

Counsel for the Defenders, Paterson's Trustees — C. K. Mackenzie. Agents — Graham, Johnston, & Fleming, W.S.

Counsel for the Defender Daniel Paterson—Watt — Guy. Agent — Walter C. B. Christie, W.S.

Friday, February 5.

FIRST DIVISION.

THE SOCIETY OF SOLICITORS IN
ABERDEEN *v.* SIM.

Process—Law Agent—Petition and Complaint—Proof—Law-Agents (Scotland) Act 1873 (36 and 37 Vict. cap. 63).

In an application presented under the Law-Agents Act 1873 at the instance of a local society of solicitors, to have the name of S, one of their number, struck off the roll of enrolled law-agents for fraud and embezzlement, held that before the prayer of the petition was granted, the petitioners must prove their averments, S having been neither convicted nor fugitated.

This was a petition and complaint presented by the Society of Solicitors in Aberdeen, craving to have the name of William Sim struck off the roll of enrolled law-agents.

The petitioners averred that William Sim was a law-agent who up to October 1896 practised as a solicitor and law-agent in Aberdeen, but that on or about the 9th of that month, his affairs having become embarrassed, he disappeared, "having, it is believed, left the country."

The petition continued—"Since the disappearance of the said William Sim, it has transpired that while practising in Aberdeen he had been guilty of conduct unbecoming a solicitor, and in fact fraudulent. In course of the years 1893-95 and 1896, when he was in financial difficulties, he borrowed money from clients on the security of properties belonging to him, on representations that the properties were unencumbered, and that these loans would constitute first charges on the properties, whereas he well knew that the properties were heavily burdened and altogether inadequate as security for the loans. He also received money from clients upon the assurance that he would invest it upon first-class securities, which moneys he made no attempt to invest, but appropriated to his own uses." Certain specific instances of such fraudulent conduct on Sim's part were then condiscended on.

It was further averred that Sim's estate was wholly insufficient to meet these liabilities, that he had fled the country, that a warrant had been issued for his apprehension, and that his estates had been sequestered.

The petitioners founded upon section 22 of the Law-Agents (Scotland) Act 1873 (36 and 37 Vict. cap. 63), which enacts that "Every enrolled law-agent shall be subject to the jurisdiction of the Court in any

complaint which may be made against him for misconduct as a law-agent, and it shall be lawful for the Court, in either Division thereof, to deal summarily with any such complaint, and to do therein as shall be just."

They also founded upon the enactment of section 14 of that Act, that "the name of any person shall be struck off the said rolls —(1) in obedience to the order of the Court, upon application duly made and after hearing parties, or giving them an opportunity of being heard."

The Court ordered service upon Sim, and appointed answers to be lodged by him, if so advised, within six weeks.

The petition having been served edictally upon Sim, and no answers having been lodged within that period, counsel for the petitioners moved that the prayer of the petition be granted.

At advising—

The LORD PRESIDENT delivered the judgment of the Court to the following effect:— This is an application to have the name of William Sim struck off the roll of enrolled law-agents on the ground that he has been guilty of fraud and embezzlement. The petitioners' motion is that the prayer be granted.

The Court consider the application premature. The accused person has neither been convicted nor fugitated. Unless the petitioners are prepared to prove their averments, it is for their consideration whether they should not in the meantime withdraw their petition.

Counsel for the petitioners having thereupon moved for a proof, the Court allowed the petitioners a proof of their averments.

Counsel for the Petitioners—W. Brown. Agents—Henry & Scott, W.S.

Friday, February 5.

FIRST DIVISION.

THE LOCAL GOVERNMENT BOARD
FOR SCOTLAND *v.* COUNTY
COUNCIL OF ELGIN.

Local Government—Public Health—Water Supply—Cost Exceeding Limit of Assessment.

The Local Government Board for Scotland presented a petition and complaint under section 97 of the Public Health Act 1887, against the County Council of E, craving to have them ordained to procure a suitable water supply for the district of H. The petitioners averred that the present sources of supply for H were inadequate and dangerous; that the County Council had delayed for a long period to deal with the matter, and had no present intention of trying to remedy the evil; that the Board had frequently called upon the County Council to do their