

Thursday, January 25.

SECOND DIVISION.

[Lord Curriehill, Ordinary.

MUNRO v. MUNRO.

Husband and Wife — Divorce — Adultery — Lenocinium.

In an action of divorce on the ground of adultery, to establish a defence of *lenocinium*, a corrupt motive, or else most culpable negligence on the part of the pursuer, must be proved.

Facts and circumstances held (reversing the judgment of the Lord Ordinary, CURRIEHILL) not to amount to *lenocinium*.

To raise a defence of *lenocinium* it should be stated and pleaded specifically on record.

Husband and Wife—Expenses.

In an action of divorce by a husband against his wife and a co-defender, with whom the defender was proved to have committed adultery, held (in conformity with *Andrews v. Stirling*, February 7, 1873, 11 Macph. 401) that the defender was liable in the whole expenses, taxed as between agent and client, including the pursuer's own expenses and those incurred by his wife, for which he was liable.

This was an action of divorce at the instance of Daniel Munro, wine and spirit merchant, Dundee, against his wife and William Taylor, lately his shopman. The parties were married in 1862, and lived on excellent terms until 1876, during which year the pursuer noticed familiarities between his wife and Taylor, whom he in consequence several times dismissed, but he was always taken back at the instance of Mrs Munro. In July the pursuer went away to St Fillans, and during his absence the first alleged act of adultery was committed on 26th July, according to the evidence of the servant Mary Robb, who communicated the fact on August 31st, when the pursuer at once separated from his wife. On 18th September the pursuer wrote to tell his wife he was coming to see her, and she thereupon went over to Dundee from Newport, where she was living, accompanied by her landlord Robert Tait. At the pier they met Taylor, and afterwards he left them, and they proceeded to Mr Munro's shop. The conversation turned upon Taylor, whom the defender refused to give up. She and Tait returned to the pier, and missed the last boat. They were joined there by Mr Munro, and again went back to the shop, but the pursuer refused to admit his wife, who went away with Tait. They again met Taylor, and Tait left them. Subsequently, on the morning of the 19th September they were found in a room at the Waverley Temperance Hotel under circumstances leaving no doubt of their guilt. The defence was a general denial of the adultery.

LORD CURRIEHILL pronounced the following interlocutor:—"Edinburgh, 22d November 1876.—The Lord Ordinary . . . Finds it proved that for a considerable time before the month of September 1876 improper familiarities took place between the defender and co-defender, and that the pursuer was aware of these proceedings: Finds that the pursuer has failed to prove that the defender

committed adultery with the co-defender on or about the night of the 26th or morning of the 27th of July 1876: Finds facts and circumstances proved relevant to infer that the defender committed adultery with the co-defender on or about the 19th day of September 1876, within the Waverley Temperance Hotel, Union Street, Dundee; but finds that the pursuer, who was then residing in his house in Dundee, separate from his wife, who was then residing in lodgings in Newport, in Fife, invited the defender by letter to come and see him in Dundee, and that the defender accordingly, accompanied by Robert Tait, mason, the landlord of her lodgings in Newport, went to Dundee to see the pursuer, about 8 o'clock in the evening of Monday 18th September 1876: Finds that the defender along with the said Robert Tait met the pursuer in Dundee on that evening, and that their interview lasted so long that the defender and Tait missed the last ferry-boat for the night, which leaves Dundee for Newport shortly after 10 o'clock at night, and that Tait and the defender were accordingly obliged to remain in Dundee all that night: Finds that the pursuer followed the defender and Tait to the pier, believing that they would be too late for the boat, and that the pursuer, accompanied by the defender and Tait, returned to the shop, a public-house kept by him in the Seagate of Dundee: Finds that after some conversation the pursuer offered to give money to Tait to enable him to procure a bed for himself, but refused to allow the defender to enter his shop or house, and told her that she could look out for a bed for herself, but did not offer her money to enable her to provide herself with such accommodation: Finds that the pursuer then went into his shop, and that Tait and the defender left the place and walked about the streets until 1 o'clock in the morning of the 19th September in company with the co-defender William Taylor, who had seen and conversed with the defender in Dundee repeatedly in the course of that evening: Finds that after walking for some time with Tait the defender and co-defender left Tait and went to the Waverley Temperance Hotel already mentioned, where they passed the night together: Finds that the pursuer expected and believed that the defender would meet the co-defender and pass the night with him, and that he was guilty of exposing the defender his wife, to lewd company, in the expectation and with the desire that she would commit adultery: Therefore finds that although the defender committed adultery with the co-defender upon the said 19th September 1876, the pursuer is barred by his conduct from obtaining decree of divorce upon the ground of said adultery: Therefore assoilzies the defender, &c.

