his attention not occupied. It is out of the question to say that in these circumstances it is necessary to supply a gangway.

On the question of discharge — If the defenders stood on the receipt alone I would have been of opinion that it was no bar to the action. The words "in full satisfaction and discharge of all my claims against him under the petition" would appear to me to be a limitation of the discharge to the defender in that particular action. But then I think we are entitled to look at the letters which preceded and accompanied the so-called discharge. It is in form simply a receipt for £20, but if it is to be regarded as a discharge (assuming the question of the sufficiency of stamp to be out of the way), we are entitled to get behind it and to see what it was really granted for. Now, reading the letters it is clear that the parties intended to reserve any claim against the shipowners. Regarding it, therefore, as I do, as merely a compromise, and not as a payment in full satisfaction of all possible claims for the particular injury, then I think the receipt is not enough to bar the action.

LORD M'LAREN—I agree on both points. It is of course necessary when vessels are lying two or three deep, that the sailor and other persons on board the outside vessel, should be enabled to pass over the vessel lying between their vessel and the quay. And it seems to be the theory of this case, that in the exercise by such persons of this right of way-leave, a duty arises to the owner of the outside vessel to use proper precautions for the prevention of injuries that might result to persons crossing. I have nothing to say against that theory, but applying it to the circumstances of this case I am of opinion that there is no relevant statement of a duty incumbent on the defenders, for the safety of those on board their ship, which was neglected by them. There is only a statement of a breach of the harbour regulations, but a breach that does not suggest to me that it was the proximate cause of the accident.

On the second point I have little to add. I agree that we are entitled to look not only at the receipt, but also at the letters which have been read to us for the purpose of ascertaining what was the real consideration for the payment of this sum of £20.

LORD KINNEAR concurred.

The Court dismissed the action as irrelevant, but as the plea of irrelevancy had not been stated in the Sheriff Court, found no expenses due.

Counsel for Pursuer and Appellant—Orr. Agent—W. A. Hyslop, W.S.

Counsel for Defenders and Respondents—Dickson—Napier. Agents—Webster, Will, & Ritchie, S.S.C.

Tuesday, June 6.

FIRST DIVISION.

[Lord Kyllachy, Ordinary.

FALCONER *v.* DOCHERTY.

Reparation — Slander— Issues— Innuendo from Failure of Trustee to Publish Accounts—Charge of Partiality.

Held (1) that, looking to an article complained of as a whole, to say of a trustee, "He gives the money, it is supposed, but whether he dispenses the whole of it or not is not known, as he has never proposed to publish a statement of how it is employed"—might bear the innuendo that "he is not a trustworthy trustee and administrator of a charitable bequest, . . . and is a person capable of appropriating the funds of the bequest to his own uses and purposes;" and (2) that a charge of partiality is not of itself actionable.

The following letter appeared in the *Caithness Courier and Weekly Advertiser for the Northern Counties* upon 18th November 1892:— "ADVICE WANTED.

"To the Editor of the *Caithness Courier*.

"Sir,—Here is a case which came under my notice. A certain clergyman has a fund, the proceeds of a charitable bequest, left for the poor of the parish. He gives the money, it is supposed, but whether he dispenses the whole of it or not is not known, as he has never proposed to publish a statement of how it is employed. A poor woman whose husband was unwell, and the family in great destitution, called on the minister, and wanted a portion of the money to buy a little meal for to keep them living. The minister refused, because, he said, her husband did not attend the church. She replied that she did not think that the money was to be given to any one because he attended any particular church, but to the poor of the parish. 'Oh, but,' replied the reverend, 'your husband was in the public-house bar, and he spoke disrespectfully of me there.' 'But, sir,' she answered, 'don't you go to the bar yourself?' Minister—'Yes, but I don't go there to drink.' Woman (looking up at his rubicund face)—'I'm no so sure o' that, sir.' She got none of the money. What should the woman do in such a case? Apply to the session, you say. But if he has no session, what then? My advice is for the woman to take two with her, and call on the Reverend Mr Falconer, and ask him what she should do to get a share of the money left for the benefit of such as she. It would be interesting to hear what steps he advised her to take.—A FRIEND OF THE POOR."

Upon 16th January 1893 the Rev. W. J. S. Falconer, minister of the parish of Dunnet in Caithness, brought an action of damages for slander against William Docherty, High Street, Thurso, and against William Docherty junior, 9 Hill Square, Edinburgh, as being the printer, publisher, and the proprietor respectively of said newspaper.

