault with me was that I did not ring the Bells to call out the people

The witness withdrew

John Gair Esq^{re} Sworn Examined by Mr Mundell

You have been Procurator Fiscal of Falkirk for many years

For upwards of 15 years

I believe the Procurator Fiscal discharges a sort of double duty as Coroner and Public Prosecutor

Yes and other Public Duties

Those are amongst them

A Yes

You are the owner of property within the Burgh are you not

(A) I am

In the latter capacity do you take an interest in the promoting of this Bill

(A) I do

Do you think it would be desirable for the Town that this Special Act should be passed

(A) Yes

Without going into the reasons which have been given by other witnesses is that from the advantage of vesting in one body the duties which are at present divided between two

That is one great reason and another is the great want of Police regulations and order and cleanliness in the Town which can only be provided by such a Bill

You as Public Prosecutor must be acquainted with the state of crime in your place

Yes

Falkirk is situated locally half way between Edinburgh and Glasgow

Yes the two largest towns in Scotland

Have you been subject at Falkirk very much to frequent house breakings

Very frequent night house breakings

I believe the burglars disregarded even the high functionary the Provost and broke into his house four times

I distinctly remember three prosecutions for housebreaking at the Provosts and my own office was broken into

Do you think the way in which Falkirk is lighted affords facilities for these night burglars

There is no doubt that the insufficiency of light for nearly 6 months in the year the absence of lighting during moonlight and during other times of the year the defective lighting when the lamps are lighted afford great facilities for crime – I may add that the state of the Town in respect to crime – these midnight /

robberies is a matter of frequent remark with the Judges of Assize — wonder is expressed that something is not done by the Public spirited men in Falkirk to put down such a state of matters

By the Committee Where is the Provosts house

In the main street—I think every third or 4th house or shop in the main street has been broken into in my time

In what month was it broken into

In the summer time I recollect distinctly its being broken into twice in the Summer time

Between the interregnum of light or rather darkness

Exactly so

Mr Mundell Do you mean that it was the Provosts present house where he lives that was broken into or his place of business

His place of business

Being a man of substance I believe he lives out of the Town

Yes

The people live in flats in Falkirk so that even the Provost would not be a self-contained house

No, many of the houses are in flats

I will ask you generally this question — You have heard the Evidence given by the other Witnesses as to the state of the Town and all the varieties of Nuisances do you agree with them

I agree thoroughly, particularly with M^r Irvin, who was one of the Sanitary Committee in the time of the Cholera, when there was great attention paid to these matters and I know from having been charged with the enforcement of the Sanitary Regulations of those days the state of the Town most intimately. I agree with M^r. Irvin most thoroughly in all he said. I lived for some years in Grahantown and we were driven out by the state of the Roads and ditches and by the want of drainage in the place

Mr Girwood spoke of having been employed in these matters professionally upon Criminal prosecution — I suppose it was at your instance that he was so retained

Yes, he and Dr Hamilton are employed upon these matters

I believe you have had practical experience — I do not mean under this last Act which has been referred to before the Committee, but under the former Nuisance Act, you attempted I believe to put down Nuisances by the processes pointed out under that Act

Yes, in one year I had 48 prosecutions to try to put a stop to these nuisances under an Order from the Privy Council, and the General Board of Health supplementing the Act — This new Act is a recent Act which came in place of one with a little more stringent provisions. In one year I had 480 informations /

lodged with me and 48 prosecutions followed — in other cases the parties at my request removed the nuisances without a prosecution

By the Committee Under this Nuisance Removal Act

Under the former Act

Mr Mundell Did you find that that was an effective mode of preventing nuisances — or was there a recurrence of the Nuisance as soon as the proceedings were over

It was efficient at the time the places were cleaned and the surface drains covered but within a few months they were just back to their old state many of them

You have heard what was said, you have had experience in the conducting of these prosecutions and in your Judgment, where the value of the business is as low as £50 is it a convenient matter that it should be open to parties to litigate it in the Court of Session

I should say not, but I do not think that that is a matter for our consideration here, what we want at Falkirk is a system of sweeping cleaning and watering the streets constantly, for which there is no compulsory provision at present and this Nuisance Removal Act is quite contrary as a gentle system of cleaning & Police Regulations in a place like Falkirk

Does that inefficiency of the Nuisance Removal Act arise in your opinion from the want of the authorities being able to levy a General assessment

The Magistrates have no power to levy a General Assessment

Does that detract from the value of that Nuisance Removal Act as a whole

I think so

By the Committee It is not sufficiently pliable

Yes, it will not suit the purpose

The 480 Cases which you have spoken of are put upon 28 per Cent of the whole population are they not

Yes, that occurred in the year 1848 – At that time we adopted visiting and laid informations upon every place in Falkirk that had been complained of – I know the state of the Town intimately — and I include Grahamstown and Bainsford

Those cases of prosecution were not under this Act

No – they were under the Act of that day supplemented by the Orders of the Privy Council and the General Board of Health

What is the reason that you could not trust to this new Nuisance Act

The Town Council and the Parochial Board are the parties charged by that Act – and in my Opinion it is useless as a general system of draining and cleaning, as soon as a month had elapsed after these prosecutions they had no general effect

Under one of the Sections – I think the fourth — it is provided how the formation of the Board is to be conducted out of the two parties and the 5th Section states that you are to apply to a higher Tribunal to decide which if the two bodies should be imposed the burden and duty of carrying it out

Yes

Can you state any reason why those two Bodies could not agree in referring to a Common Tribunal

There is this provision in the Act that where a Burgh is partly within a parish the Parochial Board or the party named by the Board of Supervision shall carry the act out – In Falkland [sic] the parish contains a number of small villages and one or two considerable little Country Towns exclusive of Falkirk and the Burgh Magistrates of Falkirk & the Town Council therefore would naturally have nothing to do with the places beyond

Much of the parish of Falkirk would step over the boundary of the Parliamentary Wall [sic]

Yes there are nine miles in length of the parish so that the Town Council could not be naturally speaking the local authority – it would be the parochial Board — It appears to me that there has been some little feeling of the parochial Board adverse to carrying out the Act in the Town they conceiving that the Town Council should be the parties to do it

Nullae leges sine moribus it is a want of good feeling in bringing parties together

(A) Yes a good deal

Mr Mundell (I believe you are intimate with its provisions) that although there is a remedy to do away with existing nuisances in the shape of water courses there is no power to provide new Water Courses and Drains as it were by anticipation

As I read it

By the Committee Is it not designedly a sanitary Bill and not an Improvement Bill in any sense — what you want is a sanitary and Improvement Bill under one General Body

Yes

Mr Mundell Besides that question as to Slaughter houses particularly in respect of which some of these prosecutions have been — I believe you are aware that under the Police Act which is proposed to be incorporated there is not only the means of putting an end to Slaughter houses but of removing them to another site and giving compensation to the Owners

Yes

Is there any such power in the Nuisance Removal Act. -

No. -

Is that desirable for the Town of Falkirk

Yes.

