ance clerk, Edinburgh, for (1) £2, 2s. for inlying expenses; (2) £7 per annum for fourteen years from 7th December 1895, for aliment for a female child borne by pursuer on that date, of which she averred the defender was the father; and (3) £200 as damages for breach of promise of marriage and seduction.

The pursuer averred that on 20th July 1894 the defender offered to marry her and she consented to be his wife, that on Sunday 10th March 1895 she, yielding to his importunities, and relying on his promise of marriage, permitted him to have connection with her, and that in consequence of this connection she gave birth to a daughter on 7th December 1895.

The defender in his defences denied the averments of the pursuer, and further averred—"The defender Peter Horn Bain believes and avers that about 1894 and 1895 the female pursuer was indulging in sexual intercourse with several young men living in her own neighbourhood, among them being Adam M'Kendrick, James M'Kendrick, and George Miller, and that one of them is the father of her child."

The case went to proof before the Sheriff-Substitute (HAMILTON). At the proof the pursuer, in answer to questions during her cross-examination, admitted that Adam M'Kendrick had walked home with her once from the choir singing in 1893, but denied that he had connection with her on that night or on any other occasion. She admitted also that she met George Miller at a social gathering on 17th May 1895, but denied that he had connection with her. Adam M'Kendrick and George Miller were both examined for the defender. Adam M'Kendrick spoke to four meetings he had had in the evening with the pursuer, the first about the end of 1893, the second in July 1894, the third on 17th February 1895, and the fourth in August 1895. When speaking to each of these meetings he was asked by his agent—"Had you connection with the pursuer that night?" These questions were objected to by the pursuer's agent, and the objection was sustained. George Miller spoke to a meeting he had with pursuer on the evening of 17th May 1895. He was asked—"Had you connection with her that night?" The question was objected to by the pursuer's agent, and the objection was sustained.

On 8th June 1896 the Sheriff-Substitute pronounced the following interlocutor—"Finds it proved that the defender is the father of the illegitimate child in question, but finds that the pursuer has failed to prove that the defender promised to marry her, or that she was seduced by him; decerns against the defender for payment of the inlying expenses and aliment sued for; *quoad ultra* dismisses the action and decerns."

The defender appealed, and argued in the first place, that the Sheriff-Substitute had erred in sustaining the pursuer's objections to his questions to his witnesses.

Argued for the pursuer — The evidence objected to was totally incompetent. Where charges of this kind were made against a pursuer, the time and place must be the least approximately tabled on record. No time and place were stated in the defender's averment, and thus no opportunity had been given to the pursuer to get evidence to rebut the averments. It was incompetent to prove particular acts without notice being given—*Macfarlane* v. *Young*, May 15, 1824, 3 Murray's Reports p. 412.

LORD JUSTICE-CLERK—The defender's averment is undoubtedly of a general kind, and I think a great deal might be said to show that such an averment should not have been allowed to go to proof. But no objection was taken to the averment, and no call was made for a more specific statement. The case went to proof on the record as it stood. The pursuer was asked questions as to particular acts of connection with the parties named on record, which she denied. I think it was competent for the defender to bring evidence to prove that she had connection on these occasions. I think we must remit the case back to the Sheriff-Substitute to receive this evidence.

LORD TRAYNER—I concur.

LORD MONCREIFF—I think there is no doubt that this evidence is competent. The defender's statement is absolutely irrelevant as it stands, and should not have been sent to proof, because it does not name either place or time. But both parties without objection were allowed a proof of the averments on record, and therefore I am of opinion that it was too late for the pursuer to take the objection at the trial. I think, however, both the Sheriff-Substitute and this Court, if the case again comes before us, can in deciding the case give weight to the fact that no notice was given.

LORD YOUNG was absent.

The Court recalled the interlocutor appealed against, and remitted the case back to the Sheriff-Substitute to take the evidence disallowed at the proof.

Counsel for the Pursuer—Jameson—Tait. Agent—Andrew White, W.S.

Counsel for the Defender — Salvesen. Agent—Charles Garrow, Solicitor.

Friday, July 17.

FIRST DIVISION.

[Lord Kyllachy, Ordinary.

CAMERON *v.* GLENMORANGIE DISTILLERY COMPANY, LIMITED.

Company — Ultra vires of Shareholders—Allotment of Fresh Issue of Authorised Capital—Right to Remunerate Servants.

The shareholders of a limited liability company registered under the Companies Acts duly passed a resolution to

issue a portion of their authorised but hitherto unissued capital to their managing director at a premium.

