

No 15.

absent from the parish of Mordington; which therefore was the only parish bound to relieve his necessities.

THE LORD ORDINARY pronounced this interlocutor: "In respect it does not appear that the charger's residence was within the parish of Mordington for *three years immediately preceding the charge*, suspends the letters *simpliciter*, and decerns."

But the COURT having altered that judgment, found, "That in respect the charger resided in the parish of Mordington until a year prior to his blindness, and afterwards acquired no funds for subsistence, that parish was liable for his aliment; and found the letters orderly proceeded."

Lord Ordinary, *Monboddo*. Act. *Dickson*. Alt. *Drummond*. Clerk, *Menzies*.
S. *Fol. Dic. v. 4. p. 84. Fac. Col. No 138. p. 217.*

1786. *January 24.*

The HERITORS in the Parishes of MELROSE and STITCHELL *against* The
HERITORS in the Parish of BOWDEN.

No 16.

Poor children who have not resided three years in any parish, to be maintained by the parishes where they were born.

JOHN ROBSON, after having resided more than three years in the parish of Bowden, removed to that of Melrose, where one of his children was born. He afterwards resided for a year in the parish of Stitchell, in which place his wife bore him another child.

John Robson died soon after in great poverty; so that the question occurred, Whether the parish of Bowden, in which he had acquired a settlement, or those of Melrose and Stitchell, in which his children were born, were liable to their maintenance?

For the heritors of Melrose and Stitchell, it was

Pleaded; The parish in which a pauper has resided for the three years immediately preceding his poverty, and not that of his birth, has been found by the later decisions, to be burdened by law with his maintenance. This is founded on the act 1672, and in the reason of the thing; the expense occasioned by the poor being thereby devolved on that district, the inhabitants of which had been last benefited, in any considerable degree, by their industry; 6th June 1745, Parish of Dunse, No 3. p. 10553.; 7th March 1767, Parish of Crailing, No 8. p. 10573.; 28th July 1779, Heritors of Coldingham *contra* Those of Dunse, No 13. p. 10582.; 14th June 1781, Waddel *contra* Heritors of Hutton, No 14. p. 10583.

The aliment due to the children of a pauper, who are not to be considered separately from himself, must be regulated in the same manner. It would indeed be most unreasonable, that on a father's becoming indigent, his children should be dispersed among all those parishes in which they happened to be born. Besides the inhumanity of such a regulation, the benefit of paternal ad-

monition and example would in this way be lost, while the expense of supporting the children would on the whole be considerably increased.

Answered for the Heritors of Bowden; The rule adopted in the instances above referred to, is inadmissible in the present case, where the poor persons have not resided for the requisite space of time in any parish. Hence, therefore, the parish of the birth, as the primary and general place of settlement, can alone be liable.

The inconveniencies which have been figured to arise from this cannot have any weight. It is not indispensably necessary that the children should reside in the parish from whence they derive their support.

The Sheriff-depute of the county had found the parishes of Melrose and Stitchell liable respectively in the maintenance of the children born in the said parishes, 'in respect the children had not resided three years in any other parish.'

A bill of advocation was preferred, which was refused by the Lord Ordinary. And after advising a reclaiming petition, with answers, the LORDS affirmed these judgments.

Lord Ordinary, *Monboddo*. For the parishes of Melrose and Stitchell, *A. Fergusson*.
For that of Bowden, *Claud Boswell*.

C. *Fol. Dic. v. 4. p. 84. Fac. Col. No 248. p. 381.*

1794. May 28.

The COLLECTOR of the Poor's Rates in the Parish of INVERESK against The
MAGISTRATES OF MUSSELBURGH and SIR ARCHIBALD HOPE.

THE heritors and kirk-session of the parish of Inveresk some years ago imposed an assessment for the maintenance of the poor. The Magistrates of Musselburgh, who have mills within the parish, which they let in lease, and Sir Archibald Hope, the proprietor of extensive coal and salt works, also within the parish, refused to pay any part of the poor's rate for these subjects.

The collector appointed to levy it brought an action, concluding against them for a proportion of the assessment, corresponding to the yearly rent or value of these respective subjects, and

Pleaded; By the act 1579, c. 74, the whole inhabitants of the parish are to be taxed for the maintenance of the poor. By the subsequent statutes, 1663, c. 16, and 1672, c. 18, the assessment is directed to be made according to the old extent or valued rent, or otherwise, as the major part of the heritors shall agree. And this discretionary power of assessment is further confirmed by two acts of the Privy Council in 1692 and 1693, (Statute Law Abridged, *voce Vagrant*, p. 389), in which the heritors and kirk-session are simply authorised

No 17.
Proprietors of mills, and of coal and salt works, are liable to be assessed for the maintenance of the poor.