Therefore the Police Act would be more favourable in that respect.

Yes.

By the Committee Why have not you applied to that Act if these Slaughter houses have been found offensive and injurious to the health of the Neighbourhood

There is no Police Act in the Borough – the parties have refused to adopt it – Our object is to get it from Parliament – Again with regard to a Grave Yard there is some provision in this General Act that the Town Council could provide a suitable Grave Yard but they have no reason of doing it at present – the public attempted some long time ago to do it by private contributions but there was not enough subscribed to provide the necessary ground —therefore the Church Yard remains in its present state.

With regard to the mangement of the property of the Feuars and Stint Masters - what is your opinion upon that question of Valuation and sale;

The Feuars lands lie to the South of Falkirk and I concur with Provost Kier as to their value they are not to be taken by this Bill – the Customs were – The old dues levied on Goods brought into the Town for sale are public customs and it will hardly do to sell them because they would be sold to a person who might oppressively use his right in levying them they are much more suitable in the hands of a public body because they have no interest in oppressively raising this tax if they were formed as the customs used to be in olden times and in recent times in my own day when they formed the coach house duty the tax was laid on oppressively whereas a public body has no interest in doing it - I think it would be an inexpedient thing on public grounds to vest these duties in an individual

So far as this [Octroi](#) duty is concerned although it might not be possible for it to be managed by any persons who would buy and farm it with regard to the lands the case might be different

Yes –As regards the Stint Masters property in the Steeple which is used as a public prison and the only prison in Falkirk at present there is the shop below and the wells and the fountains and pipes and the right of collecting water in the Moor of Falkirk it would be a very inexpedient thing for the Town Council to sell that right of collecting water

Mr Mundell About the time of the Cholera in 1848 do you remember a general meeting of the [£10 Householders](#) as to the adoption of the public Act

In 1848 there was a pretty general desire felt (the Cholera was approaching and it was dreaded) that something should be done to put the Town in a sanitary state. At that time the general police Act for Scotland was a permissive Act which might be adopted by two thirds of the £10 Householders and the provost of the day my friend M^r Adam was equally anxious with many respectable people to adopt this Act A public meeting was called and a poll took place in the terms of the Act, but the majority of the £10 householders declined to adopt the Act – that is to say two thirds of them

You have instead the word “Majority” I will ask you whether the actual majority was in favour of the adoption or against it

My recollection is that the majority of those voting were in favour of the adoption - I am not perfectly sure I know it was a very near thing – but in 1848 there was pretty nearly an equality a little more on the side for the Bill but there was not the majority of two thirds necessary to adopt it

If your recollection served you rightly there was a majority in favour of the Bill although it was a bare majority

Yes If my friends would shew me the Minutes I could give the numbers accurately

Do you remember the attempt being renewed in 1847

I do perfectly

In the meantime a change had taken place in the Law and a majority would suffice of the £10 householders

Yes under the general police Act of the day Lord Rutherfords the former was M^r. Locates Act

I believe the majority was a considerable majority against adopting the Bill

It was – That movement was also promoted by provost Adam

Still the majority was against the adoption

(A) Yes

You heard the reasons given by M^r. Morrison as to what operated upon the minds of that majority of your voters, do you agree with him in saying that it was because they thought it was inapplicable to their state of Government where there were two Bodies the Stint Masters and the Feuars.

I do – A great number who voted against the adoption of the Act were impressed with the belief that the General Act did not meet the case of Falkirk in its general circumstances and rather than have any improvement at all they voted against the Bill

I believe by the Police Act there is necessarily an interval of two years before the subject can be renewed so that there may not be constant Meetings

Yes, both Meetings ended in a poll being taken

After the statutable term of two years had elapsed did Provost Adam renew the attempt to get the adoption of the Act assented to

He did at a time when people thought it very inopportune –The feuars had become a more open body about that time and they had agreed to repave the main street of the Town and were expending a good deal of money which they had borrowed to do it upon the security of their property and inhabitants had subscribed largely there are Gentlemen who never subscribe a penny to any improvement and there was one Gentleman taking the lead in it and giving a great deal of his time to it and the people thought that this was an attempt to find fault with him in some way or other and therefore the third attempt to adopt the Act was not countenanced and did not go to a poll at all – it was thought to be inopportune and that we had better let it stand for a time

Excepting the omission that Mr Morrison made with reference to that intervening Meeting that you have spoken of - Mr Morrison was in the main quite correct

Yes quite correct

With reference to the Feuars 7 or 8 years ago the Feuars became a more popular body, since their accounts have been pretty well opened and they have been managed by a Preses and a Clerk

They became a more open body I do not know that they became more popular

I mean that they became more openly elected & larger in number.

Yes and their accounts have been made public

Do you know of your own knowledge whether 7 or 8 or 9 years ago when it became a better constituted body and they published their accounts they had any debt upon them

I believe they had no debt or if so it was a very trifling debt, the debt from that time was contracted first in the this valuable improvement in the main street that debt was cleared off and latterly within the last 8 or 9 months they commenced building and they have enclosed a place which they have called a Corn Exchange and they had to borrow every penny of the money to build it

Then this large sum of £1,500 or £1,600 that we have heard of has been borrowed within the last 8 or 9 months as you believe

I think so.

