

holden not less than fifteen days and not more than four months after the decision of the justices from which the appeal is made :

2. The appellant shall, within three days after the cause of appeal has arisen, give notice to the clerk of the petty sessional division for which the justices act whose decision is appealed from of his intention to appeal, and of the grounds thereof, and in Scotland to the clerk of the peace for the county :
3. The appellant shall, immediately after such notice, enter into a recognisance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the Court thereon, and to pay such costs as may be awarded by the Court :
4. The Court may adjourn the appeal, and may make such order thereon as they think just :

But nothing in the present section respecting appeals shall affect any enactments relative to appeals in cases of summary convictions or adjudications in the City of London or the Metropolitan Police District.

32. All orders made by the Lords of Her Majesty's Privy Council, in pursuance of the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter one hundred and seven, and all orders made and notices published by local

authorities under the powers conferred on them by such orders of the Lords of Her Majesty's Privy Council, shall be deemed to have been duly made and authorised by the said Act, and shall so far as they are consistent with this Act remain in full force until they are revoked or have expired by lapse of time.

33. All expenses already incurred by any local authority as defined by the said orders of the Lords of Her Majesty's Privy Council previous to the passing of this Act, in publishing any notices or advertisements in pursuance of or under any authority derived from any order of the Lords of Her Majesty's Privy Council made in pursuance of the said Act, shall be deemed to have been duly charged on any rate out of which such expenses have been defrayed ; or such expenses may be paid in like manner as expenses incurred pursuant to this Act.

34. This Act shall continue in force until the first day of June One thousand eight hundred and sixty-seven, and until the end of the then Session of Parliament, and no longer, except in so far as respects the power of levying rates for repaying any sums borrowed under the provisions of this Act : Provided that it shall be lawful for Her Majesty in Council at any time to suspend the operation of this Act as respects the slaughter of cattle.

SCHEDULE.

Districts of Local Authority.	Description of Local Authority of District set opposite its Name.	Local Rate.	Clerk of Local Authority.
ENGLAND AND WALES.			
Counties except the Metropolis. The Metropolis.	The Justices in General or Quarter Sessions assembled. The Metropolitan Board of Works.	The County Rate, or Rate in the nature of a County Rate, Rate or fund applicable to the payment of the general expenses of the Board.	Clerk of the Peace. The Clerk of the Metropolitan Board of Works.
Boroughs.	The Mayor, Aldermen, and Burgesses acting by the Council.	The Borough Fund or Borough Rate.	Town Clerk.
District of Local Board of Oxford.	The Local Board.	Rate leviable by the Local Board.	Clerk of the Local Board.
SCOTLAND.			
Counties, including any town or place which does not return or contribute to return a member to Parliament.	The persons appointed in sec. 5 of this Act.	Rate appointed to be levied in sec. 21 of Act.	Clerk of Supply.
Burghs which return or contribute to return a member to Parliament.	The Magistrates and Town Council.	Do. do.	Town Clerk.

COURT OF SESSION.

Wednesday, Feb. 21.

FIRST DIVISION.

R.N.—ROBERT MACKAY.

*Process—Cessio—Reclaiming Note—A.S. 24th Dec. 1838.* Held that the A.S. of 24th Dec. 1838, requiring intimation of a reclaiming note in a cessio to be attested by an officer, was complied with by production of an acknowledgment of intimation.

Counsel for Reclaimer—Mr Gebbie. Agents—Messrs Macgregor & Barclay, S.S.C.

This was a reclaiming note against an interlocutor by the Sheriff of Caithness refusing a party the benefit of cessio. It was presented under section 8 of the Cessio Act, 6 and 7 William IV., cap. 56. That section provides that "a copy of the said note shall in all cases be delivered to the respondent or his known agent, which shall be held to be due service." A copy of the note had been delivered to the respondent's agent, and there was an acknowledgment to this effect by the agent. But the clerk re-

fused to receive the reclaiming note, because it is provided by section 13 of the Act of Sederunt of 24th December 1838 that "when the judgment of the Sheriff is brought under review of the Court of Session, in terms of the 8th section of the statute, the delivery of a copy of the reclaiming note as therein provided shall be attested by the execution of a macer, messenger-at-arms, or sheriff-officer, and one witness ; and the clerks of Court are hereby prohibited from receiving the reclaiming note unless accompanied by such execution."

The Court held the acknowledgment to be equivalent to execution, and ordered the note to the summar roll.

LORD ADVOCATE v. MATHESON.

*Expenses—Crown—Decree.* The Crown is placed, in regard to expenses, in the same position as a subject by 18 and 19 Vict., cap. 90.

Counsel for the Lord Advocate—Mr T. Ivory. Agent—Mr Donald Horne, W.S.

Counsel for Mr Matheson—Mr John Cheyne. Agents—Messrs Cheyne & Stuart, W.S.

In this litigation betwixt the Lord Advocate, on behalf of the Commissioners of Woods and Forests, and Mr Matheson of Ardrross, the former was unsuccessful, and was found liable in expenses. The auditor's report was approved of to-day, when

Mr IVORY, for the Lord Advocate, asked the Court to pronounce a decree in special form. By section 2 of the Crown Suits Act (18 and 19 Vic., c. 90) it is enacted that where judgment is given against the Crown "the defendant or defendants shall be entitled to recover costs in like manner, and subject to the same rules and provisions, as though such proceeding had been had between subject and subject; and it shall be lawful for the Commissioners of Her Majesty's Treasury, and they are hereby required, to pay such costs out of any monies which may be hereafter voted by Parliament for that purpose." If decree was now pronounced against the Lord Advocate, he might be charged, and the rents payable to the Crown might be attached, and this had been done in a recent case. In England, in similar circumstances, the Court of Chancery had ordered that the costs should be paid in the manner directed by the Crown Suits Act, "with liberty for the defendants, or any of them, to apply to this Court as they may be advised with respect to the said costs." (Attorney-General v. Hanmer, 12th May 1859, 4 De Gex and Jones, 205.) Mr Ivory asked a similar order in this case.