The articles of association imposed no restriction upon the manner in which such fresh issues of capital might be allotted.

In a question with an objecting shareholder, who sought to interdict the directors from carrying out their resolution—*held* that the resolution was not *ultra vires* of the shareholders, in respect (1) that they were entitled to issue such new shares to whom and at what price they pleased, provided they did not issue them at a discount; and (2) that they were entitled to grant such remuneration to their servants and officers for past services as they might *bona fide* think proper.

The Glenmorangie Distillery Company, Limited, was formed and registered under the Companies Act in 1887 with a capital of £25,000 divided into 2500 shares of £10 each. As at 14th August 1895, 1200 fully paid-up shares had been issued, together with £5000 out of £6000 5 per cent. debenture stock authorised to be created.

By the company's articles of association it was, *inter alia*, provided that—"None of the regulations in the table marked A in the schedule to the Companies Act 1862 shall be applicable to the company except as hereinafter appears."

Among the regulations thus excluded was art. (27) of the said Table A, which enacts that, "subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them."

By the articles of association it was further agreed that "The directors may at any time after the expiration of one year from the registration of the company, with the sanction of an extraordinary general meeting of the company, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, and of such a character, on such terms and conditions, and either with or without any preferential claim to dividend or otherwise, as the company may in general meeting direct, or, if no direction is given, as the directors think expedient. Provided always that in the event of any such issue, four thousand pounds nominal value of such shall be allotted to Mr Edward Taylor of Shawfield Street, Chelsea, in the county of Middlesex, if he so wishes."

By article 19 it was agreed that "the directors shall be entitled to set apart and receive for their remuneration in each and every year such sum as the company in general meeting shall resolve."

The directors of the company were Mr Duncan Cameron, Tain, the complainer in the present action, and Messrs Edward James Taylor, London, and Andrew Maitland junior, Tain, two of the respondents. Mr Maitland was managing director of the company, and received an allowance of £100 a-year, besides a commission on whisky sold, amounting in 1894-95 to £288, and his travelling expenses.

Between 1887 and 1895 the quantity of whisky sold by the company rose from about 5000 gallons to 79,000 gallons per annum, the annual profits increased from a little under £400 to £2300, a dividend at the rate of 10 per cent. was declared for 1893-94, and also for 1894-95, while the reserve fund was increased to £1000.

The proposed report by the directors to the shareholders in October 1894 contained the following paragraph:—"Directors have before them the following request from Mr Maitland upon which they desire shareholders' opinions and votes, viz:—'That he desires an additional 200 shares in the company for which he is willing to pay £1, 0s. 0d. per share premium. He feels it necessary to have his financial interest in the concern increased, so that his influence in trade circles may be still further strengthened for the benefit of the company. He has no desire to exercise any voting power upon these shares which shall disturb the existing equality of voting power at each end."

At the annual meeting of the company, held on 27th December 1894, it was minuted as follows:—"In the course of his remarks upon the accounts Mr Andrew Maitland stated that when recently in London conferring with the leading shareholders there as to the results of last year's working of the business and the prospects for the year now current, an informal discussion had taken place as to the expediency of his (Mr A. Maitland's) position being strengthened by his having a larger stake in the capital of the company, as he (Mr A. Maitland) is the principal medium of communication between those from whom the company buys and to whom it sells. It was felt that it would greatly fortify his position with those persons if his personal stake in the company were larger than it now is. It had accordingly been suggested that other 200 shares of the company should be allotted and issued to him at £1 per share premium, and that they should be entitled to dividend as from the commencement of the financial year now current, upon the footing of interest at the rate of 5 per cent. per annum being paid by Mr Maitland upon the £11 per share until payment thereof. Mr Maitland stated that he thought it right to mention the matter now in order that the shareholders might be considering it in view of its being decided upon at a future meeting which would be called for the purpose."

In July 1895 the directors, in response to a requisition signed by certain members of the company, called an extraordinary general meeting to consider, *inter alia*, the following resolution:—"*Resolution No.* 1.—1200 shares of £10 each of the capital of the company having been already issued to the members, whereby the issued capital now stands at £12,000: Resolved that sanction be given to the directors increasing said capital to the sum of £14,000, and that by the issue to Mr Andrew Mait-

land, architect, Tain, of 200 shares of £10 each upon the following terms and conditions, viz.—(1) Payment (*a*) of the sum of £10 in respect of each of said shares; (*b*) of a premium of £1 in respect of each of said shares; and (*c*) of interest at the rate of 5 per centum per annum upon the *cumulo* sum of £11 thus payable in respect of each of said shares from 9th October 1894 until payment; and (2) that said issue be entitled to a dividend equally with the already issued shares as and from 9th October 1894."

