is limited to trusts in which the trustees act gratuitously. Now, that section was attracted by the Trusts Act of 1887 to the 2nd section of the Act of 1867—that is to say, those trusts which are defined in the 2nd section of the Act of 1884 have applied to them the provisions of the 12th section of the Act of 1867, which empowers the Court to appoint trustees on the petition of parties interested. I think therefore that the Lord Ordinary's deduction of the course of legislation is satisfactory up to this point, but it also appears to me to be made out that an application for the appointment of a trustee under the 12th section of the Act of 1867 is competent, even where the trust is not a gratuitous one, becuuse of the effect of the Act of 1884.

LORD M'LAREN—I agree, and I think there is no difficulty in our giving effect to the first alternative of the prayer of the petition. As I read the Act of 1884, it deals with only two objects, one being the regulation of the powers of investment by trustees, the other the extension of the scope of the previous enactments relating to trust administration. Now, the Act of 1884 does not specially allude to gratuitous trusts, but defines "trustee" in a wide sense, and in so doing must, I think, be held to confer on the Court power to appoint in private trusts. I have always thought that the Court by its constitution had the power to supply vacancies in private trusts, and the cases cited by the counsel for the petitioners show that it has been exercised, but at the same time the Court has always been reluctant to exercise their power of appointment in the case of private trusts, and most of the cases in which the Court has appointed trustees have undoubtedly been cases of trusts for charitable or public purposes, but the presumption against the exercise of the power of appointment in private trusts has been entirely displaced by the chapter of statutes known as the Trusts Acts.

LORD WELLWOOD concurred.

LORD ADAM and LORD KINNEAR were absent.

The Court remitted to the Lord Ordinary to appoint a trustee in terms of the first alternative of the petitioners' prayer.

Counsel for the Petitioners — Boswell. Agents—H. B. & F. J. Dewar, W.S.

Wednesday, May 31.

SECOND DIVISION.

[Lord Kyllachy, Ordinary.

THE SOCIETY OF ACCOUNTANTS IN EDINBURGH *v.* THE CORPORATION OF ACCOUNTANTS, LIMITED.

Interdict—Corporation—Title to Sue—Misleading Use of Professional Designation—Chartered Accountants Entitled to Prevent Use by Other Accountants of Initials "C.A."

The members of three Societies of Accountants in Edinburgh, Glasgow, and Aberdeen, which were incorporated by royal charter, adopted the designation of "Chartered Accountant," and used the letters "C.A." after their names as an abbreviation of that designation. These initials were universally recognised by professional men and the public as the designation of members of the three chartered societies, and prior to 1891 no other persons had used these initials with the exception of a few persons practising in Scotland, members of the Institute of Chartered Accountants of England and Wales, incorporated by royal charter.

In 1891 a number of accountants who were not members of any of these chartered incorporations, and who had endeavoured without success to obtain a royal charter for themselves, formed themselves into a limited liability company, called "The Corporation of Accountants, Limited," and in their articles of association adopted the designation of "Corporate Accountant," and thereafter they made public use of the initials "C.A.," and appended them to their signatures in the course of their professional employment.

Held that three Chartered Societies of Accountants and the individual members of these societies had no interest to reduce the articles of association and the certificate of incorporation of the Corporation of Accountants, Limited, but were entitled to interdict the members of the Corporation of Accountants, Limited, from using for professional purposes or as a professional designation the letters "C.A.," or any other letters or words, or abbreviation of words, calculated to lead the public to believe that they were members of one or other of the bodies of accountants in Scotland which were incorporated by royal charter.

The Society of Accountants in Edinburgh were incorporated by royal charter in 1854. The Institute of Accountants and Actuaries in Glasgow were incorporated by royal charter in 1855. The Society of Accountants in Aberdeen were incorporated by royal charter in 1867. These three societies are the only bodies of accountants in Scotland who are incorporated by royal charter. The conditions of membership are in each

body regulated by the charter or by bye-laws and regulations under the powers of the charter. These conditions are not uniform, but have generally the same object, viz., the exaction and maintenance within the societies of a high standard of education, conduct, and professional capacity. The members of the three bodies are numerous, and carry on the practice of their profession in competition. There is no provision in the charters or in any bye-laws hitherto made prescribing any particular designation to be used by the members. But from about the date of each charter, the members of each body have been in use to designate themselves as "chartered accountants," and to use as an abbreviation for that title, and as an affix to their names, the initial letters C.A. Professional men and the public generally came to understand the words "chartered accountant" and the abbreviation "C.A." as designating the members of these three chartered bodies. Before 1891 no other persons used this designation or these initials with the exception of a few members of the Institute of Chartered Accountants of England and Wales who practised in Scotland.

