

# APPENDIX.

## PART I.

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### P O O R.

1800. *January 25.*

ISABEL HOWIE, MARTHA BUIK, and the KIRK-SESSION of Alyth, *against*  
The KIRK-SESSIONS of Arbroath and St Vigean's.

JAMES COATHILL was born, and lived in the parish of St Vigean's, till 1788. In March 1789, he married Janet Buik; and from that time resided in the parish of Arbroath, till their daughter Anne was born in December 1789. Nineteen days afterward, the parents, with their child, removed to St Vigean's, where they lived till the death of Janet Buik in 1792.

Her brother, George Buik, then took charge of Anne; and placed her with his mother Isabel Howie, and his sister Martha, who lived in the parish of Alyth.

James Coathill married a second time in St Vigean's, and resided there till 1794, when he enlisted as a soldier, and left his second wife and family there to support themselves, without any assistance from him.

George Buik died in 1796; and his mother and sister being unable to maintain the child, who was prevented by disease from doing any thing for herself, they, after some time, applied for aid to the Kirk-sessions of Alyth, Arbroath and St Vigean's. A temporary relief only was obtained from the first. And in 1798, a petition was presented to the Sheriff, craving a regular maintenance for the child from Arbroath and St Vigean's, from the death of George Buik. Appearance was made for the minister of those parishes, as moderators of their respective kirk-sessions.

The Sheriff gave judgment against Arbroath for a weekly allowance from the date of citation.

NO. 1.

The parish bound to maintain a child, is determined, not by the place of its birth or residence but by the residence of its parents.

NO. 1. The Kirk-session of Arbroath complained of this by advocation, as did Isabel Howie, Martha Buik, and the Kirk-session of Alyth, craving that the aliment should commence from the death of George Buik, or at least from the extrajudicial applications to the Kirk-sessions.

The Lord Ordinary reported the cause on informations.

The Kirk-session of Alyth contended, That they could not be liable, as the child had neither been born, nor acquired a settlement there by residence, as such settlement takes place only when the pauper has, for three years previous to the application for charity, maintained himself by his own industry; 24th January 1784, Runciman against the Parish of Mordington, No. 15. p. 10583.

The Kirk-session of Arbroath held it to be clear, That in the case of an adult pauper, the parish of nativity is liable only where a settlement has not been obtained, by three years permanent residence elsewhere; 1579, C. 74; 1663, C. 16.; 1672, C. 18., &c.; 5th June 1745, Parish of Dunse against Parish of Edrom, No. 3. p. 10553; 7th March 1767, Baxter against Parish of Crailing, No. 8. p. 10573; 14th June 1781, Waddell against Kirk-session of Hutton, No. 14. p. 10583; and that the case, 28th July 1779, Kirk-session of Coldinghame against Kirk-session of Dunse, No. 13. p. 10582., established, that poor children are a burden on the parish where the parents have resided three years, on the just principle that children cannot be separated from their parents, and are to be considered as part of their family.

The Kirk-session of St Vigean's maintained, That settlement, by parentage, was quite unknown by the law of Scotland, by which birth or personal residence are the only grounds of a claim to maintenance; 24th January 1786, Parishes of Melrose and Stitches against Parish of Bowden, No. 16. p. 10584.

The Court were unanimously of opinion, that St Vigean's was liable; that the parish of Alyth should be repaid from the poors' funds of that parish, the sums which they had advanced; and that the relations should be reimbursed from the period of their extrajudicial application; but that their prior advances must be considered as made *ex pietate*; and gave judgment accordingly.

Lord Ordinary, *Cullen*.  
For Arbroath, *Adam Gillies*.

For Martha Buik, *Ro. Craigie*.  
For St Vigean's, *Geo. Cranstoun*.  
Clerk, *Colquhoun*.

*D. D.*

*Fac. Coll. No. 160. p. 357.*