At an extraordinary general meeting of the company held on 14th August 1895 this resolution was carried by a large majority in spite of the opposition of Mr Cameron.

Mr Cameron thereupon presented a note of suspension and interdict against the company, Messrs Taylor and Maitland, his co-directors, and the secretary of the company, to have the respondents interdicted from in any way carrying out or acting upon the resolution for increasing the capital of the company to £14,000 passed at the extraordinary general meeting held on 14th August, and in particular to have the respondents Taylor and Maitland interdicted from allotting to Maitland 200 shares of the company in terms of the said resolution.

The complainer averred—"(Cond. 4) The resolution referred to is illegal and *ultra vires* of the shareholders. If it were given effect to the respondent Andrew Maitland, one of the directors, would receive a large present out of capital, to the serious loss and prejudice of the other shareholders, including the complainer and the company. The proposed transactions are not reasonably incidental to or within the reasonable or ordinary scope of carrying on the business of the company, but are prejudicial to and will cause loss to the company, and all this was well known to all the parties at the time. The effect of the issue of the said shares at the said price would be that the value of the other shares would be greatly depreciated, as the liabilities of the company would be increased without a corresponding increase in the assets. The proposed new capital is not required by the company, and is merely being created to be presented to Mr Maitland, while what is really accrued dividend on the capital already existing is to be made over in part to this favoured director by the last clause of the resolution for an altogether inadequate consideration. . . . If additional capital were required, the £1000 of unissued debenture stock is available and would be at once taken up. The proposal that the respondent Mr Maitland should acquire the new stock in preference to all others, and at the inadequate price mentioned, is grossly unfair and unjust. The proposed price does not represent anything like the true value of the shares, and if they were offered to the public or brought their fair value in any way, a much larger sum could be got for them."

The respondents denied that the resolution in question was illegal or *ultra vires* of the shareholders, and averred that Mr Maitland had been the main cause of the company's success. "He has devoted a very large portion of his time to the business of the company, and has been from the first the real medium of communication between the company on the one hand, and those from whom it bought and to whom it sold on the other hand. His services have been of the greatest value to the company, and the shareholders have long recognised this fact. . . . The resolution complained of was *intra vires* of the shareholders, and they were the best judges of the expediency of passing it. It is believed that they passed it not only in recognition of the valuable and gratuitous services which Mr Maitland had rendered to the company, but also in the belief that it would be for the benefit of the company in the future that he should have a larger stake in it, and have a greater inducement for rendering further services to it. Further, apart from the resolution, the directors had and have right to allot unallotted shares either to Mr Maitland or to any other person. They do not intend to allot the shares for anything short of their full face value, and they intend to demand in addition a premium which was fairly fixed as regards Mr Maitland's proposed allotment at £1 per share."

The complainer pleaded—"(1) The transactions referred to not being reasonably incidental to or within the reasonable scope of the carrying on of the business of the company, but being in the knowledge of the parties at the time prejudicial and injurious to the company as condescended on, are irregular and illegal, and the complainer is entitled to interdict as craved. (2) The said resolution being *ultra vires* of the shareholders and directors, is invalid and inept. (3) The resolution referred to being illegal and *ultra vires* of the shareholders, the complainer is entitled to interdict as craved."

The respondents pleaded—"(2) The note should be refused, in respect (1st) the resolution complained of was lawful, and was authorised by the memorandum and articles of association, and *intra vires* in all respects of the shareholders; (2d) the directors had power to allot the shares in virtue of their common law and statutory powers."

A proof having been allowed, the following evidence, *inter alia*, was led for the complainer J. S. Gowans, C.A. . . . "From my examination of the books, I did not see the slightest indication that the company during the last four years was in need of capital. [Witness then cited instances of distillery companies paying 10 or 12 per cent., the shares of which stood at a premium of from 80 to 160 per cent.] . . . The effect of Mr Maitland paying £10, 11s. per share, and getting 200 shares, is to reduce the value of each shareholder's holding. Taking the footing of the company's own balance-sheet as at October 1895, the value of the shares was £13, 12s. 3d., and the effect of the introduction of 200 new shares would be to reduce the value of each share to £13, 6s. 5d. If the shares were taken at what I think is their true value, over £17, on that basis Mr Mait-

land would get a present of about £1400."

