

Damages laid at £300.

FRASER and GUTHRIE for pursuer.

SOLICITOR-GENERAL (MILLAR) and WATSON for defender.

After lengthened evidence had been led, the jury returned the following verdict:—"The jury unanimously find a verdict for the defender, but regret he did not communicate first with the pursuer's mistress before communicating with the fiscal. They cannot separate without commenting upon the pursuer being removed in such inclement weather and at such an untimely hour to the jail of Dingwall, considering the circumstances she was supposed to be in."

**LORD PRESIDENT**—I think it fair to the defendant to say, that when one is placed in the situation of having a communication of this kind to make to the authorities, it is a most delicate thing for him to speak to anybody else, and probably you have not taken sufficiently into account the delicate position in which the defender was placed. I merely make that observation lest an unpleasant impression should be left on your minds.

Agent for Pursuer—George Andrew, S.S.C.

Agents for Defender—Adam & Sang, S.S.C.

Wednesday, July 22.

(Before Lord Ormidale.)

M'KINNON v. HAMILTON.

*Jury Trial—Reparation—Wrongous Poinding.*

In this case, in which Alexander M'Kinnon, farmer, East Bennan, Lamlash, Island of Arran, was pursuer, and James Hamilton, residing at Auchroch, Arran, defender, the issue was as follows:—

"Whether, on or about 28th March 1868, the defender, on diligence upon a bill for £13, wrongfully poinded effects belonging to the pursuer, on his farm at East Bennan, of the value of £72, 19s. or thereby, to the loss, injury, and damage of the pursuer?"

Damages laid at £150 sterling.

THOMS and RHIND for pursuer.

YOUNG and BURNET for defender.

The jury awarded a verdict for the pursuer, giving £35 damages.

Agent for Pursuer—William Officer, S.S.C.

Agent for Defender—John Thomson, S.S.C.

Wednesday, July 22.

(Before the Lord President.)

MILLAR v. NORTH BRITISH RAILWAY CO.

*Jury Trial—Reparation—Injury to Person.*

In this case the pursuer was Samuel Smith Millar, doctor of medicine, 64 Bellsizes Park, Hamstead, Middlesex; and the defenders were the North British Railway Company. The issue submitted to the jury was in the following terms:—

"Whether, on or about the 18th November 1865, the pursuer, while, travelling as a passenger along the defenders line of railway and a part of said line at or near Heiton, between Roxburgh and Kelso Stations, was injured in his person through the fault of the defender, to the loss injury, and damage of the pursuer?"

Damages laid at £500.

On the part of the pursuer, it was averred that he travelled from Edinburgh by the train leaving at 4.15 p.m., on the 18th November, for Kelso, and that while proceeding on its way between Roxburgh and Kelso Stations the train came into collision, at or near Heiton, with a portion of a goods train which had been, through gross negligence and recklessness on the part of the defenders, or those for whom they are responsible, left standing on the main down line there, in the way of the passenger train in which the pursuer was travelling; that in consequence of the collision the pursuer was violently thrown into the bottom of the carriage, where he lay completely stunned and senseless for some time, that his back and right leg were much bruised, that he was quite lame, and that his nervous system received a severe shock, which, with the other injuries he had sustained, produced sleepless nights, loss of appetite, constant headache, and impaired sight.

On the part of the defenders, it was admitted that the collision took place, but it was denied that it was due to negligence and recklessness on their part, or on the part of others for whom they were responsible, and the injuries the pursuer stated he had sustained were also denied.

MACKENZIE and ORPHOOR for pursuer.

YOUNG and WATSON for defenders.

The jury returned a verdict finding unanimously in favour of the defenders.

Agents for Pursuer—Stewart & Wilson, W.S.

Agents for Defenders—Dalmahoy & Cowan, W.S.

Wednesday—Thursday, July 22, 23.

(Before the Lord President.)

DUNCAN v. BROWN.

*Jury Trial—Slander—Reparation.*

In this case the pursuer was William Duncan jun., S.S.C., Edinburgh, and the defender was Matthew Brown, cabinetmaker and upholsterer, Edinburgh. The issues submitted to the jury were in the following terms:—

"1. Whether, on or about the 18th day of December 1867, the defender did write or print, and transmit or deliver to Thomas Steven Lindsay, accountant, Edinburgh, a letter dated the said 18th December 1867, and containing the following words, viz:—'Although Duncan is an "honourable man," I might have delicacy in referring even so trivial a matter to his oath; and whether the said words are of and concerning the pursuer, and falsely, maliciously, and calumniously represent the pursuer to be a man who was likely to commit perjury—to the loss, injury, and damage of the pursuer?"

"2. Whether, on or about the 18th day of December 1867, the defender did write or print, and transmit or deliver to the said Thomas Steven Lindsay the said letter, containing the following statements—viz., (1) 'A female who acted as servant to Mr and Mrs Duncan, and after her decease got the greater part of her body clothing and jewellery, and no doubt the poor thing had need thereof to help her and an unfortunate child, the fruits of her residence at the Grove.' (2) 'The servant at Nelson Street, before Lizzie's arrival, had left in the family way. This may account, to some extent, for Lizzie being there; at all events

it assists in proving the above item; and whether the said statements, or part thereof, are of and concerning the pursuer, and falsely, maliciously, and calumniously represent the pursuer as being the seducer of his domestic servant or servants, and so being a person of immoral and dissolute habits—to the loss, injury, and damage of the pursuer?