The Court refused to pronounce any other than an ordinary decree against the Lord Advocate, as acting for the Commissioners of Woods and Forests. Of course such a decree did not make his Lordship personally liable. But if the Crown refused to pay expenses decreed for, their creditor was entitled to recover them in the ordinary way. The Act of Parliament placed the Crown in regard to this matter in the same position as a subject.

#### COMMERCIAL BANK v FORSYTH AND OTHERS.

*Declinator.* If a Judge declines on the ground of interest, he is bound to judge if the parties agree to waive the objection.

Counsel for Pursuers—The Solicitor-General and Mr Mackenzie. Agents—Messrs Melville & Lindesay, W.S. Counsel for Defenders—Mr Gifford. Agents—Messrs H. & A. Inglis, W.S.

In this case Lord DEAS declined, on the ground that he was a shareholder in the bank.

The LORD PRESIDENT said—This declinator is offered on the ground not of relationship but of interest. This is a species of objection which may be waived by the parties; and I think if the objection is waived Lord Deas is bound to give his judgment.

The other Judges concurred, Lord CURRIEHILL mentioning a case of the Caledonian Railway Company in the House of Lords where this course had been followed by the Lord Chancellor.

The parties having waived the objection, and this having been minuted, the declinator was repelled.

Wednesday, Feb. 21, and Thursday, Feb. 22.

#### JURY TRIALS.

(Before Lord Ormisdale.)

##### NELSON v BLACK AND MORRISON.

(Ante, pp. 83, 123.)

*Reparation—Judicial Slander—Jury Trial.* In an action against Procurators-Fiscal for maliciously and without probable cause slandering a person in a petition presented to a Sheriff—verdict for the defenders.

Counsel for the Pursuer—Mr Watson and Mr MacLean. Agent—Mr William Miller, S.S.C.

Counsel for the Defender—Mr Gifford and Mr A. Moncrieff. Agents—Messrs Murray & Beith, W.S.

In this case, David Nelson, turnpike surfaceman, Glenduckie, was pursuer; and Alexander Black and William Morrison, writers in Cupar, and Procurator-Fiscals for the eastern district of Fife, were defenders. The issue which was sent to trial, and the

circumstances with regard to the adjustment of which have been already reported, was in these terms:—

"It being admitted that the defenders prepared and, on or about 26th December 1864, presented to the Sheriff-Substitute of the county of Fife, at Cupar, a petition containing the words and sentences set forth in the schedule annexed hereto:

"Whether the said words and sentences, or any part thereof, are of and concerning the pursuer, and are false and calumnious, and were inserted in said petition by the defenders maliciously and without probable cause—to the loss, injury, and damage of the pursuer?"

Damages were laid at £200 sterling.

The schedule containing the excerpts from the petition complained of was as follows:—

"That the petitioners are in course of taking a precognition against James Pringle, millwright, residing at Barley Mill, in the parish of Abdie and shire of Fife, present prisoner in the prison of Cupar, accused of having, along with other persons, whose names are to the petitioners unknown, during the years 1863 and 1864, or part thereof, wickedly and illegally conspired together for the purpose of taking the life of the Rev. James Pitt Edgar, minister of the parish of Dunbog, in the county of Fife, and of John Ballingall, farmer, Dunbog, aforesaid, or of doing them some grievous bodily injury; and for the purpose of wilfully setting fire to or attempting to set fire to their dwelling-houses or premises, or otherwise of doing serious injury and damage to their property and persons; as also, of wickedly and maliciously writing and sending, or causing and procuring to be written and sent, threatening letters to the said Rev. James Pitt Edgar and John Ballingall. That in the course of said precognition the petitioners have recovered various letters and other documents, showing that other persons than the said James Pringle have been engaged in said conspiracy, and in writing and sending said threatening letters, all which are herewith produced; and particularly that John Bell, farmer, Glenduckie; Barbara Honeyman or Black, wife of and residing with William Black, parochial schoolmaster, Dunbog; George Black and William Black, sons of and residing with the said William Black; and David Nelson, a roadman, residing at Glenduckie, have been engaged in said conspiracy, and in writing and sending said threatening letters. That the petitioners are informed and have reason to believe that written documents and other articles referring to and connected with said conspiracy and threatening letters are in the possession of the said John Bell, William Black, schoolmaster, Barbara Honeyman or Black, George Black, and William Black, and also in the possession of the said David Nelson; and as it is necessary for the purposes of said precognition to recover and take possession of the same, the present application for warrant to search becomes necessary.

This action arose out of the proceedings consequent upon the presentation of the Reverend James Pitt Edgar to the parish of Dunbog, and specially from the circumstances of the investigation undertaken by the defenders, as Procurators-Fiscal for the eastern district of Fife, to ascertain the authors of the various threatening letters addressed to that gentleman, and of the explosion of the bush of a cart-wheel filled with gunpowder below the windows of the manse.

It appeared from the evidence that suspicion having fallen upon a millwright, named James Fringle, a search of his premises was instituted by the authorities, and on Saturday 24th December 1864 a number of documents were recovered, after perusal of which the defenders, on the 26th December, presented a petition to the Sheriff containing the statements complained of, and craving warrant to search the house of the parties therein named. This warrant was executed the following day on all the persons referred to except David Nelson, the