

1781. June 14.

RICHARD WADDEL *against* HERITORS and KIRK-SESSION of HUTTON.

By a decision, 7th March 1767; Baxter against the parishes of Crailing and Roxburgh, the Lords "found, that Baxter was entitled to be maintained by the parish of Roxburgh, as the parish where he resided during the immediate three years preceding his application for charity." No 8. p. 10573.

In the present case, which was a suspension of a judgment pronounced by the Sheriff of Berwickshire, the Court considered the law as finally settled by the above decision; and, therefore, the three years residence being proved, they would not listen to any arguments from the birth-place being known, nor to some other pretty strong circumstances urged for the suspenders; but

"Found the letters orderly proceeded, and the charger entitled to expenses."

Reporter, *Lord Covington.* Act. *W. B. M'Leod.* Alt. *G. B. Hepburn.*

*D.* *Fol. Dic. v. 4. p. 84.* *Fac. Col. No 55. p. 95.*

No 14.

Three years residence entitles to an aliment.

1784. January 24.

POOR JOHN RUNCIMAN *against* HERITORS and KIRK-SESSION of the Parish of MORDINGTON.

RUNCIMAN, a day-labourer, had resided in the parish of Mordington for seventeen years preceding 1769; when he removed his habitation to a neighbouring parish. In 1773 he was struck with blindness, and so deprived of the means of subsistence. In 1777, he made application for aliment to the first mentioned parish, which the Sheriff of the county enforced by a decret; and though the parish obtained a suspension of this decree, they continued to allow the pauper about a half of the sums decerned for. But being again charged upon the Sheriff's decret, they withheld their charity entirely, and by another suspension brought the cause into Court; when they

*Pleaded;* It is residence for three years immediately previous to the application for charity, which alone entitles a pauper to claim it from a parish; a rule quite established by decisions of the Court; as Parish of Dunse, *contra* Parish of Ednam, 5th June 1745, No 3. p. 10553; with several others of a latter date: Whereas this pauper had not resided within the parish in question for seven or eight years preceding his demand.

*Answered;* From the design of the law, it is plain, that the period to be considered is that when the ordinary means of subsistence fail, which for the most part will likewise be the time of the application for public charity; so that the latter expression ought to be construed as synonymous with the former. Now when the charger's poverty commenced, he had not been above one year

No 15.

Residence for three years preceding poverty, tho' eight years prior to the application for charity, makes a parish liable for the maintenance of a pauper; notwithstanding that his poverty did not commence till a year after his leaving the parish.

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-