

Counsel for the Petitioners—Lorimer.
Agents—Morton, Smart, & Macdonald,
W.S.

Saturday, November 16.

FIRST DIVISION.

BORLAND v. ANDERSON'S JUDICIAL
FACTOR.

*Expenses—Proving the Tenor—Judicial
Factor on Estate of a Person who had
Illegally Removed an IOU Defending
a Proving of its Tenor.*

In an action of proving of the tenor of an IOU alleged to have been granted in favour of the pursuer by the late Mrs A, the *casus amissionis* alleged was that Mrs A had wrongfully removed the IOU from the pursuer's repositories. The action was defended by a judicial factor appointed on Mrs A's estate. After proof had been led, and the Court had intimated that decree would be granted, the pursuer moved for expenses against the judicial factor on the ground that, as the action had been rendered necessary by the illegal proceedings of Mrs A, her estate ought to bear the expense—*Brown v. Orr and Others*, January 21, 1872, 10 Macph. 397, 9 S.L.R. 232.

[LORD ADAM—Here no additional expense was caused by the defence.]

The Court decerned in terms of the conclusions of the summons, but found no expenses due.

Counsel for the Pursuer—M'Lennan.
Agents—Miller & Murray, S.S.C.

Counsel for the Defenders—M'Clure.
Agent—F. J. Martin, W.S.

Thursday, November 21.

FIRST DIVISION.

THE INCORPORATION OF TAILORS
IN GLASGOW v. THE TRADES
HOUSE OF GLASGOW.

*Incorporation—Trade Incorporation in
Burgh—Sanction of Court to Bye-Laws
—Burgh—Glasgow Trades House—Burgh
Trading Act 1846 (9 and 10 Vict. cap. 17),
sec. 3.*

Section 3 of the Burgh Trading Act 1846 makes it lawful for a trading incorporation to make bye-laws "relative to the management and application of its funds, and relative to the qualification and admission of members," and to apply to the Court for its sanction to such bye-laws. It further provides for the Court hearing objections to such applications by parties "having an interest."

The incorporations of Glasgow elect members to a separate incorporation known as the Trades House, which was constituted by Letter of Guildry in 1605. Section 40 of the Letter of Guildry provides that the chairman of these representatives, with the advice of the others, is to "make acts and statutes for good order among" the incorporations.

In 1857 the Incorporation of Tailors in Glasgow passed a bye-law by which it was provided that "the members of the Incorporation shall have power to make bye-laws when confirmed by the Trades' House."

The Incorporation of Tailors presented a petition to the Court for its sanction to certain new bye-laws by which, *inter alia*, a residential qualification was placed upon all applicants for admission, and power was given to the Master Court of the Incorporation to consider the eligibility of all such applicants. The petition was opposed by the Trades House on the ground (1) that they had not confirmed the bye-laws, and that such confirmation was essential under the section of the Letter of Guildry and bye-law quoted above, and (2) that the proposed changes were inexpedient and inequitable. The Court *repelled* the objections stated, and *granted* the petition.

This was a petition presented by the Incorporation of Tailors in Glasgow under section 3 of the Burgh Trading Act 1846 for the sanction of the Court to certain additional bye-laws. The petition was opposed by the Trades House of Glasgow, and by certain members of the Tailors Incorporation, upon the ground (1) that the Trades House of Glasgow had not approved of the proposed bye-laws, and (2) that on the merits they ought not to be sanctioned.