"*Note.*—This is a somewhat difficult and delicate case upon the evidence. The pursuer, who has a house in the Cowgate of Dundee, and a spirit shop at the corner of the Seagate and St Andrew Street, had a shopman of the name of William Taylor, the co-defender. The pursuer was married to the defender in 1862, and apparently they lived happily together until within the last two years, when the co-defender entered the pursuer's service. Improper familiarities from time to time took place between the defender and co-defender, and, if the pursuer is to be believed, before his face. He says, no doubt, that he two or three times dismissed the co-defender from his service

on account of these familiarities, but it is a fact that up till the early part of September 1876 Taylor remained in his service. In the middle of July 1876 the pursuer went to St Fillans for the benefit of his health, and it is alleged that during his absence Taylor spent from the night of the 26th to the morning of the 27th July in the pursuer's house, and that the defender on that occasion committed adultery with Taylor. This statement is not, I think, satisfactorily proved; it rests entirely upon the evidence of Mary Robb, the domestic servant, who says that she saw the defender and co-defender in bed together, but admits that she did not inform the pursuer of the circumstance when he returned from St Fillans on 4th August, nor indeed until the 31st August, when the defender and she had a quarrel. But whether the defender or co-defender did or did not commit adultery upon the night in question, I have no doubt that during the pursuer's absence at St Fillans the defender and the co-defender were on terms of improper familiarity. The pursuer, after his return from St Fillans on the 4th of August, took lodgings for himself and his wife at Newport, in the house of Robert Tait, mason there, and they resided together in Newport until the 31st of August, on which day, in consequence of the tale told him by Mary Robb, the pursuer left his wife in Newport, and returned to his own house in the Cowgate of Dundee, and since that time he has never resided with the defender. During the three weeks which elapsed between the 31st August and 18th September the defender was frequently visited at Newport by the co-defender, and in particular they seem to have spent the greater part of every Sunday together. The landlord Tait, who is a married man, and who appeared to be a person of respectability, and gave his evidence with great propriety, thought that the defender and co-defender were on terms of too great intimacy, though he never observed any improper familiarities taking place between them. On Sunday the 17th of September the pursuer wrote a letter to his wife, the defender, asking her to come to Dundee to see him. The letter has not been produced, and it is not very clear what was its import, and whether the pursuer really desired to effect a reconciliation with his wife, or what other object he had in view it is not very easy to make out from the evidence. Be that as it may, the defender requested her landlord, Tait, on his return home from his work on the evening of Monday the 18th of September, to accompany her to Dundee for the purpose of meeting the pursuer. On arriving at Dundee they were met by the co-defender Taylor to the surprise of Tait, who, however, soon discovered that the defender and Taylor had arranged this meeting. He left them together at the foot of Trades Lane, and went to the pursuer's shop in the Seagate in order to inform the pursuer that his wife was waiting for him. The pursuer and he accordingly went to Trades Lane, where they found the defender alone. A good deal of conversation took place between the pursuer and defender, chiefly with reference to the intimacy with Taylor. The interview must have lasted for a considerable time, because Tait, who was afraid that the defender and he might miss the last boat for the night to Newport, which leaves at 10.15, broke up the interview about 10 o'clock, and after saying good-bye to the pursuer he and

the defender left in the hope of reaching the steamer before her departure. The boat had, however, left before they reached the pier. The pursuer, believing that they would miss the boat, followed them to the pier and joined them there.

