cause the possessory period fell short of three months; (4) because the evidence of possession depended exclusively on the testimony of two men, the sons of the petitioner, who were utterly unreliable, they having caused the removal of the march stone, and their evidence being in itself contradictory.

CLARK and GEBBIE in answer—The case does not, as contended for by the respondent, depend entirely upon two witnesses. It is competent, dealing with the question as a possessory one, to go beyond the period required to set up the case, and to look to the original formation of the ditch. Upon that point it is proved by evidence which has not been impeached on any other ground than its unreliability, as being given by relatives of the petitioner, that the ditch was originally made by ground taken from both properties. It is not necessary to prove continuous possession, year by year, during the possessory period. If acts of possession are found to have taken place continuously during the period, that will be sufficient.

The Court adhered to the interlocutor of the Lord Ordinary, accepting as worthy of belief the evidence given by the petitioner's daughters as to the formation of the ditch, and holding that the formation of the ditch and its history were to be taken into account in construing the subsequent possession, and that it was not necessary that there should be no interruption for any time during the possessory period, but that possession was sufficiently established if acts of possession were done during the requisite period. There was some suspicion, certainly, attachable to the petitioner's sons in the removal of the stones, but that was not sufficient to invalidate their evidence as to the possession of the ditch.

Agents for Advocator—Macgregor & Barclay, S.S.C.

Agents for Respondent—Scott, Moncrieff, & Dalgetty, W.S.

COURT OF TEINDS.

Wednesday, December 4.

MINISTER OF LOGIE *v.* HERITORS.

Teinds—Augmentation—Communion Elements. £12 granted for communion elements, the population of the parish being 4000.

The minister of Logie, with a present stipend of 18 chalders, obtained, of consent, an augmentation of 3 chalders.

DUNCAN, for him, asked a sum of £15 for communion elements, the population of the parish being close upon 4000; and it being the practice of the Court, he stated, to grant an allowance of £15 when the population was between 3000 and 5000.

The heritors neither consented nor opposed.

The Court granted £12.

Agents for Minister—Adamson & Gulland, W.S.

Wednesday, December 4.

MINISTER OF KILMORACK *v.* HERITORS.

Teinds—Augmentation—Valuation. An objection being stated in an augmentation that the teinds were exhausted, the precedent of *Kilbirnie* followed, and procedure sisted to allow minister to bring a declarator.

The minister of Kilmorack asked an augmentation.

CLARK, for heritors, objected, on the ground that there was no free teind. The teinds had been exhausted since 1816, and the proper course to follow was that adopted in the case of *Kilbirnie*, 18th December 1866, where procedure was sisted in order that the minister might bring a declarator.

WATSON, for the minister, contended that this was not a question as to the validity of the decrees of valuation, but merely as to their extent, as in the *Banchory-Devenick* case.

The Court followed the case of *Kilbirnie*, and sisted procedure.

Agents for Minister—M'Ewen & Carment, W.S.

Agents for Heritors—Gibson-Craig, Dalziel, & Brodies, W.S.

COURT OF SESSION.

Thursday, December 5.

FIRST DIVISION.

A. *v.* B.

Diligence—Inhibition—Small Debt Act—Debts Recovery Act. Held that inhibition was incompetent on a decree under the Small Debt Act, 1 Vict., c. 41, and therefore incompetent on a decree under the Debts Recovery Act 1867, 30 and 31 Vict., c. 96.

This was a bill for letters of inhibition on a decree and charge under the Debts Recovery Act 1867, 30 and 31 Vict., c. 96.

LORD MURE doubted the competency of the application, and therefore reported to the Court.

PATTISON for the petitioner.

The Court took time to consider their judgment.

At advising,

LORD PRESIDENT—This bill sets out that the complainer, on 10th November 1861, raised an action against the defender before the Sheriff of Dumfries to recover payment of £17, 14s. 3d., being the amount of an account; and in that action, he says, he obtained decree on 22d November for payment of the amount, with expenses; and, on 22d November, he caused an officer of court to give a charge to the defender for payment on that decree, and he now asks letters of inhibition on this decree and charge. The question is, Whether a decree obtained under the Debts Recovery Act 1867, and a charge on that decree, can be a warrant for letters of inhibition? but that depends, in the first instance, on whether letters of inhibition could competently issue on a decree obtained under the Small Debt Act, 7 Will. IV., and 1 Vict., c.

As regards decrees obtained under the former Act—the Small Debt Act—the Court are of opinion that letters of inhibition cannot competently proceed on such decree, and that the practice which has hitherto prevailed, of refusing to issue such letters, is correct. That statute provides expressly every right that the pursuer of a small debt action is to have in virtue of the statute and decree. The form of summons, the manner in which it is dealt with, the procedure in the action, the form of decree, are all provided expressly; and, in particular, it is provided that, on the extract decree, execution