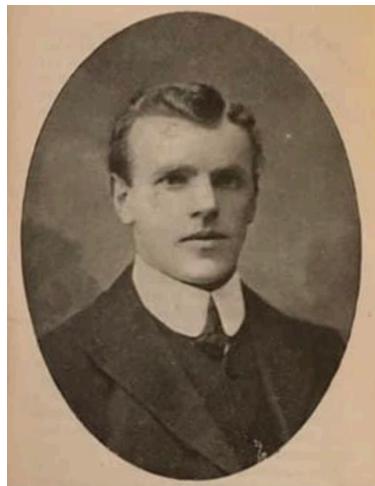


The Galway Ranger and the Old Firm lawsuit



Alex Craig

Only four players from what is now the Republic of Ireland have played for Rangers. One of them was Alexander Breckenridge Craig, born April, 1886, in Galway, to Scottish parents.

Craig was twice a Ranger, initially from 1905-1912, and again, during the First World War between 1914 and 1916. In between, he turned out almost 100 times for Morton.

He was a talented left-back who won nine caps for his native Ireland, and a wartime gong representing an SFA select. But it was in his first full season at Ibrox that notoriety knocked at his door.

Nearing the end of his debut campaign, Rangers travelled across the city to Parkhead for a Scottish Cup tie with Celtic. It was nip and tuck between the Glasgow giants for the season's honours, with everything set to go down to the wire.

The race for the Scottish League finished honours even, with Celtic winning a play-off game, so the Scottish Cup was Rangers' last hope of success. The game was played on Saturday, March 25, 1905, and as it transpired, it would not be played to a finish. Rangers were 2-0 up when a late challenge by Celtic's Jimmy Quinn on Craig was punished by a sending-off. And that's when the trouble started.

Let's rewind to 1905...

QUINN ORDERED OFF

The Celts' players and spectators could, as sportsmen should, have accepted their team being two goals down, but on the top of these disasters there came an incident which turned, almost in an instant, the playing arena into a pandemonium and a pantomime.

Quinn, whose tactics were of the forcible and fearless order, all through the tie up till its enforced stoppage, came into contact with Craig, as the young and promising Rangers back lay on the ground. Quinn's action towards a fallen foe referee Robertson deemed worthy of ordering off, and off that player went, we regret to say, amid the plaudits of a large portion of the crowd, especially at the pavilion end of the field, who, incensed by the whole circumstance, and specially excited by the penalty inflicted upon their idol, actually broke down a portion of the iron railing, and, racing or sliding down the terracotta track, scampered on to the field, surrounded the players, seized the ball, upset the corner flags, whilst a few of them made straight for the referee, and like cowards, assaulted him.

But for Celtic player Hay's interference and help, the doyen of Scottish referees, and one we had thought whose person and whose authority was held at Celtic Park in the highest regard, would have been more seriously injured.

As it was, enough was done to make the act one of the most abject cowardice. When the ruthless invaders came to and found nobody but themselves in the arena, and a few helpless policemen to belabour, they beat a hasty retreat, but not half as hasty as the players, who courageously re-entered the arena, and offered to resume the play and tie, were forced to do, as the rioters re-invaded the ground and again put a stop to the play.

In the pavilion there was much excitement, especially amongst club officials, and also the leading officials of the SFA, who, headed by the President and Vice-President, were happily present and witnesses of the entire proceedings.

Despite all that had taken place, the referee and the Rangers players were willing to once again take to the pitch and play out the remaining eight minutes of the tie.

This could not be done, however, and the Celts' officials agreed, in the cruel circumstances, to award the tie to the Rangers, and so referee Robertson declared the tie at an end as far as he, as an official, and the players under his control were concerned.

Thus ended a cup tie which will stand as one of the most memorable, most regrettable, of all the matches and ties the two clubs have played since their intercourse began at Old Ibrox in the Glasgow Cup tie on October 27th, 1888.

