

The appellant referred to the following additional authorities at the discussion—*Glasgow Corporation Water Commissioners v. Solicitor of Inland Revenue*, May 26, 1875, 2 R. 708; *Glasgow Corporation Water Commissioners v. Miller*, January 22, 1886, 3 R. 489; *Edinburgh Southern Cemetery Company v. Surveyor of Taxes*, November 29, 1880, 17 R. 154; *Attorney-General v. Black*, January 26, 1871, 6 Exch. 78 and 308.

At advising—

LORD PRESIDENT—I think this case a very clear one. The profit is distinctly shown in the case to amount to £402 in all. It arises from moneys paid for burial stances and lairs sold; that is the first item, and that is a source of profit which is just in the same position as the profit in the case of the *Edinburgh Southern Cemetery*. And so also the interment dues—the second branch—that is also a source of profit which occurred in that case. The third item is for borders, monuments, plants. Now, the profit is earned by certain work performed by the Burial Board or its officers, and of course they are quite entitled to deduct from the amount of profits the expense of earning them, or what may be called the working expenses, which consist of salaries and fees, labour and wages, taxes, insurance, and the like. It is proposed also by the appellants that there should be deducted from the amount of profits the interest upon money borrowed. Now, I think that is founded upon an entire mistake, because if the interest upon borrowed money was to be deducted from the amount of the profits before ascertaining the assessable profits for income-tax, that would be to allow the Burial Board in paying the interest upon its debt to deduct the income-tax from that interest in a question with the creditor, and not to account for it to the Crown. That is a thing that of course nobody is entitled to do, but the proposal made on the part of the appellant would amount practically to that result, and therefore it is quite plain that, even apart from the express words of the statute, that interest cannot possibly form a proper deduction in estimating the assessable profit. That being so, it is really unnecessary to go further into the case, because the whole matter is settled by authority. Taking the *Mersey Dock* case, the *Paddington* case, and the *Edinburgh Southern Cemetery* case, I think it is quite impossible to escape from the conclusion that the whole of this profit is assessable under Schedule A, No. 3, rule 3. And therefore I am for refusing the appeal.

LORD SHAND and LORD M'LAREN concurred.

LORD ADAM was absent.

The Court affirmed the determination of the Commissioners.

Counsel for the Appellants—Lorimer, Agent—R. P. Stevenson, S.S.C.

Counsel for Surveyor of Taxes—Young, Agent—The Solicitor of Inland Revenue.

VOL. XXVII.

Thursday, July 10.

FIRST DIVISION.

[Lord Kyllachy, Ordinary.]

GODFREY v. W. & D. C. THOMSON.

*Reparation—Slander—Issue—Innuendo.*

Terms of a newspaper article which it was held would not admit of being construed as representing (1) that the pursuer had entered into a dishonest arrangement to sacrifice his political principles for the sake of pecuniary gain; (2) that he had obtained liquor by falsely and fraudulently representing himself to be a *bona fide* traveller, and had thus violated the statutes anent the sale of drink; (3) that he had drunk alcoholic liquors to such excess as to produce intoxication.

A newspaper published an article referring to certain persons who had lately held a political meeting. The article concluded with these words—“Now one of them has ‘left the town.’ Any information as to his whereabouts will be thankfully received by a sorrowing landlord, the proprietor of the hall, who now concludes that a Tory Cleon is no more profitable as a tenant than a Socialist Boanerges.”

One of the persons attacked brought an action against the proprietors and publishers of the newspaper, averring that this paragraph was meant to refer to him.

Held that the paragraph was slanderous and could be innuendoed as representing that the pursuer, being liable as tenant or otherwise to pay the rent of the hall used for said meeting, had secretly left the town without leaving any address, and without making provision for payment of said rent, for the purpose of defrauding the proprietor of the hall.