By the Burgh Trading Act 1846 (9 and 10 Vict. cap. 17), which was passed for the abolition of the exclusive privilege of trading in burghs in Scotland, it was enacted—Section 1—"That from and after the passing of this Act all such exclusive privileges and rights shall cease, and it shall be lawful for any person to carry on or deal in merchandise, and to carry on or exercise any trade or handicraft in any burgh and elsewhere in Scotland, without being a burghess of such burgh, or a guild brother, or a member of any guild, craft, or incorporation." Section 2—"That notwithstanding the abolition of the said exclusive privileges and rights, all such incorporations as aforesaid shall retain their corporate character, and shall continue to be incorporations with the same names and titles as heretofore, and nothing herein contained shall in anywise affect the rights and privileges of such incorporations, or of the office-bearers or members thereof," except as regards the abolition of the said exclusive privileges. Section 3—"And whereas the revenues of such incorporations as aforesaid may in some instances be affected, and the number

of the members of such incorporations may in some instances diminish by reason of the abolition of the said exclusive privileges and rights, and it is expedient that provision should be made for facilitating arrangements suitable to such occurrences, be it therefore enacted that it shall be lawful for every such incorporation from time to time to make all bye-laws, regulations, and resolutions relative to the management and application of its funds and property, and relative to the qualification and admission of members in reference to its altered circumstances under this Act, as may be considered expedient, and to apply to the Court of Session by summary petition for the sanction of the said Court to such bye-laws, regulations, or resolutions; and the said Court, after due intimation of such application, shall determine upon the same, and upon any objections that may be made thereto by parties having interest, and shall interpose the sanction of the said Court to such bye-laws, regulations, or resolutions, or disallow the same, in whole or in part, or make thereon such alterations, or adject thereto such conditions or qualifications as the said Court may think fit, and generally shall pronounce such order in the whole matter as may to the said Court seem just and expedient; and such bye-laws, regulations, or resolutions, subject to such alterations and conditions as aforesaid, shall be, when the sanction of the said Court shall have been interposed thereto, valid and effectual and binding on such incorporations: Provided always, that nothing herein contained shall affect the validity of any bye-laws, regulations, or resolutions that may be made by any such incorporation without the sanction of the said Court, which it would have been heretofore competent for such incorporation to have made of its own authority or without such sanction."

The petitioners stated as follows—"The Incorporation of Tailors in Glasgow was incorporated under a charter or seal of cause granted by the Provost, Bailies, and Council of the city of Glasgow, with concurrence of the Archbishop, dated 3rd February 1546. This was confirmed by a charter granted by Queen Mary, which is dated at Stirling 16th April 1556, and on the 11th May 1569 another charter was granted by the city of Glasgow, conferring further powers and making further regulations for the weal of the craft and for its poor. . . . The affairs of the Incorporation are managed by a body of its members annually elected, and called the Master Court, which consists of a deacon, collector, the late deacon and collector, two members nominated by the deacon from the operative members of the Incorporation, who are called deacon's masters, and nine other members chosen by the Incorporation, who are called trades' masters, of whom two-thirds must be operative members. This Incorporation is one of the fourteen incorporated trades of the city of Glasgow. These trades elect members to the Trades House of Glasgow, constituted by the Letter of Guildry of February 1605,

ratified and confirmed, *inter alia*, by an Act of the Parliament of Scotland dated 11th September 1672. The Incorporation of Tailors send six members to the Trades' House, being the highest number competent for any incorporation to send. . . . This Incorporation since 1846 has remained more closely connected with its trade, it is believed, than any of the other incorporations which compose the Trades' House. In July 1878 the Incorporation presented a petition to your Lordships under the above recited Act for sanction to some new bye-laws. After certain procedure, including a report by the Registrar of Friendly Societies, and an interim advising by your Lordships on 11th July 1879, these new bye-laws as amended were approved by your Lordships in July 1880. . . . The object of the present petition is to obtain the sanction of the Court to the new bye-laws which are printed in the appendix hereto, and which were resolved upon at a meeting of the incorporation held on 10th April 1901. The effect of these proposed new bye-laws of the Incorporation is generally—(1) To require increased freedom-fines or entry-moneys as a condition of obtaining any membership interest in the considerable funds accumulated by the Incorporation for over three centuries under its charters and now administered for the expenditure of the Incorporation as by use and wont, and for the benefit of decayed members, their widows and daughters; (2) To enforce the principle and letter of its charters that this is a Glasgow incorporation intended for those connected by residence or business with the city of Glasgow; (3) To regulate equitably the claims of intrants by the near hand (*i.e.*, sons and sons-in-law of members) and those of intrants by the far hand or strangers, and to abolish certain distinctions between members; (4) To secure due competency in intrants by trade essays; (5) To protect the funds and maintain the careful management of the Incorporation by recognising the discretion of the Master Court in deciding on the personal eligibility for admission of every applicant."