Celtic were once again in trouble. They were ordered to appear before the

Scottish FA at a hastily-arranged meeting to learn their fate. However, as the national press reported on the day of the meeting, they got off scot free - and several contemporary periodicals expressed both their shock and revulsion at the decision made by the game's governing body.

The SFA statement read: 'That we accept the written statement of the Celtic FC, and do not need to hear evidence.'

This was followed by: 'That the Celtic club be cleared of all liability in connection with last Saturday's proceedings at Parkhead.'

There was genuine disbelief all across the country at the weak decision by the SFA. They truly were a laughing stock. One newspaper reported: 'Nothing more astounding or damaging to the sport in our experience of Scottish football since its institution in 1873 has occurred, unless it may be the scandalous and disgraceful riot that followed last Saturday's Scottish Cup semi-final tie at Parkhead, than, we feel sure, has been done to the pastime than this imbecile decision.'

'We quite admit that the Celtic club and its officials were not responsible in the sense of inducing or encouraging the rioters in their mad and blind partisan invasion, but how are persons responsible for this invasion and rioting to be reached except through the club upon whose ground it took place.'

'The association awarded the tie to Rangers, but it has still not done half its duty in the circumstances. In fact, it has, by this decision, dethroned itself in the eyes of all true sportsmen as an independent body, and given a loose rein to the forces of hooliganism and disorder.'

'Here was a national cup tie in which the association's own appointed neutral referee was deliberately assaulted on the field of play. Here was his report before the association, read and considered by that body, detailing the facts of the case from a thoroughly authoritative and impartial point of view, and yet in the face of all this the club upon whose ground such a scandalous event took place is freed from all liability.'

At the meeting, referee Robertson told of how he had no alternative but to stop the match, and of how he was then hit fully in the face, and several Rangers players abused. There was eight minutes remaining.

He said he took the players off the field, and after it had been cleared by police, he brought the teams back on again. This time they lasted just one minute. After a wait of around 15 minutes, the police intimated to Mr Robertson that they felt they had the crowd under control and that they could manage it.

Mr Robertson was ready to take the field once more, but Celtic said they didn't

want to go back on, and that they would agree the tie be awarded to Rangers. Mr Robertson then said that he'd had occasion to warn Quinn several times about his conduct. And he reiterated his point of believing that Quinn's conduct was one of the principal causes of the invasion.

A letter from Quinn was then read out and in it he expressly denied kicking Craig, and this he was prepared to swear on oath. Mr Peter Hutton (Stenhousemuir) moved that Quinn be suspended for one month, which was seconded by the Partick Thistle representative.

Mr Steen (Ayr Parkhouse) felt that one month was an insufficient punishment. He was present at the game and moved that Quinn be suspended for the remainder of the season. Seconded by Mr Danks of Beith.

By a vote of nine to five, Quinn was suspended for one month.

Quinn appealed the decision and stated that he had been the victim of a gross miscarriage of justice. His appeal was thrown out and he was ordered to serve his suspension.

And that was that, or so we believed. Quinn was still furious at his 'miscarriage of justice' and was determined to clear his name - especially when he read in a match report in the Glasgow Evening News that he had 'kicked Craig in the face.' He consulted the club lawyer and decided to proceed with legal action against the newspaper for slander.

The case took place on Wednesday, November 1, and again the following day.

FOOTBALLER'S SLANDER ACTION – QUINN (CELTIC) V GLASGOW NEWS CELTIC-RANGERS SCOTTISH TIE – THE QUINN-CRAIG INCIDENT

The hearing of an important case, in which James Quinn, of Celtic, sued the proprietors of the Glasgow News for £500, took place on Wednesday and Thursday in the County Buildings, Glasgow, before Sheriff Davidson.

The action is the outcome of certain statements which appeared in the News on the 25th March, commenting on Quinn's conduct in the Scottish Cup tie played that afternoon between Celtic and Rangers at Celtic Park, when the referee, Mr Tom Robertson, considered it his duty to order Quinn from the field.