In 1884, and again in 1890, an association styling itself "The Scottish Institute of Accountants" presented a petition to Her Majesty in Council, praying for the grant of a royal charter of incorporation. On each occasion the petition was opposed by the three chartered societies, and the prayer of the petition was refused.

On 12th November 1891 seven members of the Scottish Institute of Accountants formed themselves into a company, and registered themselves at the office of the Registrar of Joint-Stock Companies for Scotland under the Companies Acts 1862 to 1890 under the name of "The Corporation of Accountants, Limited." Article 12 of the articles of association of the said company was as follows—"Every member shall be entitled to a certificate of admission, which shall entitle him to designate himself 'corporate accountant' as belonging to this association, and he may take and use any initials or abbreviations thereof." The certificate of membership is directed to be in the form given in Schedule C annexed to the articles of association, and which form runs as follows—"This is to certify that of is a member of 'The Corporation of Accountants, Limited,' and that as such he is entitled to designate himself 'corporate accountant,' and to take and use any initials or abbreviations thereof.—Given under the Common Seal of the Corporation of Accountants, Limited, this day of 18 .— President; Secretary."

Thereafter the members of the Corporation of Accountants, Limited, made public use of the letters "C.A.," appended them to their signatures, and inserted them in advertisements after their names in course of their professional employment.

In these circumstances the three chartered societies and two members of each society, as individuals, raised an action against the Corporation of Accountants, Limited, and two individual members thereof, concluding, first, for reduction of the articles of association of the defenders' company, or otherwise article 12 of the said articles and relative schedule, "in so far as the same purport to confer on the individual members of the said corporation the right to use for professional purposes and as a professional designation, the letters C.A., or any other words or abbreviation of words calculated to lead the public to believe that they are members of one or others of the bodies of accountants in Scotland which are incorporated by royal charter," and the certificate of incorporation granted by the Registrar of Joint-Stock Companies for Scotland following thereon;" and secondly, for interdict against the individual defenders, prohibiting them, "and each of them, from using for professional purposes or as a professional designation the letters C.A., or any other letters or words or abbreviation of words calculated to lead the public to believe that they are members of one or other of the bodies of accountants in Scotland which are incorporated by royal charter, and from doing anything to infringe the sole and exclusive right of the pursuers, the said James Howden, Thomas Goldie Dickson, Walter Mackenzie, John Ebenezer Watson, Alexander Ledingham, and James Meston, and the other members of the Society of Accountants in Edinburgh, the Institute of Accountants and Actuaries in Glasgow, and the Society of Accountants in Aberdeen, to the use of the said letters as a professional designation."

In their condescendence the pursuers stated, *inter alia*—"The pursuers believe and aver that in framing the said articles of association, and forming themselves into a company, the promoters had no legitimate object to serve, and that their sole purpose, or at least their main purpose, was to make use of the initial letters 'C.A.,' which, although they are the initials of the words 'corporate accountant' (a term never before heard of), will in reality lead the public to believe that they represent the words 'chartered accountant,' and which will thus deceive the public, and injuriously affect the interests of the pursuers and of the individual members of the chartered societies. The defenders have all along been well aware of the use by the pursuers of the designation 'chartered accountant,' and of the letters 'C.A.' as an abbreviation therefor, and they have also known the meaning and value which these words and letters have acquired in the mind of the public as denoting membership of one or other of the chartered societies. . . . The use of these of initial letter [C.A., by the two individual defenders] is calculated to deceive, and does deceive, members of the public into the belief that the said defenders Martin and Addie are members of one or other of the chartered societies, and have the special qualifications which the members of these societies possess. The pursuers are appre-

hensive that as the result of the said illegal and misleading use of the said initials by the defenders, the public will employ the defenders professionally, in the erroneous belief that they are members of one or other of the said chartered societies, to the loss, injury, and damage of the pursuers."