Was that subsequent to the Meeting of the Inhabitants when they thought it advisable to have a Special Act – I am speaking of the Meeting of February 1857

I believe the Feuars did not move in that matter of the Corn Exchange openly until after a Meeting of the Town had resolved that it would be right to apply for a Special Act

Before that Market was contracted to be covered over did the Feuars think fit as regarded the general interests of the Inhabitants to call any public Meeting whatever of the Inhabitants of the Town

No such Meeting was called. -

It was done on their own mere motion & they borrowed this £1500 or £1600.

They did and expended it on what is a Speculation in many Towns by private Individuals that is the erection of a Corn Exchange

I do not know that it is perfectly clear how the matter stands about that do you know what they charge for entrance into the Market

They charge a penny a head for entrance into this covered place – it has only been opened about 2 or 3 weeks

Is there not a sort of 5 years Season Ticket for £1

Yes the Market is only used once a week. -

This penny toll is collected by the same person who collects the other Customs is not it.

Yes.

Is that when the Corn is pitched in the Market which pays a penny a boll the money is paid to the same person who collects the penny for entrance.

The penny a boll is leviable when the Corn is brought into the Town -

By the Committee - Has that peculiar appropriation of the Feuars fund ever been questioned

The Feuars are a small body and manage things as they like very much – some of them say – we can do as we like with this money” — Notwithstanding the terms of this decree & what we have seen – I have heard a Gentleman who is now sitting here say they can do what they like with it.

Mr Mundell - They contend that it is private property to do what they like with. -

Yes.

By the Committee - Has the question arisen of the legality of their raising tolls by the expenditure of money which has been granted them for the benefit of the Town. -

That question has never been raised

Have you any idea what the particular Customs and Tolls were that were raised by William Forbes which are alluded to in the Decree. -

They are stated in this Table which has been handed in they are supposed to be Tolls given by the Earls of Callandar for the purpose of erecting and maintaining Courts of Justice within his Barony and a prison and the usual officials of that Establishment

The Feuars confine themselves entirely to these Customs and do not raise any other Tolls. -

No, they do not raise any other tolls – I have heard all the evidence but I am not sure that to my mind the evidence has brought out exactly the position of the Feuars and Stint Masters funds or rather their application as regards the cleaning of the Town and lighting it. Under the old constitution of the Stint Masters their only power was to levy an assessment for Water but when the Town increased in extent and it needed some little lighting they made a stretch of their powers and put up a few lamps here and there in the Town but as the Town extended these lamps were increased in number and in my time they were not half what they are at present — I hold them to be still insufficient but the application by the Stint Masters of this assessment towards the Lighting has not been sustained by any Court of Law – On the contrary when questions were raised by Individuals about whether this was a legal application of their assessments the Magistrate trying the case determined that it would be right for the Stint Masters to strike off that portion of their assessment which they applied to lighting purposes. And as to cleaning the same remark would apply they have no right under the original constitution of their body as I understand it to levy any thing for cleaning – Up to the last year it was £10 a year but they have been induced by repeated applications about /

the filthy state of the Town to increase the expenditure to £45 – As regards the Feuars they pay none of their money towards cleaning the Town – I do not limit my remark to the Parliamentary Burgh to the old Burgh of Regality – I am not aware that they pay any thing towards cleaning the Town at all – they have paid half the expense of lighting for the last 7 years but that is a voluntary contribution on their part which they say they may withdraw at any time so that we have no compulsory means of lighting the Town of Falkirk and no compulsory means of cleaning the Town of Falkirk at present.

By the Committee Under the particular constitution of these two bodies of the Feuars and the Stint Masters they might come to an issue as to what really was for the good of the Town or not

No doubt

They might make a special application of their funds & contend that they had a right to do with their funds that which they maintained was beneficial for the Town

That is the difficulty of having three bodies to manage the affairs of this small Town the Magistrate and Chief Officers in the Town having really little or nothing to say in the matter

Have not the Feuars the same vested rights with the Stint Masters – are not the Stint Masters to be appointed for the purpose of raising certain assessments

Yes

The Feuars appear by this decree which has been given in to have received property for their use – the wording is rather ambiguous but it is evidently intended for their use and the use of the Inhabitants

Yes

But the Stint Masters have nothing of that sort.

No.

Therefore there is a clear difference between the case of the Feuars and the case of the Stint Masters.

Quite a palpable difference the Feuars have their rights under that decree. -

Are not the Stint Masters Feuars inasmuch as they are part of the Community. -

A Feuar is one of the Owners of the large feus which were granted off from the Callandar Estate

I take it there are two sorts of property – one personal & the other real in their bodies. -

Quite so, the Inhabitants have the right of grazing Cattle and steeping lint in the [lint holes](#) on the Common.

The duty of the Stint Masters was a personal matter and the Feuars were a landed proprietary. -

Yes, Mr Forbes gave up those duties to the management of the Feuars. -

Cross-examined by M^r. Gloag

Were you present at the discussion before the Examiner.

Yes. -

You are aware that he took the view that there was a private right vested in the Feuars.

I am not aware – he said that the case was so complicated that he would not pass the Bill in Standing Orders unless a plan had been lodged his deliverance is there. -

The Judgment is this - “I think without doubt that the [Stint Masters] are a public body constituted for public purposes and that the lands held by them are held in every respect for public purposes and as such not within the Standing Order N^o.20 With reference to the Feuars whom I also consider as a body constituted for public purposes I think that there remains in them so much discretion as to the application of their funds and so much ambiguity about their claim to the ten acres in their own right - that I do not feel safe in considering that their case falls within the principle of the [Liverpool Dock Case](#) — Their duties are not so absolutely defined and the property (owing perhaps to their peculiar institutions and the source from which it has arisen) is less of a public nature and is more private in its administration than in the case of the Liverpool Docks which are the two main parallel cases I feel therefore that I should be stretching those cases if I were to hold that the Promoters were entitled to take these lands of the Feuars without the deposit of any plans – The Promoters ought to have deposited under the 28th Order Plans of the lands at present vested in the Feuars, which they intend to take and to have complied with the other Standing Orders incident upon such deposit” – Upon the Report of the Examiner came the order directing the Clauses for taking the lands to be struck out of the Bill.

Yes.

There is this note on the Bill “The words underlined and in italics will be struck out of the Bill in Committee. -

Yes.

By the Committee - In your opinion the two bodies stand in different positions as regards their rights.

