in which the editor speaks for himself, but that the position is that the editor accepts the whole liability of the anonymous author—every liability that can be brought against him if he had been disclosed. Therefore the real question is, whether there is any necessity for the pursuer putting malice into his issue, the action being one against a person occupying the same position as the anonymous author himself. Suppose this letter had been signed, there might then have been a question whether the person who wrote the letter had any right to deal with this subject at all, or to concern himself about it, or speak or write about it. All that could have been open for inquiry, but we are precluded from all inquiry into that because the name of the writer is suppressed. We cannot ascertain what interest the writer of the letter had in the matter he was discussing, nor can we say whether he was a ratepayer in Wick, was ever in Wick, or was even a British subject—indeed, he is a mere *umbra*. But he was somebody, and that somebody has libelled the pursuer, and is not in a position to justify that libel, and is not in a position to say that he has individually any sort of protection or privilege in the matter. That seems to me to be the conclusion of the whole question. If it is pleaded in point of law that when the editor of a newspaper rather than disclose the name of an anonymous contributor chooses to defend him in his own person, he is thereby entitled to maintain that what has been done is the same thing as if the attack had been contained in a leading article, then, I say, that is an entire mistake in point of law. When a newspaper editor or publisher declines to disclose the name of an anonymous contributor he puts himself in the position of saying, "We must submit to everything you can possibly bring against us in the way of liability, as if this had been a letter written, not in the newspaper at all, but written by one of ourselves, and printed in a separate form, and posted on the walls of the town." That is to say, the proprietor and the editor can be in no better position in this question than the anonymous author. The anonymous author is the person who is primarily liable, and if this article which was written by him was written by him maliciously, it is conceded on the part of the defenders that would subject the newspaper in damages; but how is it possible to prove malice on the part of a person one does not know? How can it be proved that the person who signed the letter was actuated by malice, or how can anybody prove the reverse? Yet that is one of the questions proposed to be put before a jury. On the whole matter, I have come to the conclusion that in the case of an anonymous letter there is no necessity for the pursuer proving malice.

Lord Mure concurred.

Lord Shand—If this question had arisen out of an editorial article, or out of an article or letter commenting upon the public life and character of the pursuer, I should have had more difficulty with the case, but in the special circumstances I think with your Lordship that malice should not be inserted in this issue.

We know nothing about the writer of this letter, whether he has any real interest in the burgh, or indeed whether he is even a resident in it. The editor of the paper refuses to surrender the name, and in these circumstances he must undertake all the responsibility.

We must take it, therefore, that this letter is not written by one who is a ratepayer, or who has any interest whatever in the prosperity of the burgh. In such a case malice does not require to be inserted in the issue.

Lord Adam concurred.

The Court refused the reclaiming-note and the motion to vary the issue.

Counsel for Pursuer—Rhind—Young. Agent—William Gunn, S.S.C.

Counsel for Defender—R. Johnstone—M'Lennan. Agent—John Macpherson, W.S.

Saturday, May 30.

FIRST DIVISION.

[Lord M'Laren, Ordinary.

STIVEN *v.* FLEMING.

Process—Expenses—Bankrupt—Caution for Expenses where Fraud Alleged—Reduction.

In an action of reduction of a disposision on the ground of fraud, the Lord Ordinary, in respect of the bankrupt defender's failure to find caution for expenses, decerned against him conform to the reductive conclusions of the libel. His trustee did not appear in the action. On a reclaiming-note for the defender the Court *recalled* this interlocutor, and found (following *Buchanan* v. *Stevenson*, Dec. 7, 1880, 8 R. 220) that the general rule in such cases was that a defender was not obliged to find caution for expenses of process, and that here the bankrupt's character being assailed, the rule should be applied.

Counsel for Pursuer—J. P. B. Robertson—Law. Agents—Rhind, Lindsay, & Wallace, W.S.

Counsel for Defender—Nevay. Agent—R. Broatch, L.A.

Tuesday, May 26.

OUTER HOUSE.

[Lord M'Laren, Ordinary.

ROGERSON AND OTHERS *v.* CROSBIE (ROGERSON'S TRUSTEE).

Process — Expenses — Caution for Expenses — Bankrupt— Voluntary Assignation—Reduction.

A bankrupt who had granted a voluntary assignation in favour of his trustee of the rents of certain lands which he was entitled to receive under his father's trust-disposition and settlement, sued his trustee for reduction of the said assignation, on the ground