The proposed new bye-laws included the following:—"3. That sons and sons-in-law of members who can make an essay and are carrying on the trade either as employer or as employee, and who must be connected with Glasgow by business or residence, shall pay at entry the sum of £7, 10s. 4. That the entry-money of all other sons and sons-in-law hereafter applying for admission, and who must be connected with the City of Glasgow by business or residence, shall be £15. 9. That strangers who are not carrying on the trade, but who have a connection with the city by business, shall pay an entry-money of £100. 14. That the foregoing bye-laws shall be the only bye-laws of the Incorporation regulating the admission of members and their qualifications, entry-money, and other payments, and that all other bye-laws so far as inconsistent therewith are repealed and departed from, but always without prejudice to the

discretion of the Master Court in deciding on the personal eligibility for admission of every applicant."

The result of the additional bye-laws was, *inter alia*, that while under the bye-laws in force at the date of the petition sons and sons-in-law of members were entitled to be admitted to the corporation as a matter of course, and there was no residential qualification needed for any applicant, there would now be a discretionary power in the Master Court to reject all applicants, including sons and sons-in-law, as unsuitable, and it would be an essential condition of admission in all cases that the applicant should be connected with Glasgow "by business or residence."

In the answers lodged by the Trades House of Glasgow and by the opposing members of the Incorporation of Tailors—32 out of 305 members—the respondents averred that the Letter of Guildry (referred to in petition) created a federal union of the fourteen incorporated trades by mutual consent, and that that letter was a decree-arbitral pronounced by oversmen duly appointed following upon a reference between the fourteen incorporated trades as forming the whole body of the Trades Rank, and the whole body of the Merchant Rank, and that since that date every person desiring to be a member of one of the incorporated trades must be also a guild brother. They maintained that it was necessary under section 40 of the Letter of Guildry as interpreted by usage to obtain the sanction of the Trades House to new bye-laws and alterations on existing bye-laws, even where they related exclusively to the internal affairs of the Corporation.

Section 40 provides as follows:—"The deacon-convener shall convene all the deacons of crafts and their assistants at such times as occasion shall require, and shall judge betwixt them and any of them in matters pertaining to the crafts and callings, and shall make acts and statutes for good order among them with advice of the rest of the deacons and their assistants, providing always that these Acts neither prejudice the common weal of this burgh, merchant rank, or their assistants, nor any privileges granted to any deacon of this burgh by their letter of deaconry granted to them, which acts shall be approved of by provosts, bailies, and council."

The respondents averred that this right in the Trades House had been recognised and confirmed by the Incorporation of Tailors in a bye-law passed by them and ratified by the Trades House after the Act of 1846 had come into force, viz., on 28th July 1857, which stated—"Rights—The members of the incorporation have power to make bye-laws for the regulation of its affairs when confirmed by the Trades House."

The respondents averred as regards the usage—"From the year 1672 (when the Letter of Guildry was ratified by Parliament) down to the present year, many examples could be given to show that all the incorporations have at different times laid new bye-laws or alterations on bye-laws before the House for confirmation,

ratification, and enactment, and that upon these occasions the House has either enacted these bye-laws in the form presented to it, or has amended the same before enactment, or has refused to enact them altogether. From 25th November 1672 down to the present year no incorporation, on laying any bye-laws before the House for ratification, has ever declined to amend the same in the manner pointed out by the House, with the single exception of the Incorporation of Tailors, who on 23rd August 1900 declined to approve of amendments suggested by the House on certain altered bye-laws" (these bye-laws being those now sought to be sanctioned by the Court).

