

the poor laws were for a long time very loosely administered, and exemptions were allowed for which there was no authority; and as regards the time since the Act was passed, the former loose practice may be said to have been continued. But this was quite insufficient to establish a usage in favour of exemption. The Lord Chancellor, in the case of the Mersey Docks, expressly said that charitable institutions were not exempt; and the law was now quite settled that nothing but property which belonged to the Crown was.

The other Judges concurred.

M'WILLIAM v. WATSON.

Reparation—Culpa. Circumstances in which held that a person who had sustained personal injuries was not entitled to recover damages, the injuries having been caused by his own negligence.

Counsel for Pursuer—Mr John Black. Agent—Mr W. H. Muir, S.S.C.

Counsel for Defender—Mr Gifford and Mr Gloag. Agents—Messrs A. G. R. & W. Ellis, W.S.

This was an advocacy from Lanarkshire of an action for damages and *solatium* at the instance of the pursuer, a ship carpenter, against the defender as owner of the steamer *Petrel*, on account of injuries sustained by him while engaged in the execution of his duty as a carpenter in making repairs or alterations upon the paddle-wheels or paddle-floats of the said steamer while lying at the Broomielaw of Glasgow on 18th January 1864, and which injuries are alleged to have been caused through the culpable negligence or recklessness of those on board the vessel, acting under the defender, and for whom he is responsible, in having suddenly, and without any notice or warning to the pursuer, set in motion the engine or other machinery of the vessel, or caused the paddles to be moved, while the pursuer was in the paddle-box in the execution of his duty in making some repairs or alterations thereon, whereby the paddle-wheel of the steamer, whereon the pursuer was at the time employed, was set in motion, and the pursuer was carried round inside the paddle-box of the steamer, and crushed between the floats of the paddles, and had his right collar-bone and shoulder-blade broken, by which his system and constitution sustained a great shock, and his health has been severely impaired, and he has been permanently disabled and rendered unfit to earn a livelihood. The defence is that the pursuer did not suffer injuries to the extent alleged by him, and that, in so far as he did sustain injury, it was caused by his own negligence or recklessness by going into the paddle-box at an improper time, and without giving notice to the engineer that he was going which it is alleged, he ought to have done.

The Sheriff-Substitute (Smith) found, after a proof had been led, that in the month of January 1864 the pursuer was a ship carpenter in the employment of William Bocket; that on the morning of 18th January he was sent along with another ship's carpenter to do some work on board the *Petrel* steamer, of which vessel the defender is owner; that the pursuer went on board the *Petrel* soon after six o'clock on the morning of that day, and that he knew that she was intended to sail at ten o'clock; that part of the work which he had to do required him to go inside the paddle-box on the paddle-wheel, and that he did not begin that work till about nine o'clock; that it is the practice when parties go inside the paddle-box of steamers that they give or send notice of this to the engineer, to prevent accidents; that on said morning the pursuer went inside the paddle-box without giving or sending any notice to the engineer, who, about a quarter before ten o'clock, in ignorance that anyone was on the paddle-wheel, set the engine in motion; and the wheel at which the pursuer was working revolved and crushed the pursuer, who was severely injured; but that the injury to the pursuer was caused by

his own carelessness and neglect, both in delaying his work within the paddle-box to so late an hour, and by going into the paddle-box without giving due notice to the engineer. In point of law he found that a party who suffers injuries caused chiefly by his own carelessness and neglect is not entitled to reparation; and he therefore sustained the defences and absolved the defender.

The Sheriff (Alison) altered this interlocutor, and found that in the circumstances of the case as proved, no fault was to be ascribed to the pursuer in obeying the orders of his employer to go into the paddle-box to make the necessary repairs, seeing he was never informed or made aware of any rule as to giving to the engineer notice of his going into the paddle-box to make repairs, and seeing that in the circumstances he was entitled to rely on receiving notice from the engineer of his intention to start the engine if the vessel moved before the advertised time of sailing, which was ten o'clock; that the engineer was clearly in fault and to blame—1st, for not making the pursuer aware of the alleged rule of any person going inside the paddle-box giving notice when he went in; 2d, for starting the engine and putting the paddle-wheels in motion, at least twenty minutes before the advertised time for the vessel sailing at ten o'clock; 3d, for not giving notice to the pursuer when he half seen him about the paddle-box, and he was himself at the other paddle-box, that he was to start the engine twenty minutes before the advertised time of the vessel's sailing, so as to warn the pursuer to get out of danger. He therefore found the defender liable in damages, which he assessed at £100.

The defender having advocated, the Court unanimously recalled the Sheriff's interlocutor, and reverted to that of the Sheriff-Substitute.

Thursday, March 29.

COLQUHOUN v. BUCHANAN AND OTHERS.

Salmon Fisheries Act—Roll of Proprietors—Reduction. In a reduction of a roll of proprietors of salmon fishings made up by the clerk, on the ground that it contained the names of persons who were not proprietors, action sustained, and issues ordered.

Counsel for Pursuer—Mr Patton and Mr Watson. Agents—Messrs Tawse & Bonar, W.S.

Counsel for Defenders—The Solicitor-General and Mr Hall. Agent—Mr James Macknight, W.S.

This is an action of reduction at the instance of Sir James Colquhoun of Luss, Baronet, and it is directed against Mr John Buchanan, of Carbeth, Miss Barbara Govane of Park, Mr Cooper of Ballindalloch, and Mr Blackburn of Killearn; and also against his Grace the Duke of Montrose, Sir George Hector Leith, of Ross, Baronet, and Mr Galbraith, the Sheriff-Clerk of Stirlingshire, for their interest. The object of the action is to reduce and set aside the roll of proprietors, or alleged proprietors, of salmon fishings within the district of the rivers Clyde and Leven, as fixed and defined by the Salmon Fisheries Act, 25 and 26 Vict. c. 97, which was prepared by the Sheriff-Clerk of Stirlingshire in pretended conformity with said Act. The ground of reduction is that the defenders do not possess the qualification required by the statute for admission to the roll, because they had no right to salmon fishings in the said district. There were also conclusions for reduction of various minutes of the proprietors so enrolled, and of the District Board elected by them.

The defenders Mr Buchanan and Mr Blackburn lodged defences, and stated the following pleas:—

"1. The action is incompetent, and cannot and ought not to be entertained in this Court, in so far as it seeks to set aside the right of the defenders to remain on the roll of proprietors of salmon fisheries in the said district of the rivers Clyde and Leven,