Wednesday, June 22.

STEVENSON *v.* MEIKLEJOHN.

Filiation and Aliment—Proof—Sheriff-court. Observations by the Court upon the manner of conducting proofs in the inferior court.

This was an action by Meiklejohn in the Sheriff-Court of Stirlingshire, against Stevenson, concluding that he should be declared the father of the pursuer's two children, born 29th July 1863 and 3d August 1866 respectively, and for aliment. After a proof, the Sheriff-Substitute gave decree in terms of the conclusions of the summons. On appeal, the Sheriff-Depute affirmed this judgment. In the note the Sheriff-Depute remarked :—"The Sheriff wishes, in connection with this case, to direct the attention of the Sheriff-Substitute, and through him of the procurators, to a matter of general practice. The Act of Parliament directs proofs to be taken, 'as far as may be *continuously*, and with as little interval as the circumstances or the justice of the case will admit of.' This direction of the Act appears to have been in this as in a previous case after referred to, but must not in future cases be, overlooked. In the present case the pursuer commenced and concluded her proof on the 21st July. The defender's proof was not commenced until the 10th of August—was then adjourned, and not again taken up and completed until the 18th of August. There do not appear to be any circumstances, and none are stated, to justify these long intervals. In a recent case appealed to the Second Division of the Court (*Sands* v. *Auld*), a somewhat similar delay was the occasion of condemnation from the bench, and was remarked upon as particularly reprehensible in a filiation case; and it was observed that the evidence of the pursuer and defender in such cases should be noted in detail, and that it was bad practice to note that either of the parties in their evidence said '*conform*' to a preceding witness. They should be made to tell their own story in their own way. Further, it is desirable for the information of the courts of appeal that the ages of the pursuer and defender, and of the witnesses generally, should appear in the notes of evidence. All these remarks are applicable to the present proof, but may be easily obviated in future cases."

The defender appealed.

BALFOUR and HARPER for him.

BUNTINE, for respondent, was not called on.

The Court unanimously dismissed the appeal.

LORD PRESIDENT—I concur with the very judicious observations of the Sheriff-Depute upon the manner in which the proof in this case has been conducted. In the first place, the proof occupies a month instead of a couple of days, in consequence of a long adjournment during its course.

This is a practice entirely inconsistent with the Act of Parliament, and is the cause both of delay and expense. I hope the observations of the learned Sheriff, which are well entitled to respect in his own Court, will be attended to elsewhere. In the second place, the testimony of the pursuer, who is the principal witness in the cause, is reported in a most unsatisfactory way. She is held as concurring on the most important points with the testimony of her own witnesses, who have been previously examined. Now, every word of the examination of such a witness, and of all witnesses, should be taken down.

In the third place, we have the new fashion of not giving the age of the witnesses. That information is sometimes of the very greatest importance, and ought always to be supplied in the Court.

These considerations, I am satisfied, have only to be pointed out in order to insure their adoption.

Agents for Appellant—Duncan, Dewar & Black, W.S.

Agent for Respondent—James Barclay, S.S.C.

Friday, June 24.

FIRST DIVISION.

INSPECTOR OF STOW *v.* INSPECTOR OF CLACKMANNAN.

Poor—Settlement—Forisfamiliation—Insane Pauper. Held (1) on a proof that a pauper was not insane, and *observed* that a person who was insane or weak of intellect may yet be able to acquire a settlement through self-support; and (2) as forisfamiliation destroys the settlement derived from a father, this rule must apply even where the pauper by birth in England has no settlement of her own on which recourse for relief can be had.

In this action John Forbes Walker, Inspector of the Poor of the Parish of Stow, was pursuer, and Thomas Russell, Inspector of the Poor of the Parish of Clackmannan, was defender. The pursuer sought for declarator that the pauper Margaret or Phœbe Ann Miller was chargeable on the parish of Clackmannan, and for decree of payment of certain sums advanced or incurred by the pursuer on the pauper's behalf. The pauper is the daughter of John Miller, who was born in the parish of Clackmannan in 1793. Miller left his birthplace when about 20 years of age, and, after about 15 years' hawking in various parts of England, married Phœbe Ann Kelly, and of that marriage the pauper was born. Some years after, Miller deserted his wife, and has never since been heard of. The pauper and her mother, both of whom were of somewhat weak intellect, travelled about as hawkers till the latter's death in July 1866. On 16th May 1867 the pauper, who had been travelling about the country, was taken ill at a farm in the parish of Stow, and delivered of a child. The pursuer, on application, gave the pauper relief, but learning from the parochial doctor that he thought she was of unsound mind, and finding the doctor and another (who was also consulted some time after) were of the same opinion, the pauper was, on 4th June, removed to Morningside Asylum by warrant of the Sheriff of Midlothian. The child died a month after its birth. On 18th May 1867, the pursuer sent the defender the usual statutory notice, and on 12th June claimed relief from him. The pursuer maintained that the parish of Clackmannan is liable in support of the pauper, as being the parish of her father's birth, and as she had been too weak of mind to gain a settlement for herself. The defender rested his defence on the ground that the pauper was not insane, and had been forisfamiliated.

The acting Lord Ordinary (NEAVES) assoilzied the defender in the following interlocutor :—"The Lord Ordinary having heard counsel for the parties, and considered the closed record and proof—Finds that the pauper in question, now chargeable on the parish of Stow, as the relieving parish, is