On Saturday 19th April 1890 the following article appeared in the *Dundee Weekly News*—“A few weeks ago a local ex-councillor, whose views political are well known to have a decided Conservative twist, imported from the far west the champion bantam of the Tory corner of the controversial middenhead on Glasgow Green. On such as could be induced to listen to them in our own city (fledgling city) they poured their eloquence in copious floods like the overflow of a sewage farm, and then they hied them to the country, lectured the benighted Forfarrians on the error of their Gladstonian ways, and to such as dwell in Kirrie preached the glad tidings of the gospel of coercion for Irishmen only.

“Back again in Juteopolis. A commodious hall was hired in the centre of the city, and the illustrious stranger advertised to perform in public on the afternoon and evening of a certain Sunday, each performance to be preceded by an open-air ‘display’ in defiance of the ‘law and order’ which it is the object of his political creed to maintain. This latter ‘function,’ how-

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ever, would have jeopardised the performer's licence, and did not come off, much to the annoyance and disgust of those who had assembled in the expectation of witnessing another dramatic arrest. But the events of the evening made amends for the morning's disappointment; and here I must introduce other two characters to my reader's notice.

"The first belongs to the genus gutter socialist, and runs a variety show not far from the hall in which the great event of the evening was to transpire. The directors of the two establishments were supposed to be at mortal enmity, the one with the other; but when the coppers had to be drawn in they could discover a gushing tolerance, sink all differences, stand one on each side of the 'plate,' and smile blandly as the faithful dropped in their offerings. On this occasion it must needs be so, or both meetings would be a failure. A messenger was therefore dispatched to the High Priest of the Great Divide, inviting him to close his temple, 'bring over his co-worshippers,' crack a louse on the altar of torquism, and half the proceeds would be his.

"The other almost baffles description. He is by repute a quondam agent for the good 'old cause,' and now, through posing as a Conservative working man, acts as a faithful henchman to any leader of a paying concern. He, too, had his part to play in the 'Tory Socialist' Comedy, and the part was one of passing importance to the ultimate success of the plot.

"The meeting was over, and our three friends were by no means gratified. The proceeds, such as they were, were all in one pocket; and, though their throats were dry as those of the Israelites when they viewed the arid sands of Horeb, no friendly 'public' gave them welcome, and no Moses bade water flow from the paving-stones. But a greater than Moses stood there, who, opening his mouth, spake to the other two in the Glasgow Tongue, saying, 'Go to, now! with the rod of *bona fides* will I smite the rock of the Sunday liquor laws, and we will drink and be satisfied;' and, dodging round the rear of a passing vehicle, they passed unobserved, as they supposed, through the portals of a certain hotel, where they drank their own good healths, and the very good health of each member of their late audience separately, and now one of them has 'left the town.' Any information as to his whereabouts will be thankfully received by a sorrowing landlord, the proprietor of the hall, who now concludes that a Tory Cleon is no more profitable as a tenant than a Socialist Boanerges."

The present action was brought by Alexander Godfrey, commission agent, Glasgow, against Messrs W. & D. C. Thomson, the printers and publishers of the *Dundee Weekly News*, for payment of £500 in name of damages for slanders alleged to be contained in the said article.

The pursuer averred—"The pursuer has for thirty years been a warm and consistent supporter of Conservative principles, and for many years has been in