The respondents did not ask for any proof of these last averments.

The respondents accordingly maintained that the petition was incompetent. They further averred that the proposals of the petitioners would be prejudicial to the Incorporation, to its members, to sons and sons-in-law of members, and to the Trades House, and that it would be an infringement of the contractual and patrimonial rights of the present members of the Incorporation and of the rights of the Trades House.

Argued for the petitioners—*On Competency*—The Trades House had no right to interfere with bye-laws relating exclusively to the internal affairs of the Incorporation, though they might have such right in the case of the relations of the Incorporation with the other members of the Trades House. Their consent was accordingly not a condition-*precedent* to the confirmation of byelaws such as these. They related solely to the "management and application of its funds and property" and the "qualification and admission of members." With such questions, in terms of section 3 of the Act of 1846, the Trades House had no concern. Nor did section 40 of the Letter of Guildry help the respondents, for it related only to the determination of questions between different incorporations, not to the regulation of the internal government of individual incorporations. The bye-law of 1857 did not involve the declaration that bye-laws not confirmed should not be valid, and the Incorporation did not thereby give up any right it had to make valid bye-laws. 2.

On the Merits—The onus lay on the respondents to show, "as parties having interest," that their objections to the new bye-laws on the merits were well founded. The objections to bye-laws 3, 4, and 9, viz., that they would introduce a new condition of admission, were not well founded, because the effect of them was not to introduce a new principle but merely to make clear what was the practice before, and to enforce what was the principle of the Incorporation, viz., that it was intended for persons connected by business or residence with Glasgow. As for the objection to 14, there was nothing unreasonable in the Master Court having power to consider the personal eligibility of even sons and sons-in-law. It was a matter entirely within the discretion of the Incorporation. In any case the respondents had no interest

to object, the interest alleged by them being of an altogether unsubstantial and remote character.

Argued for the respondents—(1) *On Competency*.—The Trades House had enacted bye-laws for all the incorporations, and till the present question was raised none of them had declined to amend proposed bye-laws in accordance with the suggestions of the Trades House. It possessed this power in virtue of section 40 of the Letter of Guildry as confirmed by the bye-law of 1857. The power to come to the Court for sanction under the Act of 1846 was subject to confirmation by the Trades House. (2) *On the Merits*.—By the new bye-laws 3, 4, and 9, the petitioners were introducing a new condition of admission which would diminish the revenues of the Incorporation by excluding persons now eligible. This would indirectly also affect the funds of the Trades House. These rules, coupled with the 14th new bye-law, would tend to make the Incorporation a much closer body than before, and would put it in the power of the Master Court to bring it to an end altogether by refusing to admit any new members. That was contrary to the policy of the Act of 1846 and subsequent decisions—*Incorporation of Wrights, etc. of Leith*, June 4, 1856, 18 D. 981. These Incorporations had practically become Friendly Societies, and it was not competent to apply their funds to different purposes from those which were originally intended, the members having rights *ex contractu*—*Incorporation of Tailors in Glasgow v. Inland Revenue*, May 26, 1887, 14 R. 729, 24 S.L.R. 516. The proposed bye-laws would be prejudicial to the vested rights of members of the Incorporation, and their sons and sons-in-law.

At advising—

LORD PRESIDENT—This is a petition by the Incorporation of Tailors in Glasgow for the sanction of certain bye-laws proposed by that Incorporation, and it is resisted by the Trades House of Glasgow, as well as by thirty-two members of the Incorporation of Tailors out of a total membership of about 350.

The Incorporation of Tailors is one of the fourteen incorporated trades of the city of Glasgow. It was incorporated under a charter or seal of cause granted by the provost, bailies, and council of the city of Glasgow, with concurrence of the archbishop, on 3rd February 1546, and this charter was confirmed by a charter granted by Queen Mary on 16th April 1556. Another charter was granted by the city of Glasgow to the Incorporation on 11th May 1569, conferring further powers and making further regulations for the weal of the craft and its poor.