The pursuers pleaded—"(1) The memorandum and articles of association libelled, and in particular the 12th article and relative schedule, being an infringement of the pursuers' rights as condescended on, the pursuers are entitled to decree of reduction in terms of one or other of the alternatives libelled. (2) In respect that the Companies Act 1862 does not authorise or contemplate the conferring of any trade name or designation on the individual shareholders registered under its provisions, the 12th article of association and relative schedule are not authorised by the Act, and the registration thereof is inept and invalid. (3) In respect that the part of the Companies Act 1862, under which the defenders' company has been registered, applies to aggregates of individuals seeking to trade as corporations, under a corporate name, and not as individuals trading under their own names, the individual defenders have no statutory authority or protection in appropriating to themselves as individuals a trade name or professional name or designation; and in particular, they have no such authority or protection in respect of any such name or designation which has been already appropriated to others. (4) The pursuers having prior and exclusive right to the use of the letters 'C.A.' for professional purposes, and the defenders having interfered, or threatened to interfere, with the rights of the pursuers as libelled, the pursuers are entitled to interdict as craved, with expenses. (5) The use by the defenders of the said professional designation being calculated to deceive, and actually deceiving, the public into the belief that the defenders are members of one or other of the said chartered societies of accountants, to the injury of these societies and the members thereof, the pursuers are entitled to interdict as craved, with expenses."

The defenders lodged defences, and pleaded—"(1) No title to sue. (2) The pursuers' statements are irrelevant and insufficient to support the conclusions of the summons. (3) In respect that the pursuers have no exclusive right to the use of the letters 'C.A.' for professional purposes, they are not entitled to decree as libelled. (4) The defenders not having infringed the rights of the pursuers in any way whatever, are entitled to absolvitor, with expenses."

A proof was taken by the Lord Ordinary (KYLLACHY), which brought out the facts already stated.

On 12th January 1893 the Lord Ordinary pronounced the following interlocutor:—"Finds that the pursuers have no interest to insist in the reductive conclusions of the summons, therefore dismisses the same; and with respect to the conclusion for interdict, interdicts, prohibits, and discharges the defenders, the said James Martin and James L. Addie, and each of them, from using for professional purposes or as a professional designation the letters 'C.A.,' or any other letters or words, or abbreviation of words, calculated to lead the public to believe that they are members of one or other of the bodies of accountants in Scotland which are incorporated by royal charter; and *quoad ultra* dismisses the said conclusion, and decerns, &c.

"*Opinion.*— . . . I am satisfied that it is not necessary to pronounce any decree of reduction in order to open to the pursuers the question they desire to try. The registration under the Companies Acts of a company under a certain name does not preclude a challenge at common law of the use of that name. Still less can registration of articles of association, conferring powers on the members of a company, with respect to their professional designation preclude questions with third parties with respect to the lawfulness of those designations. I do not therefore propose to consider how far the pursuers have a title to reduce the articles of the defenders' company, or how far such reduction is otherwise competent.

"But the action contains further conclusions which raise the true question which is at issue—[*His Lordship here read the conclusion for interdict*].

"It will be observed that this conclusion suggests two distinct grounds of action, which are also set forth separately in the pursuers' pleas. One is that the defenders have wrongfully represented themselves as members of one or other of the pursuers' corporations. The other is that they have infringed an alleged sole and exclusive right on the part of the individual pursuers, and the other members of the three corporations, to the use, as a professional designation, of the letters C.A.

"It appeared to me when the case was first argued in the procedure roll that, apart from the element of misrepresentation—that is to say, deception of the public to the pursuers' prejudice, it would be difficult to support the action in so far as laid upon the second of the grounds which I have just mentioned—I did not then see, nor do I see now, how there can be any right or property or exclusive use in a name, except when and in so far as the use of such name by others involves personation, and amounts to fraud. I thought, however, that it might possibly be shown by evidence that the proceedings complained of involved not only a false assumption of membership of one or other of the pursuers' corporations, but involved also such an assumption of identity with the individual pursuers or their co-members as might bring the case within what is (perhaps somewhat loosely) called the doctrine of infringement of trade name. For that reason, as explained at the time, I allowed a general proof, and what I have now to consider—at least in the first place—is the import and effect of that proof.