The following was the paragraph containing the statement in question: 'Ten minutes to go and Celtic were attacking. Craig saved, and fell, and when on the ground he was savagely kicked on the face by Quinn.

'This sort of thing could not, of course, be tolerated, and Quinn was instantly ordered to the pavilion, a penalty he richly deserved. A more brutal and uncalled-for action than that of Quinn's has not been seen, we are glad to say, on the football field for many a long day.'

Quinn, the pursuer, was represented by Mr Shaughnessy, the Celtic solicitor, while Mr Cook, of Messrs Maclare, Naismith, Brodie & Co appeared for the defenders.

Mr Shaughnessy explained to the court that pursuer departed from his claim for reparation of pecuniary loss and depreciated value in the football market, and that he restricted his claim of damages to one for solatium for injury to his feelings. The whole matter now to be tried by his Lordship was whether the statement complained of was or was not true. If the statement was untrue, was the pursuer damaged in his feelings?

EVIDENCE FOR PURSUER

Alex Craig, 302 South York Street, Glasgow, replying to Mr Shaughnessy, said he was playing at back with the Rangers in the match. He remembered the incident reported in the News that evening regarding the alleged kicking of him. Witness explained to the court that he had jumped for the ball, and Quinn jumped too. Witness fell under Quinn, and on the latter coming down one of his boots landed on witness's leg. Quinn's other leg was going up witness's body, and he held it. Quinn tried to get his leg free, and ultimately freed it. Quinn did not kick him.

Cross examined by Mr Cook – 'Do you think, as a football player, the referee would have ordered Quinn off the field because you caught his leg and he tried to get it free?'

Craig answered, 'I do not think so.'

'In other words, you think the referee's opinion must have been different from yours?'

'It must have been,' said Craig.

'Then you are satisfied that the referee believed, when he made the report and ordered Quinn off the field, that you might have been stamped upon and kicked?'

'He must have believed it.'

On the Monday after the match, Craig said he had a call from two Celtic players – Hamilton and McMenemy – and he told them that he had not been hurt.

The probability of Quinn's suspension was next brought before him by Mr Wm Maley, the Celtic club secretary, who called upon him on the Wednesday, and he signed the following letter, which Mr Maley wrote: -

29th March, 1905

I hereby certify that on Saturday last when J. Quinn was ordered off the field by referee Robertson he neither kicked nor stamped upon me, but I held his legs for my own protection, being underneath, and he simply struggled to free his legs

which I held.
Alex Craig

In reply further to Mr Cook, witness added that his mother signed the letter as a witness. In Mr Maley's proposed letter the words "for my own protection" were left out, but he (witness) told Mr Maley to put them in.

While the letter stated that he (Craig) "held his legs" that was not correct, as he held only one of Quinn's legs. Mr Maley remarked to witness that the letter would be doing Quinn a good turn, as it was intended to use the letter at the SFA that night.

By the Sheriff – Can you explain why it is that you held this man by the leg, knowing it not to be in accordance with the rules?

Craig answered, 'Because he was going on top of me; he was going to walk over the top of me; he was making to go over the top of me, and I held him because before that my face got trampled on by one of the other players, and I was not wanting the same again.'

Craig said he had no idea how long he had held Quinn's leg.

The next witness was John Herbert McLaughlin, chairman of Celtic FC. He observed Craig falling, and then saw Quinn apparently becoming entangled with him, and in a second Quinn was jerking his leg five or six times.

Then the referee ran up, and afterwards he saw Quinn going off the field. Witness saw all the Rangers players after the match, and there were no marks on Craig's face. After what appeared in the newspapers regarding the incident, witness anticipated that there would be some trouble on the part of the SFA, as that body is bound to take cognisance of all reports such as Mr Robertson, the referee, gave them. Witness, accordingly, ordered Mr Maley to get up evidence for the purpose of proving what, in his opinion, was the case, namely, that Quinn had been ordered off the field for no sufficient reason.

