

turb the distribution, which was made of it in that process, by the interlocutors which she seeks to reduce. I so find accordingly, and assoilzie the defenders from the action, with expenses."

The pursuer reclaimed, and after a debate before the Second Division, (to which the cause had been transferred from the First), the cause was appointed to be heard before seven Judges.

A settlement was thereupon adjusted between the parties, and the cause was taken out of Court.

Counsel for Pursuer—Adam—Kinnear. Agents—H. & H. Tod, W.S.

Counsel for Peter Denny's Trustees—M'Laren. Agents—Murray, Beith, & Murray, W.S.

Counsel for James Donald and Others—R. V. Campbell. Agent—A. Kirk Mackie, S.S.C.

Tuesday, October 30.

FIRST DIVISION.

[Sheriff of Lanarkshire.

EADIE v. HUNT.

Sheriff—Process—Taking of Proofs by Short-hand.

Observed (per the Lord President) that where proofs are taken by a short-hand writer under the Sheriff Court Act 1853 (16 and 17 Vic. cap. 80), sec. 10, and the Act 37 and 38 Vic. cap. 64, sec. 4, it is the duty of the Sheriff to dictate the evidence, and that the practice of having it taken down at length, in the form of question and answer, is not sanctioned by the statutes, and is highly inconvenient in its results.

Wednesday, October 31.

FIRST DIVISION.

[Bill Chamber, Lord Shand.

LAING'S PATENT SEWING MACHINE
COMPANY v. NORRIE & SONS.

Process—Suspension and Interdict—Title to be sisted as Defender.

Where the respondent in a note of suspension and interdict for breach of patent had failed to appear, the Court *refused* to allow third parties—who averred that the machine, the breach of patent of which was complained of, was patented by them, and was in fact being worked by the respondent under arrangement with them—to sist themselves as defenders in the case—*diss.* Lord Shand, who held that as they had the direct interest in the question, they had a title to compare and prevent interdict being granted.

This was a note of suspension and interdict brought by Laing's Patent Overhead Hand-stitch Sewing Machine Company, Dundee, against Charles Norrie & Sons, calenderers, Dundee, for using a sewing machine said to be in violation of the letters-patent obtained by James Laing (whose assignees the pursuers were) in 1874 for improvements in Overhead Sewing Machines.

The respondents failed to appear, but appearance was made for Mr Abbot Glenday, of Dundee, who asked permission to sist himself as defender, stating that he was agent for Messrs Detrick and Webster, proprietors of a patent for "improvements in sewing machines for stitching sacks, &c.," under letters-patent dated subsequently to those of Mr Laing. Mr Glenday, (Detrick and Webster were then absent from Scotland) further stated that Messrs Norrie & Sons were working a machine made in terms of said (Detrick and Webster's) letters-patent, and that the machine they worked was in no way an infringement of Laing's patent; and on these grounds craved to be sisted as respondent in the action.

The Lord Ordinary (SHAND) considered that sufficient interest had been shown to entitle Mr Glenday to be sisted, and on 3d August 1877 pronounced an interlocutor sisting Glenday as a respondent and passing the note, but refusing interdict *in hoc statu*.

The complainers reclaimed.

When the case was heard, it was stated for Mr Glenday and his constituents, and they were allowed to put in a minute to the effect, that the machine complained of was made under their direction, and that they had placed it in the hands of Messrs Norrie, under an arrangement that it should be worked by them for the proprietors of the patent in order that it might be exhibited in operation; that it was so wrought for about six months, and was being so wrought when the note was presented. That Messrs Norrie had no interest in the machine, and that they stopped working it when the note of suspension and interdict was served.

Authorities quoted—*Bontine v. Dunlop*, January 15, 1823, 2 S. 115; *Marquis of Douglas v. Earl of Dalhousie*, Nov. 15, 1811, F.C.; *Chanter v. Thoms*, February 20, 1845, 7 D. 465.; *Shand's Practice*, vol. i. 489, and cases-cited therein.

At advising—

LORD PRESIDENT—This is a note of suspension and interdict presented by a limited company, said to be assignees of a patent for an improvement in sewing machines, first sealed in December 1874, and afterwards altered by disclaimer in 1877. It alleges that Messrs Norrie & Sons, who are calenderers in Dundee, have been using a machine in contravention of these letters-patent, and it craves for interdict against them for infringing the patent. Now, Messrs Norrie & Sons, the only respondents called, have not appeared in the Bill Chamber, and but for what has taken place interim interdict would have been granted in terms of the prayer. But another party appeared—a Mr Glenday—and said he was agent in this country for two gentlemen in California, who aver that they have a patent subsequent in date to Laing's, but nevertheless a good patent, and further that the machine used by Norrie & Sons is constructed according to their patent, and that there was no infringement of Laing's. Mr Glenday has asked to be sisted as representative of these two gentlemen in California, and the Lord Ordinary sisted him. When the case came here it appeared that if any one was to be sisted, the parties themselves should be. The statement made now in the compeerer's minute is, that the machine complained of was made under the directions of