COURT OF SESSION.

Wednesday, February 20.

SECOND DIVISION.

MACIVER.

Poor's Roll—Admission—Declaration and Certificate of Poverty—Bedridden Applicant — Remit to United Free Church Minister.

Where an applicant for admission to the poor's roll was bedridden and resided at a distance of twenty miles from the parish church, the Court *remitted* to a United Free Church minister who resided near the applicant's residence, and to two members of his kirk session, to take the applicant's declaration of poverty, and, if so advised, grant him a certificate of poverty in the usual form.

The Act of Sederunt of 21st December 1842 provides—section 2—"That no person shall be entitled to the benefit of the poor's roll unless he shall produce a certificate, under the hands of the minister and two elders of the parish where such poor person resides, setting forth his or her circumstances according to a formula hereto annexed—Sehedule A."

Mrs Catherine MacIver, widow, residing at Croft No. 25, Upper Carloway, in the parish of Uig, Lewis, and county of Ross and Cromarty, presented the following note to the Court:—"My LORD JUSTICE-CLERK — The applicant, the said Mrs Catherine MacIver, is desirous of applying for the benefit of the poor's roll to enable her to carry on an appeal in the Court of Session in which she is the appellant, and Angus MacIver, crofter, 24 Upper Carloway, in said parish and county, her step-son, is respondent. The said applicant is a very old woman and is both blind and bedridden. It would be particularly difficult, if not impossible, to take her to the parish church to emit a declaration of poverty, especially as the said church is twenty miles distant from where she resides and a ferry has to be crossed on the way. At this time of the year it is so stormy that travelling is often impossible. There is a United Free Church minister, the Reverend Duncan Macleod, at Carloway, and quite near to where the said applicant resides. May it therefore please your Lordship to move the Court to remit to the said Reverend Duncan Macleod and to two members of his kirk session to receive the said applicant's declaration of poverty, and, if so advised, to grant her a certificate in the usual form, as required by the Act of Sederunt of 21st December 1842, or to do otherwise as to your Lordship may seem proper."

There was no opposition, and the Court, without delivering opinions, granted the prayer of the note.

Counsel for Applicant—Hart. Agent—John Grieve, W.S.

Saturday, February 23.

SECOND DIVISION.

[Sheriff-Substitute at Jedburgh.

HILSON *v.* JOHN SWAN & SONS, LIMITED.

Complaint—Relevancy—Diseases of Animals Act 1894 (57 *and* 58 *Vict. c.* 57), *sec.* 52 *—Order of the Board of Agriculture* 23*rd June* 1903*—Cattle Market—Cleansing of Pens.*

The Diseases of Animals Act 1894, section 52, provides that a person doing anything in contravention of an order of the Board of Agriculture shall be guilty of an offence against the Act. An Order of the Board of Agriculture dated 23rd June 1903 provided that "Any market place, highway, saleyard, or other premises in or upon which markets or sales are habitually held shall, as soon as practicable after being used for the purposes of a market or sale, and before being again so used, be cleansed and disinfected as follows:—(3) All pens, hurdles, and fittings used in connection with the market or sale shall, as soon as practicable after being used for such purpose and before being again so used, be cleansed. . . ."

A complaint set forth that the respondents "the proprietors and occupiers of The Southern Central Mart at ... on 20th September 1906 did hold a sale of animals without having since the date of their immediately preceding sale of animals at the said The Southern Central Mart on 17th September 1906, and before again so using it on said 20th September 1906, disinfected 140 unpaved pens," contrary to the said Act and Order.

Held that the complaint was irrelevant, in respect that it did not specify that the pens were used both on the 17th and on the 20th September.

Opinion (*per* the Lord Justice-Clerk and Lord Ardwall) that the complaint should have stated that sales were "habitually" held at the said mart.

Complaint—Title to Prosecute—Procurator-Fiscal—Diseases of Animals Act 1894.

Opinion (*per* the Lord Justice-Clerk and Lord Ardwall) that the title of the procurator-fiscal of a county to present a complaint as to the contravention of the Diseases of Animals Act 1894 was not expressly or impliedly excluded by the terms of the statute.

The Diseases of Animals Act 1894 enacts—Section 2—"The local authorities in this Act described shall execute and enforce this Act and every order of the Board of Agriculture so far as the same are to be executed or enforced by local authorities." Section 60—"In the application of this Act to Scotland (1) the local authority . . . shall . . . be (*a*) for each burgh not being a burgh to which section fourteen of the Local Government (Scotland) Act 1889 applies, the magistrates and town council . . . (*b*)