"Now, it is an important circumstance that when the defender and Tait reached the pier they again met Taylor, who entered into conversation with the defender. Tait thinks that the pursuer did not see Taylor, who, he says, made off the moment the pursuer came in sight; but I strongly suspect the pursuer did see Taylor. The defender proposed they should all go to the pursuer's shop, and accordingly the pursuer, defender, and Tait went thither. Taylor appears to have been hovering about the party at some little distance, and the pursuer, if he did not see Taylor, suspected that he was at hand, and accused the defender on their way to the shop of looking for Taylor. When the party arrived at the shop the pursuer says that he invited the defender to go into the shop, and that she refused; but in this he is contradicted by his own witness Tait, who says that the pursuer would not allow her to go in. It is proved that the pursuer at first went into the shop alone, leaving his wife and Tait at the door. He sometime afterwards came out, and it being about 11 o'clock at night he offered Tait money to pay for a bed for himself, which offer Tait declined. He did not, however, offer money to his wife to enable her to provide herself with a lodging, nor did he offer to take her into his house, or do anything to secure for her decent accommodation for the night. In answer to the question 'What did you expect your wife to do if you offered to give Tait a bed and left her without that offer?' he said, 'I never expected that she would go away. I went into the shop, and coming out found that she had gone away. I expected I would see her after I came out. I asked her to go into the shop, but she would not. (Q) What did you expect your wife to do supposing Tait had accepted your offer?—(A) I intended to make her the same offer when I came out.' Unfortunately for the pursuer all this is contradicted by his own witness Tait, who says that the pursuer would not allow the defender to go into the shop, but that the pursuer himself went in, leaving Tait and the defender outside; and then he says, 'When we were standing outside we expected him to come out and join us, and he did come out—he then offered me the money. (Q) Did he say where Mrs Munro was to pass the night?—(A) He said that she could look out for a bed for herself, or something of that kind. She and I went away together, and pursuer went away into the shop, which at that time was not shut.' Now, I think it is quite plain that the pursuer, by whose invitation the defender had gone to Dundee, and by whom she had been kept in conversation to so late an hour that it was impossible for her to return to Newport that night, must, when he offered the money to Tait and told his wife to look out for a bed for herself, have believed and expected, nay more desired, that his wife should meet Taylor and pass the night with him, for he admits that he suspected Taylor was hovering about—I am rather inclined to think that he knew it.

"Between 11 and 12 o'clock, then, Tait and the defender turned away from the pursuer's shop, and were soon after joined by Taylor, who

in the meantime had been watching the pursuer's movements. Tait, the defender, and Taylor walked about the streets of Dundee for some time, and about or soon after midnight the defender and Taylor left Tait, saying they were going to pass the night at the house of Mrs Lamb, Taylor's aunt. Tait, believing by this time that there was something wrong going on between the defender and co-defender, went to Munro's house to inform him where they had gone to. It was then between 12 and 1 o'clock; but he rang twice, and knocked at the door, and called in vain. The pursuer, who according to his own statement had gone home between 11 and 12, took no notice, and Tait went away, and after walking about the streets for some time, took refuge in a stair in Union Street, about 50 yards from the Waverley Temperance Hotel, where he fell asleep.

"The movements of Taylor and the defender after parting from Tait, were peculiar. They walked up and down Union Street for about an hour, that is till between 1 and 2 o'clock in the morning, in such a manner as to induce the policeman on the beat to believe that they were waiting the arrival of the mail train from Glasgow, which is due about that time; and it is proved that as soon as that train had arrived they applied at the Waverley Hotel for admittance, representing themselves to be married persons just arrived from Glasgow by the train, and requesting to be accommodated with a single bedroom. They were accordingly shewn a bedroom, in which it is impossible to doubt from the evidence that they passed the night together in the same bed.

"But the proceedings of the pursuer are no less remarkable. He says that on going from his shop to his house he retired to bed, but that 'I was led to rise about four or five o'clock the next morning, because I had a suspicion that my wife would be with Taylor. Nobody suggested to me to go to the Waverley Hotel, but I suspected that they would be there, because it was the nearest hotel to the boat.' He also says that on his way he met Inspector Parr and a constable named Gaffney, and told them what he wanted, and was informed by them that his wife was with Taylor in the Waverley Hotel. It is somewhat remarkable that although on his way to the hotel the policeman took him to Tait, who was then sleeping in the stair referred to, and although he spoke to Tait, he says he did not think of asking Tait what had become of his wife. But the evidence of the policeman Gaffney is still more strange. He says that about midnight he saw Tait, the defender, and Taylor walking about the street, and that two men whom he did not know came up to him, and, pointing to the woman, told him that she was Munro's wife. He then describes his seeing the defender and co-defender, after they had parted from Tait, walking up and down the street for a considerable time, and ultimately entering the Waverley Hotel. Then he says that at a later hour in the morning the pursuer came to him and asked him about his wife, 'and when pursuer asked me about her, from the information I had received I said I had seen her go with Taylor to the Waverley Hotel.' I must say that this appears to me to be a story full of suspicious circumstances; and I am inclined to suspect that the pursuer was not in his house at all on the night in question, but that he was on the streets of Dundee, either himself watching the move-