Yes under the decree the Feuars have an absolute right to ten acres of land and as to the 20 acres they have the control for their own and the public good

Have you never considered the possibility of having the power to assess yourselves for the purpose of cleansing the Town and lighting the Town and allowing these Feuars to retain their Customs

We think it is inexpedient that the three bodies should remain managing the affairs of a small Town like Falkirk and as they cannot be managed at present by these bodies it is necessary that there should be an assessment for public purposes and therefore the public funds and customs should be vested in the/

Town Council – that is our view –the Town Council would be better off with the Bill whether the Feuars Customs are given or not

These Tolls you think cannot be sold – I suppose the £170 is not taken in Tolls

No the Tolls are let from £100 to £150 -

the Inhabitants have no power of assessing themselves or rather the Town Council have no power of assessing [beyond] three ~~tenths~~ [pence] in the pound in what is called the Municipal Borough

Would you be satisfied to gain this power of assessing and leave the Feuars to hold their tolls still because it appears to me that these tolls are vested in them in the same way that they were the property of William Forbes you would hardly have asked him to give up his Tolls and Customs in order that they should be applied to lighting and cleaning the Town – it would be for the Inhabitants to raise money for the lighting and cleaning the Town –These customs would be held by the proprietors as they are in Ireland and I suppose in ~~Ireland~~ [Scotland]

I do not know any in Scotland – I have so much the good of the Town at heart that I would be very glad to see any Bill that would give the Magistrates and the Town Council power to assess for sanitary purposes. —

I am not a Promoter of the Bill the Town Council are the Promoters of the Bill but my opinion is that these Customs should go to the Town Council — Although M^r Forbes had them he was charged with duties in respect of them - that is the duties of watching and assisting in maintaining a prison Establishment in the Town

M^r Gloag You were one of the committee promoting the Bill I believe

I was one of the committee for framing the Bill

Does any one know anything about the debt of the Stint Masters -

Mr Henderson knows all about that I examined the books of the Stint myself when we were framing this Bill and I saw that in 1813 there was a debt of £1000 owing by the Stint Masters

But for anything the public know that debt may have been incurred simply by the mismanagement of the Stint Masters

I do not know that they have the charge of the water supply they were merely public officers elected as the Magistrates of the present day are, and they appear from the records to have always been under the necessity of borrowing money to increase the supply of water

From not laying on a sufficient assessment

Probably from not having the power for anything I know. I saw in the Stint books that this debt was £1300 about 1810

And the property of the Stint Masters is such that according to your evidence a considerable sum would be required to bring it into any operation

I do not know that. If the Town at this moment were absolutely without water pipes the wells and cisterns, and the rights [sic] of collecting the rate-water would cost them a great deal more than the debt of the Stint Masters to provide that supply – I think the Town are getting fair value for their money when they get the right of collecting water in the wastes and pipes and apparatus for supplying it over the Town I heard a Gentleman whom I see here, who has great knowledge of this matter M^r Neilson the Treasurer to the Feuars say that the pipes of the Stint Masters were well worth £500. the pipes must be removed and larger pipes substituted but we can now get the iron pipes at a small cost.

About these Meetings you have been speaking of the adoption of the Police Act was declined at the first meeting about 1848 why did the inhabitants refuse to adopt it

I could not fathom the depths of the breast of every man who voted – my impression was that the majority determined against the Act in the first place from the objection to taxation which men of not very large means feel and in the second place many of them objected to it from a feeling that the general Police Act did not apply to the case of Falkirk and others because the General Police Act made no distinction between the assessable value of agricultural land, and houses and shops

At the second meeting in 1850, do you remember whether it was proposed to deal with the General Police Bill

I do not know what you mean by dealing with it

Was it proposed to adopt the Police Clauses

My impression is that the General Act was proposed to be adopted. I know that I have always wished it, as an improvement to the Town and such as would make it like other places of the same population

By the Committee Suppose this Bill to be carried, the Committee are perfectly open to enter into any equitable arrangement that may be submitted for making it a good Bill – there is no claim that they will not listen to

I am neither a Town Councillor or ever likely to be, or Stint Master or even likely to be, and I have with my friends the Feuars again and again urged the propriety of some arrangement ~~and I think~~ [with] the Magistrates

I understand that these parties who have taken the matter into consideration admit the policy of some change whereby the Town of Falkirk should be placed upon a system of better administration with regard to its Municipal purposes

Yes, If I were asked as an onlooker in the Town, and not connected with any of these bodies, I should say that the Stint Masters ought to be abolished as quite unsuitable to the present time, the Feuars might remain if they wished to have the control of their customs, and let them give a contribution from that source

In these Bills there are always two questions to be regarded first the vested interests, and how far they are to be compensated and secondly the power of taxation, and what is to be its extent

Yes, as regards the Feuars I do not know that their funds could be better administered at least they could not be in better hands than they are at present

The appointment of the Tax is the difficulty in all these cases, there is no general Act pointing out the mode in which it is to be administered therefore such Act must carry its own power and the distribution is very difficult

Yes, the Magistrates instead of asking the full power of at 2/6 have limited their demand to 1/- and for water they ask 9^d in the pound – that will give a good fund and I think it is a most essential object.

My own impression has always been that there should be circles drawn round the place which is meant to be improved and that each circle as it is removed from the centre of benefit should pay an ad valorem tax

I assure you if in framing this Bill we could have conceived of such a mode it would have been adopted I myself feel that in Bainsford the Tax will be more burdensome than in any part of the town.

