

lowing interlocutor, which has been acquiesced in:—

“*Edinburgh, 3d July 1866.*—The Lord Ordinary having heard counsel and made avizandum, finds the pursuer liable in the expenses of process, including those incurred by the defender in the trial which took place on the 6th day of March last; allows an account of such expenses to be lodged, and remits the same to tax, and to report.

(Signed) “CHARLES BAILLIE.

“*Note.*—The Lord Ordinary is of opinion that on the footing on which he is now called on to deal with this case he must find the pursuer liable to the defender in full expenses. The statement now made in the minute for the pursuer, No 22 of process, appears to the Lord Ordinary, of necessity, to infer that were a second trial to take place the pursuer could not present to a jury a more favourable case than that which, as the Lord Ordinary construes the judgment of the Court, has been held insufficient to warrant the verdict on either of the issues. In these circumstances success in the cause is plainly with the defender; and looking to the whole process and character of the litigation, the Lord Ordinary is of opinion that justice demands that the defender should be freed from the expenses of a trial in which she should never have been summoned.”

Counsel for Pursuer—Gifford and Guthrie.
Agent—James Renton jun., S.S.C.

Counsel for Defender—Alex. Moncrieff and W. A. Brown. Agent—James Bell, S.S.C.

SMITH v. SMITH.

Husband and Wife—Divorce—Proof. In an action for divorce on the ground of adultery—the confessions of the defender, corroborated by other indirect evidence, held sufficient proof of adultery.

This was an action of divorce by a husband against his wife on the ground of adultery. There was no appearance for the defender. It was proved that the marriage took place in December 1849, but that for five or six years prior to the raising of the action the spouses had lived entirely separate, though in the same city. One part of this proof consisted of the defender's averments in an action of aliment raised by her against the pursuer, in which she set forth that she had been living separate from the pursuer for a period of years. There was some evidence also as to the defender's conduct on a particular occasion, when she might have committed, and probably did commit, adultery, though no actual adultery was proved. But the pursuer also proved that the defender had acknowledged on two different occasions, to different persons, and in circumstances when there was no ground for suspecting collusion, that a child to which she had given birth—and whose birth was fully proved—during the period of separation, was not the issue of the pursuer. The defender had likewise been guilty of making a false registration of the birth of the child (which she registered as illegitimate), as to name, place, and date, and had been committed for trial in respect of that false registration. Further, though the pursuer made regular payments of aliment to the defender through a third party, she did not apply for any increase subsequent to the child's birth; she made no provision otherwise for its birth, and expressed satisfaction when first informed of its death.

The Lord Ordinary thought the case peculiar, and ordered a hearing on the evidence, when

BRAND, for the pursuer, contended that the evidence of pursuer and defender having lived separate for years, of the false registration, and above all of the repeated confessions made under circumstances which removed all suspicion of collusion, constituted ample evidence of adultery if the Lord Ordinary believed the evidence. He cited 1 Fraser, 662; Harris v. Harris, 2 Hag. Eccl. Rep., 408; Mortimer v. Mortimer, 2 Hag. Con. Rep., 315; Burgess v. Burgess, 2 Hag. Con. Rep. 229; M'Queen's Prac., 655 (Evidence in Lord Ellenborough's case); Springthorpe v. Springthorpe, 15th May 1830, 8 Sh., 751; Robinson v. Robinson and Lane, 1 Swab. and Trist., 362; Williams v. Williams and Padfield, 22d November 1865, 1 “Law Reports” (C. L.), p. 29; and Sawyer v. Sawyer, Walker's Amer. Chan. Reports, p. 48.

The Lord Ordinary made avizandum, and on 19th June last pronounced decree of divorce.

Agent—W. R. Skinner, S.S.C.

JURY TRIALS—JULY SITTINGS.

SECOND DIVISION.

(Before Lord President.)

Monday and Tuesday, July 23 and 24.

WINK v. REID AND OTHERS (*ante*; p. 40).

Bankruptcy—Fraud—Stat. 1621, c. 18 Verdict for defenders in an action of reduction of a disposition founded on the statute 1621, c. 18, and on fraud at common law.

In this case George Wink, accountant in Glasgow, trustee on the sequestrated estates of David Reid, sometime spirit dealer at Holehouse, in the parish of Neilston and county of Renfrew, thereafter bottler in Glasgow, is pursuer; and the said David Reid, for himself, and as administrator-in-law for his wife, Mrs Martha Hopkins or Reid, and for his children, David Reid, Elizabeth Reid, Janet Reid, Robert Reid, James Reid, and John Reid, and for any other child or children born or to be born of the marriage betwixt him and the said Mrs Martha Hopkins or Reid; and also the said Mrs Martha Hopkins or Reid, and the said David Reid, Elizabeth Reid, Janet Reid, Robert Reid, James Reid, and John Reid; John Baird and John Gibson Patrick, both wine merchants in Paisley, are defenders.

The following are the issues:—

“It being admitted that the estates of the defender David Reid were sequestrated on or about the 15th day of January 1864, and that the pursuer is trustee on the said sequestrated estates—

- “1. Whether the disposition, No. 8 of process, so far as in favour of the defender Mrs Martha Hopkins or Reid, and the children born or to be born of the marriage betwixt the defenders David Reid and the said Mrs Martha Hopkins or Reid, was an alienation by the said David Reid to conjunct and confident persons of property belonging to him, without true, just, or necessary cause, to the hurt and prejudice of prior creditors of the said David Reid, now represented by the pursuer, contrary to the Act 1621, cap. 18?
- “2. Whether the defender David Reid, when insolvent, procured the said disposition, No 8 of process, to be executed, so far as in favour of the defender Mrs Martha Hopkins or Reid, and the children born or to be born