the habit of giving political addresses in the Conservative interest in Glasgow and various other places in Scotland. In this way the pursuer has been well known as a public speaker and lecturer on politics. . . . The said paragraphs above quoted are of and concerning the pursuer, although in almost every particular they grossly misrepresent his actings on the occasion referred to. The pursuer was lecturing in Dundee in April last, and from Dundee he went to Forfar, where, on the 3rd of April, he received an invitation to deliver another political address in Dundee. He accordingly returned to Dundee and addressed an audience of about 400 persons on the Sunday evening referred to in the paragraphs quoted. . . . The said paragraphs falsely and calumniously represent that the pursuer from mercenary motives entered into a plot or dishonest arrangement with the aforesaid Socialist speaker, under which he was to sacrifice for the time being his political principles in order that an audience of sufficient size might be secured from the joint meetings that had been collected to listen on the one hand to Socialist views, and on the other to the exposition of Conservative principles. The said paragraph falsely and calumniously represents the pursuer as a political adventurer who had no real regard for the principles he professed to expound, but was ready to sacrifice them at any moment for the sake of pecuniary gain. Further, the said article (paragraph 5) falsely and calumniously represents that the pursuer on the occasion in question obtained liquor in an hotel in Dundee on said Sunday by falsely and fraudulently representing himself to be a *bona fide* traveller, and thereby violating the statutes anent the sale of drink, and also that the pursuer finished the evening in a state of intoxication. Lastly, the said article falsely and calumniously represents that the pursuer, being liable as tenant to pay the rent of the hall for the evening in question, had secretly left Dundee without leaving any address, and without making provision for payment of said rent, with the view of defrauding the proprietor of the hall of his just claims for the rent of same due for said evening. . . . The whole of the statements specially referred to were written and published by the defenders maliciously, and for the express purpose of vilifying the pursuer and holding him up to public contempt and hatred. In consequence of said statements the pursuer has suffered serious loss and damage. . . . If the slanders are not authoritatively silenced, the pursuer's prospects and means of livelihood will be seriously impaired, and his character will be permanently injured in the estimation of many members of the public."

The defenders pleaded—" (2) The paragraphs complained of do not bear the meaning alleged, and without such meaning are not libellous. (3) The paragraphs complained of being a fair criticism of the conduct of the pursuer as a public person, and thus privileged, the defenders should be absolved."

The pursuer proposed the following issues for the trial of the cause—“(1) Whether the said article or part thereof is of and concerning the pursuer, and falsely and calumniously represents that the pursuer from mercenary motives entered into a plot or dishonest arrangement with the Socialist speaker therein referred to, under which he was to sacrifice for the time being his political principles in order that an audience of sufficient size might be secured by a combination of the two meetings that had collected to listen, on the one hand to Socialistic views, and on the other to the exposition of Conservative principles, on the footing that the proceeds were to be equally divided between the pursuer and the Socialist speaker aforesaid, or makes similar false and calumnious representations of and regarding the pursuer, to his loss, injury, and damage? (2) Whether the said article or part thereof is of and concerning the pursuer, and falsely and calumniously represents that on the Sunday evening therein referred to the pursuer had obtained liquor in a hotel in Dundee by falsely and fraudulently representing himself to be a *bona fide* traveller, and had thereby violated the statutes anent the sale of drink, or made similar false and calumnious representations of and concerning the pursuer, to his loss, injury, and damage? (3) Whether the said article or part thereof is of and concerning the pursuer, and falsely and calumniously represents that he, on the Sunday evening referred to, drank alcoholic liquors to such excess as to produce intoxication, or makes similar false and calumnious representations of and concerning the pursuer, to his loss, injury, and damage? (4) Whether the said article or part thereof is of and concerning the pursuer, and falsely and calumniously represents that the pursuer, being liable as tenant or otherwise to pay the rent of the hall used for said meeting on the Sunday evening referred to, had secretly left Dundee without leaving any address, and without making provision for payment of said rent, for the purpose of defrauding the proprietor of the hall of his just claims for same, or makes similar false and calumnious representations of and concerning the pursuer, to his loss, injury, and damage? Damages laid at £500.”

On 19th June the Lord Ordinary (KYLACHY) approved of these issues and appointed them to be the issues for the trial of the cause.

The defenders reclaimed, and argued—A charge of insincerity made against a man acting in a public capacity was no ground for an action—*Onslow v. Horne*, 1771, 2 Sir William Blackstone, 750. Further, the article did not naturally bear the construction sought to be put upon it by the pursuer in the first issue. The same remark applied to the second and third issues. The latter issue fell to be disallowed, on the further ground that it was not slanderous to accuse a man of having once got drunk, there being no imputation of habitual intemperance. The fourth issue must also be disallowed. The article was clearly meant to be a joke from beginning to end, and the

last paragraph was merely a clumsy jest at the pursuer's expense, and could not be taken to convey a serious imputation on the honesty of the pursuer.

