sent by the agent) is not occupied in the one case more than the other. I have now, and have always had, the view that the Auditor should not interfere with the fees actually sent to counsel, unless in very exceptional cases. The agent who sends the fee knows better than any other person can, what is a proper honorarium to send—he best knows the amount of labour involved in preparing for and conducting the case.

I have no such feeling as has been expressed as to the inexpediency or impropriety of interfering with the Auditor. After all, the Auditor is an officer of Court, and if he errs the Court is bound to put him right, as it would any other officer. It is not without significance that the party pecuniarily interested in maintaining the Auditor's view had not appeared to support it. I suppose he felt satisfied (as he well might) that the Auditor's view could not be maintained

LORD MONCREIFF—I entirely agree with the majority of your Lordships. The objection is one which is easily stated and as easily understood, and it is so formidable that the losing party whose interest it was to support the view of the Auditor does not appear to oppose.

The Court pronounced this interlocutor—

"The Lords sustain the objections by the pursuers to the Auditor's report on their account of expenses to the effect of adding £8, 16s. 6d. to the taxed amount thereof: *Quoad ultra*, approve of said report and decern against the defenders for the sum of £179, 18s. 9d., being the taxed amount of said account with the addition foresaid: Find the pursuers entitled to two guineas of expenses for discussing said objections, for which also decern."

Counsel for the Pursuers — Salvesen. Agents—Beveridge, Sutherland, & Smith, S.S.C.

Friday, October 27.

SECOND DIVISION.

[Sheriff-Substitute at Glasgow.

WINN *v.* QUILLAN.

Reparation—Slander—Innuendo—"Informer."

An action of damages for slander was raised in which the pursuer averred that the defender had repeatedly designated him to others as an informer, thereby representing that he was "a man who for the sake of reward, and from sinister and disreputable motives had betrayed his fellows, and disclosed secrets or given information to the Crown or its executive against Irishmen and others."

Held (*diss.* Lord Young) that the action was relevant, and an issue *allowed* with an innuendo in the above terms.

Reparation—Slander—Issue Allowed as to Slander Uttered Ten Years Previously.

In an action of damages brought in 1898 for verbal slander alleged to have been repeated on various occasions during a period of ten years, the Court *allowed* an issue as to whether the slander had been uttered on an occasion in 1888.

In October 1898 Peter Winn, cooper, Glasgow, raised in the Sheriff Court at Glasgow against James Quillan, also cooper there, an action for £500 as damages for slander.

The pursuer averred—"(Cond. 3) Some time ago pursuer learned that defender was in the habit of slandering him to various persons, and pursuer has recently learned that defender's slanders have been going on for a lengthened period. Pursuer has ascertained and avers that defender has repeatedly within the past few years, falsely, calumniously, and maliciously designated pursuer to his workmen, and his family and others, by the epithet of 'informer.' Pursuer is an Irishman, and the defender is of Irish extraction, both his parents having been born in Ireland. Many of the friends of both pursuer and defender belong to the Irish nation. Amongst Irishmen especially the designation of 'informer' has long been recognised as an opprobrious, degrading, and calumnious epithet applicable to a person of a base and treacherous disposition, and who is regarded by his fellow Irishmen and others as a person unworthy of trust, and capable of committing base and treacherous actions, and betraying his friends for the sake of reward, and from sinister and disreputable motives, to the Crown or its executive. A person designated as an 'informer' is regarded, especially by Irishmen, as a person to be treated as an outcast from society, and to be shunned and boycotted, and as a person whom no one should transact business with or be on terms of friendship with. It was in the above senses that the defender applied the epithet 'informer' to pursuer in the subsequent articles." The pursuer then specified particular occasions between 1885 and 1898 on which the epithet was applied to him by the defender. "(Cond. 16) In using or applying said word 'informer' to pursuer, defender intended thereby to represent, as he did thereby represent, that pursuer was a man of a mean and treacherous disposition, who had been guilty of mean and treacherous acts, who was utterly untrustworthy, and who, for the sake of reward and from sinister and disreputable motives, had basely betrayed his fellows, and disclosed secrets or given information to the Crown or its executive against Irishmen and others." . . . (Cond. 24) Owing to defender's said false, calumnious, and malicious statements, the pursuer has suffered greatly in his feelings, character, and reputation, and in his relations with his friends and the public generally. He believes that his business has likewise suffered, and he fears that for a long period to come his business prospects and his well-being and comfort, and his social relations, will be injuriously affected by said false statements.

The defender pleaded, *inter alia*—"(1) The action is irrelevant."

On 3rd February 1899 the Sheriff-Substitute (STRACHAN) allowed parties a proof of their averments.

