

minister of the parish of Dalgetty as to a grass glebe. In 1862 the minister got from the Presbytery of Dunfermline the designation of a grass glebe out of the Earl of Moray's lands. The Earl suspended on the following grounds—viz., 1st, The lands designed are not church lands; 2d, they are not grass lands, but arable; and 3d, the minister has already a grass glebe, which was designed to him in 1770. On this latter point considerable litigation took place, and ultimately the Inner House found for the minister, with expenses from the date of closing the record. The Earl then came forward and offered to the minister land adjoining his present glebe for grass for a horse and two cows, as the same should be fixed on by arbiters mutually chosen. He also agreed to give remuneration for the time the minister had lain out of grass, and it was agreed that the Lord Ordinary should decide the matter of expenses, in so far as not already fixed. The arbiters allowed seven acres imperial of land next the present glebe in lieu of that originally designed by the Presbytery, and £24 per annum as a surrogatum for the want of grass since the Presbytery's designation, and the case came to-day before the Lord Ordinary for the decision of the question of expenses. It was contended for the Earl of Moray that his whole pleas in the suspension had not been discussed; in particular, that the land originally designed by the Presbytery had not been proved to be grass land, and that the agreement by the Earl to give other lands and a surrogatum for the want of grass was such a compromise of the case as entitled him to be relieved of expenses, or, at all events, to have them greatly modified.

The LORD ORDINARY found that as the minister had practically succeeded in getting what he wanted, as there was no reason to suppose that he would at the first have refused what he has now got, and as he had never shown any desire for needless litigation, he was entitled to his full expenses.

Thursday, Nov. 16.

FIRST DIVISION.

SCOTT v. FORBES.

Agent for Pursuer—Party.

Agents for Defender—Messrs Morton, Whitehead, & Greig, W.S.

This action, at the instance of Mr Andrew Scott, W.S., against Mr Patrick Forbes of St Catharine's, for payment of business accounts, has been in dependence for some time. In June last, after remits had been made to the Auditor of Court and to an accountant, Lord Kinloch reported the case; and after hearing parties, the defender was appointed to lodge a minute of what he offered to prove in regard to the accounts sued for. This resulted in a minute being lodged by the defender, containing a statement of nineteen matters which he proposed to prove. To-day the Court, after hearing Mr Horn for the pursuer, and Mr Park for the defender, allowed the pursuer a proof of his employment by the defender, and to the defender a conjunct probation.

ADV. — DINGWALL v. CAMPBELL'S TRUSTEES.

These were conjoined actions of pointing the ground advocated from the Sheriff Court of Fife-shire, one of which was raised against the advocator, James Dingwall, vassal of the lands of Tarvitmill, by his superiors, the trustees of the late Sir George Campbell of Edenwood, and the other at his instance against them. In the action at the superiors' instance payment of feu-duty was claimed; and it was not disputed by the vassal that feu-duty was

due, but it was pled that he was entitled to retain a portion of it on account of minister's augmented stipend, which had been paid by him. The question therefore was whether augmented stipend which had been localised on the lands since 1780, when the feu disposition in favour of Mr Dingwall's ancestor was granted, was payable by the superiors or the vassal. This depended to some extent on the terms of the feu disposition, which declared that the lands were to be held "by the said John Dingwall and his foresaids free of all burden whatever other than the feu-duties." The disposition further conveyed to the vassal other lands "in real warrandice and security of relief and payment to the said John Dingwall," *inter alia* of all cess; minister's stipend, schoolmaster's salary, and all other public burdens imposed or to be imposed upon the said lands.

The Sheriffs decided in favour of the superiors; and the vassal having advocated, the Court in 1861 allowed a proof of the averments of the parties as to the usage which had followed upon the feu disposition. This proof having been led, parties were heard upon the whole case yesterday and to-day, and the Court intimated that judgment would be given to-morrow.

SECOND DIVISION.

ANNUITY TAX CASES.

AITKEN v. HARPER AND OTHERS,

AITKEN v. KING AND OTHERS.

Counsel for the Pursuer—Mr Clark and Mr Thoms. Agents—Messrs G. & H. Cairns, W.S.

Counsel for the Trustees—Mr Shand.

Counsel for the other Defenders—Mr Gifford and Mr John M'Laren. Agents—Messrs Peddie, W.S.

These cases, which we reported at the time of their hearing during the extended sittings, and which involve the question of the liability of the United Presbyterian Synod in the annuity tax assessment on account of their premises No. 5 Queen Street, were advised to-day.

The LORD JUSTICE-CLERK said—There are two actions before us at the instance of the collector of arrears of the annuity tax imposed by the statute of 1861 on the occupants of premises in the city of Edinburgh. I think it will be most expedient to dispose of the first action first, because it is liable to a serious objection which, if your Lordships agree with me, will be sufficient to throw it out. The action is laid on the statement that from 1848 to 1860 the premises No. 5 Queen Street have been occupied by the Synod of the United Presbyterian Church, formerly the United Associate Synod, and under the authority of the Synod, by committees, &c., and that their management has been committed to certain gentlemen who form the Synod House Committee. I think there can be no doubt of what is intended by this averment—it is intended to say that the occupant of the premises has been the United Associate Synod. The pursuer further says that the present representatives of the Synod are Dr King, the moderator; and Mr Beckett, the clerk; and the other defenders who form the Synod House Committee. It is not said that there is any occupation by that committee, or by any person but the Synod. One would have expected the conclusions of the summons to have been directed against the Synod; and if the conclusions had been so directed, and the Synod convened by some of its representatives, the action might have been well laid. But it is unnecessary to consider that question, because the Synod is not called. The conclusions of the summons are directed against Dr King, as moderator of the Synod, and as an individual, and against Mr Beckett as clerk, and as an individual, and against certain persons forming the Synod House Committee, and as individuals. The way in which liability is sought to be imposed on the defenders is—The defenders conjointly and