John Sullivan, secretary of the Edinburgh Stock Exchange— . . . "I have noted the steady progress of the company and the dividends that they made on the profit earned from year to year. Assuming these details to be correct, I should say the £10 share would be worth £15. I arrive at that in this way; at £15 the price of £100 of stock would be £150, and that would give a yield of £6, 13s. 4d. to an investor, which I think a very high yield for stock."

For the respondents, Maitland the respondent deponed—"With regard to the proposal which is objected to in this action, in carrying on negotiations with a firm of prospective agents, when I came to a final conclusion with them, they wanted to know whether they could introduce me as one having a substantial stake in the company, and whether in dealing with me there would be a prospect of continuity in the transactions, because it is very inconvenient to take different parties into trade relations. I said, without going into particulars, that they might take it that that was the position generally, and when I went to London in my journey immediately after, I laid this view before the shareholders, and said I thought it was only fair and reasonable even in other respects that I should have a more substantial stake, owing to the increasing time the work was taking, and the responsibility it was laying upon me. What they looked at was the advantages the additional holding would give me with the trade. It may be said that one does not carry round on a card what one's holding is, but it becomes well known in the trade whether one is an ordinary shareholder or holds a very substantial stake in the company, and in the latter case it is a help, I maintain, to one in calling upon customers."

The respondent Edward James Taylor, examined on commission, deponed—"Now, in your opinion from your knowledge of the business, to whom do you ascribe the success of the company?—(A) Mr Maitland, undoubtedly—the sales of the company, undoubtedly. (Q) You voted in favour of this resolution?—(A) Yes. (Q) What were the circumstances in your mind which induced you to vote in favour of this resolution?—(A) Considering the services that Mr Maitland had rendered to the company for a very considerable period, and that at not any very great remuneration to himself, I thought it was just and fair that he should have these shares allotted to him. That was one reason. (Q) That was from the point of view of Mr Maitland himself. Then from the point of view of the company how did you regard it?—(A) I considered that it was due from us shareholders to remunerate Mr Maitland for the work that he had done; that the proposal as made was to the best interests of the company, that a larger holding would be a tie on Mr Maitland to the company, and that he would of necessity be forced to give his best powers to it because his commissions would fall off if his sales fell off, and so would the profits of the business decrease, and then he would not get so much in dividend. That appeared to me on those grounds the best thing that could possibly be done as regards the company, and so far from being prejudicial to it, we —I speaking for myself and the shareholders — thought it was a very good arrangement for ourselves. (Q) As a practical business man consulting upon the interests and those interests which were identical with the interests of the company?—(A) Yes, and that a larger holding would give Mr Maitland a larger influence in dealing with principals in the trade. (Q) As to that last point, do you know, as a practical man in the trade, that a principal has far more influence than a mere traveller?—(A) Certainly." . . .

On 22nd February 1896 the Lord Ordinary (KYLLACHY) pronounced an interlocutor refusing the prayer of the note.

Opinion— . . . "It is, I think, quite clear that the transaction was not *ultra vires*. I do not know that it would have been *intra vires* of the directors. But it was certainly *intra vires* of the company. It is within a company's power to allot, as the shareholders here did, unpaid shares forming part of the authorised capital. It is also within its power to fix the premium, if any, at which such shares shall be issued. It is also within its power to select the allottees; and I know of no disability which attaches to a company making allotments, if it so resolve, to existing shareholders, or to its own directors or other officials. There is of course here no question of issuing shares at a discount, or without full payment in cash. In other words, there is no suggestion that the transaction in any way diminished the capital of the company. Neither is there any room for challenge on the ground that the act of the company was *intra vires*, but irregular. There is no dispute that the meetings were duly called and duly held, and that everything done was done formally and regularly.

"The complainer therefore requires to make out a case of what I have called abuse of power; and I do not doubt that such cases may occur, and that when they do the Court may interfere. It is always, however, a delicate matter to interfere as between a majority and minority of shareholders of a going company, with respect to matters connected with the conduct of the company's business, and as to which the shareholders have come to a resolution. *Prima facie*, the shareholders are the best judges of their own affairs, and it is only where it appears that some sinister motive has operated, or that interests other than the interest of the company have plainly prevailed, that the Court will entertain a complaint. The test always is.—Is the thing complained of a thing done in the interest of the company?—or, to put it perhaps more accurately, is the action of the majority irreconcilable with their having proceeded upon any reasonable view of the company's interest?