ments of the defender and Taylor, or causing them to be watched by the two men who addressed the policemen. Now, whether his object in sending for the defender from Newport was to throw her in the way of the co-defender, or whether the idea had occurred to him when he found that the defender could not return to Newport that night (and these are questions which we have no means of solving), I think it cannot be doubted, after careful study of the whole evidence, that at the final interview between the pursuer and his wife and Tait, the pursuer deliberately resolved that she should walk the streets of Dundee during that night, and that his expectation and desire was that she might speedily meet Taylor and pass the night with him, and so enable him to establish against her a case of adultery sufficient to entitle him to a divorce. Having been the occasion of his wife leaving her respectable lodgings in Newport and coming to Dundee, and being detained there until it was too late to return to Newport, it was clearly the duty of the pursuer to see that decent accommodation was provided for, or at least offered to, his wife, either in his own house or in some respectable lodging. But instead of that, and knowing her hankering after Taylor, and that great and improper familiarities had already taken place between them, and believing him to be in the neighbourhood hovering about and watching her footsteps, the pursuer deliberately drove his wife from his door to seek a bed wherever she pleased, and thus virtually thrust her into the arms of her paramour. The case therefore appears to me to amount to *lenocinium* on the part of the pursuer, and, indeed, to be exactly a case of the kind stated by Bankton, I. v. 130:—'If the husband was guilty of exposing his wife to lewd company, whereby she was ensnared to the crime of adultery, it would bar him from a decree on that head, it being a kind of lenocing in him, and presumed done of design.' Upon this passage of Bankton the Lord Justice-Clerk (Inglis) observed in the case of *Wemyss*, 20th March 1866, 4 Macph. 660—'That is quite in consistency with the law in the present day.' It is true that the defender has not in her plea-in-law stated any defence on the ground of *lenocinium*, but the averment by her in her defences fairly raised such a case, and the facts disclosed in the proof establish these averments. I think, therefore, that although the defender and co-defender undoubtedly committed adultery on the night of the 18th or morning of the 19th September 1876, the pursuer is not entitled to decree of divorce, seeing that by his treatment of his wife on that night he exposed her to the lewd solicitations of the co-defender, and was thus the occasion of her committing the adultery. The defender will therefore be assoilzied, with expenses."

The pursuer reclaimed, and argued—There must be something more than there was here; it must be shown that "he gave a willing consent—was an accessory before the fact" (Lord Stowell). There are two questions—(1) How far may a husband lie-by while his wife is rushing to destruction? (2) What is he to do where he suspects his wife? The views laid down in the case of *Wemyss* sufficiently indicate the rules by which these matters are to be governed.

Authorities—*M'Kenzie v. M'Kenzie*, 1745, M. 333; *Donald v. Donald*, March 30, 1863, 1 Macph.

741; *Wemyss v. Wemyss*, March 20, 1866, 4 Macph. 660; *Fraser, Husband and Wife*, i. 670; *Walker v. Walker*, 3 Hag. Eccl. Rep. 59, and Lord Stowell there; *Greive*, July 11, 1800, 3 Hag. Eccl. Rep. 123; *Sanchez, de sancto matrimonio*, x. 12, 52.

The defender argued—There is now no longer any overt act required to prove connivance. Formerly to establish it the dishonour of the wife must actually have been a source of profit to the husband. [LORD GIFFORD—A careful distinction must be drawn between, it may be, very stupid plans for detection of her guilt and the exposing her to temptation.] No contrivance to bring the parties together is necessary; it will be sufficient if the husband leave the parties together in such circumstances as to expose to temptation. [LORD ORMDALE—In the *Wemyss* case it was not thought sufficient to infer connivance that the wife was brought to a brothel, stayed there with her husband all night, and was left by him there in the morning.] There is a class of English cases nearly approaching this, though no doubt they are founded on the statute—cases of wilful neglect, or conduct tending “to conduce to adultery.” [LORD ORMDALE—How is it when a detective is employed by the husband]. That may perhaps be regarded as a case of agency on the part of the detective. *Groves* is a case where there was non-exercise of the duty of protection. Some construction here must be put upon the familiarity observed by the husband and the absence of any action then by him. *Quo animo*, knowing all these things, did he bar the door against her that night?

Authority—*Groves v. Groves*, 28 L. J., Matr. Cases, 108.

