

The accusation here is not that information was given to the public authorities; the accusation here is that it was given anonymously, and that is the whole point of the accusation; and all the witnesses yesterday told you that to give information in an anonymous letter that a man was guilty of the crime of murder was a thing that merited all the epithets that are used here. It is the anonymousness of the letter that is the point; and, therefore, that the information was derived by Dr Greenlees from Dr Paterson is nothing to the question we have here. This witness, Dr Greenlees, may be placed now by the evidence of yesterday in the position which Mr Alexander considers when he writes this letter, and which the witnesses consider, merits the epithet that is at the beginning of this issue. That is Dr Greenlees, not Dr Paterson, and it is nothing that the information was derived from Dr Paterson by Dr Greenlees, unless it is made out that he was a party to Dr Greenlees' giving that information anonymously. Now, I heard no evidence to that effect. Dr Greenlees told him a day or two afterwards that he gave the information; it is not even asked if he gave it anonymously, and there the matter rests. The clear supposition is, that Dr Paterson certainly was not the author of that, and that this letter imputes to Dr Paterson that he was the author, and that the author, whoever he was, was one that was a moral coward and a stabber in the dark. That was an imputation which he ought to be cleared of at once. It is said that proposals were made, and that Dr Paterson was not content to receive the disclamation which Mr Somers was disposed to give. Mr Somers, I think, gave, or offered to give, all that he personally knew of the matter in the way of disclamation. He said again and again, "I have no animus against you in inserting this; I did not think at the time it was imputing it to you, but I disclaim it now you say you were not the author. I am satisfied it can be proved that you were not, and I will insert in the newspaper that in publishing the letter I did not mean to impute anything against you." But still, if the letter imputed that, and in the estimation of the public imputed it, that is not all he was entitled to have, and I regret that Mr Somers dallied so much about the terms on which the name of the writer was to be given up, for he says that what was to be inserted in the newspaper, the *Journal*, must be a thing to be arranged with the writer of the letter, as well as with the editor. In short, it was not very satisfactory. At the same time I think that the expression in the defences for Mr Somers are very strong indeed; for I think the latter part of that expression is not limited to himself at all, for it says—"If the article complained of can be held to imply any such imputation, the defender sincerely regrets it, and hereby unequivocally withdraws all such imputation, and all statements on which such imputation is or may be held to be implied." That I think was the withdrawal of the statement, but it was not such as in all and in any view disentitled Dr Paterson to proceed with his case to the effect of obtaining a verdict in his favour which should clear him. Nay, it seems rather to imply that he is entitled to be cleared. That rather seems to be the meaning of it, and cleared he could be, if he went on with the case, only by a verdict in his favour. It follows, then, that as no evidence has been led of any real kind of damage done, it is clearly left to your judgment to consider what should be done in the case; that retraction or the clearance of the character is the main thing; the question of damage is a matter of indifference. I perfectly agree with my friend Mr Gifford as to what he said as to the right of comment on all matters of public interest in this country. I think it is valuable; I have said so already; but I can hardly adopt the view that this letter was written in a friendly spirit to Dr Paterson. I think it was natural for Dr Paterson to feel otherwise, and he told you it had been so considered by his friends and others, and that it had produced an impression