He was still a member of the SFA, and held that the referee's decision is not final, because the association could hear evidence. After the report of the incident in the News, Quinn was suspended for a month by the SFA committee. 'Did you inform the President of the association that it would be undesirable to suspend Quinn, because he was intending to take action against the News?' 'I said to the President of the Association that it would be better to adjourn the case until the sworn evidence in the action against the News would be heard.'

Mr AB McKenzie (Rangers), who acted as linesman at the match, regarding the incident could not say whether Craig was actually kicked or not, but at the time it appeared as if the former was using violence to the latter.

Mr JK McDowall, Secretary of the SFA, was next called, and produced books showing particulars of players who were suspended during the past two years, and who appealed to the Scottish Association committee.

Mr McDowall explained that he would not say that in the case of an appeal evidence had been led. The appeal was after the case had been decided. He did not know that violence had been led on an appeal after they had decided the case. They had considered a letter after that.

Witness then went into the matter related to the finding of his committee in connection with Quinn's suspension. There was the question of an action against the Association, but this had not been raised.

James Stark (Rangers) stated that Quinn had played a fair enough game against him on that day, and he did not see the Celtic forward kick Craig.

In describing the incident, William Orr (Celtic) stated that both players were meeting the ball at the same time. Craig fell, and got hold of Quinn's leg, and Quinn lifted his leg in an effort to release himself from that position. Witness was captain that day, and was paying particular attention to the play.

Craig rose as if nothing was wrong with him, and if he had been kicked on the face a mark would have been made. To say that Craig was savagely kicked on the face would not be true.

Mr Maley said he wrote out the statement which Craig signed and his mother witnessed. So far as witness knew, that statement was an accurate account of what happened that day.

Are you aware that the News was asked by Quinn's law agent to put in the following as a true version of the incident: "We are now satisfied that Quinn did not kick Craig when on the ground or attempt to kick him; and regret the report, and apologise to Quinn. It appears that what really did occur was as follows – Craig fell, Quinn nearly falling over him. Craig gripped Quinn by the foot, and Quinn's frantic efforts to jerk his leg free were mistaken by our reporter for Quinn kicking Craig. We are more satisfied of this by the fact that Craig was not marked on the face or body, as he would have been were he kicked by Quinn when lying on the ground?"

I heard that they had been asked to put that in as a true report. When he saw Craig at his house he did not mention, among other things, that one of the risks involved in Quinn's suspension would be that he would lose his wages during the period of suspension, and did not bring that forward as an argument for Craig to sign the letter.

Following other witnesses in the persons of William Mossman, Rutherglen; Bryan

Rafferty, Shawlands (who gave evidence as a spectator); Alexander Fraser, Rangers; James McMenemy and Alexander Bennett, Celtic, the pursuer, James Quinn, Hamilton's Land, Condorrat, was put in the box. In reply to Mr Shaughnessy, he stated that he was 25 years of age, and had played for the Celtic club for four years. He had several League caps, and had frequently played in matches where Tom Robertson was the referee.

During the match in question witness was cautioned twice by Referee Robertson. Regarding the incident in question witness gave his version, which was to the effect that the ball was sent from the left half. It struck Craig and then rebounded from witness up the field. Quinn added that when he went to get the ball, when Craig fell, and his (witness's) foot was caught between his legs. Witness tried to get away, but Craig still retained his hold, and then witness wriggled to get out. At that time the referee blew his whistle, and told him (witness) to go to the pavilion. Witness was very much aggrieved and annoyed at what appeared in the newspapers with regard to the incident in question. He would have been perfectly satisfied had such a statement as drafted appeared in the News, as he wanted an apology, and had no wish to take legal proceedings if his case was put right before the public. The references in the referee's report as to what occurred on the day in question was not correct.

It might be that his frantic efforts to jerk his leg had been mistaken by the reporter for kicking.

