

I am for adhering.

The Court adhered.

Counsel for Complainer (Respondent)—Lang.
Agent—Robert Broatch, L.A.

Counsel for Respondent (Reclaimer)—Mackintosh—Low. Agent—James Barton, S.S.C.

Friday, June 6.

FIRST DIVISION.

[Lord Fraser, Ordinary.

HOEY *v.* HOEY AND OTHERS.

Process—Husband and Wife—Divorce—Wife's Expenses of Reclaiming-Note.

In an action of divorce by a husband the Lord Ordinary pronounced decree of divorce, and the wife reclaimed. The Court *adhered*, but, on the ground that the wife had reasonable grounds for reclaiming, *allowed* her the expenses of the reclaiming-note against the pursuer.

This was an action of divorce at the instance of a husband against his wife, in which the Lord Ordinary (FRASER) pronounced decree against the defender. On a reclaiming-note the First Division adhered after hearing counsel for the pursuer, defender, and two co-defenders.

The defender's counsel moved for expenses.—Fraser on Husband and Wife, ii. 1235; *Kirk v. Kirk*, November 12, 1875, 3 R. 128; *Montgomery v. Montgomery*, January 21, 1881, 8 R. 403.

The pursuer opposed the motion.

At advising—

LORD PRESIDENT—. . . As regards the defender, I am of opinion that this is not a case in which the defender was bound to be satisfied with the judgment of the Lord Ordinary, for it is one the decision in which depends upon a very careful examination of the evidence. It is not said by the Lord Ordinary that he was entirely clear in his opinion against the defender, though he came confidently to the conclusion at last, and I must say that such is the state of mind of the Judges in this Court. Therefore I think that the question falls under the rule that where the wife who is defender has a judgment of the Lord Ordinary against her, but has fair and reasonable grounds for reclaiming, the expenses in the Inner House are awarded her equally with the expenses in the Outer House.

LORD MURE and LORD ADAM concurred.

LORD DEAS and LORD SHAND were absent.

Counsel for Pursuer and Respondent—Party.
Agents—Stewart Gellatly & Campbell, S.S.C.

Counsel for Defender and Reclaimer—R. Johnstone—Ure. Agents—Ronald & Ritchie, S.S.C.

Wednesday, June 11.

FIRST DIVISION.

[Lord Kinnear, Ordinary.

OKELL *v.* COCHRANE & CO. AND OTHERS.

OKELL *v.* SHAW & CO. AND OTHERS

Foreign—Jurisdiction—Forum non conveniens.

A person domiciled in England and carrying on business there filed in England a petition for liquidation of his affairs under the English Bankruptcy Statutes, and joint trustees, one of whom was a Scotsman, were appointed on the estate. By instructions of the creditors the Scottish trustee went to America and wound up the affairs of firms in which the bankrupt was interested there, and obtained possession of certain funds. These funds he brought to Scotland, and, on the ground that they had been obtained under special arrangements with the American creditors, lodged in bank in Scotland in his own name for behoof of these creditors. A Scottish creditor of these firms then raised a multiplepounding to have the funds distributed in Court of Session. The other trustee objected to the competency of the process, and pleaded *forum non conveniens*, in respect of the proceedings in bankruptcy in the English Court. *Held* that the estate of the bankrupt being in process of distribution in the Court of the domicile, and the fund *in medio* having come into the hands of the trustee in the discharge of his duty as trustee, no separate administration ought to be allowed, and that the plea of *forum non conveniens* ought to be sustained.

John Baldwin, whose domicile was in Burnley, Lancashire, carried on business as a fancy goods dealer there. He also, in partnership with Harry Christopher Preedy of Halifax, Nova Scotia, did business as a glass and crockery-ware-dealer in Barrington Street, Halifax, under the firm of Baldwin & Company. He also, under the name of John Baldwin & Company, carried on business as a dry-goods, hardware, and general merchant at Water Street, Halifax, and he had as partners in this last business, down to 15th December 1880, James de Blois and James Fraser. On that date the co-partnership was dissolved.

On 4th January 1881 Baldwin filed a petition in the County Court of Lancaster at Burnley for the liquidation of his affairs, in accordance with the provisions of the English Bankruptcy Act of 1869. In the petition he was designed as follows:—"John Baldwin, of No 7 Willow Street, in the burgh of Burnley, in the county of Lancaster, carrying on business as a fancy goods dealer at No. 2 Hammerton Street, Burnley, aforesaid, and also carrying on business as a glass and crockery-ware dealer at Nos. 223, 225, and 227 Barrington Street, at Halifax, Nova Scotia, in the dominion of Canada, in copartnership with Harry Christopher Preedy of Chestnut Place, Halifax aforesaid, under the style or firm of 'Baldwin & Company;' and also carrying on business as dry goods, hardware, and general merchant at Water Street in Halifax, Nova Scotia aforesaid, under the style or firm of 'John Baldwin & Company,' which