

SUMMER SESSION, 1884.

COURT OF SESSION.

Wednesday, May 14.

FIRST DIVISION.

SHAW, PETITIONER.

Process — Bankruptcy — Appointment of New Trustee—Nobile officium.

A petition for the appointment of a new trustee on a sequestrated estate was presented during vacation. The Lord Ordinary on the Bills ordered intimation, service on the bankrupt, and advertisement, which were duly made. On the petition appearing in the Single Bills, the First Division ordered intimation and service of new.—*Stewart v. Chalmers*, June 14, 1864, 2 Macph. 1216; *Abel v. Watt*, November 21, 1883, 11 R. 149.

The estates of John Mackay Anderson were sequestrated, in terms of the Bankruptcy (Scotland) Act 1856, in 1870, and a trustee appointed thereon. The estates of the bankrupt were realised, the proceeds divided, and the trustee having transmitted to the Accountant in Bankruptcy the sederunt-book in the sequestration, was discharged in 1872. The bankrupt was not discharged, and he thereafter succeeded to certain heritable property on the death of his father.

This was a petition presented by Andrew Shaw, a creditor, for the appointment of a new trustee on the sequestrated estate.

On 7th April 1884 the Lord Ordinary on the Bills pronounced this interlocutor:—"Appoints the petition to be intimated on the walls and in the minute-book for eight days, to be served on John Mackay Anderson, the bankrupt, and intimated by advertisement in the *Edinburgh Gazette*; and grants warrant to and authorises the Deputy-Clerk Register to transmit the sederunt-book in the sequestration to the office of the clerk to this process for inspection there by the parties, and subject to future orders of the Court."

Intimation, advertisement, and service, as ordered, was made, and the sederunt-book transmitted to the clerk of the process. The Lord Ordinary on the Bills (KINNEAR) subsequently refused to pronounce any order in the case.

On 14th May, when the petition appeared in the Single Bills, the First Division, without delivering opinions, pronounced this interlocutor:—

"The Lords of new appoint the petition to be intimated on the walls and in the minute-book for eight days, to be served on John Mackay Anderson, the bankrupt, and to be intimated by advertisement in the *Edinburgh Gazette*."

Counsel for the Petitioner—Dickson. Agents—Dove & Lockhart, S.S.C.

Saturday, May 17.

SECOND DIVISION.

[Lord Kinnear, Ordinary.]

WILLEY v. WILLEY.

Husband and Wife—Divorce for Desertion.

Circumstances in which decree of divorce for desertion granted in favour of a husband, although no remonstrance or demand for adherence was made by him at the date of desertion or during the period of its endurance.

Charles Joseph Willey, residing at 7 Roseneath Terrace, Edinburgh, raised an action of divorce against his wife on the ground of desertion. No defence was lodged, but the case was watched by an agent on behalf of the defender. The facts of the case as elicited in proof were the following:—The parties were married in 1863, the pursuer being then a grocer in Leicester, and a widower with two children. They cohabited in Leicester till 1868, when defender left pursuer's house and did not return. Three children had been born of the marriage. The pursuer deponed that he