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.

ADVN.—DINGWALL *v.* CAMPBELL'S TRUSTEES.

These were conjoined actions of poinding the ground advocated from the Sheriff Court of Fifeshire, 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 localled 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

severally, or severally and individually, ought to be decerned and ordained, &c. Now, that is in no proper sense an action directed against the Synod; it is only directed against certain individuals, and not against these individuals as representatives of the Synod. Under these conclusions the pursuer might go against any of these individuals as the occupant of the premises, or he might sue each for his own share, but what that share is is not said, and moreover there is no foundation laid for it. There is an incongruity between the grounds of action and the conclusions of the summons, and therefore I think the action must be dismissed. In regard to the other case, at the instance of the same pursuer, the action stands in a different position. It is directed against certain individuals as defenders, who are called as defenders in their character of trustees, trustees under which they are made feudal proprietors of the subjects in respect of which the assessment is imposed. Now, it is quite true that feudal proprietors, as such, are not liable in the assessment, because it is imposed on tenants and occupiers. But the question is whether in the circumstances the trustees called are, in view of the law, the occupants of the premises. About other two matters of fact there can be no doubt. There is no doubt, in the first place, that these gentlemen are the owners of the premises, for a fluctuating and uncertain body of persons called the Synod. There is no doubt, secondly, that the premises are, in point of fact, occupied, and that being so, it follows that there must be some person or persons who, in terms of the statute of 1861, are occupiers of the premises in question. Now, what is the state of the occupation? The Synod of the U.P. Church meets periodically, and it is in some measure a representative body. The same individuals, therefore, do not occupy the premises at any two successive meetings of the body. But that is only part of the occupation; there is also occupation by committees under the authority of the Synod; and there is further occupation by persons to whom the Synod or its managers let the premises for hire, not under a lease or for any lengthened period, but for a day or a few hours. Now, it appears to me that in that state of the fact the law must hold the owners to be the occupiers. There is no person intermediate between the owner and those persons who occupy occasionally; there is nobody who can be said to occupy by means of these short occupiers, unless the owners or the short occupiers themselves. But it is out of the question to hold that a person occupying for a short period—for example, for the purpose of a lecture or a concert—is an occupant within the meaning of the statute of 1861; and we are therefore driven to hold the owner to be the occupant. That seems to be the ground of the Lord Ordinary's interlocutor, and I agree with him in the conclusions in law which he has deduced from the facts that the trustees under their feudal title are occupants of the subjects, and are therefore liable for the assessment. I am therefore of opinion that we should adhere to the interlocutor of the Lord Ordinary.

The other Judges concurred.

The Court accordingly, in the second action, sustained the second plea for the defenders, and dismissed the action, and in the first adhered to the interlocutor of Lord Jerviswoode finding the trustees liable.

OUTER HOUSE.

(Before Lord Jerviswoode).

LORD ADVOCATE, FOR COMMISSIONERS OF WOODS AND FORESTS *v.* MACLEAN.

Counsel for the Pursuer—The Lord Advocate, the Solicitor-General, and Mr Ivory. Agent — Mr D. Horne, W.S.

Counsel for the Defender—Mr Patton, Mr Millar, and Mr Crawford. Agent—Mr William Peacock, S.S.C.

This is an action of declarator brought by the Crown for the purpose of having it found that the soil of the shores of the sea round Scotland, below high-water mark on ordinary spring tides, so far as it has not been granted to any subject of the realm by charter or otherwise, belongs to her Majesty *jure coronæ*, and forms part of the hereditary revenues of the Crown in Scotland; also that the shore of the sea below high-water mark *ex adverso* of the lands of Ardgour, the property of the defender, belongs exclusively to the Crown; and finally, that the defender should be ordained to pay £20 as the price of the site of a pier erected on foreshore *ex adverso* of the defender's lands of Ardgour at Corran Ferry.

The defender pleads that the solum of the shore, subject to the right of the Crown as trustee for public uses, is carried by the defender's titles as part and pertinent of his estate; and further, that he and his predecessors have possessed the solum of the shore for more than the prescriptive period.

We understand that this is to be regarded as a "specimen" case for the purpose of settling the whole question of the Crown's right to the foreshore.

The argument had not been concluded when the Court adjourned.

ELOPEMENT WITH A WARD IN CHANCERY.

Re WILSON'S TRUSTS.—*Ex parte* SHAW.

The arguments in this case, which have occupied the attention of Vice-Chancellor Kindersley for several days, were brought to a conclusion on Tuesday. The matter came on on petition and cross petition, which have been filed for the purpose of obtaining the opinion of the Court as to who are the parties entitled to a fund of about £2500 which has been paid in, under the Trustee Relief Act, by the trustees of Mr John Wilson. It appeared that the testator being a domiciled Englishman, by his will, made in the English form, gave one moiety of the residue of his property to his great niece, Elizabeth Mary Hickson, and her children. Elizabeth Mary Hickson, being then under age, married George Buxton, and eloped with him, but being pursued was overtaken and brought back before the marriage was consummated, and George Buxton was tried and convicted for the abduction of the infant, and imprisoned for three years for that offence. Seven years elapsed, when George Buxton, being employed upon some business in Scotland, after he had been there for forty days, had an action of divorce, *a vinculo matrimonii*, brought against him in the Scotch Court of Session by Elizabeth Hickson or Buxton, and a decree was made in her favour by the then presiding judge (Lord Wood). She then married in Edinburgh in a church, according to the rites of the Established Church, John Shaw, who had been a member of Grey's Inn, but had become attached to the Scotch bar, and who had settled in Edinburgh, and remained in Scotland till his death in 1852, the marriage being solemnised in the month of June 1840. Under the will of Mr John Wilson, her uncle, the lady took a life interest in £2500, and by the terms of the will that sum was to go after her death to her children, but if there were no children, then to other parties. She died in 1863, and her three children claimed the fund, but the parties entitled in reversion, and who presented the cross petition, also claimed it on the ground that the Scotch divorce did not hold good in England, the subsequent marriage with Shaw was consequently invalid, and the children of the marriage therefore illegitimate, and as such did not take. The principal point raised was whether the collusion of Buxton invalidated the divorce. His Honour reserved his decision.