

Friday, April 25.

(Before Lords Herschell, Watson, and Morris.)

BEGG v. BEGG.

(*Ante*, February 25, 1887, vol. xxiv. p. 367; 14 R. 497.)

(*Ante*, February 27, 1889, vol. xxvi. pp. 81 and 402; 16 R. 550.)

*Husband and Wife—Divorce—Adultery—Evidence—Subornation of Perjury—Wife's Costs Refused.*

Mrs Begg appealed against two decisions of the Second Division impugning (1) a judgment of divorce on the ground of her adultery as being contrary to evidence; and (2) a judgment in her action for reduction of the decree of divorce as having been obtained by subornation of perjury.

Counsel for the respondent were not called upon.

The House affirmed the decisions of the Second Division and dismissed both appeals.

The appellant applied for costs in the divorce appeal. Application refused, following the rule stated by the Lord Justice-Clerk (Moncreiff) in *Kirk v. Kirk*, 13 S.L.R. 65; 3 R. 129.

Counsel for the Appellant—Sir Charles Russell, Q.C.—R. Johnstone—G. W. Burnet. Agents—Fardells, Dashwood, & Canning, for Robert Stewart, S.S.C.

Counsel for the Respondent—D. F. Balfour, Q.C.—Finlay, Q.C. Agents—William Robertson & Company, for Stuart & Stuart, W.S.

Thursday, August 7.

(Before the Lord Chancellor Halsbury, and Lords Watson, Herschell, Macnaghten, and Morris.)

BLAIR v. THE NORTH BRITISH AND MERCANTILE INSURANCE COMPANY AND ANOTHER.

(*Ante*, July 10, 1889, vol. xxvi. pp. 213 and 659; 16 R. 947.)

*Bankruptcy—Bankruptcy (Scotland) Act 1856 (19 and 20 Vict. c. 79), secs. 9, 15, and 22—Sequestration—Oath of Verity—Terms of Oath.*

In a process of sequestration the debt of the petitioning creditors was constituted by two Sheriff Court decrees to which they had obtained an assignation. The oath set out in general terms that the debt in question was due, and the decrees and assignation were produced to the Justice of Peace. *Held* (*aff.* judgment of the First Division) that a petition by the bankrupt for the recal of the sequestration on the ground that the oath did not set forth in terms that the sum in the decrees

had not been paid either to the assignees or to the cedent, fell to be refused.

Their Lordships were unanimously of opinion that measures should be taken to prevent cases for which there was no foundation being brought *in forma pauperis* on appeal to the House of Lords.

This case is reported *ante*, July 10th 1889, vol. xxvi. pp. 213 and 659; 16 R. 947.

The pursuer appealed to the House of Lords.

Counsel for the respondents were not called upon.

At delivering judgment—

LORD CHANCELLOR—My Lords, I confess that I am certainly struck with the scandal which such a case as this may be considered to throw upon the administration of justice. Here is a case which was positively unarguable in the first Court, it has then gone to the Court of Session, and having by the united authority of the whole of that Court been declared to be unarguable, it now comes before your Lordships in such a way as to show that whatever may be the ingenuity and ability of the learned counsel who have argued it on behalf of the appellant, there is really no arguable point in the whole of this litigation. In an effort to get out of that which was the real subject of the appeal the learned counsel have, not unnaturally, desired to raise some other points than those actually contained in the appeal, which suggests the remark that with their ability and learning they must have known that no part of this case is really arguable. Under those circumstances the respondents here have had to meet a case which now in the final Court of Appeal has come before your Lordships *in forma pauperis*.

My Lords, I cannot forbear saying that the frequency with which these causes *in forma pauperis* are presented at your Lordships' bar, when there is really no substantial point to be argued, renders it certainly a fit matter for consideration, whether some new rule on that subject ought not to be made by statute. I doubt very much whether your Lordships have the power to interpose any further barrier than that which already exists upon the flow of *forma pauperis* cases to this tribunal.

My Lords, every point which has been raised has been sufficiently met in the course of the argument by the interlocutory observations of your Lordships, and I certainly do not myself propose to pay this case the compliment of attempting to restate in other words what has been abundantly and clearly laid down by all the learned Judges in the Courts below.

I therefore move that the appeal be dismissed.

LORD WATSON—My Lords, I can only express my concurrence in the proposed judgment, which I hope will put an end to this miserable litigation. I need not say that I deplore with your Lordship that state of matters which permits a case of