"Now, in this point of view, it requires only a glance at the evidence to see that

the complainer's case fails. The allotment to Mr Maitland of 200 additional shares was, I see no reason to doubt, a proceeding which was in the interests of the company. I do not doubt that the increase of capital —of which a good deal was said—was a secondary consideration. I have no doubt, also, that the shares were worth a premium a good deal larger than £1 per share. It seemed to me, also, that the suggestion of greater weight being desired for canvassing customers was a little fanciful. But Mr Maitland had made the company a success, and what is more important, he was in the course of making it a greater success;—and I cannot imagine anything more natural and reasonable in such circumstances than that the shareholders, having regard to their own interests, should desire to conciliate him—to attach him to the concern—and to do so by giving him an additional interest, and therefore an additional motive for active exertion. In any case, the shareholders (the complainer alone dissenting) were of that opinion, and I find no trace in the evidence of any motive which could have influenced them other than their own interest. The case may involve an element of gratuity—perhaps it does. But the gratuity was, I think, largely inspired by a sense of favours to come. In that respect the case differs widely from that of *Clouston* v. *Edinburgh & Glasgow Railway Company*, 4 Macph. 207, and other cases of that description. Where a company is being wound up, gratuities to servants and officials may very well be illegal. But a going concern is in a different position.

"On the whole, I see no reason for holding that the shareholders exceeded their powers, or that the majority abused those powers in this transaction. I shall therefore refuse the note of suspension."

The complainer reclaimed, and argued—The resolution was *ultra vires* of the shareholders; for these reasons—(1) The new capital was not required, and there was not a word in the minute about its being a remuneration to Mr Maitland. (2) If new capital was to be issued, the general rule was that it must be issued to each shareholder in proportion to his existing interest in the business—*Reis*, Freeman's American Reports, vol. 72, p. 726, *Hudson*, 16 Bevan 485; *Hoole* v. *Great Western Railway Company*, 3 Ch. 362; *Griffith* v. *Paget*, 5 Ch. D. 894. (3) It was very doubtful if shareholders were entitled to remunerate their servants or officers for past services—*Clouston* v. *Edinburgh & Glasgow Railway Company*, Dec. 14, 1865, 4 Macph. 207; but they certainly were not entitled to remunerate them by a present of new shares issued at a price far below their real value. (4) At all events the shareholders had no power to give Maitland a dividend as from October 1894.

Argued for the respondents—There was no suggestion of corruption here. Accordingly if what was done was *intra vires* in law, the Court would not review it, for it would really resolve itself into a matter of discretion, and of internal management. There was no authority for the complainer's proposition as to the allotment of new shares and there was nothing to countenance it in the memorandum of association. The company had not created new capital; it had merely issued part of the capital already authorised. What was to prevent the company selling its new shares in the market at a premium, and making a present of the proceeds to its servants? As regards the power to remunerate, *Clouston, ut sup.*, had no bearing on the present case. But that right was fully established in the case of *Henderson* v. *Bank of Australasia*, 40 Ch. D. 170; see also *Newman* [1895], 1 Ch. 674. As regards the dividend on the new shares, that too was essentially a matter for the company to decide.

At advising—

LORD PRESIDENT—I am not surprised that the proceeding complained of has attracted criticism, but I do not think that it is challengeable at law. It is right to add that I see no reason to doubt that the parties to the resolution thought it expedient in the interest of the company. The objection to the resolution is that it mixes up things which ought to be kept separate, and the mixture of which naturally creates a suspicion of jobbery.

It was lawful to this company to issue the unissued shares of the company at or above par, and, if the price were above par, to treat the surplus as profit applicable to the uses of the company, according to its circumstances and requirements. The question whether shares should be issued and the capital in hand thus added to, was a financial question, involving no personal questions at all.

It was also in the power of the company to give a gratuity to any of their officials; and that either for services rendered or to be rendered. This is a delicate matter, but one which honest men, such as we have in this case, need not shrink from proposing, so it be done in a distinct and intelligible way and with full notice to all concerned, why and how much.

I think it unfortunate that these two things, both quite legimate, were here put into one resolution. The question, do we require more capital? was, as the resolution was framed, inextricably mixed up with the question, ought we not to do something for Mr Maitland? while, according to the respondents' own evidence, no one knew, or knows now, the actual amount of benefit conferred on Mr Maitland by giving him the shares at the price fixed.

