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

for was being executed under the statute of 1865. He therefore repelled the reasons of suspension, and refused the interdict.

Mr Buchanan reclaimed

Watson and Hall for reclaimer.

Millar, Q.C., and Burnet for respondents.

At advising—

Lord President—I don't think it is necessary to call for any answer, because, although I am not sure that I agree with all the findings by the Lord Ordinary, I have no doubt that his judgment is in substance right. The Act of Parliament under which the course of the water works was made through the complainer's lands is the Act 18 and 19 Vict., and the 53d and 54th sections confer on the water works commissioners a power to make works according to deposited plans, and also give them certain powers of deviation in a vertical direction within limits not exceeding five feet. The 68th section, which is the material one for consideration, gives the commissioners power from time to time to alter, enlarge, or increase the number of pipes. Uuder this Act of 1855 the works were constructed, and were constructed through the complainer's grounds in such a way as, he says, to operate a greater vertical operation than that permitted by the 54th section. In short, the level of the works as constructed comes nearer the surface than was justified. But of that the reclaimer did not complain, being, as he says, unaware that the provisions of the statute had been violated. Ten years have passed, and he does not yet complain, nor does he even complain in this process, for he says his complaint is limited entirely to the new three-foot pipe, so that he has not yet complained of the level at which the water-works were made through his lands under the Act of 1855. But this is the existing work of the Company, which is in constant use for the important purpose of supplying the city of Glasgow with water, and it appears to me that, if Mr Buchanan ever intends to make a complaint against these existing works, he cannot do so in the form of a suspension and interdict. But in the meantime there stand the existing water-works of the commissioners at a distance below the surface which no doubt is not justified by the statute, but uncomplained of by him. Although the deviation is unauthorised, the work does not on that account cease to be the existing work of the Corporation. Taking that in connection with the 68th section, the commissioners are authorised to alter, enlarge, and increase the number of the pipes from time to time. Now, while this is the existing statutory work of the Corporation, can the reclaimer be allowed to say that, because the original deviation was beyond the powers in the statute, they are not entitled to make any alteration? Are they not entitled to repair the works, or to make them more efficient for the statutory purpose, or to enlarge the four-foot pipe, or add another? I must say that, while these continue to be the existing works of the commissioners, they are entitled to do all the operations authorised by the 68th section, operations which they were engaged in when this suspension and interdict was presented.

The case has been complicated, because a new operation was going on at the same time and in the same locality under the authority of a different Act of Parliament. But Mr Hall properly pointed out that the crossing of the Endrick by a bridge instead of a syphon has no necessary or natural connection with the addition of the three-foot pipe. There may be some remedy, which may result in alteration of the original works; but so long as this does not take place, it is extravagant to say that while the original pipe remains you cannot add to it. I think it is impossible to accomplish that by a suspension. It may be observed, that the interdict was refused as an interim interdict, and that refusal was acquiesced in. The complainer then went on, not through any hope of stopping the work, but in order to try the question of right in the suspension. I think it was not a competent process for that purpose, and that nothing but a declarator of removal would raise the question attempted to be raised here. I am, therefore, clear that our judgment must be for the complainer.

The other Judges concurred.

Agent for Complainer—J. Macknight, W.S.

Agents for Respondents—Campbell & Smith, S.S.C.

Thursday, June 3.

COCHRAN'S TRUSTEES *v.* GOW AND OTHERS.

Trust—Reserved Power to Alter—Power of Appointment. A testatrix having heritable and moveable property, and also having a power of appointment to a shop under her father's will, executed a formal settlement, reserving power to alter or revoke. At her death she left, besides that deed, a writing signed by her, but neither holograph nor tested, called her last will, giving various legacies, and appointing her sister to get the shop. *Held* that the writing was invalid, both as a testamentary writing and as an exercise of the power of appointment.

By trust-disposition and settlement, dated October 1864, Mrs Cochran conveyed her whole estate, heritable and moveable, to trustees, directing payment of certain legacies, &c., and reserving "full power to alter, innovate, revoke or cancel these presents in whole or in part, at any time of my life, and even on deathbed."

At the period when the said trust-disposition and settlement was executed, Mrs Cochran's estate consisted of certain cash in bank; the sum contained in a certain personal bond in her favour; the sum of £500, contained in a bond over property in Stockwell Street, Glasgow, and a shop in King Street, Glasgow, which her father, the late Mr Thomas Cameron, had, by trust-disposition dated 14th February 1854, conveyed to trustees for her behoof in liferent, and for behoof of any person whom she might appoint, by a writing or writings under her hand, in fee.

Mrs Cochran died in Dec. 1867, leaving, in addition to the above-mentioned deed, a writing signed, though not written, by her, in the following terms:—"Last will of Mrs Cochran, St George's Rd.—That when Mr John Cameron's money is paid over to my trustees, each of my grandchildren are to receive a Thousand pounds, to be put in the bank till they are twenty-five years of age, or till the trustees are satisfied they are able properly to take charge of it. My son Benjamin to receive the residue, and at his death to be divided between Mrs Gow and the children equally. I wish nothing sold in the house. My sister Jessie to get the shop in King St., and the bond of property in Stockwell St. to my granddaughter Agnes. No husband to