In the case of *M'Laren* v. *Ritchie & Russell* the question was whether by the words libelled the pursuer was "held up to public hatred, contempt, and ridicule," and I cannot help thinking that the expression "public hatred," which the pursuer of this issue rejects, is the most important and significant part of an issue of the form proposed. I am confirmed in this opinion by the report of the case of *Macfarlane* v. *Black*, because in that case the other Division of the Court suggested that the pursuer should take an issue in the precise terms of the issue in *M'Laren* v. *Ritchie & Russell*, and the invitation was declined by counsel, obviously because of the difficulty of establishing the supposed intention to hold up the complainer to public hatred and contempt.

Now, I think that in the adjustment of issues it is desirable to adhere to established styles, and I am certainly not prepared to send to a jury a claim of damages founded on the fact that the public conduct of the pursuer has been held up to ridicule. It is hardly necessary to point out that the constitution of this country tolerates the utmost freedom in the discussion of the conduct and motives of those who take part in its public business, whether in the higher place of statesmanship or in the conduct of local affairs. In such criticism, ridicule is just as legitimate as any other rhetorical artifice. If, as the Lord Ordinary observes, this should take the form of rough language and unmannerly jests, the person aggrieved must put up with it, and I may add it is open to him to defend himself in the same way, and if he has been unfairly treated he will generally get the better of his antagonist. It is only when private character is attacked, or when the criticism of public conduct is combined with the suggestion of base or indirect motives, that redress can be claimed on the ground of injury to reputation. The claim in such cases may either take the form of an issue of damages founded on specific misrepresentation, as if a member of Parliament should be accused of bribery, or a member of a local board of corruptly influencing the disposal of public contracts, or where no specific charge has been made the pursuer may be entitled to an issue of holding up to public hatred, ridicule, and contempt. But I venture to think that an issue in the last-mentioned form ought not to be granted except where the libel imputes moral depravity of some kind, or is capable of being read as containing such an imputation, it being for the jury to say whether the purpose of the libel was to exhibit the pursuer as having laid himself open not merely to ridicule but to the odium of his associates and fellow-citizens.

In the present case, when the so-called libels are examined, it will be found that they consist of a species of criticism in which the writer makes fun out of supposed peculiarities of manner, indiscretions of speech, and assumptions of autocratic authority on the part of the pursuer, which if they really existed would be legitimate subjects of ridicule, although scarcely within the province of journalism. I assume of course that there is no real foundation for these critiques, and on that assumption it is difficult to see how they can do harm to anyone but the writer. In the scheduled paragraphs Bailie M'Laughlan is described as a "terrible Zulu," as a person "inflated" with vanity, as acting the "bloated aristocrat," as emphasising his own dignity in large print, and so forth. Such language when applied to a burgh magistrate who is doing his duty unobtrusively and to the best of his ability, is of course very offensive, and I agree with the Lord Ordinary when he says that the matters complained of are hardly criticism at all, but are rather of the nature of indifferent jokes or personal insults. But I must add that it is just because the language used is merely vituperative and pointless that the law regards it as innocuous, or at all events as incapable of resulting in any injury to character or reputation. I therefore propose that your Lordships should disallow the issue and dismiss the action.

The LORD PRESIDENT, LORD ADAM, and LORD KINNEAR concurred.

The Court recalled the Lord Ordinary's interlocutor and dismissed the action.

Counsel for Pursuer — Strachan — Orr. Agent—J. L. Officer, W.S.

Counsel for Defenders — Lord Advocate (J. B. Balfour, Q.C.)—Salvesen. Agent—W. B. Rainnie, S.S.C.

Tuesday, November 6.

FIRST DIVISION.

WALLACE *v.* CALDWELL.

Poor — Residential Settlement — Bastard — Minor—Poor Law Act 1845 (8 *and* 9 *Vict. c.* 83), *sec.* 76.

Held that an illegitimate pupil child has a derivative settlement in the parish where its mother has acquired a residential settlement, and that this settlement is not lost by the child on attaining the age of puberty, but continues until lost by non-residence, under section 76 of the Poor Law Act 1845.

This was a special case presented by (1) Andrew Wallace, Inspector of Poor for the Parochial Board of the Govan Combination, and (2) David Caldwell, Inspector of Poor for the Parochial Board of the Parish of Ayr.