"I cannot say that upon the mere matter of fact I have had much difficulty. I think that the evidence, and particularly the

evidence of the defender Mr Martin (which was given, I must say, with the greatest candour) establishes beyond doubt that the defenders in adopting the designation of C.A. have conveyed to the public that they are members of one or other of the pursuers' corporations, and have thereby appropriated benefits in the conduct of their business which belong properly to the members of those corporations. I think it is further established upon the same evidence that the defenders' purpose in making use of the designation in question was to obtain those benefits. That is to say, I think their object was to identify themselves with the members of the corporations, and to share that amount of reputation and public confidence which the latter, in virtue of their membership, enjoy. I do not say that the defenders admit this in so many words. Their view is that they had right to use the designation, and that such benefits as followed were theirs by consequence. But I am satisfied that the effect and object of the defenders' action was what I have said. And I cannot hold that their position is made better by the formation of the limited company, and their assumption as members of that company of the title of 'corporate accountant.' The whole history of that matter, and particularly of the defenders' application for a royal charter, and their failure to obtain it, make it, I think, plain that the formation of the company was a mere device for the purpose of giving a legal colour to the assumption of the disputed title. The public are not, I think, likely to regard the letters C.A. as representing the words corporate accountant; and I am unable to believe that the defenders either expect or desire that they should do so. The case is, in my view, just the same as if the defenders openly dubbed themselves chartered accountants, and practised their profession under that name.

"The question, however, remains, whether and how far what the defenders have done constitutes a legal wrong, of which the pursuers, or any of them, have a title to complain. And here I may say that if the pursuers' success depended on bringing the case within the principle of those decisions which were chiefly quoted in argument—I mean the decisions on the doctrine of trade name—I should have had considerable difficulty. These cases all rest on the element of personation—personation of some firm or individual, or of the business or manufacture of some firm or individual. Their doctrine does not extend to what I may call personation of a class—that is to say, to the false assumption of some character or qualification common to a number of persons and open to be acquired by an indefinite number of persons. With respect even to 'invented' or fancy names, the doctrine has not hitherto at least been applied, except when the name has become proper to some single person or single firm. Now, the pursuers' corporations do not as such carry on business. There is therefore no personation of the corporations. And with respect to the individual members there are two difficulties. In the first place, they do not all sue, and I doubt whether those who do have a title to sue on behalf of the others, or a sufficiently direct interest to sue on behalf of themselves. But further, I also doubt whether the designation chartered accountant or the abbreviation C.A. is of the nature of a trade name at all. I rather think that both of them are merely descriptive, and descriptive of a character or qualification possessed by a number of persons, and put forward by those persons, not at all for purposes of identification, but as assertive simply of the fact that the character or qualification is possessed. Nor is it enough to say that the designations which are or were primarily merely descriptive may yet by usage come to have a secondary meaning. I do not think that the words chartered accountant can be held to have attained, or perhaps to be capable of attaining, any secondary meaning. I rather think that the designation still signifies just what it signified at the first. The case is not in the category of 'Stone Ale' or Glenfield Starch' or 'Glenboig Fireclay.' It is rather in the category of 'Burton Ale' or 'Edinburgh Ale' or 'Water of Ayr Stone.'—(*Montgomery* v. *Thomson*, May 12, 1891, L.R., H.L.; *Wotherspoon* v. *Currie*, L.R., 5 H.L. 508; *Dunnachie* v. *Young*, 10 R. 508; *Montgomerie* v. *Donald*, 10 R. 566.) In short, I should not, as at present advised, see my way to interfere if the pursuers' case depended on what I have called their second ground of action, as set forth in the second part of their conclusion for interdict, and in their fourth plea-in-law.

"But the other ground of action—that expressed in the first part of the conclusion for interdict and in the fifth plea-in-law—stands, I incline to hold, in a different position. The question is new, and perhaps it opens up a new chapter in the law. But still I am disposed to hold that a corporation, or at least a corporation which exists for such objects as those in question, viz., objects connected with a profession or trade, has a legal right to prevent the assumption of the status of membership by persons who are not its members; and further, that this right may exist although, as here, the complaint is made jointly by three several corporations, and is to the effect that certain persons are in use falsely to represent to the public that they are members of one or other of the three corporations.

"The question is certainly simplified if it be confined to the case of a single corporation, as, for example, the Society of Accountants in Edinburgh. It seems difficult to doubt that a false assumption of membership of that particular corporation would constitute an invasion of its corporate privileges. The society holds a charter from the Crown, and that charter prescribes (by itself or by the bye-laws which it authorises) certain conditions of admission to membership. It prescribes certain examinations and other safeguards