The pursuer appealed for jury trial, and proposed the following issues for the trial of the cause:—"1. Whether, on one or more occasions during the months of November and December 1888 and January 1889, and in or near the shop then occupied by the defender in Gallowgate, Glasgow, and the defender's house at 58 Whitevale Street, or in one or other of them, and in the presence and hearing of Hugh Carson, manager, Love's Stores, Moir Lane, Glasgow, the defender falsely and calumniously stated that the pursuer was an informer, thereby representing that the pursuer was a man who, for the sake of reward, and from sinister and disreputable motives, had betrayed his fellows, and disclosed secrets or given information to the Crown or its executive against Irishmen and others, to the loss, injury, and damage of the pursuer? 2. Whether, on one or more occasions during the months of October, November, and December 1889, and in or near the office at 172 Buchanan Street, Glasgow, and the house 484 Duke Street, Glasgow, both occupied by Mr James L. Addie, accountant, and in or near defender's cooperage, Wilkie Street, Glasgow, and his house 58 Whitevale Street, or in one or other of said places, and in the presence and hearing of the said James L. Addie, the defender falsely and calumniously stated that the pursuer was an informer, thereby representing, &c. 3. Whether, on one or more occasions during the months of September, October, and November 1896, and in or near the defender's premises at Janefield Street, Glasgow, and in the presence and hearing of Patrick Hannigan, a cooper in his employment, the defender falsely and calumniously stated that the pursuer was an informer, thereby representing, &c. 4. Whether, on one or more occasions during the months of September, October, and November 1896, and in or near the defender's premises at Janefield Street, and in the presence and hearing of Francis M'Cunnan, then in defender's employment, now a joiner at 22 Bellfield Street, Glasgow, the defender falsely and calumniously stated that the pursuer was an informer, thereby representing, &c. 5. Whether, in or about May 1898, and in or near the defender's premises at Janefield Street, Glasgow, and in the presence and hearing of John Muir, a carter in his employment, the defender falsely and calumniously stated that the pursuer was a bloody informer, thereby representing, &c. 6. Whether, on or about 24th September 1898, the defender wrote and despatched to Mrs Elizabeth Quillan or M'Aulay, wife of Thomas M'Aulay, and residing with him at 8 Steel Street, Glasgow, a letter (printed in the schedule appended hereto), and whether said letter or part thereof is of and concerning the pursuer, and falsely and calumniously represents that the pursuer was an informer, thereby representing, &c. Damages laid at £500."

Argued for defender—(1) The action was irrelevant. The word "informer" was not slanderous. An informer was one who gave information to the Crown of a violation of the law. To say that a person did so was not to slander him. To call a man an informer with the addition that he had supplied false information of a specific nature with a definite result might be slanderous, but nothing of that kind was averred here, and the cases founded on by the other side did not apply. (2) All the issues except 5 and 6 should be disallowed on the ground of want of specification. A period of three months was too extensive for an issue to range over. The greatest latitude allowed by the Court was one month—*Stephen* v. *Paterson*, March 1, 1855, 3 Macph. 571; *Grant* v. *Fraser*, July 16, 1870, 8 Macph. 1011. The two first issues should also be disallowed on account of lapse of time. They dealt with statements made ten years ago. The Court would not permit expressions used in 1889 to be raked up after a lapse of ten years, and to be founded upon in an action of damages for slander. (3) The innuendo was strained and unreasonable. (4) Issues 3, 4, 5, and 6 should be disallowed, the statements therein complained of being privileged communications to relations and dependents—*Nelson* v. *Irving*, July 10, 1897, 24 R. 1054, opinion of Lord Young 1060.

Argued for pursuer—(1) The action was relevant. To call a man an informer had been held to be an actionable slander—*Kennedy* v. *Allan*, June 15, 1848, 10 D. 1293; *Graham* v. *Roy*, February 11, 1851, 13 D. 635. (2) In actions for repeated slander a larger latitude in point of time was always allowed than in ordinary cases, and a period of three months had been held not to be too great—*Innes* v. *Swanson*, December 8, 1857, 20 D. 250. When the slander had been repeated during a long course of time the Court would also permit an issue to be taken on statements made at the beginning of the period in question however distant the date on which they were made. (3) The innuendo was not unreasonable; it was a relevant interpretation of the word used. (4) None of the statements were privileged. They were not information on matters which concerned the persons to whom they were made.