I think all these discussions should be carried on in the best possible spirit with a view to carry out public benefits – I think wasting money in litigations of this kind is undesirable. Of course ultimately a great benefit must accrue if the parties could agree as to what should be done

A Committee was formed last September for framing this Bill at a public meeting and a very considerable and respectable meeting was called. a motion was put that we should do nothing about it, that motion was not seconded and another motion was put that a Committee should be appointed consisting partly of the Town Council, partly of one or two leading inhabitants, partly of two Feuars and partly of two of the Stintmasters – I had the honor of being named as one of the general inhabitants and along with other gentlemen, we invited a meeting of all these different bodies, but the feuars thought that we were doing wrong, in touching their customs at all, and they would not come to the meeting and we never had an opportunity of talking over the thing reasonably with them except with one or two personal friends that I have met with who take a less exclusive view than the others of their right to the Customs. The Stint Masters at once attended and said we find that our Office is a very unpleasant one, and the Tax an obnoxious one – we have to canvass amongst ourselves as to what a mans means are before we can determine to assess him – we wish to be relieved we have incurred this debt, and we want you to take the debt along with the property” That was agreed to in the Bill. As to the feuars as no terms had been suggested the Magistrates did not feel themselves justified in dealing with the Bill in any other way than to take their public property the customs and to relieve them from any [public] debt, the same as the Stintmasters – since that time I believe the feuars have made no proposal though we talked of it in this room on the first day of the meeting of the Committee. I suggested to M^r. MacLaurin whether it might not yet be time to say something about a contribution for general purposes and save any further question – I had no authority to do so, but I believe the Magistrates will be willing to do anything that this Committee wishes.

Mr. Gloag I understand however that no opportunity has been given to the inhabitants to adopt or refuse the Rutherford Act since the meeting of 1850 - that is no meeting has been called under the provisions of Lord Rutherford's measure

Not since 1852 – I think it was about that the act does not allow of any meeting except after an interval of 2 years

The Chairman enquired whether the opponents of the Bill were contending for any great public principle in persisting in their opposition to the Bill or whether it was simply a question of terms

Mr Gloag stated that he should prove to the Committee that the Bill was perfectly unpopular in the district and that there was no chance of it being worked ~~in~~ to any benefit at all, and that the Nuisance Removal Act would be much more effectual than the Bill ever could be

Witness The Nuisance Removal Act is quite inapplicable to Police and Cleaning

Mr Gloag You are Procurator Fiscal for Falkirk, do you find your duties very heavy in that capacity

(A) Yes

Do you think that it is necessary that you should be relieved of any of those duties .

I want no relief from my proper duties. I have the most disturbed district in Scotland for its size and I think I have always discharged my duties efficiently and I hope I shall do so as long as I am spared – I want no relief.

Your duties will remain the same

I believe so

There being no provision for Police

I should say if there is any insinuation of this kind the more my duty is in the Burgh, the more I am paid, so that if the Bill relieves me, it takes away my emolument

Is there any doubt that the Market has been the greatest benefit to the town or will be

I believe it is very well liked in the district

Does not it bring a number of people to the district

I do not think it will bring people to the district it may bring a little more grain to the Town, but we have a large agricultural district and till this last year the Farmers in selling their grain had to stand in a shed not closed on all sides, and this new Corn Exchange is certainly a great advantage because it keeps them covered at all times, and sheltered from the weather.

Were you in favor the third time when it was proposed - of the adoption of Lord Rutherford's Act – did you endeavour to get the householders to adopt that act.

John Gair Esq

I have always been in favor of the adoption of Lord Rutherfords Act, or any act to improve the town. M^r Adam called this third meeting when every well wisher of Falkirk thought it was injudicious. I advised him against it at the time as I thought it was not a judicious time to do it – we had a large improvement going on and this was likely to throw cold water upon it therefore I did not take the same active part on that occasion that I did on the two previous occasions though I should have been glad to have seen any Police measures adopted for the town

Did you speak at any meeting upon this point

I think I did. I said very much what I am saying now

Your public exertions were against it till this Bill was introduced

Not at all you are perfectly mistaken

Re-examined by Mr Mundell Whatever benefit this Market place has been it was procured by this debt of £1500 or £1600 and it is only a benefit on one day in the week -

(A) Yes

So that whatever may be the extent of the benefits it is only a one day in the week benefit it is like a Sunday

(A) It is our Market day

The Witness withdrew

Mr Alexander Black sworn

Examined by Mr Mundell I believe you are a land surveyor and Civil Engineer in Falkirk

(A Yes)

I believe you have been in business there nearly 27 years

(A Yes)

Do you know the value of the locality within the Parliamentary limits

Perfectly

You know the land and houses within the Burgh of Regality I suppose I may assume that they are pretty well equal to pay the amount that would be put upon them

(A Yes)

Can you tell me how many small houses there will be in the Burgh of Regality

There are about 2000 altogether

How many will be under the £4 -

I have no means of ascertaining the exact number

According to your knowledge as nearly as you can I do not say to 100 or 50

There may be 300 or 400 in the back lanes

Out of the Burgh of Regality

(A Yes)

I will go next to the agricultural land in the Burgh of Regality is that land of good heart and quality

Yes very good quality

And is in the hands of substantial occupiers

(A Yes)

Let me direct your attention to the district of Grahamston are the houses there for the most part above the £4 rating

There is very few of them under the £4 rating

Now also in Bainsford are the houses there for the most part above the £4 rating

They will be very near about to the £4 rating I think

Is all the agricultural land that is within the Burgh of Regality beyond the Parliamentary Boundary land of good heart and quality and in the hands of large occupiers

Yes it is

I would direct your attention for a moment to these old Coal workings from which the water is got—you know them well

(A Yes)

We have it in evidence that a considerable quantity of water runs away at the source because there is no pipe to bring it to the town is that so

Yes

You have calculated upon an increased supply to the town in your judgment is there a sufficient quantity of water derivable from that source to supply the wants of the whole area of the Parliamentary Burgh

Yes

You are acquainted with the old pipe which brings the water down now to the present cistern

Yes

By the Committee What quantity do you estimate the consumption per head

The supply of water which at present can be got is 13 gallons a head

The present supply is only between two and three

(A Yes)

Would the same sources of supply, supply 13 gallons if properly centralized

Yes

Mr Mundell With reference to this old pipe it is about 1000 yards long

Yes

What is the old pipe made of

(A Cast iron)

Had you occasion to see that it is in a very bad condition as to corrosion when a part of it was taken up some time ago

(A Yes)

In your estimation knowing the necessity of the Burgh of Regality for water would a good clean pipe of 3 inches in diameter be sufficient to supply 13 gallons a day to each inhabitant

Yes for the Burgh of regality alone

If it is required ultimately to Grahamston and Bainsford it would be very necessary that a main pipe of supply to Falkirk proper should be a five inch pipe – is that so

Yes to make it all complete

Therefore in the calculations you have made have you made calculations to suit both alternatives

