

Friday, May 24.

FIRST DIVISION.

NOTE—CATHERINE M'EWAN FOR POORS' ROLL.

*Poor—Poors' Roll* A pursuer of an action of filiation and aliment, holding judgments of Sheriff-Substitute and Sheriff in her favour, found entitled, as respondent in an advocacy, to the benefit of the Poors' Roll.

This was an application for the benefit of the Poors' Roll. The applicant had been pursuer of an action of filiation and aliment, which the sheriff-substitute and also the sheriff had decided in her favour. In the Sheriff-Court the applicant had been admitted to the benefit of the Poors' Roll. The defender advocated, and the pursuer now desired admission to the Poors' Roll in order to enable her to defend the judgments in her favour which she had obtained.

RHIND, for the advocator, objected to the application. The applicant was earning nothing when on the Poors' Roll in the Sheriff-Court, but she had since then got a situation as a domestic servant, in which she was earning £15 a-year.

MELVILLE was heard for the applicant. He admitted that she was now earning £15 a-year.

The Court repelled the objection, and remitted the application to the reporters. It was observed that the right of a party to get on the Poors' Roll did not depend on the position which he or she occupied in society, and it would never do to admit every servant girl who happened to become the mother of an illegitimate child. But this case was a very special one. The child was born in December 1865, and had been since that time supported entirely by its mother because the paternity was denied. But the sheriff-substitute as well as the sheriff had found the paternity proved; and if they were right, the child should have been alimented to the extent of one-half by the defender. Besides, even if the applicant ultimately succeeds, all she can recover is a sum to defray one-half of the aliment, the other half being payable by herself. Further, the applicant was on the Poors' Roll in the Sheriff-Court, and it was not to be assumed that she was improperly placed upon it; and the result of now refusing her application was to prevent her defending the judgments which she had been enabled to obtain.

Agent for Applicant—J. P. Coldstream, W.S.

Agents for Objector—D. Crauford and J. Y. Guthrie, S.S.C.

Friday, May 24.

SCOTTS v. DRUMMOND & HERRIOT.

(Ante, p. 14.)

*Jury Trial—Right of Way—Motion to apply Verdict—Conclusion of Removal of Obstruction—Interdict—Expenses.* Defender in declarator of right of way assolizied from conclusions of removal of obstructions, and interdict against obstructing. Pursuer found entitled to modified expenses.

The summons in this action had concluded for declarator—(1) That the road from the town of Coldingham on the south, to the public sea-shore

at Petticur-Wick or Pettico-Wick on the north, as particularly described (being the road in the first issue), was a public road; (2) That the road from the village of Coldingham Shore to St Abb's Head and Pettico-Wick (being the road in the second issue) was a public road for foot-passengers; (3) That the road from Coldingham Shore to Burnmouth Harbour and Pettico-Wick (being the road in the third issue) was a public road for foot-passengers; or otherwise for declarator that the pursuers and the public had a right of way along the road first described, and also a right of way for foot-passengers along the roads second and third described: And farther, it ought and should be found and declared, by decree foresaid, that the pursuers and all others are entitled, in all time coming, to the free and uninterrupted use, possession, and enjoyment of the said road first above described as a public road for foot-passengers, horses, and carriages, or for one or other of these purposes, and to the free and uninterrupted possession of the said roads second and third above described as public roads for foot-passengers, or at least to the foresaid right of way along the said three roads or lines of road respectively, and of all the rights and privileges therewith connected: And farther, the said defenders ought and should be decerned and ordained, by decree foresaid, to remove all walls, gates, palings, and other obstructions tending to interfere with or prevent the free and lawful use, possession, and enjoyment of the said several public roads, or any of them, or right of way foresaid, or any of the rights and privileges therewith connected; or at least so to place the gates along said public road and footpaths, or any of them, in such a manner as to leave to the pursuers and the public the free and uninterrupted use, possession, and enjoyment of said roads: And farther, the defenders, and all others acting in their names or by their authority, ought and should be decerned and ordained, by decree aforesaid, to desist and cease, and ought and should be interdicted and prohibited, from troubling, molesting, or obstructing the pursuers and all others in the peaceable use, possession, and enjoyment of the foresaid public road or rights of way.

ASHER, for the pursuers, now moved the Court to apply the verdict, and find the pursuers entitled to expenses.

DUNCAN, for the defenders, objected to the motion, so far as it embraced a decerniture against the defenders to remove gates and fences in the line of roads declared to be public by the verdict of the jury. These gates and fences had existed all along throughout the period during which the right of way had been acquired. He also moved the Court to apply the verdict in the defenders' favour under the second issue, assolizieing them from the conclusions of the action applicable to the road contained in that issue; and asked the expenses applicable to that branch of the case.

GIFFORD, for the pursuers, contended that no separate expense had been incurred applicable to the second issue, the road in which was spoken to by the witnesses called to speak to the road in the first issue. Besides, the pursuers had in the main gained their case, which was to vindicate a right of way to Pettico-Wick as a public place. Expenses might be modified.

LORD PRESIDENT—It is necessary in this case to see what we are to do with all these conclusions. It appears to me that all the pursuers are entitled to is decree of declarator under the first declaratory