himself in due time of the legal remedy provided him by returning the horse.

The Lord Justice-Clerk concurred.

The Court recalled the interlocutor of the Lord Ordinary and assoilzied the defender.

Counsel for Pursuer—Low—Dundas. Agents Russell & Dunlop, W.S.

Counsel for Defender—Darling—Hay. Agents —Reid & Guild, W.S.

Saturday, March 6.

FIRST DIVISION.

[Exchequer Cause.

SMILES (SURVEYOR OF TAXES) *v.* CROOKE.

Revenue—Inhabited-House-Duty—"Let in Different Tenements"—Act 48 *Geo. III. c.* 55, *Schedule B, Rule* 6—*Customs and Inland Revenue Act* 1878 (41 *Vict. cap.* 15), *sec.* 13, *sub-sec.* 1.

The proprietor of a house let to one person the three upper floors, which entered from the street by a separate door and passage. The first floor was used as a photographic studio, and the second and third floors as a dwelling-house. The subjects were let under one lease (in which they were separately described) at a *cumulo* rent. The only communication between the studio and the dwelling-house was by the stair leading from the street. There was a door from the dwelling-house to the stair, and internal communication between the two floors of which the dwelling-house consisted. *Held* that the studio and the dwelling-house were in the sense of the Inhabited-House-Duty Acts different tenements.

At a meeting of the Income-Tax and Inhabited-House-Duty Commissioners for the county of Edinburgh, held at Edinburgh on 9th December 1885, William Crooke, photographer, appealed against an assessment made upon him for the year 1885-86 of £9, 7s. 6d., being inhabited-house-duty at the rate of 9d. per pound on £250, the *cumulo* annual rent of a dwelling-house and photographic studio occupied by him at No. 103 Princes Street, Edinburgh. The premises were part of a building consisting of a ground or basement floor and three flats above, all the property of the Edinburgh Royal Infirmary. The ground or basement floor, No. 103 Princes Street, which had a separate entrance from the street, was let to Messrs Edwin Pass & Son, perfumers, and was occupied by them solely as a shop, and was not assessed for inhabited-house-duty.

The three upper flats, which entered from the street by a separate door and passage, were let to and occupied by Crooke; the first flat was used as a photographic studio, and the second and third flats as a dwelling-house. These subjects were separately described in, but were let under one lease, dated 7th May 1884, at the *cumulo* rent specified therein, viz., £250. It was admitted that the annual value of the dwelling-house was £80, being the rent paid by the previous tenant, who occupied the house only. The whole of the premises occupied by Crooke were shut in by a street door at the foot of the stair, which remained open during business hours, but was shut at night and fastened by means of a latch. The only communication between the studio and the dwelling-house was by the stair which led from the street, and to which Crooke had the sole access. The studio (occupying the whole of the first flat) had originally two doors to the stair, the one leading to a room at the back and the other to one at the front. One of these, however, was latterly always closed by a bolt on the inside. The dwelling-house consisted of two flats, which were connected with one another by an internal stair, but there was only one door to the outer stair.

Crooke contended that he was entitled to exemption in respect of the studio, as it and the dwelling-house were separate subjects, and were separately specified in his lease, and further that the access from the street by the stair referred to did not constitute internal communication. He further contended that the dwelling-house and studio formed part of a house of which the shop tenanted by Edwin Pass & Son also formed a part, and that being let in different storeys and inhabited by two or more persons or families, it thus fell to be assessed under the 6th rule of Schedule B, 48 Geo. III. cap. 55, and came under the exemption granted by 41 Vict. cap. 15, section 13, sub-section 1.

The Surveyor of Taxes, James S. Smiles, maintained that the exemption referred to did not apply. The premises occupied by the appellant formed one tenement, with an independent entrance, to which he as occupier had the sole right. The dwelling-house and studio were "attached," and being all enclosed by the entrance door from the street, and not being occupied solely for the purposes of any trade or business, formed an assessable dwelling-house in the sense of the Inhabited-House-Duty Acts.

The Commissioners were of opinion that the premises were so structurally divided as to form two separate subjects, and that the charge should be restricted to the duty on £80, the annual value of the portion occupied as a dwelling-house.

The Surveyor took a Case, from which the foregoing narrative is taken.

The Surveyor argued that the case was distinguishable from *Corke* v. *Brims*, July 7, 1883, 10 R. 1128; and *Nisbet* v. *M'Innes, Mackenzie, & Lochead*, July 15, 1884, 11 R. 1095, because the whole subjects were let to one person.

The respondent's counsel was not called upon.

At advising—

Lord President—The point as it has now been stated by Mr Lorimer depends upon the construction of section 13, sub-section 1, of 41 Vict. c. 15, the words of which are—"When any house being one property, shall be divided into and let in different tenements, and any of such tenements are occupied solely for the purposes of any trade or business," then substantially there is to be an exemption of that part from inhabited-house-duty.