At advising—

LORD JUSTICE-CLERK—This case has received great attention from the Lord Ordinary, who had also the advantage of hearing the witnesses under examination, and of judging from their demeanour and otherwise of their credibility, but notwithstanding this, I am free to confess that (apart from the Lord Ordinary's strong opinion) I could not have felt any doubt upon the matter. That adultery was committed by the defender with the co-defender on both the occasions referred to in the record I cannot doubt, and I am unable to find evidence to satisfy me that there was any connivance or collusive action on Mr Munro's part. As to the first occasion, it is clear that there were great previous familiarities between the defender and the co-defender, and even the pursuer himself saw what should perhaps have put him upon his guard but it does not amount to more than that, and it is, to say the least of it, probable that he may have afterwards privately remonstrated with his wife upon her conduct, and that she may have given explanations which satisfied him. Accordingly the husband took no further notice of these occurrences, and matters remained upon their previous footing until he went away to St Fillans. After his return, however, it is clear that he learned what had taken place in his absence, and a separation then was arranged. This is proved by the evidence of Mary Robb, the servant, who narrates the circumstances. It is said that her evidence is unworthy of credence, in the first place because she did not tell her master immediately on his return home, and secondly, because when she did make a statement to him she was actuated by a spirit of re-

venge for having been accused of theft. Now, these observations may be true enough, but servants in these unhappy cases often see much going on and never say anything, especially when they and their mistresses are upon friendly terms, and it is only when a quarrel occurs that they give information. But, even apart from this, the evidence of Mary Robb is corroborated, partly by the knowledge we have of what took place before the departure to St Fillans, and even more completely by the reflex light cast upon the whole affair by the events which surround the second occasion, upon which, beyond all doubt, adultery was committed.

Now, after the separation which followed upon Mary Robb's information, the husband never cohabited with his wife, but, whether from a desire for reconciliation or not (for he seems to have had a sincere affection for her), he wrote from Dundee to her in September to say he was coming over to Newport to see her. His wife, however, on receipt of the letter did not wait for her husband's arrival, but herself went across to Dundee. She knew that her husband would not be expecting her; and I cannot help thinking that she availed herself of this opportunity for making an assignation with Taylor. Tait is asked to accompany her, and on crossing the first person they meet is the co-defender Taylor. After landing they go to the pursuer's shop, and the subject of the conversation is Taylor, the pursuer trying to persuade his wife to give him up, and she refusing to do so; but nevertheless they part, according to Tait's evidence, upon more friendly terms. After leaving the shop the pursuer watches Tait and the defender, partly, as I conceive, with the object of seeing whether they go by the last boat, and partly to see if Taylor joined them. Tait and Mrs Munro did miss the boat, and the pursuer joined them on the quay. They returned to the shop, and he refused his wife admittance. She then went away with Tait, and they were joined by Taylor, who was left with her by Tait, and they were subsequently found at the Temperance Hotel, by several witnesses under circumstances which could leave no possible doubt as to her guilt. Now, however, she pleads *lenocinium*—connivance or action on her husband's part leading directly to her misconduct. This plea is based partly, and weakly, upon the first familiarities observed by him, but more so, indeed mainly, on the last occasion. We have heard a great deal of learned argument about the matter, but I fail to see here, from the beginning to the end, anything that would indicate that Mr Munro wished aught but propriety on his wife's part—indeed the worst that can be said of him is that he condoned, perhaps culpably, her previous misconduct. But as to the last occasion, I am quite unable to regard his conduct as proceeding from his having suddenly conceived the idea of leaving her in the streets and so getting rid of her. The idea must, according to the theory advanced, have been a sudden one, for the pursuer did not know his wife was coming, and, again, did not know that she was to miss the boat. If there be a reasonable explanation I should rather look for it. There is nothing to indicate a desire that she should fall, although there may be that which indicates a fear lest she should do so, which is an entirely different matter, and the result showed that the fear was justified.

The facts being in this position, the questions of law do not arise, but I may say that the opinions in the authorities quoted to the Court for the pursuer are quite applicable to the present circumstances. There must be a motive, and moreover a corrupt motive, and if there be not that, there must be the most culpable and extraordinary negligence to establish such a dastardly crime as *lenocinium*. Nothing of that sort is to be found here.

Accordingly I am for recalling the interlocutor appealed against, and decerning in terms of the libel.