on the public that was injurious to him. As to Dr Paterson's conduct in reference to not having given information himself directly to the police, I confess I do not see what that has to do with this question. It may have been wrong on the part of Dr Paterson; I do not know whether it was wrong or whether it was right. I can easily understand a person very chary of stating circumstances which might land him in a very awkward predicament; but I can easily understand a person being too chary of giving such information, withholding that which he ought to have given; but still that is not the question; it is as to the accusing him of being the author of the anonymous letter; and the speech which was made just now, and the attack on Dr Paterson in that respect may or may not be well founded. I do not say that it is, and I do not say that it is not; but I think it is, away from the question you are considering here. I think we are considering here simply the question of the anonymous letter; and while I say that Mr Somers, so far as I can see in the matter, had no animus at all against Dr Paterson, and did not know who he was, and had no reason at that time to suspect that he was the author of the letter, still the letter itself, if you think along with me, imputes that to Dr Paterson; and then, whatever may be the settlement between the author of the letter and Mr Somers—and so far as I can see, Mr Alexander was not till yesterday acknowledged to be the author—the purity of our proceedings requires that the defender who has been called here should be the party who is responsible, in the first instance, to the pursuer, if he be injured, and that, in putting the real author into the box at the trial it is not to be turned over into a proceeding against him. That is very clear; and therefore the real point you have to consider is whether this letter does impute to Dr Paterson the authorship of the anonymous letter, whether that imputation is accompanied by these expressions "a moral coward who stabbed in the dark," and whether you are of opinion that these are calumnious representations, especially in the case of a professional man. If you think it imputes to him the authorship, you will deal with the case by giving a verdict in his favour. He does not ask for vindictive damages, nor ought he to get them in almost any circumstances, for it is a matter of clearing of character, as I understand, from the way in which the case has been conducted. I may say in reference to the observation on that, I think the course taken by the pursuer was perfectly right and legitimate, for all he had to do, having the admission made about Dr Paterson not being the person referred to, was to rest on what is there stated. But it is a question for you whether he is the person to whom the authorship is imputed. If he is, you will deal with the case accordingly, and if he is not, you will find for the defender.

The jury, after quarter of an hour's absence, brought in a verdict for the pursuer—damages one farthing.

Thursday and Friday, April 5 and 6.

(Before Lord Ormisdale.)

WEIR OR WILSON v. MERRY & CUNNINGHAM.

Counsel for Pursuer—Mr E. S. Gordon and Mr Strachan. Agent—Mr Thomas White, S.S.C.

Counsel for Defenders—Mr A. B. Shand and Mr Robert MacLean. Agent—Mr John Leishman, W.S.

In this case, in which Mrs Euphemia Weir or Wilson, residing at Haughhead, near Hamilton, wife of the late Henry Wilson, miner, Woodhall, near Holytown, in the county of Lanark, was pursuer; and Messrs Merry & Cunningham, coal and iron masters in Glasgow, were defenders, the issue was as follows:—

"It being admitted that the defenders are the proprietors of the Haughhead pit, near Hamilton, in the county of Lanark:

"Whether, on or about the 25th day of November 1863, the deceased Henry Wilson, miner, Haughhead, the son of the pursuer, while engaged in the employment of the defenders as a miner in said pit, was killed by an explosion of firedamp, through the fault of the defenders—to the loss, injury, and damage of the pursuer?"

Damages laid at £400.

Evidence having been led on both sides, the jury, after an absence of two hours, returned a verdict for the pursuer—damages, £100.

Friday, Saturday, and Monday, April, 6-9.

(Before the Lord President).

SKINNER AND MACDONALD *v.* MUNRO.

Restitution—Master and Servant—Bank Cheque—Donation. In an action at the instance of a person's representatives against his servant for payment of two bank cheques, which the servant alleged had been given to him by his master, verdict for the pursuers in regard to one of them.

Counsel for Pursuers—Mr Patton and Mr Shand. Agent—Mr J. T. Mowbray, W.S.

Counsel for Defender—Mr Gifford and Mr Deas. Agent—Mr John Robertson, S.S.C.

This was a case in which Allan Maclean Skinner, Esq., Barrister-at-Law and Queen's Counsel, and residing at Brocton Lodge, in the county of Stafford, in England, and Major Alexander James John Macdonald, sometime Fort-Major of Edinburgh Castle, and residing in Edinburgh, trustees and executors of the deceased Ronald Macdonald, formerly Captain in her Majesty's 12th Regiment of Foot, thereafter residing at No. 2 Sandford Street, Portobello, in the county of Edinburgh, and the said Alexander James John Macdonald, as mandatory for the said Allan Maclean Skinner, were pursuers; and Archibald Innes Munro, residing at No. 82 High Street, Portobello, aforesaid, and sometime servant to the said Ronald Macdonald, was defender. The following were the issues:—