Relating to an incident as to coming into contact with May (Rangers), who had to retire temporarily and receive the attention of the trainer, Quinn could not recollect saying to the injured player that he should have got twice as much. His action was not raised for the purpose of getting damages, but simply for clearing his character from what he thought uncalled-for remarks regarding his play.

The News declined to put in anything unless it was a statement coming from him alone.

THE DEFENCE

The first witness for the defenders was David Loudoun, secretary and business manager of the News. In reply to Mr Cook, he said the News made a special feature of football reporting, and gave details of the manner in which the reporting was done. In some cases it was done by telephone. One of the reporters, William Scott, wrote the report complained of. Another reporter, named Leckie, was reporting the match at the same time. He was not aware whether it was Scott who reported the match between the Rangers and Third Lanark on April 15, in the report of which a reference was made to the Quinn incident. He could not say at all that the incidents of the Celtic-Rangers match and the Third Lanark-Rangers match referred to in the News were similar.

'Are you still unwilling to insert any contradiction?' he was asked.
'We are willing to give Quinn's version of what took place. Beyond that we decline to go.'

THE REFEREE'S EVIDENCE

Thomas Robertson explained that he had been connected with football for the last 20 years, and for nine years had acted as a referee. He had refereed in a large number of the principal matches, including 25 internationals. He had often acted as referee in matches between Celtic and other clubs.

On the day in question he refereed the match. Shortly after the game started he had occasion to caution Quinn for deliberately, in his opinion, trying to kick the Rangers goalkeeper. He considered Quinn's rush at Sinclair as quite uncalled for. This was in the first 10 minutes of the game, and on one or two occasions he had to penalise the player for some small infringements.

He had occasion to caution Quinn a second time twenty minutes from the end in connection with Sinclair. The ball was going into the goal and Quinn deliberately rushed at Sinclair with intent to injure him. Witness cautioned Quinn, and told him if he would not play the game he would put him off the field.

Stark, of the Rangers, remonstrated with the witness in connection with Quinn's play.

Ten minutes from the regulation conclusion of the game the ball came to Craig, who made to kick the ball, but spooned it, and the ball twisted over towards the touch line. Quinn, who was on the run at the time, deliberately rushed at Craig. Craig fell on his back, while kicking the ball, and was lying on the field of play. Quinn ran right on when he could easily have gone to one side. The whistle was blown for a foul against Quinn, who was on top of Craig by this time. Craig then caught Quinn by the foot to protect himself. Quinn wrenched his foot away, and witness, who was five yards away, saw him deliberately stamp twice on Craig's side.

Craig got up and held his side for a moment, and witness ordered Quinn, who left the field without remonstrating, off the field. With the exception of an inaccuracy as to the kicking of Craig on the face the report in the News was a pretty fair one: and under further examination he adhered emphatically to the statements he had already made.

Mr Thomas Steen, Ayr, a member of the SFA Committee, who was present at the match as a member of the Selection Committee, characterised Quinn's behaviour as brutal in the extreme, and did not see any provocation given him for committing the offence against Craig. It was one of the worst incidents he had ever seen on a football field. He concurred with what was stated in the referee's report, and at the SFA meeting he moved that Quinn be suspended until the end of the season. He had read the report of the match in the News and he thought it was a very fair report of the occurrence.

This concluded the evidence taken on Wednesday, and the case for the defence

was continued yesterday (Thursday), the first witness on resuming being JS Leckie, who related his version of the incident in dispute.

The incident took place just immediately below the press box, and he had a good view of it, as at that time he had ceased writing and was watching the play. The ball was sent forward by one of the Celtic players and Craig attempted to either kick or head it, but he slipped and fell. Quinn never stopped running, but raced on and tramped upon Craig's body. When Quinn was standing over Craig, the latter threw up his hands, and just as Quinn left him, he (Quinn) used his heel in the neighbourhood of Craig's face. The heel was undoubtedly used, and kicked either Craig's body or face.