For the two pipes between the fountain and the town

I believe these old coal wastes there is some coal unworked which belongs to M^r. Wilson who is the Lessee of the coal workings

(A Yes)

I believe the residue of that coal which is left there sometimes fouls the water – is that so

Yes, it is detrimental to the water

It has been within your province to negotiate [sic] with M^r. Wilson for the whole of the unworked coal

(A Yes)

Has he agreed to accept £120 for his interest in the old unworked coal

He agreed at that time

Do you believe that would be so

(A Yes)

The calculations you have made will extend to calculations not only of water but to other calculations for lighting paving and so forth I believe you calculated what would be the total extent of the permanent [sic] works you have treated that as Capital and you propose to raise the interest of that by a rate in the first instance

(A Yes)

As to supplying the ancient Burgh of Regality with water would it require to clear out the coal workings £50

(A Yes)

Would it require to lay down a five inch pipe to the town £190

Yes

Would it require within the Burgh of Regality £165 to lay down additions to the pipes at present existing

Yes

It would require £120 to compensate M^r. Wilson for the coals is that so

Yes

The total at that will be £525

(A Yes)

You calculate interest upon that at five per cent do you

(A Yes)

Which would be something like £25 per year thereabouts

(A Yes)

In addition to the annual expense would there be an annual expense for the water establishment of about £80

To keep the pipes in repair and so forth

That would require for the water supply for the Regality £125 a year is that so

(A Yes)

Have you the figures of what is the rental of the Regality I believe it is £10,214 is that so

(A Yes)

Would that according to the calculation require a $3\frac{1}{2}^d$ rate to supply the town adequately with water

(A Yes)

Have you calculated that it would require £670 more provided the water was conveyed to Grahamston and Bainsford and dietulu [sic] led there

(A Yes)

Therefore the total capital to be raised would be £1195 is that so

Yes

That would necessitate providing altogether annually the sum of £228

Yes

There would be a $3\frac{1}{2}^d$ rate if it was extended to Grahamston and Bainsford as well as the old Regality

(A Yes)

By the Committee What does the $3\frac{1}{2}^d$ rate amount to

£200 – one penny will amount over the whole rental to £66.18.7

Mr Mundell Now the expense of lighting have you calculated how many additional lamps would be required in the old Burgh of Regality

Yes

How many lamps do you propose

10 additional lamps

That would cost £95 of capital

(A Yes)

How many lamps for Grahamston and Bainsford

(A 50)

Would that cost £95 more of capital

(A Yes)

Have you treated as capital the purchase of the present Lamp posts, £120 — is that so

(A Yes)

Would that require a sum of £196

(A Yes)

As to paving and repaving the streets what do you estimate the annual expense of repairing the pavement in the High Street would be

That is taken in the total

Is that £45 a year

That is the sum required just now

That you treat as capital

(A Yes)

As to making the causeways in the back lanes and repairing the paving there what would that cost

(A £168)

Do you propose you should have gravel footpaths between Grahamston Bainsford and the Regality with a curb stone to it

(A Yes)

How much would that cost

(A £263)

So that the capital for paving and repairing the streets would be £476

Yes

The annual charge upon that which you propose to raise by rate would be £23

(A Yes)

Besides that you calculate that the annual expense of repairs would be £40

Yes, to keep the streets in repair

So that there would be from that alone the annual sum of £63 to be raised – is that so

(A Yes)

By the Committee Making a total of £63 in addition to the annual charge

(A Yes)

Mr Mundell Now the sewerage and drainage for Falkirk have you estimated what amount of capital it would require, £400

Yes

In Grahamston and Bainsford have you estimated it will require £502

Yes

That is a total of £902

(A Yes)

The annual charge you estimate at £45

(A Yes)

The annual repairs at £23

(A Yes)

So that will require an annual sum to be raised of £577

(A Yes)

You say for cleaning the streets you require £100 a year is that your estimate

(A Yes)

Adding those sums together have you estimated the whole of those rates spread over the rental of the entire are of £16054 will require a rate for these last matters of how much

Of 7^d/

That is 7^d besides the 3½^d for water or 7^d including the 3½^d

Including the 3½^d

This will require an additional rate of 3½^d as well as 7^d for those things exclusive of water or inclusive of water

Exclusive of water

By the Committee Making 10½^d

(A Yes)

Mr Mundell Then would be water to the Regality £525 and if that extended to be distributed to Grahamston and Bainsford it would be £670 more is that so

(A Yes)

That will be £1190 if both sums are raised

(A Yes)

Paving, repairs of streets capital £476

(A Yes)

Sewerage and drainage £902 is that so

(A Yes)

That makes a total of £2573

(A Yes)

From which £670 is deducted because they do not distribute water to Grahamston and Bainsford that will require a capital of £1903 is that so

(A Yes)

Mr Mundell stated that the promoters proposed to insert a clause in the Bill authorising the raising of a 3^d rate to pay off the debts – that that Clause was not in the Bill at present

Cross examined by Hope Scott

Have you calculated the rate at which will be required to meet the expenditure here contemplated?

I have

How do you propose to proceed first your capital expenditure is £1903 upon one supposition and £2573 upon the other we will take the £1903 what rate do you propose for that

3½^d to cover the water

How much to cover the cost

(A 7^d)

That is merely for capital expenditure

For the expenses of lighting

Then for keeping the road in order what do you put the annual expenditure

£45 I think

Can you give me the cost of your annual expenditure

You have the whole of it

Additional lamps £95 that is capital expenditure

That is capital for introducing the additional lamps

Can you give me the total annual expenditure distinguished from the capital expenditure

£416 I think

Then there is £1903 of capital expenditure, which I suppose taken at 4 per cent would be £80 a year

(A Yes)

What do you allow for a sinking fund

I heard just now that 3^d in the pound will be put upon it for a sinking fund

That is for the existing debt of £2000 – do you provide any sinking fund for the £1903

(A No)

Then you have £496 to meet of annual expenditure, now tell me what your revenue is

The revenue is merely calculated upon what will be required to pay that amount

You have not calculated what would be needed in order to meet the £416 a year

7^d in the pound

7^d and 3½^d is the total rate to meet both interest on the capital and on the expenditure, making no allowance for a sinking fund