Argued for the pursuer—The pursuer was entitled to the first issue, as the article clearly charged him with sacrificing his political principles on base and sordid motives—*Seymour v. Butterworth*, 1862, 3 F. & F. 372; *Campbell v Spottiswoode*, 1863, 3 F. & F. 421.

At advising—

LORD PRESIDENT—The first issue puts the question whether the words used in the alleged libel represent “that the pursuer from mercenary motives entered into a plot or dishonest arrangement with the Socialist speaker therein referred to, under which he was to sacrifice for the time being his political principles in order that an audience of sufficient size might be secured by a combination of the two meetings that had collected to listen, on the one hand to Socialist views, and on the other to the exposition of Conservative principles, on the footing that the proceeds were to be equally divided.” I must say that I have the greatest difficulty in extracting from this very curiously-expressed newspaper article anything so serious as therein imputed—a dishonest arrangement entered into from mercenary motives by which the pursuer was to sacrifice his political principles in order to get up a sufficiently large meeting to make the assemblage pay. There is nothing of that kind there. What I understand the article to mean is that there were two meetings called for the same evening, one in the interests of Conservative principles, and the other for the promotion of Socialist views, and a combination of these two meetings is said to have taken place. All that is undoubtedly set out, but in what way the two were to be combined for the purpose of producing revenue, I do not understand. How any pecuniary advantage was to be gained by it is not very clear. It is said that the audience, consisting partly of extremists on the one side, and partly of extremists on the other side of politics, were to combine to pay the two gentlemen who were sacrificing their political principles for the purpose of gathering a crowd. That is unintelligible. I think that the true and obvious meaning of the article is that the parties, not expecting very full audiences in either one of these meetings or in the other, thought it better, instead of having a separate exposition of their various political views, to have a “logomachay” or “flying,” as they called it in Scotland in old days, or, in more modern language, a debate. That is what the article suggests to my mind, and I think that it is the fair construction of it. If that be so, I do not think we can allow this ingenious innuendo proposed by the pursuer to be put into the issue, for that is really to give to the words used in the article a perfectly strained and fanciful meaning. I am, therefore, for disallowing the first issue.

As regards the second, the question put is

whether the article refers to the pursuer, and can be represented as meaning "that he had obtained liquor in a hotel in Dundee by falsely and fraudulently representing himself to be a *bona fide* traveller, and had thereby violated the statutes anent the sale of drink." Now, the foundation for that seems to be that in the last paragraph of the article there is this statement of what followed after the meeting was over:—"The proceeds, such as they were, were all in *one pocket*" (it is not said in whose pocket they were), "and though their throats were dry as those of the Israelites when they viewed the arid sands of Horeb, no friendly 'public' gave them welcome, and no Moses bade water flow from the paving stones. But a greater than Moses stood there, who, opening his mouth, spake to the other two in the Glasgow Tongue, saying—'Go to, now, ! with the rod of *bona fides* will I smite the rock of the Sunday liquor laws, and we will drink and be satisfied.'" Now, one does not like to comment upon the taste of the letter-writer, but one cannot look upon the statements in this article as anything but coarse and foolish. I do not see anything in it except an attempt at a very bad joke. I really cannot read these sentences as containing any charge of dishonesty, or of drunkenness or of a violation of the public-house statutes. It is suggested in the article that this man was not a *bona fide* traveller within the meaning of the Public-Houses Acts. He was a stranger to Dundee. He had come there—as appears from the very beginning of the article—from Forfar for the purpose of holding this meeting in a hall in Dundee, and he must therefore have been a temporary resident in Dundee—an occupant, I suppose, in all probability, of a public-house of some kind—and to say that he availed himself of his character of a *bona fide* traveller to violate the liquor laws has no meaning. He could not violate the liquor laws if he was a *bona fide* traveller by going into the hotel he was staying in, or into any other hotel, and calling for liquor, because that is not a violation of the laws. That seems to me to dispose of the second issue.

