SECOND DIVISION.

GLAS. GAS LIGHT CO. *v.* GLAS. WORKING MEN'S TOTAL ABSTINENCE SOCIETY.

Sheriff—Proof—Findings—Act of Sederunt. Held incompetent, under the Act of Sederunt 15th February 1851, for a Sheriff to dispose of a case without framing findings in fact, and a case where that had not been done remitted to the Sheriff for that purpose.

This was an advocation from the Sheriff Court of Glasgow. The case had been decided by the Sheriff after a long proof had been led, but his interlocutor contained no findings in fact. The Court held that under the Act of Sederunt 15th February 1851, this was incompetent, and they accordingly remitted to the Sheriff to pronounce such findings.

Counsel for Advocators—Young and Mackenzie. Agents—A. G. R. & W. Ellis, W.S.

Counsel for Respondents--Gordon and Scott. Agent—D. Crawford, S.S.C.

LINDSAY *v.* MACKENZIE AND FAICHNEY.

Poor—Settlement--Residence. Held that a person who had resided industrially in a parish for five years had thereby acquired a residential settlement there, and that the continuity of his residence for that purpose had not been interrupted by his having been for a few days detained in prison under warrant of the Sheriff, in consequence of his supposed insanity, the expenses attending these proceedings not being parochial relief.

This was an action at the instance of the inspector of the parish of Row, against the inspector of the parishes of Kiltearn and Strath, concluding for the advances made to a pauper who had become chargeable on Row against Kiltearn as the parish of his birth, and alternatively against Strath, as the parish where the pauper had acquired a residential settlement. The question arose out of the following circumstances. The pauper William Fraser, a saddler, was born in the parish of Kiltearn. He had a continuous industrial residence within the parish of Strath for a period of upwards of five years from the month of February 1856, during which period he supported himself, his wife and family. In the month of July 1860, while resident in the parish of Strath, he was placed in confinement for a few days, under warrant of the Sheriff, as a dangerous lunatic, and certain expenses connected with his apprehension, and of his maintenance while he was in confinement under the said warrant, were paid by the inspector of the parish of Strath, who thereafter claimed and received payment thereof from the parish of Kiltearn. In April 1863 the pauper went to reside in the parish of Row, and pursued his ordinary occupation there until the month of December 1863, when being again attacked by insanity, he was apprehended and committed to Gartnavel Asylum, near Glasgow. Since he left the parish of Strath he never acquired a settlement by a residence in any other parish. In these circumstances the question came to be whether the payment made by the inspector of Strath in connection with the apprehension and confinement of the pauper, constituted parochial relief in the sense of the 76th section of the Poor Law Amendment Act, so as to operate an interruption to the acquisition of a settlement by him in the parish of Strath. The Lord Ordinary (Jerviswoode) found that it did not; that he had acquired a settlement by industrial residence in the parish of Strath; that Strath was accordingly bound to relieve Row, and he assoilzied Kiltearn from the conclusion of the summons.

The Inspector of Strath reclaimed.

GORDON and LEE, for him, argued—The relief received by the pauper during his residence in Strath prevented his acquisition of a settlement there by such residence. The parish of Kiltearn, by its admissions of liability and payment, is barred from disputing the propriety of the relief afforded in 1860 and 1861, and also from contending that the pauper's residence in Strath was sufficient to give him a settlement there.

MACKENZIE (with him HAMILTON PYPER), answered—The residence of the pauper, for the period between 1856 and 1861, in the parish of Strath, having been continuous and industrial, he acquired a settlement there. His compulsory removal to jail, and his confinement there in July 1860 was matter of police for the safety of the public, and not parochial aid received or applied for by him, which could in the sense of the Poor Law Act interrupt his residential settlement in the parish of Strath.

WATSON, for the parish of Row, was not called upon.

At advising—

The LORD JUSTICE-CLERK said—The Lord Ordinary's interlocutor appears to me to be perfectly well founded. It is not disputed that Fraser continued in the parish of Strath for five years from 1856 downwards, and that by such residence he acquired an industrial settlement, unless its continuity and effect were destroyed by what occurred in July 1860, and which is said to have been a giving of parochial relief in the meaning of the 76th section of the Act. What took place was this: Fraser was apprehended at Broadford, brought to Portree, charged before the Sheriff as a dangerous lunatic, sent to prison for a week, again brought before the Sheriff, and finally liberated. It appears to me that parochial relief is a most extraordinary name to give to these proceedings; but let us examine the statutory authority under which they were carried out, so that we may see whether, so looking at them, we may be able to construe them in such a way as to entitle them to that name. Now, under the Lunacy Act, the Sheriff is required, after hearing the statement of the Procurator-Fiscal and the relative medical certificate, to commit the lunatic in the meanwhile to some place of safe custody; and here it is important to observe that this provision is not confined to pauper lunatics, but extends to all dangerous lunatics. After hearing evidence, and being satisfied of the insanity, the Sheriff is then bound to send him to a public asylum. For the expenses of all these proceedings the lunatic is liable himself, after him the person otherwise bound to support him, failing whom the parish of his settlement. I have grave doubts whether, if such expenses were paid by the parish, this could under any circumstances be held to be a giving of parochial relief; but I am quite clear that it cannot be so held here. The principal expenses appear to have been incurred—(1) In removing Fraser from a place where he was in business for himself, and neither obtaining or asking for parochial relief, and conveying him to another place, where he was lodged in jail; and (2) in proceedings before the Sheriff, which were undertaken with a view to committing him as a dangerous lunatic, and which failed. A very important question may arise, whether, in the case of their being someone liable, in the ordinary case, to pay for the lunatic, he would be so liable where the proceedings were so abortive as these