But while I do not applaud this resolution, and think it unbusinesslike, I am satisfied that it was not illegal in any of the things which it did. I think that the company had a right, if it pleased, to select the person to whom the shares should be issued, and it seems intelligible and legitimate to increase the influence of an agent with customers by giving him a larger holding. Again, I think that the reasons for remunerating Mr Maitland for past services were adequate, or at least that the company

might well hold them to be so. In substance, it mattered not whether they first sold the shares for what they would bring and then made a present of the profit to Mr Maitland, or gave them over to him at par and let him pocket the difference.

A minor objection was stated which at first sight seemed of technical importance, viz., the payment of dividend on a period anterior to the issue of the shares. This, again, is irregular but not substantially vicious. The payment was of so much more money which would come out of the general income of the company.

My judgment of course proceeds on the constitution of this company, and I do not wish to be deemed to approve of this mode of issuing and placing shares on a mixed view of the finances of the company and the merits of an influential individual.

I am for adhering.

LORD ADAM and LORD KINNEAR concurred.

LORD M'LAREN was absent.

The Court adhered.

Counsel for the Complainer—Kennedy—Abel. Agent—R. Cunningham, S.S.C.

Counsel for the Respondent — Balfour, Q.C.—A. S. D. Thomson. Agents—Morton, Smart, & Macdonald, W.S.

Friday, June 26.

SECOND DIVISION.

[Sheriff of Perthshire.

THE PERTH GENERAL STATION COMMITTEE *v.* ROSS.

Railway—Railway Station—Right of Access to Station by Persons not Actually Travelling—Whether Station Committee Entitled to Interdict Hotel Porters from Coming into Station—Interdict—Vagueness of Prayer.

The Perth General Station Committee, as proprietors of the Perth General Station, under the Perth General Station Act 1865, craved interdict against an hotelkeeper, "himself or by his boots or other servant . . . unlawfully entering or trespassing upon any of the railways, stations, or other works or premises of the pursuers, and in particular from so entering or trespassing in or upon the Perth General Railway Station, or other works or premises therewith connected while wearing the uniform or badge" of the hotelkeeper or of his hotel, and "from waiting the arrival of passenger trains therein for the purpose of obtaining customers" for his hotel. It was proved that the hotelkeeper did not by himself or his servants enter the station except for the purpose of accompanying passengers who were leaving his hotel, or of meeting passengers who had intimated that they were to arrive at his hotel, and that neither he nor his servants had caused any obstruction or inconvenience at the Perth Station.

Held that the Station Committee were not entitled to the interdict craved—*per* the Lord Justice-Clerk, Lord Trayner, and Lord Moncreiff, on the ground that, as regards the first part of the prayer, the terms of the interdict craved were too vague and general; as regards the second part of the prayer, that the wearing of a particular badge or uniform, if otherwise lawfully worn, was not *per se* a sufficient ground of interdict; and as regards the third part of the prayer, on the ground that it was not proved that the hotelkeeper sent his servants to await the arrival of trains for the purpose of obtaining customers; and *per* Lord Young, on the ground that the Station Committee's right of property in the station was not such as to entitle them to the assistance of the Court by interdict in preventing persons, whether hotel servants, relations, friends, or private servants, from going into the station for the purpose of assisting persons leaving or arriving by train.

This was an action brought in the Sheriff Court at Perth at the instance of the Perth General Station Committee, incorporated under and in virtue of The Perth General Station Act 1865, and as such proprietors of the Perth General Railway Station, against Alexander Ross, hotelkeeper, Royal British Hotel, Leonard Street, Perth, and Charles Julius, boots at the said hotel.

The pursuers prayed the Court "to interdict the defender Alexander Ross, himself, or by his boots or other servant, or any others in his employment or acting for him, or for whom he is responsible, and the defender Charles Julius, from unlawfully entering or trespassing upon any of the railways, stations, or other works or premises of the pursuers, and in particular from so entering or trespassing in or upon the Perth General Railway Station, or other works or premises therewith connected, while wearing the uniform or badge of the defender Alexander Ross or of the said Royal British Hotel, and from waiting the arrival of passenger trains therein for the purpose of obtaining customers for said hotel."

The defender Julius failed to enter appearance, and decree in absence was pronounced against him on 19th November 1895.

The following were the material facts in the case—On several occasions in the month of July 1895 the defender Ross sent his servants into Perth Station while wearing the uniform or badge of his hotel, but they did not enter the station except for the purpose of accompanying passengers who were leaving his hotel, or of meeting passengers who had intimated that they were to arrive at his hotel, and neither the defender nor his servants caused any obstruction or inconvenience at the station. The pursuers had for a long time always objected to the ser-