The words which create the difficulty which Mr Lorimer suggested are "divided into and let in." I do not think that means that the house

must be let to different tenants; if so, that would have been expressly provided. Nor do I think it means that there must be different leases, for if that had been intended it would have been expressed.

Now, this house is undoubtedly divided into different tenements. From the stair which leads up from the street there is a separate entrance to the photographic studio, and that is an entrance into the studio and nowhere else. Nobody can get from the studio to the upper floors without coming back to the stair again. Then the dwelling-house, which is upon the two upper floors, enters from the stair, and is one undivided tenement, because there is external communication between the two floors, and only one door to the outer stair. Therefore these two subjects are divided from one another.

The only question that remains is, whether they are "let in," or, as Lord Adam put it during the discussion, "let as" different tenements? It appears to me that if it is not necessary that there should be separate leases or separate tenants, then they are "let in" different tenements, because they are separately described in the lease. That satisfies me that the principle of *Corke* v. *Brims* [*sup. cit*] applies, and that the determination of the Commissioners is right.

Lords Mure, Shand, and Adam concurred.

The Court affirmed the determination of the Commissioners.

Counsel for Inland Revenue (Appellants)—Moncreiff — Lorimer. Agent — David Crole, Solicitor of Inland Revenue.

Counsel for Crooke—W. Campbell. Agents—J. & J. Galletly, S.S.C.

Saturday, March 6.

SECOND DIVISION.

[Lord Lee, Ordinary.

MACRAE *v.* WICKS.

Reparation—Slander—Issue—Innuendo.

In an action of damages for slander, the slander complained of was contained in a newspaper paragraph which stated that the writer had supped at the pursuer's hotel, where he was charged a certain price, and the "quality was by no means consistent with the price." *Held* that the issue did not require to contain the innuendo that these words represented, that the pursuer charged extortionately, since the words were actionable, and needed no innuendo to interpret their meaning.

In the issue of a newspaper called the *Glasgow Evening News and Star*, for 10th August 1885, in a special "variety" column of the paper there appeared the following paragraph:—"I shall not sup again in the Albany Hotel. The other evening I was charged there 4s. 6d. for supper, consisting of an omelette with certainly not more than half-a-dozen eggs, and the quality was by no means consistent with the price."

In consequence of this paragraph, Macrae, the lessee of the Albany Hotel referred to, called on Wicks, the printer and publisher of the newspaper with reference thereto, and as a result of his visit, in the issue of the 11th August the following apology was inserted:—"I have been grossly deceived, and I have unwittingly maligned Mr Macrae, the proprietor of the Albany Hotel, Sauchiehall Street. A paragraph was inserted in this column yesterday, saying I supped at the Albany, and was charged 4s. 6d. for an omelette for one. I have never supped at the Albany, and the omelette in question was a supper for three, together with biscuits, cheese, bread, and butter, and the whole was charged only 4s. 6d.—that is, 1s. 6d. for each supper. I should like to know where so good a supper could be had as cheaply in all Glasgow."

This was an action by Macrae against Wicks for £500 as damages for slander alleged to to have been contained in the paper of 10th August, as above quoted. The pursuer alleged that the paragraph was of and concerning him and his hotel, and falsely and calumniously represented that he grossly overcharged his guests, supplied inferior articles, and kept a bad hotel, which did not merit public support, and should be avoided, and that the paragraph was intended and calculated to spoil his business.

The Lord Ordinary (Lee) sustained a plea-in-law that the action was irrelevant, and assoilzied the defender from the conclusions of the action, holding "that the paragraph in question was obviously of too absurd and trifling a nature to be capable of supporting any serious innuendo against the character either of the pursuer or of his hotel."

The pursuer reclaimed, and the Second Division recalled the Lord Ordinary's interlocutor, and remitted to him to proceed with the cause.

The following issue for the trial of the cause was approved of by the Lord Ordinary:—"Whether, in the *Glasgow Evening News and Star*, of 10th August 1885, the defender falsely and calumniously printed and published a paragraph of and concerning the Albany Hotel, Glasgow, of which the pursuer was then lessee, in the terms set forth in the schedule hereto annexed, representing thereby that the pursuer charged extortionately, to the loss, injury, and damage of the pursuer. Damages laid at £500."

The schedule set forth the paragraph above quoted.

The pursuer moved the Court to substitute the following issue for that approved of by the Lord Ordinary:—"Whether, in the *Glasgow Evening News and Star*, of 10th August 1885, the defender falsely and calumniously printed and published a paragraph of and concerning the Albany Hotel, Glasgow, of which the pursuer was the lessee, in the terms set forth in the schedule hereto annexed, to the loss, injury, and damage of the pursuer."

At advising—

Lord Justice-Clerk—I do not think that an innuendo is necessary here. I think that an innuendo is only twisting into another form the words as they stand upon the record. If they are not actionable in themselves, then they would not be actionable with an innuendo.

Lord Young—I think an innuendo would be