It is provided by 9 and 10 Vict. cap. 17—“An Act for the abolition of the exclusive privilege of trading in burghs in Scotland”—sec. 3.—[*His Lordship read the section ut supra.*]

The Incorporation of Tailors in Glasgow at a meeting held on 10th April 1901 passed fourteen bye-laws in addition to the bye-

laws then in force, and it now by the present petition asks the sanction of the Court to these additional bye-laws.

The petition was served on the deacon-convener of the Trades House of Glasgow, as representing and on behalf of the Trades House, and the Trades House and the members of the Incorporation of Tailors already mentioned have lodged answers, in which they maintain, *inter alia*, that the petition is incompetent, because the sanction of the Trades House has not been obtained to the new bye-laws and the alterations on existing bye-laws, and they further state certain objections to the proposed bye-laws and alterations on their merits.

The fourteen incorporated trades in Glasgow elect members to the Trades House of Glasgow, which was constituted by a Letter of Guildry of 14th February 1605, ratified and confirmed by, *inter alia*, an Act of the Parliament of Scotland, dated 11th September 1672. The Trades House is an incorporation separate and distinct from the fourteen incorporated trades, and having separate funds. The Incorporation of Tailors sends six members to the Trades House, the largest number which can be sent by any incorporation.

The Trades House and the individual respondents in their answers state that the Letter of Guildry created a federal union of the fourteen incorporated trades by mutual consent, and that that letter was a decree-arbitral pronounced by oversmen duly appointed, following upon a reference between the fourteen incorporated trades as forming the whole body of the Trades Rank, and the whole body of the Merchant Rank.

The respondents rely upon, *inter alia*, section 40 of the Letter of Guildry, which provides that “the deacon-convener shall convene all the deacons of crafts and their assistants at such times as occasion shall require, and shall judge betwixt them and any of them in matters pertaining to the crafts and callings, and shall make acts and statutes for good order among them with advice of the rest of the deacons and their assistants, providing always that these acts neither prejudice the common weal of this burgh, Merchant Rank, nor their assistants, nor any privileges granted to any deacon of this burgh by their letter of deaconry granted to them, which acts shall be approved of by provost, bailies, and council.” This section seems to me to provide for the determination of questions between the different incorporations and for the making of regulations directed to govern their mutual relations, but I do not think that it confers any power on the Trades House to enact regulations for the internal government or management of the affairs of the individual incorporations, or authorises that House to decide any such matters as those to which the present petition relates.

It is stated by the respondents that the Trades House has enacted bye-laws for all or some of the fourteen incorporations, and they also state that until the present

question arose no incorporation has declined to amend bye-laws proposed for its government in the manner directed or suggested by the Trades House; but I did not understand that any proof of this allegation was asked, and even if it was proved it would not, in my view, be material to the question which we have to decide.

It further appears that, in a series of bye-laws enacted on 28th July 1857, for the Incorporation of Tailors, the following provision occurs—"The members of the Incorporation shall have power to make bye-laws for the regulation of its affairs when confirmed by the Trades House." This, the respondents maintain, makes confirmation by the Trades House a condition-*precedent* to the validity of any bye-laws made by the Incorporation of Tailors, but in the absence of fuller information as to the circumstances under which this bye-law was made, I think it would be unsafe to hold that such an affirmative declaration as it contains involves a negative declaration that no bye-laws not so confirmed shall be valid. So far as appears from the information before us, the Incorporation did not intend to give up, and did not give up, any right which it previously possessed to make effective bye-laws.