LORD ORMDALE—There were in this case two acts of adultery condescended upon. As to the first of these, it is brought out by the evidence of only one witness, and, if unsupported, this according to our law could not have been sufficient; but of the second act we have clear and satisfactory proof, and this evidence raises the proof in the first case to what the law requires. There is illustration daily to be seen of this in cases of slander, where one act, itself insufficiently vouched for, is corroborated by another. I am not inclined to deal with Mary Robb's evidence in the mode suggested, namely, by striking it out altogether. No doubt her evidence is subject to the observations made upon it, and there may be cases where such observations apply, but this is not, I think, one of them, for there is a great mass of evidence by which her story receives additional probability and even corroboration. I think we are bound to believe her, unless we come to a conclusion, at which I am unable to arrive, that she had invented the whole of her story from beginning to end. Still the conduct of Mr Munro as a husband, in taking no greater notice than he did of acts of gross indecency on his wife's part with Taylor, is, to say the least of it, most extraordinary and culpably indulgent.

As to the second occasion specified, there is some difficulty in finding out how the meeting between the defender and co-defender was brought about, and I am inclined to concur with your Lordship in the chair in thinking that perhaps the husband after all had some idea that he might be reconciled to his wife, with whom he had lived on affectionate terms for many years. Mr Tait was with her on her crossing to Dundee, and yet she had made an appointment apparently with Taylor to meet them; this was, to say the least of it, very audacious. There were 2½ hours before them in Dundee, and they spent only half-an-hour with the pursuer, who, finding that his wife refused to give up Taylor, left Tait and her and went off to his shop. Subsequently he shut the door on her and refused her admittance. This, it is said, amounted to *lenocinium*, in turning her out into the streets without, so far as he knew, money, and with Taylor suspected of being near. But if he had asked his wife to come in, surely that would have been condoning her conduct, she being at the time separated from him. What, then, should he have done to obviate this plea of *lenocinium*? I do not think it is any answer to the question to say that he could not have done anything more calculated to make her fall. She was a free agent, and he could not prevent her meeting Taylor. *Lenocinium* as a plea I think here entirely fails. The true definition of the crime is to be found rather in the opinions of the

Court than in the *dicta* of foreign jurists, and looking to these opinions, and especially to that of the Lord President in the case of *Wemyss*, I think no such plea is applicable here, and that the Lord Ordinary's judgment has proceeded upon a misapprehension of Lord Bankton's views. Neither upon the law nor on the facts have I any difficulty in concurring with your Lordship.

LORD GIFFORD—I have come ultimately and without any difficulty to the same result. The evidence of adultery is in both cases I think sufficient; no doubt on the first occasion it is somewhat narrow, but the Lord Ordinary has not given sufficient force, in my opinion, to the reflex light cast on Mary Robb's evidence by the events which in the other case undoubtedly took place. Then comes the question, Whether the defender has made out her counter-case of *lenocinium*; and on this I first must observe that she is not here herself; she did not present herself for examination, as without any self-erimination she might have done; she is not available to give information, for instance, whether she had that night any money in her possession or any friends in Dundee to whose house she might have gone. The evidence of *lenocinium* must be very strong, but such evidence we have not; all we have is evidence of a too indulgent weakness on the husband's part. I have not any hesitation in saying that there was no *lenocinium* here, or anything the least approaching it.

LORD JUSTICE-CLERK—I may make this observation, that there is no plea of *lenocinium* on record, nor statement which raises the question. I remark this in order that it may not occur again.

Defender's counsel moved for expenses, and pursuer's counsel, while not opposing the motion, moved as against the co-defender for his own expenses and for the expenses paid by him for the defender—*Andrews v. Stirling*, 11 Macph. 401.

The Court pronounced the following interlocutor:—

“The Lords having heard counsel on the reclaiming-note for Daniel or Donald Munro against Lord Curriehill's interlocutor of 22d November 1876, Recal the said interlocutor: Find that the principal defender committed adultery with the co-defender on the occasions libelled, and decern in terms of the conclusions of the summons: Find the co-defender liable to the pursuer in expenses, as well those incurred by the pursuer himself as those for which the pursuer may be liable in respect of the expenses of the principal defender: Further, find the pursuer liable to pay the expenses incurred by the principal defender, and remit to the Auditor to tax the expenses now found due as between agent and client, and to report; and decern.”

Counsel for Pursuer — Fraser — Darling.
Agents—Dewar & Deas, W.S.

Counsel for Defender — Asher — Robertson.
Agent—D. Milne, S.S.C.