Yes

In making that calculation do you take into account the Feuars tolls

I merely took the rental that I got from the poor rate book

Mr Alexander Black

You have not looked at what property is to come in from other sources – you have not included the Stint Masters Steeple nor the Tolls of the Feuars

(A No)

I see you put the draining at £900 – is that to drain the whole area within the Munciple [sic] boundary

To drain the whole of the streets

The whole of the existing streets

(A Yes)

In what way – with pipe drains

(A Yes)

How many yards, or how many feet of those pipe drains have been calculated

In extent about 1400 yards of the principal streets

Can you tell me how many miles of street there are altogether including the side streets and the principal streets within the municipal boundary

(A No)

Ought not you to have calculated the drainage for the whole of them

I have calculated the drainage for the whole of the back streets of Falkirk proper—each street separately [sic]

If you have each separately you can put them together and give me the total how many yards of public sewer will there be without reference to private sewers

1700 yards in Grahamston and Bainsford

That is exclusive of the main streets

(A Yes)

Now in the old Regality how much will there be

Above 2000 yards

You mean including all the side streets that we see on the plan

Including all the streets

That will make 3700 yards in all

(A Yes)

What sized pipe do you calculate

6 inches principally – it will be quite enough for the short distance they are required to run

I suppose you have divided your estimate into materials and labor [sic]

I took it just at one price per yard

What made you do that – are you laying down works of a similar kind at that price

Yes. I have been laying down similar works

What does £900 for 3700 yards work out at per yard?

Nearly 5^d/- a yard

That is for main drains only

(A Yes)

It has nothing to do with the sewers required for private houses

No

For supplying the Regality with water you put £525

Yes

Do you contemplate enlarging the fountain head

Clearing out the waste to allow the water to flow more freely to it

You mean the old coal waste

(A Yes)

And laying down new mains

It only requires the main to be cleared out which was put in some five or six years ago

Is your main pipe large enough

There is no pipe

The piece where there is a water pipe

We put in a larger pipe

The water comes in an open conduit does not it to the cistern

It comes in pipes to these fountains from the old waste

Do you propose to renew those pipes

We do not propose to renew the pipes to the fountain - only to clean them out

You are going to lay larger pipes from the fountain to the cistern are you going to enlarge the cistern

(A No)

Is the supply of water abundant at present time from the waste

Yes

Have you suffered from any want of water at Falkirk yourself

I do not reside within the Regality

I think you have put the paving at £476 – do you propose to pave the Grahamston road

No, just to gravel the footpath

The expense in High Street was very considerable

(A Yes)

It was £1118 was not it

Somewhere about

How many square yards of causeway were there – super yards, do you remember

I could not say exactly

I see it works out £1008 for the causeway alone

(A Yes)

How many yards of causeway do you propose now

It is more for repairing the causeway, not new causeway

You were the Architect of the Market were you not

(A Yes)

That is a very good and substantial building is it not

I think it is

Do you remember the total cost of the Market

I do not – it was somewhere about £1200 or £1300 I think

You know the Feuars property do not you

(A Yes)

Is it a well managed property

Yes, – the land is very well managed

Is not the Market well managed

(A Yes)

The Witness withdrew

Mr Mundell stated that that was the case on behalf of the promoters of the Bill

The Chairman stated that the Committee would require a statement of the estimated expense dividing the same into Capital Account and income to arise from the taxation a statement of the present income of the Feuars and Stint Masters and the ultimate appropriation of such income, whether to be applied gradually in modification of taxation or in the formation of a sinking fund for the liquidation of the new and old debt or in what way it was to be disposed of if transferred -

Adjourned to Friday next at 12 o'clock.

1859 Police Act notes

ATMOSPHERE/SMELL: It was a common medical theory of this period that bad air was responsible for the spread of diseases such as cholera. It was known as 'the miasma theory.' ([Back to text](#))

BACK ROW: A road running parallel to and north of the High Street, now Manor Street.

BARON BAILIE: Official appointed by a baron to preside over his court and generally administer the barony.

BEAN ROW: A lane running west from Cow Wynd

BEEBY, JOHN: Collector of Rates, Clerk to the Parochial Board, he became Inspector of the Poor in November 1850 and Clerk to the Parish Council. ([Back to text](#))

BLACK CLOSE: Courtyard off the west side of Bainsford Main Street, just to the north of Burnbank Basin

BOLL: A measure of dry volume. ([Back to text](#))

BRUCE, SIR MICHAEL: 8th baronet of Stenhouse 1797-1862. ([Back to text](#))

BURNS, WILLIAM HAMILTON: solicitor, youngest son of John Burns (d.1833), solicitor, of Falkirk

BURGH OF BARONY: The monarch authorised landholders to have burghs on their lands with powers to hold markets and fairs for local trade only. ([Back to text](#))

BURGH OF REGALITY: A burgh which had as its superior a secular lord or an ecclesiastical corporation whose property constituted a regality, i. e. in which the landlord's courts tried all cases except treason and royal justiciars and sheriffs did not operate. Abolished 1746. ([Back to text](#))

CALLENDAR RIGGS: Land of about an acre in extent at the east end of the town where horse markets were held, owned by Feuars

CHOLERA: Outbreaks in Falkirk in 1832 and 1848. The 1832 outbreak killed 3,000 people in Glasgow alone. ([Back to text](#))

CISTERNS: The main cistern for holding the water supply was constructed by the Stentmasters in 1805 on the south side of the High Street. In 1825 this wooden structure was replaced with one of stone and iron in what became known as Cistern Lane. It held 13, 000 gallons. ([Back to text](#))

COMMON LAW: Sources of Common Law in Scotland are the decisions of the Scottish courts and certain rulings of the House of Lords. ([Back to text](#))

CORN EXCHANGE: Built in 1858 on ground just to the north of the parish church in what became Newmarket Street. It was designed by Alexander Black of Falkirk and funded by the Feuars. ([Back to text](#))

COW WYND: The road running south from the east end of the High Street, originally to the Town Muir, later to what is now Falkirk High Station.

ESPIE, DR JAMES: had a medical practice in Kerse Lane where he owned land to the north.

