

THE
SCOTTISH LAW REPORTER.

WINTER SESSION, 1890-91.

In order to secure regularity of publication, it is occasionally necessary to insert the Reports of Cases slightly out of the order of dates on which they have been decided.

COURT OF SESSION.

Saturday, October 18.

SECOND DIVISION.

[Lord Kincairney, Ordinary.]

RIDDELL v. RIDDELL.

Process—Divorce—Commission—Lunatic.

After decree of divorce, commission granted to take the evidence of the alleged co-respondent, who was under care in a lunatic asylum, if fit to be examined.

Upon 20th June 1889 Robert Scott Riddell brought an action of divorce against his wife on the ground of her adultery with Eugene Weegman, sometime residing in Edinburgh, but whose present address was unknown to the pursuer.

No motion was made while the case was in the Outer House for a commission to examine Weegman, nor did he appear as a witness.

Upon 24th December 1889 the Lord Ordinary (KINCAIRNEY) pronounced an interlocutor finding that the defender had been guilty of adultery. His Lordship expressed regret that Weegman's evidence had not been obtained.

The defender reclaimed, and upon 20th July 1890 her counsel applied to have the case delayed in order that an endeavour might be made to find Weegman, and have him examined on commission.

Upon 15th October 1890 counsel for the

defender stated that Weegman had been discovered, but that he was under care in a lunatic asylum in Sydney, and asked a commission to have him examined.

The Court pronounced the following interlocutor:—

“The Lords having heard counsel for the parties, on the motion of the reclaimer, grant commission to Alexander Matheson, Esq., W.S., Blackstone Chambers, 17 O'Connell Street, Sydney, whom failing to Henry Edwardes, Chief Clerk, Master in Lunacy's Office, Supreme Court Bench, Chancery Square, Sydney, to take the examination of Eugene Weegman, who is now or was lately an inmate of the Hospital for the Insane, Callan Park, Balmain, near Sydney, New South Wales, provided always that the said commissioner is satisfied that the said Eugene Weegman is mentally fit to be examined; appoint the said examination to take place upon interrogatories and cross-interrogatories to be adjusted by the Clerk of Court; and appoint the said commissioner, before proceeding to take the said examination, to satisfy himself by all proper evidence that the said Eugene Weegman is mentally fit to be examined: To be reported *quam primum*, and decern: Meanwhile continue the cause.”

Counsel for the Reclaimer—M'Lennan. Agent—Wm. Donaldson, Solicitor.

Counsel for the Respondent—Guthrie—Salvesen. Agent—Alex. Wardrop, Solicitor.