

never was told, or did use words to the like effect, and did repeat the said or similar expressions a great many times, meaning thereby to represent the pursuer as a person who would wilfully state as true that which he knew to be utterly false, and that he was a person whose word could not be believed—to the loss, injury, and damage of the pursuer?

"3. Whether, on or about the 4th day of April 1866, and at or near the mark ditch, between the Moss lands and Tradespark, belonging to the town of Nairn, Kildrummie belonging to Major Rose of Kilravock, and Lochdhu belonging to the defender, the defender assaulted the pursuer—to his loss, injury, and damage?"
Damages, £1000.

The jury returned a verdict for the pursuer on all the issues. Damages, £5.

Counsel for Pursuer—Mr Watson and Mr Macdonald. Agents—Macgregor & Barclay, S.S.C.

Counsel for Defender—Mr Young and Mr Balfour. Agents—Gibson-Craig, Dalziel, & Brodies, W.S.

Wednesday, Jan. 30.

FIRST DIVISION.

PET.—FOWLER AND SALTER.

Burgh—Managers—Powers. Managers appointed for a royal burgh disfranchised by a judgment of the Court, with certain powers.

The burgh of Kilrenny having been disfranchised by a judgment of Court, in consequence of an error having been committed in the election of bailies, which took place at Michaelmas 1823, three persons, now deceased, were on March 10, 1829, appointed interim managers of the affairs of the burgh until the magistracy should be restored, for the special purposes, and with the powers specified, in their appointment.

Thereafter, and on the application of two of the managers then surviving, the Court, on 26th February 1847, appointed the petitioners, along with Thomas Murray, fisherman in Cellardyke, now deceased, to be interim managers of the burgh.

The affairs of the burgh were managed by the persons so appointed till the death of the said Thomas Murray, which occurred about a year ago, and the petitioners have continued to manage the affairs to the present time, but circumstances have occurred to induce them to tender their resignation of office. They now crave the appointment of successors, and recommend Messrs John Martin, manufacturer, George Sharp, merchant, and Robert Brown, fisherman, all residing in Cellardyke, as fit and proper persons to be appointed managers.

The petition prayed the Court to "recall the appointment of the petitioners as managers foresaid, and in their stead to nominate and appoint the said John Martin, George Sharp, and Robert Brown, or some other qualified persons, to be managers of the affairs of the said burgh of Kilrenny, any two of them accepting and surviving being a quorum, with power to the said managers to discharge the duties of bailies of the said burgh, to conduct the judicial business of the Burgh Court, and to act in all matters connected with the affairs of the burgh until the corporate rights thereof shall be restored; and especially for the purpose of granting charters, and precepts, and writs of clare constat to vassals in lands and heritages belonging to the burgh—of receiving resigna-

tions, and giving sasines in any lands, tenements, or heritages held of the said burgh—of appointing taxers or stentmasters to lay on and collect the Queen's subsidy—of discharging the duties to be performed by magistrates, or magistrates and councils of burghs, in virtue of the statutes 2 and 3 Vict., cap. 42, and 7 and 8 Vict., cap. 34, and other Acts relative to prisons, and especially of laying on and collecting, or directing the laying on and collecting, of the assessments already apportioned, or which may hereafter be apportioned, on the said burgh, in the manner prescribed by the said statutes or otherwise, with power also to the said managers of performing the duties incumbent on magistrates, or magistrates and councils of burghs, under and in virtue of the Act 17 and 18 Vict., cap. 91, entitled 'An Act for the Valuation of Lands and Heritages in Scotland;' and also of the Act 19 and 20 Vict., cap. 58, entitled "An Act to Amend the Law for the Registration of Persons entitled to vote in the election of members to serve in Parliament for Burghs in Scotland"—of granting certificates to persons to keep common inns, ale-houses, or victualling-houses, to sell exciseable liquors by retail, to be drunk or consumed in the premises in which the same are sold, and otherwise, in terms of the statutes 9 Geo. IV., cap. 58, and 11 and 12 Vict., cap. 49, and other Acts thereanent—of sitting, acting, and voting as members of the Parochial Board for the management of the poor of the parish of Kilrenny, in virtue of the statute 8 and 9 Vict., cap. 83, and other Acts and instructions of the Board of Supervision following thereon—of appointing members to represent the burgh in the General Assembly of the Church of Scotland, and in the Convention of Royal Burghs in Scotland, and of appointing one of their number to perform the duties of a commissioner of supply for the county of Fife, with the power also of admitting and enrolling qualified persons as burgesses of the said burgh on payment of the usual fees of entry—of regulating the weights and measures within the said burgh—of setting the lands and common good of said burgh—of raising and defending such actions as may be necessary, and of settling the same—of taking charge of such funds and patrimonial interests as fall under the management of the office-bearers of the burgh—of appointing one of their own number to be chief manager from time to time during their pleasure, having power to call meetings of the managers and to preside thereat, and of appointing one of their number, or any other fit person, to be treasurer or chamberlain, and to recall his appointment at pleasure, and likewise with the power of appointing a town-clerk and a procurator-fiscal, and other officers—and generally with the power of exercising the whole functions of the Magistracy and Town Council of the said burgh."

The Court to-day, after hearing counsel for the petitioners, granted the prayer of the application, except those portions of it printed in italics, and farther authorised the managers now appointed to examine the accounts of their predecessors, and, on the same being found correct, to exoner and discharge them of their whole intrusions and management. The Court also found that the expenses of the present procedure should form a good and lawful charge against the funds of the burgh.