FEAL AND DIVOT: Legal interest by a non-owner connected with a piece of land which grants the right to cut out portions of turf for construction or repair of turf-built structures. ([Back to text](#))

GAS COMPANIES: The first company making gas opened in East Bridge Street in 1829 and the second opened less than twenty years later near Bainsford Bridge on the Forth & Clyde. ([Back to text](#))

GIG: A light two- wheeled carriage pulled by one horse. ([Back to text](#))

HADDEN, DR DAVID: born Paisley 1833, medical doctor, died Falkirk 1887
HAMILTON, DR. G.: Falkirk medical practitioner, educated at Edinburgh University. Published "Rudiments of Animal Physiology, for Use in Schools, and for Private Instruction" in 1840. ([Back to text](#))

HERITABLE JURISDICTION: Rights of jurisdiction attached to landownership and passed on by inheritance, chiefly courts of regality and courts of barony. Abolished 1747. ([Back to text](#))

HERITORS: The Heritors were the substantial property owners of the district who were appointed by Charter from Feudal Superior granting them certain rights such as grazing on common ground and also responsibilities such as contributing to the maintenance of a school and school master. ([Back to text](#))

HOPE SCOTT, JAMES: 1812-73, grandson of the Earl of Hopetoun, married in 1847 Charlotte Lockhart, grand-daughter of Sir Walter Scott (when he added the Scott to Hope). ([Back to text](#))

£10 HOUSEHOLDERS: The 1832 Reform Act gave the vote to householders who paid a yearly rental of £10. ([Back to text](#))

IRVING, REV LEWIS HAY: First minister of the Free Church in Falkirk from the Disruption of 1843 until his death in 1877. Leading philanthropist and social reformer.

KIER, THOMAS: 1811-90, provost of FK 1857-67. A grocer with a business in the High St and, from 1850, owner of a farm in Denny called Linns (Styled himself Thomas Kier of Linns). He was asked to lead the campaign which culminated in the Falkirk Police and Improvement Act 1859. ([Back to text](#))

KIRK WYND: A road running north from the High Street just west of the Steeple.

LINT-HOLES: Flax, or lint, was steeped for a time to soften the fibres so it could be used to manufacture cloth. ([Back to text](#))

LIVERPOOL DOCK CASE: In 1858 Liverpool Corporation was pressed by Parliament to hand control of the docks to a new public body. ([Back to text](#))

LORD ANDERSON: 1797-1853. Scottish judge, Solicitor General and Lord Advocate. ([Back to text](#))

LORD CHURSTON: title created in 1858 for Sir John Yarde, Baronet.

LORD HANDYSIDE: 1798-1858. Scottish judge, Solicitor General 1853. ([Back to text](#))

LORD REDESDALE: 2nd Baron, served as chairman of committees in House of Lords from 1851 to 1886. ([Back to text](#))

MACFARLANE, ALEXANDER: born Alloa 1789 and died Falkirk 1863. Agent in Falkirk for the Bank of Scotland, Deputy Lieutenant for Stirlingshire, JP. Built Thornhill House 1851-2.

MID JUNCTION RAILWAY: Stirlingshire Midland Junction Railway which linked Polmont and Carmuir and Larbert Junctions 1850. ([Back to text](#))

NUISANCES REMOVAL ACT: Nuisances Removal and Diseases Prevention Act 1846 was designed as temporary legislation to help stem the spread of cholera. Updated 1848 to apply to places where the Public Health Act was not in force. ([Back to text](#))

NULLAE LEGES SINE MORIBUS: Laws are worthless if people do not know the difference between right and wrong. ([Back to text](#))

OCTROI: A duty levied on various goods entering a town or city. ([Back to text](#))

PARLIAMENTARY BURGHS: Burghs which under the Reform Act of 1832 became entitled to elect M.P.s and were now equipped with town councils.

PAROCHIAL BOARD: A committee set up in each parish under the Poor Law (Scotland) Act 1845 to administer relief to the poor. ([Back to text](#))

POLICE ACT: Police of Towns (Scotland) Act 1850, 13 & 14 Vict. C 33. By this act any 'populous place' was allowed to adopt a police system and become a burgh if not so already. Poll in favour required a simple majority. ([Back to text](#))

POUND SCOTS: By 1600 this was worth 1/8d, a twelfth of an English pound. It remained at that value. ([Back to text](#))

PRESES: Chairman at a meeting. ([Back to text](#))

PRIMA FACIE: At first sight; in law, something for which sufficient evidence seems to exist. ([Back to text](#))

PRIVATE LAMP AT THE INN AT THE CANAL: This is likely to be the Red Lion.

PUBLIC ROUP: Sale of property by public auction. ([Back to text](#))

SASINE: In Scots Law, the delivery of property, particularly land ([Back to text](#))

SEDERUNT: A sitting of an ecclesiastical assembly or other body. ([Back to text](#))

SINKING FUND: Money set aside for the gradual repayment of a debt or replacement of a wasting asset. ([Back to text](#))

STATUTE LABOUR TRUSTEES: Those responsible for organising the labour force raised by local landowners and parishes to work on building and maintaining Statute Labour roads. This labour was replaced by a monetary contribution which paid the wages of competent road builders.

ST DAVID'S LANE: A Street in Bainsford, now David's Loan. ([Back to text](#))

SUBINFEUDATION: A practice by which tenants holding land from a feudal superior carved out new tenures by subletting or alienating part of their lands. ([Back to text](#))

TABLE OF CUSTOMS: A table or list of tolls and dues to be paid in an individual burgh. ([Back to text](#))

THIMBLERIGGERS: Operators of a sleight-of-hand trick where bystanders are asked to bet on which of three thimble-shaped cups conceals a pea or pellet.

TRYSTS: The main cattle fairs held at Stenhousemuir near Falkirk in late summer, early autumn each year. ([Back to text](#))

TURNPIKE ROADS: Roads built and maintained by the imposition of tolls paid at TURNPIKE GATES. ([Back to text](#))

UNION CANAL: Completed 1822-3 to link Edinburgh to the Forth and Clyde Canal at Falkirk.

17 & 18 VICT.: The Lands Valuation (Scotland) Act of 1854. ([Back to text](#))

YORKE, ELIOT: MP for Cambridgeshire 1835-65. ([Back to Text](#))