which go to secure the repute of the corporation, and it also prescribes certain admission and other fees which go to augment its funds. It further provides (in effect, if not in words) that the status of membership shall be conferred only by the corporation, and shall be held by nobody on whom it has not been so conferred, and who has not complied otherwise with the prescribed conditions. Now, in these circumstances, is it not an invasion of the charter, and therefore a legal wrong, that a person outside the corporation shall so act as to appropriate the status and reputation of membership, and the pecuniary and other benefits thence arising, and shall do so without complying with the conditions which the charter prescribes? I am bound to say that I see no good reason why I should hesitate so to hold. I do not know that in such a matter much light is to be got from analogies. Each illustration may perhaps be open to the answer that it is *idem per idem*. But what, for example, is to be said as to a false assumption of a degree of some university, or of the Fellowship of the Royal College of Surgeons or of the Royal College of Physicians, as to a false assumption of membership of the Royal Scottish Academy or of the Institute of Civil Engineers or of the Society of Writers to the Signet? I do not know, with respect to any of these bodies, that the question has ever arisen, but if so, it perhaps is because the point has been thought to be too clear. I say nothing at present as to corporations like the Royal Society, or the Royal Society of Edinburgh, or the Society of Antiquaries, or the like, where the element of patrimonial interest is perhaps awanting. Nor do I say anything of societies which are unincorporated, and where also there might possibly be a difference. Here each of the corporations is not only incorporated, but each has a distinct patrimonial interest in enforcing its conditions of membership—an interest attaching both to the corporations as such, but also to its individual members.

"But if this be so—if a wrong is done—and a title to sue exists where there is only one corporation, does it make any difference that there are here three corporations, and that the injury consists in conduct which involves a false representation of membership of one or other of the three? I do not, I confess, see that this makes a difference in principle—at least assuming that, as here, the three corporations jointly complain. There may be a difference in degree. That is to say, there may be a difference in the degree of the injury to each body individually, but I think that that is all, and I am not able to hold that that is enough. Each corporation suffers a legal wrong, greater or less, and that being conceded, the question becomes one merely of title to sue. It may be that upon that question there might be a difficulty if, instead of the whole injured corporations complaining, the complaint was at the instance of only one of them. But here the whole corporations join in the action.

"On the whole, I have come to the conclusion that the pursuers are entitled to interdict in terms of the first part of their conclusion for interdict."

The defenders reclaimed, and argued—The interdict should be refused. These three chartered bodies seemed to think that they had some sort of undefined right to the letters C.A. But before they were entitled to interdict, they must show that they had a patrimonial connection with the letters which were being invaded; they must have some pecuniary interest of which the law would take note. A man might call himself "a minister" or style himself "reverend" and it would be preposterous to maintain that he could be interdicted from doing so. A man might also assume the name of a family—*Du Boulay* v. *Du Boulay*, March 11, 1869, L.R., 2 P.C. 430—or call his house by the name which was borne by the seat of a neighbouring proprietor—*Day* v. *Brownrigg*, December 4, 1878, L.R., 10 Ch. Div. 294—and no one was entitled to interdict him. It had also been held that a firm was not entitled to the sole use of an abbreviation of their name for telegraph purposes—*Street* v. *Union Bank of Spain*, June 19, 1885, L.R., 30 Ch. Div. 156. The pursuers had the same right to the abbreviation "C.A." as Street & Company had to the abbreviation "Street," and that was no right at all. The right of the pursuers was, in short, not such a tangible right as the law would recognise. If they had maintained that the use of these letters by the defenders caused patrimonial injury to themselves they might have had a case, but there was no such argument advanced. Assuming that the pursuers had a right to demand an interdict, they had not had such an exclusive use of these letters as would entitle them to exclude others from the use. They had assumed a name their charters did not give them. The Edinburgh society was formed first, they had tolerated the use of the name "chartered accountant" and the abbreviation "C.A." by the Glasgow society after it was founded in 1855, and both had tolerated the use of the name and abbreviation by the Aberdeen society in 1867. [LORD TRAYNER—They will also tolerate you if you get a royal charter.] Besides, the evidence showed that some men not belonging to these three chartered societies used the initials "C.A." namely, English Chartered Accountants practising in Scotland but who under their charters had no right to practise as chartered accountants outside of England. Two grounds had been chiefly relied on by the pursuers to make out their case—(1) They averred that the use of these letters by the defenders would mislead the public; and (2) that such use would cause loss to themselves. As regards the first of these, a dread of the public being misled was not a ground for interdict which the Court would consider by itself—*Borthwick* v. *The Evening Post*, January 23, 1888, L.R., 37 Ch. Div. 449. As regards the second of these grounds no such loss was proved. An incorporation had no title to come