The statements made in the case were as follows:—"Alexander Sandilands was born in the parish of Ayr on 8th September 1874, and owing to debility became chargeable as a pauper to Govan Combination on 13th April 1893. He is still an inmate of the Govan Poorhouse. (2) The pauper is the illegitimate son of Jessie Sandilands and John Owens, baker, whose residence is unknown. After his birth his mother was married

three times, but not to the pauper's father. Her last husband died in January 1880. Since the death of her last husband she has resided continuously in the parish of Govan Combination, and the pauper resided with her till he reached the age of puberty on 8th September 1888. She had then a residential settlement in that parish, acquired during viduity. (3) The pauper after arriving at puberty was employed in several situations, and continued to reside with his mother in Govan till he became chargeable, with the exception of five periods which he passed in prison, the longest being six months for theft."

The parties submitted the following question for the opinion of the Court:—"Whether the parochial settlement of the pauper Alexander Sandilands at the date of chargeability was in Ayr, the parish of his birth, or in Govan Combination, the parish in which his mother had a residential settlement at the date of his reaching puberty, and in which he continued to reside down to the date of his chargeability?"

The first party argued—A legitimate child took its own birth settlement upon its father's death—*Craig* v. *Greig and Macdonald*, July 18, 1863, 1 Macph. 1172. In like manner a bastard child tooks its own birth settlement on attaining puberty—*Greig* v. *Ross*, February 10, 1877, 4 R. 465. In the case of a bastard child there was no reason why it should follow its mother's settlement after puberty. It was a *filius nullius*, and in the eye of the law no relationship existed between it and its mother—*Gray* v. *Carphin Coal Company*, July 27, 1891, 18 R. (H. of L.) 63. Prior to puberty no doubt a bastard child followed its mother's settlement, but the reason of that was that the mother and not the child was the pauper.

Argued for the second party—A legitimate pupil child had a derivative settlement in the parish where his father had acquired a residential settlement, and this settlement was not lost when the child attained puberty, but could only be lost by non-residence—*Inspector of Poor of St Cuthberts* v. *Inspector of Poor of Cramond*, November 12, 1873, 1 R. 174; *Hume* v. *Pringle*, December 22, 1849, 12 D. 411; *Allan* v. *Higgins and Others*, December 23, 1864, 3 Macph. 309. In the case of an illegitimate child the same rules applied, only that the parish of the mother was substituted for that of the father—*Heritors and Kirk-Session of Lasswade* v. *Heritors and Kirk-Session of Newlands*, March 6, 1844, 6 D. 956. The mother's settlement was the settlement of the child, because she was liable for its support. That liability continued after puberty. A mother might even in certain cases give a settlement to legitimate children—*Heritors and Kirk-Session of Crieff* v. *Heritors and Kirk-Session of Fowlis*, July 19, 1842, 4 D. 1539; *Gibson* v. *Murray*, June 10, 1854, 16 D. 926, The case of *Gray* v. *Carphin Coal Company* had no application to the poor law. The only case which seemed to support the first party's contention was *Greig* v. *Ross*, but it appeared from the report of that case in the Scottish Law Reporter (14 S.L.R. 346) that the question was whether the bastard child after puberty retained a settlement in the birth parish of its mother's husband, which, being its mother's settlement, had been its settlement during pupillarity. That was not an authority where the question was as to the retention or loss of a derivative residential settlement—*St Cuthbert's* case *supra*.

At advising—

LORD PRESIDENT—When this pauper attained puberty, his mother, with whom he lived, had an industrial settlement in Govan. After the boy attained puberty he and his mother continued to reside in Govan down to the date of his becoming chargeable.

As Alexander Sandilands was an illegitimate child, his mother's settlement was his settlement; and he had that settlement, and was liable to lose it, on the same conditions as if he had been legitimate, and had therefore taken his father's settlement. Now, as already mentioned, the mother's settlement was an industrial settlement, and the conditions under which an industrial settlement is retained or lost are those stated in the 76th section of the Poor Law Act 1845. Those conditions regulate the retention and loss of an industrial settlement as regards the child who derives it, as well as the parent who acquires it.

That this is the law, and that the conditions under which the birth settlement of a parent is lost by a child on its attaining puberty, do not apply to an industrial settlement, is shown by the case of *St Cuthbert's*, 1 R. 174, which in my judgment is decisive of the present question.

I am therefore for finding that the settlement was in Govan.

LORD ADAM, LORD M'LAREN, and LORD KINNEAR concurred.

The Court found that the pauper's settlement was in Govan.

Counsel for the First Party — Deas. Agents—Gill & Pringle, W.S.

Counsel for the Second Party—George Watt. Agent—John Macmillan, S.S.C.

Wednesday, November 7.

SECOND DIVISION.

SCOTT AND OTHERS *v.* CRAIG AND OTHERS.

Process — Expenses — Aged Witness — Expense of Medical Certificate—Copies of Report of Commission — Objections to Auditor's Report—A.S., 16th February 1841, sec. 17.

In an action of reduction it was averred that one of the defenders was unable to be present through old age,