

pense of a remit to the auditor, he has modified to £5, 5s.

“R. M.F.”

This interlocutor was acquiesced in by the defenders.

Counsel for Trustee—Mr F. W. Clark. Agent—L. Mackersy, W.S.

Counsel for Defenders—Mr Pattison and Mr George M'Ewan. Agent—William Mason, S.S.C.

(Before Lord Ormidale.)

SANDERSON AND OTHERS v. OFFICERS OF STATE.

*Crown—Succession Duty—Declarator of Legitimacy—Competency.* Persons charged with succession duty on the footing that they were illegitimate children raised an action of declarator of legitimacy calling the Officers of State as defenders. Held (per Lord Ormidale and acquiesced in), that the action was incompetent, as the Officers of State did not represent the Crown in matters of revenue.

Moses Jacob died in 1865, leaving a settlement dated in 1854, by which he bequeathed his estate to trustees for division among *inter alios* the pursuers, who are therein described as his natural children. After his death the pursuers tendered payment to the officers of Inland Revenue of succession duty at the rate payable by children—namely, 1 per cent. This was declined on the ground that ten per cent. was payable, the pursuers not being lawful children. Proceedings were then taken at the instance of the Lord Advocate in the Court of Exchequer for recovery of the duty; and the pursuers thereupon raised this action against the Officers of State to have their legitimacy declared. They averred that their parents were married by cohabitation and habit and repute.

The defenders pleaded that the action as against the Officers of State was incompetent and irrelevant, they not representing the Crown in regard to matters of revenue. Lord Ormidale sustained this plea, and dismissed the action with expenses. The pursuers acquiesced.

Counsel for Pursuers—Mr Webster. Agent—James Finlay, S.S.C.

Counsel for Defenders—Mr Scott. Agent—James Hope, W.S.

BILL CHAMBER.

(Before Lord Mure.)

LOVE AND OTHERS v. CAMPBELL AND OTHERS.

*Poor—Assessment—Exemptions—Suspension.* A suspension to interdict the collection of poor rates in a parish on the ground that the Parochial Board had resolved to grant exemptions in a manner said to be illegal, *refused*.

This was a suspension and interdict presented by certain ratepayers in the parish of Stevenston against the Parochial Board of that parish, whereby it was sought to “interdict, prohibit, and discharge the respondents as representing the Parochial Board of the parish of Stevenston, from collecting the assessment for relief of the poor of said parish for the year from 5th August 1866 to 5th August 1867, from one class of the ratepayers alone, and, in particular, from exempting from payment of said assessment in said parish for said year all tenants under £4 of rental, as a class, and without reference or inquiry into the special circumstances of particular claims to exemption, or

from in any way carrying into effect the resolution to relieve such tenants as a class from payment of said rates adopted at a meeting of the Parochial Board of said parish of Stevenston, held on 2d November 1866.”

The ground of suspension was that the resolution was illegal. The respondents answered that it was warranted by section 42 of the Poor Law Act, which authorised Parochial Boards to exempt any persons or class of persons on the ground of inability to pay.

The Lord Ordinary (Mure) refused the note, with expenses. The following is his

*Note.*—As the object of this suspension is not so much to obtain exemption from payment of an assessment, for which the complainers allege they are not legally liable, as to try the legality of a resolution of the Parochial Board of the parish of Stevenston relative to the manner in which the assessment in that parish is to be laid on and levied, and in the meantime to interdict the Board from carrying out that resolution, the Lord Ordinary doubts whether the complainers have a title to try that question, at least in a suspension. But, assuming the title and interest to be sufficient, the Lord Ordinary does not think he would be warranted in passing the note and granting interim interdict, when neither caution nor consignation is offered, especially in the case where, as here, the mode of levying complained of appears to have been acted on without objection for several years.

The suspenders acquiesced.

Counsel for Complainers—Mr W. M. Thomson. Agent—John Ross, S.S.C.

Counsel for Parochial Board—Mr John Burnet. Agent—John Thomson, S.S.C.

Tuesday, Feb. 12.

FIRST DIVISION.

RAMSAY v. RAMSAY.

*Husband and Wife—Divorce—Goods in Communion—Paraphernalia.* In an action by a wife against her husband, whom she had divorced, for her share of the goods in communion and for delivery of her *paraphernalia*, Held that she had failed to prove that there were goods in communion at the dissolution of the marriage, or that the defender had carried off any of her *paraphernalia*.

This was an action at the instance of Margaret Anderson Dewar or Ramsay, Cupar-Fife, against Peter Ramsay, jun., Woodhaven, for £500, or such other sum as shall be found to have been the pursuer's share of the goods in communion at the dissolution of the marriage betwixt her and the defender by divorce on 9th March 1860, and also for delivery of her gold watch and other *paraphernalia*. The defence was that when the marriage was dissolved there were no goods in communion in existence, and that if there were any *paraphernal* goods they were not in the defender's possession. The Lord Ordinary (Kinloch), after a proof, assolized the defender, observing in his note:—“The question for proof was not what amount of funds the pursuer possessed when she married the defender in June 1851, but what funds were extant and formed goods in communion at the dissolution of the marriage by the decree of divorce of 9th March 1860. The pursuer has failed to establish any specific amount of funds then existing. The evidence, which is very contradictory, raises a