forward and claim interdict on an averment that the status of its members would be lowered if interdict was not granted. The injury or loss must be so clear as to make the law take account of it; the law would not take account of probabilities. The pursuers had not proved such prejudice, past, present, or prospective, as would entitle them to such a remedy as they asked here. In all cases like this injury to property must be proved. A monopoly in a name was ridiculous. As regards the individual members of these societies who sued, the rights which they claimed to vindicate were too indirect, they did not vindicate any special right for themselves, but a general sentimental privilege for themselves and hundreds of others—*Ewing* v. *Glasgow Commissioners of Police*, January 19, 1837, 15 S. 389, and August 16, 1839, M'L. & R. App. 847.

Argued for the pursuers and respondents —The interlocutor of the Lord Ordinary should be affirmed. The adoption of the designation of "C.A." by the defenders deceived the public and caused loss and injury to the pursuers. The pursuers had a good title to sue—*Mitchell* v. *Gregg*, December 7, 1815, F.C.; *S.S.C. Society* v. *Clark*, July 15, 1886, 13 R. 1170. The fact that members of the English society practising in Scotland designated themselves "C.A." did not apply to the case of the defenders, because the former (1) were chartered accountants, and (2) had made no organised attempt to form a society in Scotland.

At advising—

LORD JUSTICE-CLERK—The pursuers in this case are members respectively of certain corporations which have been incorporated by royal charter in the years 1854, 1855, and 1867, and who consist, each of them, of a considerable body of persons in the accountants' profession, who have obtained these royal charters for the purpose of keeping up a high standard of education, and conduct, and professional capacity among their members. Since the establishment of these incorporations by royal charter it has become the practice throughout the country, and they themselves have adopted it, and it may be said to be now a universal practice in the profession, to designate those who are members of these corporations by the initials C.A., being short for chartered accountant. And so far as we can see up to the present time no other persons have used these initials, nor have they been used by the public in regard to any other persons, unless it be in one or two cases of persons practising in Scotland, members of similar corporations in England. But cases of that kind have been of the most limited description, and as far as the proof is concerned, it would appear that in one case at least the use of these letters was by a directory, possibly without any direct authority at all. But even if the cases had been more numerous it may be argued that these persons are quite within their right in calling themselves chartered accountants, because they are and do belong to a society of accountants which has a royal charter. However that may be, it is plain that there has been no taking of the word chartered accountant or the use of the initials in Scotland to any practical extent up to the date of the present proceedings except by members of the pursuers' societies.

But now a number of persons who are not members of any of these chartered incorporations, and who endeavoured at one time to obtain a royal charter for themselves, not having succeeded in that attempt, have formed themselves into an ordinary limited liability company under the name of the Corporation of Accountants, Limited. To that course the societies of chartered accountants could take no objection. The defenders were entitled to form a Corporation of Accountants, Limited, but the difficulty which has arisen is this, that the members of this Corporation of Accountants, Limited have thought fit to adopt the initials C.A. after their name, as representing, as they say, the words corporate accountants, and it is pleaded that they thereby hold themselves up as being the same in profession and status as those who belong to the three corporations which have a royal charter.

I am satisfied, in the first place, that the intention and purpose—the only conceivable intention and purpose—of the defenders in using these two initials C.A. is that they may appear to be and pass for chartered accountants belonging to these three chartered corporations. I cannot see that there was any other purpose, and indeed, no other purpose has been suggested. It is quite plain that if it was the desire of these defenders to publish to the world that they were members of the Corporation of Accountants, Limited, they could not take a worse way of doing so than by using the initials C.A. after their names, because it is as certain as anything can be that it would never enter into the mind of any member of the public who has any information upon the matter to read these letters C.A. as meaning anything else than what everybody takes them to mean, and what they have always meant, namely, chartered accountants. If it was the honest desire of the members of the Corporation of Accountants, Limited, to publish to the world that they were members of the Corporation of Accountants, Limited, not only could they easily do so without using the letters C.A., but they could not by possibility take a worse mode of so publishing the fact that they are members of the Corporation, Limited, than by using the letters C.A. I have not the slightest doubt that the purpose, and the only purpose, of using the letters C.A. is that they may be taken to be, what all who use the letters C.A. after their names are taken to be, namely, chartered accountants. That disposes of the matter of fact. I may add that a question was put by my Lord Rutherfurd Clark more than once during the discussion, why the defenders did not take letters which might have a different meaning from chartered accountants, and would identify them as members of their

corporation? I do not think any satisfactory answer was given to that question. I do not wish to say that the purpose of the defenders is directly a fraudulent purpose, but it certainly looks very like as if they thought they were entitled to use these letters, and certainly did not object to get any benefit which the use of these letters might confer.

