

use of those from whom the dues are levied, although there should be nothing left to pay interest—an insufficient sum, or nothing at all to pay interest.

I am therefore of opinion that there is here in point of fact a harbour, with a revenue in the hands of the defender as the owner of the harbour, available for the purpose of maintaining that harbour, and that the providing of lights is included in the maintenance of the harbour,—the harbour not being, in the absence of such lights, available as a harbour at night.

It appears that the Commissioners of Northern Lighthouses approved and ordered the continuance of the four existing leading lights, and I apprehend, therefore, that these are proper lights. But I should not propose to your Lordships that we should at present conclusively determine what lights are to be provided and maintained. Indeed, it is a matter subject to change, for the Commissioners of Northern Lighthouses have authority conferred upon them by statute in that matter. Under that authority they might interfere at any time to order an alteration on the position or order of those lights, and I therefore think that we cannot with propriety or safety, or usefully to the parties, do more at present than declare the general obligation which is upon the defender as the owner of the harbour. It is evident that the wording of the declarator would require consideration; but his obligation, in a general way, is to provide and maintain at all proper times suitable harbour lights at his own expense. I think it is a somewhat unfortunate expression that occurs in the conclusions of the summons, and it is noticed by the Lord Ordinary. I mean the expression, “at his own expense;” but I think it must have been intended to mean out of the revenue which he derives from the harbour, although there should be no surplus left to pay interest, or to serve any personal purposes of his own. That is simply saying, in other words, “although there may not be anything to recoup him for his advances, or to keep him free from the payment of interest, for which he is otherwise liable.” But in the sense that he is bound to apply these dues—the revenue of the harbour—so far as they will go, to the maintenance of the harbour, including the provision of lights, there is no doubt about his obligation. He is bound to provide and uphold, at all proper times, suitable lights, in order that this harbour may be made available by those who pay the dues which he exacts. I think the pursuers are entitled to declarator to that effect—I think declarator to that effect would be sufficient for the purpose.

That is the opinion at which I have arrived after full consideration of the record, evidence, statutes, and the Provisional Order.

The Court pronounced this judgment:—

“The Lords having heard counsel for the parties on the reclaiming-note for the defender against Lord Trayner’s interlocutor of 14th July last, Recal the said interlocutor and the interlocutor of his Lordship of 12th March preceding: Find and declare that the defender as proprietor of the harbour of Boddam is bound out of the revenue of the harbour to provide and maintain, at all proper times, suitable lights for the harbour;

and decern; and *quoad ultra* continue the cause: Find the defender liable to the pursuers in expenses to this date,” &c.

Counsel for Pursuers (Reclaimers)—Comrie Thomson—Low. Agent—Alex. Morison, S.S.C.

Counsel for Defender (Respondent)—Pearson—Dickson. Agents—Hamilton, Kinnear, & Beatson, W.S.

Wednesday, December 16.

### FIRST DIVISION.

WILSON (LIQUIDATOR OF THE NORTH BRITISH LACTINA MANUFACTURING COMPANY, LIMITED), PETITIONER.

Process—Certificate by Apprentices of Enrolled Law-Agent—Citation Amendment (Scotland) Act 1882 (45 and 46 Vict. cap. 77, secs. 3 and 4).

In a note by the liquidator in the winding-up of the North British Lactina Manufacturing Company, Limited, the certificate of intimation bore that the intimation had been made to the parties named in the interlocutor of Court by two apprentices to a writer in Glasgow, by posting, on certain dates named, in the Glasgow Post Office, a print of the note with a copy of the interlocutor endorsed thereon, in registered letters, and the certificate was signed by the apprentices. The Court, on their attention being directed to this fact by the Clerk of Court when the petitioner appeared to move in the Single Bills that the prayer of the note should be granted, *declined* to sustain an intimation so signed as complying with the 3d and 4th sections of the Citation Amendment (Scotland) Act 1882.

Counsel for Petitioner—Lang. Agents—W. & J. Burness, W.S.

Wednesday, December 16.

### SECOND DIVISION.

[Sheriff of Lanarkshire.

ANDERSON v. BLACKWOOD.

Reparation—Carriage—Man Run Over in Street—Duty of Drivers.

A man walking in daylight on the carriage-way of a street was knocked down by a van which came up from behind. *Held* that the owner of the van was liable in damages, because it was the driver’s duty to avoid knocking the man down either by pulling up or changing his course, and it was no defence that he called out to warn him to get out of the way.

This action was raised by Thomas Anderson, miner, against John Blackwood, farmer, for reparation for personal injuries sustained by the pursuer by being knocked down in Bank Street, Coatbridge, by a van driven by the defender’s servant. When the accident occurred the pursuer was walking in the roadway a few feet from the pavement. The van came up behind him