Witness did not think that the incident was accidental, as at the time Quinn's foot was entirely free, and there was no need for him to use that foot at all. He had read Mr Scott's report, and characterised it as a fair report of what actually transpired. He concurred in the comments of Mr Scott, and characterised the incident as the worst he had seen in all his experience in football.

John Gillespie, the former Queen's Park back, was next called. Describing the Craig-Quinn incident, witness said that Craig rushed to get the ball but spooned it, and fell in making the kick. Immediately after that he saw Quinn rushing at him. Witness did not think there was any reason for Quinn to be rushing at Craig, because he did not require to go there for the ball. Then he saw Quinn standing over Craig, lifting his foot once or twice, and stamping upon him. Craig was holding one of Quinn's legs. This was given with the free foot, and he could not see how the stamping could have been accidental.

In ordering Quinn off, the witness thought the referee's decision was the proper one, though he thought that it came late in the day. Earlier incidents would have warranted Quinn's being put off the field.

He mentioned to a friend standing alongside that it was the most disgraceful thing he ever saw on the football field.

Shown the News report complained of, witness said Craig was not kicked on the face, but stamped on the body. With that qualification, he thought the report was a fair one.

Evidence of a similar character was given by Mr Weir, Shawlands and Joseph Barnes, Glasgow, who, with the previous witness, were spectators at the match. John May (Rangers) followed, and in regard to the injury he sustained through contact with Quinn in the match, witness formed no opinion at the time as to whether or not Quinn intended to hurt him, but after Quinn spoke to him he formed an opinion.

'What did Quinn say to you?'

'It was not very pleasant, and I should not like to go over it again."

'But we want to hear it. Tell us what Quinn said to you?'

Well, I may not give the exact words, but the words and meaning, so far as witness recollects, was that: "I deserved twice as much, and should have got twice as much."

'What opinion did you form from that?'

The Sheriff – Allow us to draw our own inference.

Cross-examined by Mr Shaughnessy, witness said that at the time of the incident he was in good training. He observed no marks upon Craig, but had not looked particularly for them. He, however, had gone up to Craig after the incident with Quinn and asked him what was the matter, and Craig replied, "Not much."

The last witness was William Scott, of Rutherglen, who wrote the remarks complained of by pursuer. Witness was responsible for what was termed 'notes on the game,' and was still of the opinion that his report was a perfectly fair report and criticism of the incident as it occurred.

At the close, Mr Shaughnessy then addressed his Lordship, and pointed out that the action had not been brought by his client for the purpose of getting money, but simply with a view of freeing his character from what he considered a slander contained in the report of the football match.

Mr Shaughnessy then proceeded to review the evidence, when his Lordship asked, merely, he pointed out, for the purpose of argument, that, supposing he were of the opinion that something of the nature of assault had been proved, but that the assault as described was a misdescription, what would your position be?

Mr Shaughnessy – My position then would be this – that I had contributed to a considerable extent to the publication of this slander by my conduct on that particular day, and that in these circumstances, I would only be entitled to nominal damages – say a farthing – and expenses.

His Lordship – You would think so yourself?

Mr Shaughnessy – Yes. From the very beginning I did not want a penny – I still don't want a penny, but I think I am entitled to point out for your Lordship's consideration, that I was justified in raising this action.

Mr Cook points out that his client's pleas were (1) that they should be assuaged with expenses; (2) that defenders, having been invited to the game, their report is privileged; (3) defenders' report being a fair and truthful one, and their comments being fair and truthful, they should be assuaged with expenses.

It was veritas – that is to say, it was a truthful report – but veritas does not require that every item of the report should be absolutely correct.

Mr Shaughnessy had said that his client did not want any damages, and that his sole object was to clear his character. But in his efforts to clear his character he required from the defenders a great deal more than the evidence which had been led showed he was entitled to require.