The third issue is even more preposterous. It represents the article as meaning that upon the Sunday evening in question the pursuer drank alcoholic liquors to such excess as to produce intoxication, or made similar false and calumnious representations of and concerning the pursuer. Now, I cannot say that in what remains of this article there is any charge of that at all. It is said that "dodging round the rear of a passing vehicle they passed"—that is the pursuer and his two companions—"unobserved, as they supposed, through the portals of a certain hotel, where they drank their own good healths and the very good health of each member of their late audience separately." These are the whole words founded on as the foundation of the charge in the article. The word "intoxication" is certainly not there, and there is nothing beyond a mere suggestion that liquor had been used. There is nothing

beyond that in the article, and to say that it means that they drank alcoholic liquors to such excess as to produce intoxication is a mere misrepresentation of the words used. It is not a fair and not an admissible construction of the words, therefore I am against granting that issue also.

But when we come to the fourth issue there is a more intelligible case for the pursuer, because there is, I think, in the very close of the article a statement which is upon the face of it slanderous, and which does not require much in the way of innuendo. The words used are—"And now one of them has left the town. Any information as to his whereabouts will be thankfully received by a sorrowing landlord, the proprietor of the hall, who now concludes that a Tory Cleon is no more profitable as a tenant than a Socialist Boanerges." I certainly think the fair meaning of that is to charge the pursuer with failing to pay the rent for this hall which he had undertaken to pay, and with leaving the town to avoid making payment of his just debts and leaving no address behind him, but on the contrary going away under such circumstances that nobody could communicate with him. That certainly is slanderous, and I think the innuendo which is put upon these words in the fourth issue is quite admissible. I think I should be very much disposed to allow that issue as it stands, but I would suggest that it probably might be desirable, in order to show what particular part of this long article is really to be submitted to the jury as containing words imputing such a dishonest purpose to the pursuer, that the words in question should be set out in the issue and then the innuendo contained in it should follow. I do not mean by that to say that it may not be open to the pursuer at the trial to read any other part of the article which is necessary to give colour or interpretation to the words complained of, or that the attention of the jury is to be confined at the trial to the single words which are set out in the issue. But I think that the jury should know what particular part of the article it is that is said to contain the libellous statement in question.

LORD SHAND—Of course it is for the jury to say whether the article complained of as being false and calumnious is so. But, upon the other hand, it is the function of the Court, I think, to interfere to prevent the pursuer in an action of this kind putting any innuendo he chooses upon the language alleged to have been used, or libel alleged to have been uttered, and with such innuendo taking his chance of obtaining a verdict from the jury. I think the Court has settled a wise course, that they will look at the article and the innuendo for the purpose of saying whether the language used will reasonably bear the construction that is put upon it in the innuendo. If it will reasonably bear that construction, then the issue is allowed, and it is for the jury to say whether it does in fact bear that construction. But if it will not in the view of the Court reasonably bear the con-

struction sought to be put upon it, taken along with such facts as the pursuer may have alleged on record, then I think the Court will properly refuse to grant the issue proposed. Applying that test to the present case, I agree in the result at which your Lordship has arrived.

Taking the last issue first, as the issue which the Court is now to grant, I am of opinion, not that the article necessarily bears the meaning which the pursuer puts upon it, but certainly that it may reasonably bear that construction, and that it is a question for the jury to say whether that was not its real meaning. As your Lordship has suggested, it may be well to put the passage more immediately complained of in the forefront of the issue. I have no doubt the pursuer will be entitled to put the article as a whole before the jury in order to show the spirit of the article, and to ask them whether the passage with which it concludes does not insinuate, with reference to the spirit of the whole article, that the pursuer had left the town after he had incurred debt without leaving his address, and with the view of defrauding the landlord of the hall of his rent.

