

whether it is reasonable or not. I admit that, but it is the fault of the appellants themselves. I can hardly conceive any state of circumstances calling for less consideration from this Court; and, without saying anything as to the competency, I am of opinion, on the merits, that the application is utterly unfounded.

The other Judges concurred.

Agent for Appellants—W. Ellis, W.S.

Agents for Respondent—Murray, Beith & Murray, W.S.

## COURT OF JUSTICIARY.

*Saturday, May 29.*

### HIGH COURT.

**CROALL v. LINTON.**

*Burgh—Edinburgh Provisional Order, 30 & 31 Vict. c. 58—Regulation of Coach Traffic—Jurisdiction.* By section 109 of the Edinburgh Provisional Order, the magistrates held entitled to regulate the time of starting and the stance of a public conveyance which, starting from a point within the jurisdiction, plied beyond the same.

This was a suspension brought by Mr John Croall, coach-proprietor, Edinburgh, for the purpose of setting aside a conviction obtained against him in the Police-court of Edinburgh for causing the Dunfermline coach to stand at and start from a place different from that appointed by the magistrates under by-laws said to be passed in virtue of a certain section of the Edinburgh Provisional Order.

The by-law said to be contravened was in these terms—"The Dalkeith, Lasswade, and Dunfermline omnibuses shall start from the west end of Kennedy's Hotel;" and the section of the Provisional Order (sec. 109) said to authorise this by-law was as follows:—"The Magistrates shall be empowered, and they are hereby authorised, to prevent within the limits of their jurisdiction the plying or running of omnibuses or other carriages for the conveyance of passengers which shall be in a state of disrepair or insecurity, or not adapted in all other respects for the conveyance of passengers with safety and comfort, or drawn by horses not sufficiently strong or in good condition, or not sufficiently trained or broken in, and that by imposing penalties not exceeding for each offence five pounds on the owners or contractors or drivers of such omnibuses or other carriages which shall be found by the Magistrate or Judge of police before whom the same may be brought to be in an unsafe or unfit state for the conveyance of passengers, or not drawn as aforesaid: and the Magistrates are further empowered to make by-laws for regulating the number of passengers to be carried by and times of running of such omnibuses or other carriages, the places at which the same shall stand, the times at which the same shall start, and all other matters tending to promote regularity and public convenience; and may vary and alter the same from time to time, and may enforce the same against the proprietors or conductors or drivers of such omnibuses and other carriages in like manner and under a like penalty." The suspender maintained that the magistrates had no power under the above section to interfere with the arrangements of the Dunfermline coach, which

was a stage-coach carrying Her Majesty's mails, and otherwise acting as a public carrier, and which had for forty years started from the door of the suspender's office, whence alone it was convenient that it should start. He argued that, looking to the intent and scope of the Provisional Order, it was impossible to hold that the section founded on applied to any carriages other than those which were used for urban or suburban traffic.

CLARK and MACKINTOSH for suspender.

Solicitor-General (YOUNG, Q.C.) and GIFFORD for respondent.

At advising—

The Court held that the section of the Provisional Order applied to the Dunfermline coach and to all other carriages for the conveyance of passengers traversing the magistrates' jurisdiction, whether they plied exclusively within the jurisdiction, or merely started from it, or merely passed through it. The magistrates had therefore power to make the by-laws in question, and the reasons of suspension, so far as founded on defect of jurisdiction, fell to be repelled.

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

Agent for Respondent—John Richardson, W.S.

## COURT OF SESSION.

*Thursday, June 3.*

### FIRST DIVISION.

**BUCHANAN v. GLASGOW CORPORATION**

**WATER WORKS COMMISSIONERS.**

*Acquiescence—Statutory Commissioners—Interdict—Competency.* A landowner having for ten years made no complaint of pipes which had been laid through his lands at an unauthorised level by statutory commissioners, held barred from objecting, in a suspension and interdict, to the laying of a new pipe alongside of the old, the commissioners having power to alter or add to their pipes.

In 1855 the respondents were authorised by statute to construct water works for the conveyance of water from Loch Katrine to Glasgow, and for that purpose they acquired land and wayleave through other land from Mr Buchanan of Carbeth. By the Act the commissioners were entitled to execute all necessary works in lines and on levels delineated on deposited plans, it being provided that they should not be entitled to make any vertical deviation exceeding five feet. By the 68th section of their Act power was given them to alter, enlarge, and increase the number of pipes. Subsequently, by an Act passed in 1865, the commissioners were empowered to construct a bridge over the Endrick for conveyance of the water thereby instead of by a syphon in the bed of the river, as was previously the case, and to perform all necessary works in connection therewith. Mr Buchanan presented this note of suspension and interdict, alleging that the commissioners were now laying additional pipes through his lands at levels not permitted by the Act of 1855, and craving interdict. The respondents pleaded that the works were being done under the Act of 1865; and further, that the complainer was barred by consent and acquiescence from now objecting to the level of the pipes. The Lord Ordinary refused interim interdict, and thereafter found that the work in progress when the interdict was applied