The next question is, whether that is a thing which can be interfered with and interdicted at the instance of those who are members of the chartered societies. I agree with the Lord Ordinary that some of the cases quoted in the discussion do not apply to the present case. This is hardly a question of trade-mark, or a question like that of the identification of goods as being goods of a particular manufacture. But I think the ground upon which his Lordship has proceeded is perfectly sound. If in the case of any public body a name has been adopted by the members, and an abbreviation of that name, well understood and accepted by the public, and the meaning of which is perfectly well known, is universally used to describe members of that body, and if that name or the initials representing the name are held by everybody to represent a certain quality in the person to whom they are attached, then I say that a person daring to use the name or to use the initials that represent the name, without having any right to do so, can be stopped. I think a very safe test may be taken in this present case. Suppose, as regards the words chartered accountants, that it had been the practice for the members of the societies not to abbreviate at all, but to use in full the words chartered accountants, or some abbreviation of the words chartered accountants which, to an educated man, could be read at once as chartered accountants, I do not suppose it would have been contended for a moment on behalf of the defenders that they were entitled to use the words or abbreviated words which on the face of them meant chartered accountants; and if, in the ordinary business of the society, and of the public dealing with the society, it has become the practice to use mere initials, still if these initials are proved to be thoroughly understood and to lead any educated person, who knows what the learned societies are, to read chartered accountant, though only expressed by the initials, then it is exactly the same as if the whole words were used; and in using the letters C.A. the members of this Corporation of Accountants, Limited, are really doing the same thing, as if they put the words chartered accountant after their names. My brother Lord Young asked a question whether as regards any recognised well-known society, such as the Royal Society, or any society of a similar status, it would not be possible to prevent a person calling himself a Fellow of the Royal Society? I do not think any difficulty would be found in preventing that. But this is a much stronger case, because, although the position of a Fellow of the Royal Society is a high one, nevertheless, it is not a case in which the patrimonial interests of the individual are concerned, but certainly, in a case of this kind patrimonial interests of the individual are concerned. If anyone were to practise in Edinburgh, or anywhere in Scotland, as a solicitor, and were to attach to his name the initials, W.S., and place these initials on a plate on the door of his office, he would undoubtedly be holding himself out to everybody, and everybody would consider he was holding himself out, as being a member of the Society of Writers to Her Majesty's Signet. It seems clear that that could be prevented. It is a distinct wrong to those who have obtained the privileges attaching to the position of Writers to the Signet, and one which the law certainly would take cognisance of. It seems to me that this is just a cognate case, and I have come to the same conclusion as the Lord Ordinary, who has found that reduction is unnecessary. It is a case where the Court is entitled and bound to interdict these persons from using what has come to be practically a well-known designation, and which, as the Lord Ordinary describes it, is a guarantee of a certain fixed standard of education, and of a certain professional capacity and status, and therefore I have come to the conclusion that we ought to adhere to the Lord Ordinary's judgment.

LORD YOUNG—The first conclusions here are reductive conclusions, but these the pursuers have abandoned, and the Lord Ordinary has dismissed the action with respect to them. We have therefore only to deal with the conclusion for interdict, and the whole case is presented, and presented unanswerably, by attending to the words of that conclusion, in terms of which the Lord Ordinary has pronounced judgment, for he has adopted the very words of the conclusion. It is to have the defenders interdicted from using for professional purposes, or as a professional designation, the letters C.A., or any other letters or words, or abbreviation of words, calculated to lead the public to believe that they are members of one or other of the bodies of Accountants in Scotland, which are incorporated by royal charter.

