

SUMMER SESSION, 1883.

COURT OF SESSION.

Saturday, May 12.

FIRST DIVISION.

[Sheriff of Aberdeen.

STEWART v. M'BEY.

Process—Appeal—Cessio—Debtors (Scotland) Act 1880 (43 and 44 Vict. c. 34)—Appeal before Issue of Interlocutor Granting or Refusing Decree of Cessio.

A creditor's petition to have his debtor ordained to execute a disposition *omnium bonorum* for behoof of his creditors was opposed by the debtor as incompetent, on the ground that he had been sequestrated twenty years before and was still undischarged, and that the new process of *cessio* could not therefore proceed. The trustee in the sequestration had been discharged. The Sheriff repelled the objection, and appointed the petition to be enrolled that a diet for examining the debtor might be fixed. On appeal the Sheriff adhered. The debtor appealed to the Court of Session. The Court, following *Adam & Son v. Kinnes*, 27th February 1883 (*ante*, p. 436), held that the appeal was incompetent.

Counsel for Appellant—Baxter. Agent—D. Roberts, S.S.C.

Counsel for Respondent—J. A. Reid. Agents—Ronald & Ritchie, S.S.C.

Friday, May 18.

SECOND DIVISION.

[Sheriff of Lanarkshire.

M'NEILL v. FORBES.

Reparation—Slander—Privilege—Charge of Slander by Pupil Teacher against School-mistress—"Street Walker."

A young woman who had been a pupil

teacher in a school raised an action of damages against the schoolmistress alleging that the defender had slandered her by calling her a "street walker." The pursuer had remained in the school for nearly two years after the alleged slander was uttered. The evidence showed that the defender, while reproving the pursuer in the course of her duty as head of the school, had used the expression complained of, but not that she had so used it as to charge the pursuer with immorality. Held that while the action was not barred by *mora*, the circumstance that the pursuer had remained in the school for so long a time after the alleged slander, taken with the other evidence in the case, showed that the defender had not, in rebuking the pursuer, exceeded the privilege of her position by imputing immorality to her, and that the defender ought therefore to be assolizied.

This action of reparation and damages for alleged slander arose out of the following circumstances—The defender Anne Forbes, otherwise known as Sister Mary Ignatius, was principal mistress or superintendent of St Patrick's Roman Catholic School for Girls, Anderston, Glasgow. In 1880 the pursuer, Helen M'Neill, who was then fifteen years of age, and who was the daughter of an iron driller in Glasgow, was a pupil teacher in the said school. The pursuer averred that the defender having conceived ill-will and malice against her, in February of that year, in the class-room of the Convent at No. 58 Charlotte Street, Glasgow, and in the hearing of the scholars and others, and particularly of two other pupil-teachers named, "accused the female pursuer of being, and applied to her the epithet of being, 'a street walker, and fit for nothing else,' or used words and expressions of like import and effect, meaning and intending thereby to mean, and leading or tending to lead her hearers to understand, that she (the female pursuer) was a prostitute, or that she was a young woman of vile, vicious, and immoral habits, character, and conduct."

She also averred that the defender in the month of August following, also within the school, in the presence of certain parties