

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 intrormented 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 declares 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