The pursuers of the action are the only bodies of accountants in Scotland which are incorporated by royal charter. The Society of Accountants in Edinburgh was incorporated in 1854, the Society of Accountants in Glasgow was incorporated in 1855, and another society was incorporated in Aberdeen in 1867. These are the pursuers, and the interdict they ask is that the defenders shall be hindered from using letters or words, or abbreviations of words, calculated to lead the public to believe that they also are members of these societies. Now, as to the title of the only incorporated societies, I do not think there is any objection to that. Then what answer can there be to their claim to prohibit people from representing themselves as members of these societies? I should have thought the only answer would have

been—"We have never done anything of the kind. You are under a misapprehension, or, at all events, if we have used any words calculated to mislead the public, we regret it, and won't do it any more." I cannot conceive any other answer to the action, but the answer is—"Oh, we are doing it, we have been doing it, and we mean to continue doing it. It is our right to mislead the public by representing that we are members of the incorporated societies which we are not." Did your Lordships ever hear of such a right, put into plain language, in a court of justice. The interdict asked is, that they shall be prohibited, and no more, from using language which will mislead the public into believing that they are members of an incorporated society of which they are not members. They say they are not members, and that they are misleading the public, and that they have a right to do it, or, at all events, that no one has a right to complain. I think that is nonsense on the face of it, and I do not think the case presents any difficulty either in fact or in law. About the facts there is no dispute. The pursuers are the only incorporated accountants in Scotland. The defenders are not incorporated chartered accountants at all, and they are representing, contrary to the fact, that they are. If they were not so representing, there would be no ground for interdicting them. It is only because they are, and because they are insisting that they should be allowed to continue to do it, that there is no arguable defence in point of law. I therefore agree that interdict should be granted.

I may explain, though it is hardly worth while, that I do not think that, by means of a Crown charter or otherwise, the public generally can be deprived of the right to use the ordinary language which describes themselves or which describes their conduct. I do not think a charter could give a right to call themselves exclusively accountants to anybody, or prevent the public, the citizens of this country, calling their occupation by the name which the English language expresses it by. But there is nothing of that sort involved here. The defenders are only interdicted from representing that they are members of bodies of which they are not, by using initials, or anything else, which will signify that fact. They have no occasion to call themselves chartered accountants; they have no occasion to use the letters C.A. They can use a great variety of other designations which will completely represent what they are, without using language calculated to mislead the public in the way they are doing.

LORD RUTHERFURD CLARK—I am satisfied with the judgment of the Lord Ordinary, and the reasons he has assigned for that judgment.

LORD TRAYNER—I agree with the Lord Ordinary, and with the views which your Lordships have expressed.

The Court adhered.

Counsel for the Pursuers — Guthrie — Howden. Agents—John C. Brodie & Sons, W.S.

Counsel for the Defenders — Sol.-Gen. Asher, Q.C.—A. S. D. Thomson. Agents—Ronald & Ritchie, S.S.C.

Thursday, June 1.

SECOND DIVISION.

ELDER *v.* LEITCH.

Poor — Settlement — Forisfamiliation — Pupil Teacher in Minority and Residing in her Father's House.

A girl born on 29th November 1873 became insane on 13th May 1892, and was placed in a lunatic asylum as a pauper lunatic. Until the latter date she resided continuously in her father's house. From 7th January 1889 until 1st November 1890 she served as a monitress in a public school, receiving for this service the sum of £11, 10s. From 1st November 1890 till 6th November 1891, when she had to resign on account of ill-health, she taught as a pupil-teacher in the same school, receiving as salary the sum of £10 per annum.

Held that she was not forisfamiliated, and that therefore the burden of maintaining her fell on the parish of her father's settlement.

Margaret Forbes Tulloch was born in the parish of Kinloss, in the shire of Elgin, on 29th November 1873. Her father was Alexander Tulloch, journeyman carpenter, residing in the parish of New Spynie, in the shire of Elgin. She was born in the parish of Elgin.

From the time of her birth until 13th May 1892 Margaret Forbes Tulloch resided continuously in her father's house. On 7th January 1889 she was engaged as a monitress in Bishopmill Public School under the School Board of the burgh of Elgin, and served in that capacity until 1st November 1890. For this service she received the sum of £11, 10s.

On 1st November 1890 an agreement was entered into between the School Board and Alexander Tulloch, "hereinafter called the surety, the father of Maggie Forbes Tulloch, hereinafter called the pupil-teacher, and the said pupil-teacher," whereby it was provided that she should serve the said School Board as a pupil-teacher.

In pursuance of this agreement she entered upon the duties of a pupil-teacher at the school, and continued to discharge these duties until 6th November 1891, on which date she was obliged to resign her position of pupil-teacher on account of ill-health. During this term of service as pupil-teacher she received as salary the sum of £10.

On 13th May 1892 she became insane, and as a pauper lunatic was placed in the Elgin District Lunatic Asylum by the Parochial Board of the parish of New Spynie, upon which parish she became immediately chargeable.