At advising—

LORD JUSTICE-CLERK—My opinion is that the present case contains relevant matter to go to trial, and I think that the innuendo suggested is not unduly strained. The only remaining point is as to whether the first two issues, which deal with statements averred to have been made ten years ago, should be allowed, because an action for slander raised after such a long lapse of time is always looked upon unfavourably. But keeping in view the averment of the pursuer that this is a slander repeated on various occasions extending over a period of long duration I am not prepared to say that it must be held that the pursuer is not

entitled to his first two issues as well as the others.

LORD YOUNG — I am of opinion, as I indicated during the discussion, that this is not a relevant case, and that to call a man an informer is not a slander, even with the addition of the innuendo proposed.

LORD TRAYNER and LORD MONCREIFF concurred with the LORD JUSTICE-CLERK.

The Court approved of the issues proposed by the pursuer to be the issues for the trial of the cause.

Counsel for the Pursuer — Kennedy — Gunn. Agents—J. & L. H. Gow, S.S.C.

Counsel for the Defender—Dundas, Q.C. J. D. Robertson. Agents—Simpson & Marwick, W.S.

Friday, October 27.

SECOND DIVISION.

[Sheriff of Forfarshire.

GOW *v.* HENRY.

Process — Compromise of Action — Extra-judicial Settlement after Action Raised—Whether Pursuer Entitled to Resile.

An action of damages was raised in the Sheriff Court. After defences had been lodged, but before the record was closed, the pursuer, outwith the knowledge of his law-agent, accepted a sum from the defender in settlement of his claim, and granted him a formal receipt discharging it. On the following day the settlement was repudiated by the pursuer. At the adjustment of the record the defender founded on the settlement in his adjusted defences, and pleaded that in respect of the settlement he was entitled to absolvitor, while the pursuer in his adjusted condescendence alleged in answer that the settlement had been obtained under circumstances which made the discharge ineffectual, and pleaded that the discharge should be set aside. The Sheriff closed the record and allowed parties a proof of their conflicting averments regarding the granting of the receipt.

Held that this procedure was regular, Lord Young dissenting on the ground that a settlement of a depending action was inchoate until the Court on a motion assented to by both parties had authorised it, and that therefore the pursuer was entitled to resile.

Parent and Child—Father as Administrator-at-Law—Extra-judicial Settlement of Action of Damages Raised by Father as Tutor for Pupil Child.

Held that a father, who as tutor for his pupil son had raised an action of damages for injury received by his son, was entitled to settle the action extra-judicially without the concurrence of the Court before which the action was depending.

On 20th August 1898 William Gow, labourer, Dundee, as tutor, curator, and administrator-in-law for his pupil son William Thomson Gow, raised an action for £250 damages in the Sheriff Court at Dundee against Andrew Henry, carting contractor, there. The pursuer averred that his son, a boy of two years, had on 15th July 1898 been run over by a horse and cart belonging to the defender, and had suffered injuries necessitating the amputation of the thumb of his left hand.

The defender lodged defences on 27th September.

At adjustment prior to the closing of the record on 30th November, the defender added the following statement to his Answer 7 — "Prior to this action being raised, the pursuer offered to settle for an immediate payment of £2, but the time being on or about the eve of the Dundee holidays, the defender declined at that time to make any payment. The pursuer, however, on 22nd October 1898 offered to accept from the defender the sum of £8 in full settlement of the claims in this action, and the defender on said date paid him that sum in exchange for the receipt granted by the pursuer, which is now produced. The action is accordingly now settled. The pursuer's statements regarding the settlement of the action and the granting of the receipt are denied. The sum paid the pursuer was the sum which he himself named, and the receipt was granted by him in ordinary course of his own free will and motive. The statements regarding the Superintendent of Cleansing are untrue."

The receipt was in the following terms—

"21 *Nelson Street,*
"*Dundee, 22nd October* 1898.

"Received from Mr Andrew Henry, contractor, Dundee, the sum of eight pounds sterling in full of all claims in the action at my instance, and on behalf of my son against him, and I abandon the case.

"£8.

"James Leask, *witness.*
Vanman, 63 Ure Street, Dundee.

"Peter Crerar, *witness.*
District Foreman,
Cleansing Department,
149 Seagate, Dundee.

WILLIAM GOW

22/10/98."

The pursuer also made the following addition to his Condescendence 7—"The receipt produced by defender was obtained from pursuer in essential error, and by force, fear, and misrepresentation. Defender induced pursuer to sign the receipt produced by bringing to bear upon him the influence of the Superintendent of the Cleansing Department, Dundee, in which pursuer is employed as a scavenger. Pursuer signed said receipt under pressure from and through fear of said superintendent, who acted in the manner above mentioned at the request of defender, and who charged the pursuer with being always getting into trouble, and told him to settle with the defender on the terms proposed.