In regard to the other issues asked for, I concur with your Lordship in thinking the article will not bear the innuendoes which are put upon it in the first three issues. As to the article itself, it appears to me that the author of it probably sat down and attempted to write what he thought was a clever and popular production, but the result of his labours was that he produced a very foolish and stupid article, and an article most vulgar in its style. I may say that I think a very great part of it is utterly unintelligible, but still I do not think that it will bear the innuendoes proposed by the pursuer in these three issues. In regard to the first of these issues, its matter relates to the political principles of the pursuer, and certainly in these days people are allowed, I think, to speak pretty freely upon political principles. In the discussion of these principles I think there is nothing more common than to say of any man in public that they have sunk or sacrificed their political principles on behalf of their friends or on behalf of the political party to whom they have become attached, or, it may be, to secure some personal advantage. I am not prepared to say at this moment that it would be, as matters exist now, a ground of action for defamation and damages to say that a man had sunk or sacrificed for the time his political principles in order to secure a personal advantage, even if it were made quite clear that this was the meaning of the article. But it is not necessary to decide that question, because the article, I think, will not bear the innuendo that the pursuer has given to it. Without going into its terms more fully than your Lordship has done, I have come to the conclusion that, upon any fair reading, the construction which the pursuer proposes to put upon it is an extravagant construction. As to the second issue, viz., that there is here a representation of the violation of what has

been called the Forbes Mackenzie Act—a violation of the statutes relating to the obtaining of liquor upon Sunday—I cannot see anything that would warrant the Court in granting that issue. I can find nothing in the article containing a representation that the pursuer had violated the licensing laws; and as to the conclusion that there is here a charge of drunkenness against the parties referred to, I have simply to say that it is utterly extravagant to ground that conclusion on the fact that the writer says that the persons retired and drank the healths of the audience after the meeting. No doubt in saying that they drank their healths separately the article indicates that they drank a great many healths. But to suggest that the article contains a charge of drunkenness is simply out of the question. It is abstracting a meaning from this article which it will not bear. I think nowadays there is a great desire to go to Court with actions of damages—in many cases where there is really no ground for them—and we must put a stop to that, except in cases where there is a good ground of complaint; and, therefore, upon these grounds I concur with your Lordship in refusing the first three issues, and allowing the fourth.

LORD M'LAREN—In considering such cases as these actions of damages brought against newspapers by public speakers for defamation it is to be remembered that it is the privilege of every citizen to comment freely, and to express his opinion freely, regarding the public acts or public utterances of his fellow citizens. It is said sometimes that one who takes part in public affairs invites such criticism, and that is true, and anyone is entitled to use the privilege which the law allows him. It will not make criticism actionable that it is uncourteous, expressed in words which good taste condemns, or even that it is offensive and vituperative, provided the meaning of the article be nothing more than criticism of public acts or public speech. I think that principle is very well illustrated by the case in Sir William Blackstone's reports that was cited to us, where it was held that to accuse a member of Parliament of insincerity in his public conduct was not actionable. It may be that cases that might have been thrown out on this ground have been sent to trial. That has been sometimes the case, because the defender preferred to go to a jury rather than to stop the action at an earlier stage in the exercise of his legal right. But so far as I know there has been no deliverance by a court of appeal in this country contrary to the principle laid down in that old case. And when we remember that the language of spoken and written criticism in early times was even much stronger and more offensive than the present time will allow, it is quite certain that if it had been within the powers of the persons attacked to bring such actions they would have been brought. In considering whether the article complained of here is liable to the protection indicated, I think the first question for consideration is—What is the general scope of

the article? If you find that its purport is to criticise the pursuer as a lecturer, then the expressions, however intemperate they may be, which fairly considered with the rest of the article, may in fairness be held as only applicable to his public conduct, must be so construed. And on that ground I agree with your Lordship that the first, second, and third issues ought to be negatived, because I do not think that in any fair reading of an article—the general purport of which is a political attack—we can torture out of the expressions there referred to charges either of dishonesty or of insobriety. But, again, newspaper critics must be very careful not to go beyond the range of the actual license which the law allows, and when they touch upon a man's private character they are not entitled to any special protection, but are liable on the same grounds as we should hold any private attack to be actionable. It appears to me that the words referred to in the fourth issue are capable of being read as an accusation of dishonesty and an attempt to swindle the proprietor of the lecture hall of the rent. That is an imputation that no man is entitled to make on another. Therefore I think the issue under that head ought to be sent to trial.