In regard to the powers prayed for, which were not granted, the Court thought that, as their exercise had not been required in the burgh for thirty-eight years, they need not be granted now.

As to the town clerk, the present holder of that office had held it for about fifty years, and it was understood that when a vacancy occurred a special application might be made for the appointment of a successor if it was necessary.

Counsel for Petitioners—Mr Cook. Agents—T. & R. Landale, S.S.C.

COURT OF TEINDS.

Wednesday, Jan. 30.

MINISTER OF RENFREW *v.* THE HERITORS.

Declinator. Declinator by a Judge on the ground that he was Lord Rector of a University which was a party to a cause *repelled*.

This was a process of augmentation which was opposed by the University of Glasgow as titular of the teinds of the parish.

The LORD JUSTICE-CLERK propounded a declinator on the ground that he was Lord Rector of the University.

The declinator was *repelled*.

COURT OF SESSION.

OUTER HOUSE.

(Before Lord Jerviswoode.)

WILSON *v.* TODDS.

Parent and Child—Husband and Wife—Aliment.

Held (per Lord Jerviswoode, and acquiesced in) that an illegitimate daughter and her husband were bound during the subsistence of their marriage to aliment the indigent mother of the former.

This was an action at the instance of a person against her illegitimate daughter and her husband for aliment, on the ground that the pursuer was in bad health, and in a state of indigence, and unable to support herself. It was alleged by the defenders that the pursuer was married a number of years ago, but not to the father of the female defender; that the pursuer's husband carried on an extensive and prosperous business in Dundee down to the period of his death, which happened about fourteen years ago; and that after his death the pursuer intromitted with his whole moveable estate, and along with her two sons born of the marriage carried on the same business in Dundee. It was further stated by the defenders that neither of the defenders ever received a farthing from the pursuer, or her late husband's estate, and that Mr Todd did not get anything with his wife at marriage. It was pleaded in defence that the female defender, being a natural daughter and a married woman, with no separate estate, and the other defender being in no way related to the pursuer, they were not bound to aliment the pursuer, and also that their circumstances were not such as to enable them to aliment her.

The Lord Ordinary allowed both parties a proof, and appointed it to be taken before himself. The proof was accordingly taken and parties heard upon it, and the Lord Ordinary has issued the following interlocutor which has been acquiesced in:—

"The Lord Ordinary having heard counsel, and made avizandum, with the record and proof led before him, and whole process: Finds, as matter of fact, 1st, that the pursuer is the widow of the deceased John Wilson, piano manufacturer, Dun-

dee, by her marriage with whom she had two sons, the elder of whom, John Wilson, died upwards of a year ago, and the second of whom, William Wilson, has died since the date of the present action; 2d, that the pursuer is about 63 years of age, is in indigent circumstances, and that she is in a condition of bodily infirmity and weakness, such as to render her incapable of earning by her own labour adequate means for her own support; 3d, that the defender, Mrs Todd, is an illegitimate daughter of the pursuer, and is the wife of the other defender, Robert Todd, who is called for his interest; 4th, that he, the said Robert Todd, is a fishcurer in Leith, and occupies a residence in or near Leith, the rent of which unfurnished is £35 a year, and that the said Robert Todd is in receipt of an income, in respect of his employment as a fishcurer, of not less than £100 per annum; and 5th, that there are no children of the marriage between the defenders, Mr and Mrs Todd: Further, finds as matter of law that the defender Mrs Todd and the defender Mr Todd, for his interest, are liable in aliment to the pursuer, so far as the same is requisite for her support: And with reference to the foregoing findings decrees against the defenders, as libelled, for payment to the pursuer of the sum of £10 yearly, in name of aliment to her, and that at two terms in the year, Whitsunday and Martinmas, by equal portions, beginning the first term's payment thereof as at Whitsunday 1866, for the half-year succeeding that term, and so forth half-yearly, and termly thereafter, during the lifetime of the pursuer, or until she can support herself without the assistance of the defenders, with the legal interest on each half-year's aliment from the term of payment during the not payment of the same: Finds the pursuer entitled to the expenses of process, of which allows an account to be lodged, and remits the same to the auditor to tax and to report.

"CHARLES BAILLIE.
"Note.—The Lord Ordinary thinks it sufficiently proved here that the pursuer is unable to support herself fully by her own labour; but he thinks she may still do something for her own support, and has fixed the sum of aliment with reference to this consideration; and he thinks it due to the pursuer to note this now, in case she should hereafter be advised to make a claim for farther aliment were the circumstances to change. In the case of *Thom v. Mackenzie*, Dec. 2, 1864, it was observed that, in such a case as the present, no special term for the endurance of the aliment should be fixed, under the terms of the decree, and this the Lord Ordinary has intended to avoid.

"The recent case of *Reid v. Moir*, July 13, 1866, seems a direct authority for the liability of the defender, Mr Todd, at least while his present marriage subsists.

"C. B."
Counsel for Pursuer—Mr W. L. Mair. Agent—John Latta, S.S.C.

Counsel for Defenders—Mr Trayner. Agents—Murdoch, Boyd, & Co., W.S.

Saturday, Feb. 2.

SECOND DIVISION.

LEITH POLICE COMMISSIONERS

v. CAMPBELL.

Expenses—Taxation—Counsel's Fees. A case having been three days debated in the Inner House, and two refreshers sent to counsel, one of them struck off by the Court.

In this case in the defender's account of expenses