He averred that he was *ex officio* trustee, and at present practically sole trustee, of a bequest left for the poor of his parish, and that the letter was directed against him.

A single issue with damages laid at £1000 was approved by the Lord Ordinary, but upon the defenders reclaiming to the First Division, the pursuer moved to be allowed to substitute the following four issues, viz.—"(1) Whether, in the issue of *The Caithness Courier and Weekly Advertiser for the Northern Counties*, dated on or about 18th November 1892, the defenders, or either and which of them, printed and published the letter printed in the schedule hereto appended? (2) Whether the said letter is of and concerning the pursuer, and falsely and calumniously represents that he is not a trustworthy trustee and administrator of a charitable bequest instituted for behoof of the poor of his parish, and is a person capable of appropriating the funds of the said bequest to his own uses and purposes, or makes similar false and calumnious representations of and concerning the pursuer, to his loss, injury, and damage? Damages laid at £300. (3) Whether the said letter is of and concerning the pursuer, and falsely and calumniously represents that he has acted partially and corruptly in the administration of said charity, or makes a similar false and calumnious representation of and concerning the pursuer, to his loss, injury, and damage? Damages laid at £300. (4) Whether the said letter is of and concerning the pursuer, and falsely and calumniously represents that he is guilty of conduct unbecoming a minister of the Gospel, inasmuch as he frequents the bar of a public-house for the purpose of obtaining intoxicating liquors, or makes similar false and calumnious representations of and concerning the pursuer, to his loss injury, and damage? Damages laid at £400."

The defenders argued (1) that the complaint that no accounts had been published could not bear the innuendo sought to be put upon it in the second issue; (2) that a charge of partiality was not a charge against a person's moral character, but merely a charge of showing a preference; and (3) that the words "unbecoming a minister of the Gospel" were too vague. The conduct should be described as "indecorous and unseemly."

At advising—

LORD PRESIDENT—In the print dated 25th May 1893 there appear to be four separate issues. The first and second, however, necessarily form together but one issue, and I am prepared to grant an issue in these terms. The article founded on must be read as a whole in order to gather the meaning and motive of the words used, and I cannot say that the construction assigned to the words referred to in the first issue is so far-fetched that the pursuer ought not to be allowed to submit it to a jury.

The issue numbered (3) ought, I think, to be disallowed. A charge of partiality is not of itself actionable, and if the word "corruptly" is used in any proper sense of its own, then there is nothing on the pursuer's record or in the article itself to support it.

The issue at present numbered (4) seems to me to be open to no valid objection.

The pursuer has inserted a separate schedule of damages for each issue. This does not seem necessary, as the issues are both founded on the same article, and should the jury hold but one issue to be proved, they can competently award (within the limits of the lump claim) whatever sum they think fit.

LORD ADAM, LORD M'LAREN, and LORD KINNEAR concurred.

The first and second issues were made one, the third issue was deleted, the fourth issue became the second, and a lump sum of damages, laid at £1000, was put after the issues, which in this form were approved by the Court.

Counsel for the Pursuer — Jameson — M'Lennan. Agent—Thomas Liddle, S.S.C.

Counsel for the Defenders—Comrie Thomson—D. Anderson. Agent—P. J. Purves, S.S.C.

Wednesday, June 7.

FIRST DIVISION.

BOARD OF SUPERVISION *v.* LOCAL AUTHORITY OF LOCHMABEN.

(*Ante*, p. 457.)

Public Health (Scotland) Act (30 *and* 31 *Vict. cap.* 101), *sec.* 97—*Board of Supervision—Petition and Complaint—Procedure where Local Authority makes No Appearance.*

In this case Mr James H. Barbour, C.E., in terms of the remit of 28th February, presented a report to the Court containing a scheme for procuring a sufficient and suitable supply of water for the burgh of Lochmaben, to which the local authority lodged no objections. The Board of Supervision intimated that they had resolved not to enforce the introduction of a new drainage scheme in the meantime.

The Court—following the case of *The Board of Supervison* v. *The Local Authority of Linlithgow*, 1889 (unreported)—pronounced this interlocutor:—"Having resumed consideration of the petition and proceedings, with the report of Mr James H. Barbour, C.E., and heard counsel for the petitioners, Ordain the respondents, the local authority of the burgh of Lochmaben, to execute the work necessary for the introduction of a suitable water supply into the burgh in terms of the report (Bankhead scheme), and that at the sight and to the satisfaction of James H. Barbour, and decern; remit to Mr Barbour to see the works properly