The only inaccuracy was the one to which his Lordship had referred – that the kicking was not on the face, He could now say, as the result of the evidence, it

could not be said to have been proved that Quinn kicked Craig on the face. If that was the only thing Mr Shaughnessy's client had to complain of, Mr Cook submitted that pursuer should confine his demand for reparation to the correction of that inaccuracy, if that was really all he had to complain of.

There was no suggestion in the letters or correspondence which had been submitted to his Lordship, that Mr Shaughnessy only requested the correction of the inaccuracy of the statement. How could it help the pursuer to say that the kicking was not on the face, but was on the chest or ribs? That would not help pursuer's character one bit. The rest of the report would then have stood – that a more brutal attack had not been witnessed on the football field for many a long day.

Those remarks were made not because of kicking Craig on the face, but because Quinn kicked him, and that did not in any way aggravate the kicking. As to the contention that the assault was unprovoked, Mr Cook revised the evidence of several witnesses cited for pursuer, who, he held, admitted that something that looked like kicking was going on.

The Sheriff reserved judgement, and made his decision on Friday, November 17.

FOOTBALLER'S SLANDER ACTION ... QUINN-CRAIG INCIDENT

SHERIFF'S DECISION – DAMAGES ONE SHILLING – NO EXPENSES ALLOWED

Sheriff Davidson's judgement was issued in the action heard by him on November 1 and 2, at the instance of James Quinn, against the Glasgow News, for £500 as solatium for alleged slanderous remarks passed upon the pursuer in a published report of a match between Celtic and Rangers on the 25th March last.

The Sheriff's interlocutor is as follows: - Having heard parties' procurators, and considered the proof and productions, finds, that on 25th March, 1905, the defenders published in their newspaper, the Evening News, the report narrated in the condescendence; that they averred in it that the pursuer, while playing football in a match that day between Celtic and Rangers, assaulted another player named Craig, and kicked him in the face, for which acts he was ordered by the referee to leave the field, that it has been proved that the pursuer attacked Craig when the latter was on the ground, and stamped on him deliberately, that he did not kick him on the face, and that the pursuer was ordered by the referee to leave the field; that the defenders' statements were therefore true, with the exception of the statement that the pursuer had kicked another player in the face, which was untrue and slanderous: Finds the pursuer entitled to damages therefor, assesses the sum at one shilling, and decerns against the defenders in favour of the pursuer for that amount: Finds no expenses due to or by either party.

Signed: Mark George Davidson

Note – there is much contradictory evidence in the proof in this case, but I have no real difficulty in coming to a conclusion as to the facts. The defenders set out to justify a report in their newspaper, in which they state that the pursuer, during a football match, deliberately kicked another player on the face, and was in consequence ordered off the field.

The plea of privilege must be first disposed of. If a newspaper narrates the fact that a player was ordered off the field for rough, or unfair, play, and that proves to be the case, the player has no ground for complaint, even if he should show that the referee made a mistake. But no such case is presented here. The defenders' newspaper stated, as a matter of fact, that the pursuer had behaved in the manner before described, and commented upon it in most unfavourable terms. The fact that the referee ordered the pursuer to leave the field affords them no protection in making statements such as these, if they are proved to be false. Nor is it of avail to the defenders to say that they were publishing their report simply in the public interest.

The defenders plead privilege, however, on the further ground that as the football match was of the nature of a public spectacle, to which their reporters are invited by the provision of free seats for their acceptance, criticism is directly invited by the proprietors of the ground, and tacitly also by the players.

I do not think there is anything in the argument which was made a good deal of at the debate, that a reporter who had been given a free seat, is more privileged than a spectator who has paid at the gate. If there were any distinction, I should think it would be of the converse character, on the principle that a man who has paid for his dinner is more free to criticise the cooking than a guest.

