

to have adultery inferred. That portion of the proposed evidence does not seem to be subject to the danger pointed out by Mr. *Pilkington*, if the statement on oath was really given at the time alleged.

The order of the learned trial Judge and that appealed from, except so far as the latter relates to costs, are set aside, and a new trial must be had.

Order of trial Judge and order appealed from set aside save so far as the order appealed from relates to costs. New trial to be had.

Solicitors, for appellant, *Penny & Hill*.

Solicitor, for respondent, *Walter Dwyer*.

A. L. C.

[HIGH COURT OF AUSTRALIA.]

THE SCOTTISH COLLIERIES LTD. . . . APPELLANTS;
DEFENDANTS,

AND

HUTCHINSON RESPONDENT.
PLAINTIFF,

ON APPEAL FROM THE SUPREME COURT OF
WESTERN AUSTRALIA.

APPEAL from the Supreme Court of Western Australia.

The appeal turned solely on the evidence.

Haynes K.C. and *Alcock*, for appellants.

H. P. Downing, for respondent.

THE COURT dismissed the appeal with costs.

Appeal dismissed with costs.

Solicitors, for appellants, *Alcock & Daintrey*.

Solicitors, for respondent, *Downing & Downing*.

A. L. C.

H. C. OF A.
1914.
RYAN
v.
RYAN.

H. C. OF A.
1914.
PERTH,
Nov. 2, 3.
Barton,
Gavan Duffy
and Rich JJ.