It only remains to consider the argument of the Trades' House, that it has a right of absolute veto upon the bye-laws without cause shown. It might appear that this objection should have been considered first, but the conditions under which it arises will be better understood after the real nature of the questions between the parties has been stated. I think that this plea-in-law, which disputes the jurisdiction of the Court even to consider the petition, is not well founded. The fourteen individual incorporations are older than the Trades House, and each, *prima facie*, possesses the power of internal regulation which belongs to such incorporations from their nature, unless that power has been limited or taken away by some lawful authority, and it does not appear to me that the letter of guildry, or any of the other documents produced or the facts stated, had this effect. The provision which comes nearest to supporting the argument of the Trades' House is contained in the bye-law of 28th July 1857, already noticed, which declares that the Incorporation shall have power to make bye-laws for the regulation of its affairs "when confirmed by the Trades House," but for the reasons already given I do not think that it has the effect for which the Trades House contends. Occurring as it does in the internal regulations of the Incorporation, it practically amounts to a self-denying ordinance on its part, and I do not think that it is sufficient *per se* to bring about the result contended for by the Trades House.

I think that *prima facie* the effect of sec. 3 of the Act 9 and 10 Vict. cap. 17, is to authorise such incorporations to make such bye-laws with respect to their own internal affairs as they think fit, subject to the sanction of this Court; and that the Act does not recognise any right on the part of any

body or person external to the Incorporation to veto bye-laws or other internal regulations, unless such body or person shall satisfy the Court that the bye-laws to which it objects are in themselves unreasonable or improper. The abolition of the exclusive privileges of such trading incorporations operated so large a change that it was not unnatural that such a provision as this should be made. If, therefore, the objections stated by the Trades House and the individual respondents to the bye-laws are well founded on their merits it would be within the power and according to the duty of the Court to give effect to them, but if the Court should consider that they are not on their merits well founded, it can and in my view should decline to give effect to them. Assuming the Trades House to be "persons having interest" in the sense of sec. 3 of the Act 9 and 10 Vict. cap. 17, we have duly heard them as required by that Act.

The objections taken by the respondents are to certain parts of Nos. 3, 4, 9, and 14 of the bye-laws. Nos. 3 and 4 relate to the entry-money payable by the sons or sons-in-law of members, and each of them contains the words, "and who must be connected with the city of Glasgow by business or residence." No. 9 relates to the entry-money payable by strangers not carrying on the trade, and it contains the words, "but who have a connection with the city by business or residence;" and No. 14 provides at its conclusion that the bye-laws are "without prejudice to the discretion of the Master Court in deciding upon the personal eligibility for admission of every applicant."

The respondents object to bye-laws 3, 4, and 9, because they would introduce a new condition of admission, *viz.*, that the parties seeking it should "have a connection with the city by business or residence;" while the Incorporation of Tailors submits that this proposed condition would merely enforce the principle and letter of its charters that it is a Glasgow incorporation intended for persons connected by residence or business with the city of Glasgow. It seems to me that on its merits the proposed amendment of the bye-law is quite reasonable, relating as it does to admission into a Glasgow trading incorporation. The Trades House objects to it upon the ground that it would diminish the revenues of the Incorporation by excluding from the benefits of it persons who at present are admissible to these benefits, and thus indirectly affect the funds of the Trades House. The interest pleaded on the part of the Trades House appears to me to be too slender, remote, and unsubstantial, and upon the merits I think the objections fail.

The remaining objection to the proposed bye-law 14 is of a different character. That bye-law concludes with the words "without prejudice to the discretion of the Master Court in deciding upon the personal eligibility for admission of every applicant," and the respondents suggest that to this bye-law the following words should be added, "as a stranger by the far hand." The bye-laws proposed by the Incorporation

tion of Tailors would allow the Master Court to decide upon the eligibility of applicants seeking to enter by the near hand, *i.e.*, sons and sons-in-law, and the respondents object to this as taking away or interfering with what they assert to be at present a right on the part of sons and sons-in-law. It does not, however, appear to me to be unreasonable that the Master Court should have the power of considering the personal eligibility even of sons and sons-in-law claiming to enter by the near hand, as they might in point of character or otherwise be so unsuitable that they ought to be excluded. The Incorporation is not a friendly society in which certain pecuniary advantages have been purchased and are payable *ex contractu* apart from the personal qualities—merits or demerits—of the persons claiming. For these reasons I think that it is for the Court to consider and decide upon the objections stated by the respondents to the proposed bye-laws, and upon careful consideration of these objections it appears to me that they are not well founded. I am therefore of opinion that the objections should be repelled, and that the prayer of the petition should be granted.

