1869

C. J. WILKINSON v. ABBAS SIRKAR.

no injury likely to be sustained by a defendant, even though the Statutes of James and of Geo. II. do not extend to this country. The Judge does not ask us whether the bill taxed between attorney and client, in the absence of evidence that notice of taxation was given to the client, would justify the Court in awarding to the plaintiff without further evidence the full amount allowed upon taxation. The only question which is asked is the one which I have read. It appears to me that with reference to the question whether a suit can be maintained or not without delivery of the bill, the question whether the client had notice of the taxation is wholly immaterial.

Our opinion to the effect which I have stated will be reported to the Judge of the Small Cause Court, and the defendant will pay all the costs of this reference.

MACPHERSON, J.—I concur.

Attorneys for the plaintiff: Messrs. *Berners & Co.*

Attorneys for the defendants: Messrs. *Gray & Co.*

Before Mr. Justice Phear.

GORDON *v* GORDON.

Suit for Divorce—Inspection of Letters.

1869
Aug. 23.

The respondent is entitled to have brought into Court letters written by her to the petitioner, while the facts to which they speak were fresh in her memory.

If the petitioner has none he should make an affidavit to that effect.

This was an application by respnodent on a summons for a list of letters written by respondent to petitioner, verified by affidavits, and now in the power, possession, or control of the petitioner, to be furnished for the inspection of respondent.

Mr. *Hyde* for the respondent referred to the 7th section of the Divorce Act, and cited the following cases: *Winscom v. Winscom and Plowden* (1), *Pollard* v. *Pollard & Hemming* (2), *Stone* v. *Strange* (3). By section 31, Act II. of 1855, any letters written by the respondent at the time when the facts to which they spoke

(1) 3 Sw. & Tr., 383. (2) Sw. & Tr., 613. (3) 34 L.J. Ex., 72

were fresh in her memory would be admissble as corroborative evidence. 1869.

GORDON v. GORDON.

Mr. *Graham* for the petitioner.—The cases cited by Mr. Hyde show no authority for granting this application.

Mr. *Hyde* in reply.—The rule is clearly laid down in Brown on Divorce, 221. In consequence of the difference in the Law of Evidence the production of the letters is of much more importance here than it would be in England.

PHEAR, J.—I think the respondent is entitled either to have the letters brought into Court or that the petitioner should file an affidavit to the effect that he has none in his possession. Should any letters be brought into Court, the Court will look into them and decide which of them the respondent is entitled to inspect as being material to the case.

Before Mr. Justice Phear.

CRUMP *v.* CRUMP.

Application for Alimony. 1869 *Aug.* 26.

In an application for alimony, it is sufficient to set out the fact of the marriage in the petition; an affidavit to that effect is unnecessary.

In making the application, it is sufficient to show the Court that there has been a ceremony which might be a valid marriage; and therefore where the petitioner was shown to be the respondent's deceased wife's sister, alimony was granted.

THIS was a suit by the wife for a divorce. The petitioner prayed for one-fifth of the income of the respondent's whole property, which from the affidavit appeared to be as follows: *viz.*, rupees 583, per month, income from the business; present share in stock 19,000; private practice 14 per month for the last 3 years. The respondent drew 200 rupees a month as actual income.

Mr. *Hyde* moved on petition that the respondent be ordered to grant alimony, *pendente lite*, to the petitioner, his wife.

Mr. *Branson* for the respondent opposed the application, and submitted that the practice in England, in an application of