LORD ADAM was absent.

The Court recalled the interlocutor of the Lord Ordinary, and appointed the following issue to be the issue for the trial of the cause:—"It being admitted that on or about 19th April 1890 the defenders printed and published in the *Dundee Weekly News* of that date the article contained in the schedule hereunto annexed—Whether the following words in said article, viz., 'Now, one of them has "left the town." Any information as to his whereabouts will be thankfully received by a sorrowing landlord, the proprietor of the hall, who now concludes that a Tory Cleon is no more profitable as a tenant than a Socialist Boanerges'—are of and concerning the pursuer, and falsely and calumniously represents that the pursuer, being liable as tenant or otherwise to pay the rent of the hall used for said meeting on the Sunday evening referred to, had secretly left Dundee without leaving any address, and without making provision for payment of said rent, for the purpose of defrauding the proprietor of the hall of his just claims for same, or makes similar false and calumnious representations of and concerning the pursuer, to his loss, injury, and damage?"

Counsel for the Pursuer—Salvesen—Younger. Agents—Sturrock & Graham, W.S.

Counsel for the Defenders—Guthrie—Law. Agent—John Rhind, S.S.C.

Saturday, July 12.

FIRST DIVISION.

Lord Kincairney, Ordinary

KINLOCH, CAMPBELL, & COMPANY,  
AND ANOTHER v. COWAN.

*Bill—Diligence—Suspension of Charge—Caution—Bills of Exchange Act 1882 (45 and 46 Vict. c. 61.)*

*Held* that the acceptors of a bill who had delivered it blank in the name of the drawer were not entitled to have a charge at the instance of the drawer, who averred that he had given value for it, suspended without finding caution.

Messrs Kinloch, Campbell, & Company, merchants, 35 Robertson Street, Glasgow, and James Wright Campbell, 35 Robertson Street, Glasgow, carrying on business under the style of Kinloch, Campbell, & Company, were on 28th May 1890 charged at the instance of Samuel Cowan, publisher in Perth, to make payment to him of the sum of £527, 7s. with legal interest till paid, being the sum alleged to be due under a bill dated 4th January 1890 payable four months after date, of which Cowan was the drawer, and Kinloch, Campbell, & Company the acceptors.

Messrs Kinloch, Campbell, & Company, and James W. Campbell presented a note of suspension in which they averred—In November last the complainer J. W. Campbell, with the view of extending the business of his firm, advertised in the *Glasgow Herald* for a party who would be willing to put £5000 into his firm. George Hill, 56 Parliament Hill Road, Hampstead Heath, London, replied to the advertisement, and stated that if the business was a suitable one he, as principal, would put £5000 in it. It was arranged that Kinloch, Campbell, & Company should accept bills to the amount of £6250 and remit them to Hill, who within one week of receiving them should remit to them the sum of £5000. The bills were to be renewed from time to time during a period of four years. On 6th January the complainers sent Hill nine bills for sums amounting to £6250 dated on 4th, 6th, and 8th January 1890 and payable four months after date. The bill upon which the charge of payment under suspension was given was one of these bills.

Hill did not perform his part of the said agreement, and never remitted the complainers any sum whatever. Accordingly they demanded return of their bills on 23rd January 1890. Hill returned to the complainers bills for sums amounting to £5123, 16s. 6d., leaving in his hands three bills for £1126, 3s. 6d. The complainers continued to press Hill to return the remaining bills, but as he did not do so they instructed their solicitors in London to take proceedings in Court there to prevent him from parting with them and for delivery of them.

Proceedings were accordingly adopted in the High Court of Justice in England against Hill and the respondent, and on