"I. It being admitted that at the dates aftermentioned the defender was a servant in the employment of the said deceased Ronald Macdonald:

"Whether, of the dates aftermentioned, the defender, by virtue of cheques granted by the said deceased Ronald Macdonald on his account with the Royal Bank of Scotland, uplifted from the branch of that bank at Portobello the following sums, viz.—

On or about 2d May 1864.....	£150	0	0
On or about 12th May 1864....	200	0	0
On or about 2d July 1864.....	50	0	0
On or about 8th July 1864.....	200	0	0

£600 0 0

And whether the defender failed to account for and is resting-owing to the pursuers the sum of £450, part of the said sums, with interest since 28th July 1864, or any part thereof?"

"II. It being admitted that during the period aftermentioned the defender was a servant in the employment of the said deceased Ronald Macdonald:

"Whether, during the period between 1st May and 28th July, both 1864, the defender obtained from the said deceased Ronald Macdonald part of the sums drawn under the said cheques, and amounting to £450, or any part thereof, for behoof of the said deceased, and whether the defender retains and is resting-owing to the pursuers the said sum of £450, or any part thereof, with interest since 28th July 1864?"

The LORD PRESIDENT, in charging the jury, stated that the question which they had to decide

had only reference to the two cheques for £200 each, the cheque for £150 and £50 having, according to the arguments which were submitted, been substantially accounted for. It was not alleged by the defender that he gave the two £200 cheques to the late Captain Macdonald, or that he gave them away to any other person by his desire, and the executors were demanding that he should pay the sums to them. The defender maintained that he was entitled to retain the sums, and said that his master, Captain Macdonald, made him a present of them, first of the £200 cheque, drawn on the 12th of May, and at a subsequent period of the £200 cheque, drawn on the 8th July. The question then came to be whether this was or was not a true statement in the circumstances, and whether the jury believed or did not believe that the money was so given to him. The defender, in support of his views, referred to the position in which he was placed in reference to the deceased. He said that he was servant to Captain Macdonald for twenty years, that he was very attentive to his master and had gained his confidence, and it was natural and reasonable to say that the deceased would have acknowledged his faithful services. He further said that the above sum of £400 which he got in addition to £100 left by will was not unreasonable. Second, he said the cheques were written out by Captain Macdonald and the money drawn, and that no other use or purpose of drawing that money was suggested, and that the defender was allowed to retain the money during Captain Macdonald's life without any question about it. The third thing the defender said was that there were certain documents he founded on, one of them signed, and two of them written and signed by Captain Macdonald. That was the sum of the case for the defender. Then on the part of the pursuers it was said in substance that Captain Macdonald was a gentleman of limited income—£360 being proved to be the amount of his annual income; that at the period in question he was an old gentleman in his eighty-fourth year, and in bad health; that the defender was constantly about him, and might in these circumstances have easily deceived him; and that the captain had not been unmindful of the services of the defender, because he had left him in his will a legacy of £100. Then again, the pursuers said they were not about Captain Macdonald to hear from him what his purpose was in drawing the money, nor could they know what instructions he might have given to the defender as to the application of the money. Then they said further, that the documents on which the defender founded were suspicious in themselves, and that his own account of the matter, and the statements and the evidence they had heard, showed that he was not speaking the truth and telling a true story. It was for the jury to deal with these views respectively, as to which was the one that ought to be believed. His Lordship then entered at length into the evidence led on both sides, and concluded by stating that the second issue was not insisted in, as it related to the same amount as was referred to in the first issue, and was only put there that the pursuers might ascertain how the money had been got.

The jury, after an absence of three hours, returned a verdict, by a majority of ten to two in favour of the pursuers for £200.

Monday and Tuesday April 9 and 10.

M'LACHLANS *v.* GARDNER.

Reparation—Culpa—Master and Servant. In an action by the widow and children of a fireman at a colliery who lost his life in consequence of defective machinery—verdict for the pursuers.

Counsel for Pursuers—Mr Macdonald and Mr Strachan. Agents—Messrs Macgregor & Barclay, S.S.C.