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

The Court pronounced this interlocutor:—

“Grant the prayer of the petition: Interpone authority to the additional bye-laws enacted by said Corporation of Tailors set forth in the appendix annexed to the petition: Sanction and authorise said bye-laws as approved of by this Court to be valid and binding upon said Incorporation, all in terms of the Act 9 and 10 Vict. cap. 17; and decern.”

Counsel for the Petitioners—Guthrie, K.C.—Hunter. Agents—John. C. Brodie & Sons, W.S.

Counsel for the Respondents—Ure, K.C.—Guy. Agents—Campbell & Smith, S.S.C.

Tuesday, November 19.

FIRST DIVISION.

[Lord Pearson, Ordinary.]

MORISON (TODD'S CURATOR BONIS),
PETITIONER.

Judicial Factor—Curator Bonis—Special Powers—Power to Sell Shares in English Companies—Whether Special Powers Necessary—Judicial Factors (Scotland) Act 1889 (52 and 53 Vict. cap. 39), sec. 13—Lunacy Act 1890 (53 and 54 Vict. cap. 5), sec. 131, sub-sec. 3.

A *curator bonis* presented a note for authority to sell certain shares held by his ward in English companies, or alternatively for a finding that he was entitled to sell them without first ob-

taining the authority of the Court. It appeared that in consequence of the terms of the Lunacy Act 1890, sec. 131 (3), certain English companies had refused to register transfers granted by a *curator bonis* to a lunatic. The Court, in the circumstances, granted the authority craved.

Opinion (per the Lord-President) that a Scottish *curator bonis* has power to sell the personal estate of his ward in England without first obtaining the authority of the Court.

This was a note for special powers presented by James Morison, *curator bonis* appointed to John Archibald Todd, ink manufacturer, Perth, in which the curator craved authority to sell and execute certain transfers of shares which his ward held in English companies, or alternatively for a finding that he was entitled to sell them without first obtaining the authority of the Court.

The Lunacy Act 1890 (53 and 54 Vict. cap. 5), section 131, sub-section (3), enacts as follows:—“Where a tutor-at-law after cognition, or a *curator bonis*, has been appointed to a lunatic in Scotland who has personal property in England or Ireland, the tutor-at-law or *curator bonis* shall, without an inquisition or other proceedings in England or Ireland, have all the same powers as to such property, or the income thereof, as might be exercised by the committee of a lunatic so found by inquisition in England or Ireland.”

The Judicial Factors (Scotland) Act 1889 (52 and 53 Vict. cap. 39), section 13, enacts as follows:—“An official extract of the appointment of any judicial factor, trustee, tutor, curator, or other person judicially appointed, and subject to the provisions of the recited Acts or of this Act, shall have throughout the British dominions, as well out of Scotland as in Scotland, the full force and effect of an assignment or transfer executed in legal and appropriate form of all funds, property, and effects situated or invested in any part of the British dominions, and belonging to or forming part of the estate under his charge; and all debtors and others holding any such funds, property, or effects shall be bound, on production of such official extract, to pay over, assign, or transfer the same to such judicial factor, trustee, tutor, curator, or other person.”

The curator stated in the note that his ward's moveable estate consisted largely of stocks and shares of railways and limited companies in England, the capital value of which amounted to about £7800; that these stocks and shares were not of the character which a *curator bonis* was empowered to hold, and that he had accordingly, after consulting the Accountant of Court, resolved to sell them.

The curator further stated that before selling certain stocks of the Great Northern Railway Company he ascertained from the company that in their view they could not register transfers of the stock executed by him without an order from the Court, on the ground that “a *curator bonis*, with