There is no doubt that people who take part in any performance to which the public are invited, are liable to criticism, and cannot complain of it, but only in their characters as performers. Thus it is permissible for a newspaper to criticise theatrical performers in a very hostile manner, to say that an actor has mistaken his vocation, that he is comic in tragedy, or pathetic in burlesque. But if the critic says that the actor appeared on the stage the worse of drink, that is no longer a criticism of his acting, it is a criticism of his conduct affecting his character, and there is no privilege.

In criticising a football player similarly, a reporter may say that he is incompetent, or even rough in his play, and the player cannot be allowed to prove that these statements are false. But if the reporter says that he deliberately kicked another player on the face, that is not a criticism of his play at all, but of his conduct in a matter which affects his character, and there is no privilege.

I have dealt with the question of privilege first, because if there were privilege, it

would be immaterial whether the statement complained of is true or false. It is of the essence, of what is called in law, privilege, that a person entitled to plead it may say what is in point of fact untrue, and where it is successfully pleaded, the pursuer is not allowed to lead proof of the falsity of a charge, because he would fail whether he proved it or not.

The plea of privilege being disposed of, it remains to be considered whether the defenders' statements were true or not. The statements made, if untrue, are undoubtedly libellous, and malice must be presumed on the part of the person making them.

As to the actual facts, I have no doubt at all that the pursuer rushed at Craig when the latter was on the ground, that Craig being apprehensive of violence caught one of the pursuer's legs, and that the pursuer stamped twice on the prostrate man.

I do not overlook the evidence of the pursuer's witnesses, nor the facts that Craig himself denies that he was kicked, and that he signed a letter denying it the day after the game. I cannot put it out of my mind that football players will naturally be inclined to support one another, and that there may easily be a temptation (and not an ungenerous one) on the part of one player to shield another from consequences which promise to be serious for his prospects.

I was far from being satisfied with Craig's manner in giving evidence, and it is to be remarked that when he signed the exculpatory letter he insisted on the insertion of a statement that he was acting in his own protection when he caught the pursuer by the leg. It is true that some of the spectators are satisfied that the pursuer did not kick or stamp on Craig, while others are positive that he did. But I place very great weight on the evidence of Robertson, the referee, and that for more than one reason. In the first place, he occupied a quasi-judicial position, and his business being to watch the game closely, to detect anything in the nature of unfair play, his attention would be more particularly directed to the occurrence than that of a spectator, or even another player.

In the second place, being privileged to be on the field of play, he was much nearer the players than the spectators. In the third place, he can hardly be supposed to have any temptation to order a player off unless he is quite certain that there was a gross piece of unfair play, for drastic action of this sort, adopted recklessly, would arouse great ill-feeling against him.

I may say that having seen Robertson in the witness box I have formed the opinion, not only that he described exactly what he believed to have occurred, but that he is a singularly good judge of the sort of incident he had to describe. I have no doubt that this is well known to football players generally and that that is the reason why his services are so much in request. But I consider that whether Robertson be regarded as an exceptional witness or not, there is clear proof that the pursuer made an attack upon Craig, and that so far the defence of

veritas must be sustained.

But it is abundantly clear that while the reporter believes that he saw the pursuer kick Craig on the face, he was mistaken in that matter. I think that a distinction must be drawn between what the pursuer did, and what he is charged with having done. To kick another player deliberately on the face is a more serious offence than to stamp on him, grave though the latter may be.

I think that, in these circumstances, the pursuer is entitled to a nominal sum of damages, but I do not consider that it ought to carry expenses. The pursuer has set out from the first to show that the whole story of his misdeeds is founded on error, and he has failed. On the other hand, the defenders have put themselves in the wrong, too. After they were asked to withdraw and apologise for what they had said, it must have been easy for them to discover that their reporter's account was exaggerated, and to withdraw so much as could not be substantiated. If they had consulted their other reporter who was present, and the referee, they could have satisfied themselves of the fact that they had made too grave a charge. But they stuck to their report, and, therefore, I do not think they ought to have any expenses awarded to them.