- “3. Whether, on or about the 11th day of February 1868, in the Parliament House at Edinburgh, the defender did publish, by means of printed copies, the said letter, containing the following words, viz.—‘Although Duncan is an “honourable man,” I might have delicacy in referring even so trivial a matter to his oath,’ and whether the said words are of and concerning the pursuer, and falsely and calumniously represent the pursuer to be a man who was likely to commit perjury—to the loss, injury, and damage of the pursuer?
- “4. Whether, at time and place aforesaid, the defender did publish as aforesaid, the said letter containing the following statements—viz., (1) ‘A female who acted as servant to Mr and Mrs Duncan, and after her decease got the greater part of her body clothing and jewellery, and no doubt the poor thing had need thereof to help her and an unfortunate child, the fruits of her residence at the Grove.’ (2) ‘The servant at Nelson Street, before Lizie’s arrival, had left in the family way. This may account to some extent for Lizie being there; at all events, it assists in proving the above item’—and whether the said statements, or part thereof, are of and concerning the pursuer, and falsely and calumniously represent the pursuer as being the seducer of his domestic servant or servants, and so being a person of immoral and dissolute habits—to the loss, injury, and damage of the pursuer?”

The damages were laid at £2000.

SHAND and J. C. SMITH for pursuer.

GIFFORD and MAIR for defender.

The jury gave a verdict for the pursuer—damages, one shilling.

Agent for Pursuer—William Spink, S.S.C.

Agent for Defender—Thomas Wallace, S.S.C.

Wednesday—Thursday, July 22, 23.

(Before Lord Ormisdale.)

TAYLOR v. COWIE.

*Jury Trial—Fraud—Essential Error.*

The pursuer was George Taylor, shoemaker, Airdrie, executor-dative *qua* nearest of kin decerned to the deceased Archibald Taylor, store-keeper and shoemaker, and residing at No. 44 Commonside Street, Airdrie; and the defender was Alexander Cowie, iron merchant, Hallcraig Street, Airdrie. The issue submitted to the jury was as follows:—

- “Whether the pursuer, on or about 20th June 1865, subscribed the receipts, No. 6 and 7 of process, under essential error, and in the belief, caused by the fraudulent representations of the defender, that said receipts had reference, not to the whole executry estate, but were granted in acknowledgment merely of a payment to account of his (the pursuer’s) share of said estate?”

SCOTT and BRAND for pursuer.

CLARK and TRAYNER for defender.

After the evidence was partially led, it was intimated that the parties had agreed to accept a verdict for the defender. A verdict for the defender was accordingly returned.

Agent for Pursuer—D. F. Bridgeford, S.S.C.

Agents for Defender—Duncan, Dewar, & Black, W.S.

Friday, July 24.

GOULD AND ANOTHER v. THE CALEDONIAN RAILWAY COMPANY.

*Jury Trial—Reparation—Loss of Life.*

In this case, in which Mrs Margaret Brown or Gould, residing at Abbotsford Place, Glasgow, widow of the deceased Peter Gould, some time dry-salter in Glasgow, and Thomas Gould, son of the said deceased Peter Gould and the said Mrs Margaret Brown or Gould, his mother and administrator-in-law, were pursuers, and the Caledonian Railway Company were defenders, the issue was as follows:—

- “Whether, on or about the 23d November 1867, the said Peter Gould, whilst travelling as a passenger along the defenders’ line of railway, and at or near to a part of said line near to Hamilton Station, and known as Hamilton or Newton Junction, was killed through the fault of the defenders—to the loss, injury, and damage of the pursuers, his widow and child?”

Damages laid at, to each of the pursuers, £2500.

WATSON and THOMSON for pursuers.

YOUNG and JOHNSTON for defender.

The jury awarded damages to the amount of £800 for the widow, and £500 for the son.

Agent for Pursuers—James Buchanan, S.S.C.

Agents for Defenders—Hope & Mackay, W.S.

Friday, July 24.

(Before the Lord President.)

PYLES v. MALCOLM.

*Jury Trial—Reparation—Wrongous Apprehension.*

In this case, in which John Pyles sen., sometime innkeeper in Dumfries, was pursuer, and John Malcolm, superintendent of police, and residing there, was defender, the issue was as follows:—

- “Whether, on or about the 21st day of November 1866, the defender wrongfully and illegally caused the pursuer to be apprehended and taken in custody to the Police Office of Dumfries—to the loss, injury, and damage of the pursuer?”

Damages laid at £500.

FRASER and RHIND for pursuer.

YOUNG and GIFFORD for defender.

The jury returned a verdict for the defender.

Agent for Pursuer—James Barton, S.S.C.

Agent for Defender—Wm. Kennedy, W.S.

Friday, July 24.

PYLES v. SCOTT AND MALCOLM.

*Jury Trial—Reparation—Wrongous Search.*

In this cause, in which John Pyles sen., sometime innkeeper in Dumfries, was pursuer, and