that it reaches stock in trade, which certainly does not fall more directly under it than any other sort of personal property. No 18.

The statutes 1592, c. 155, and 1597, c. 180, have no relation to poor's rates, their object being solely to ascertain the persons in burghs liable in national taxes; and the statute 1597, c. 279, merely ascertains the description of persons to be assessed for the maintenance of the poor, but makes no alteration on the act 1579, c. 74, in so far as it relates to the kind of property according to which they are to contribute.

The alleged inexpediency of this mode of assessment, if at all well founded, applies more strongly to taxing mercantile stock, than personal fortune not employed in trade. A person, though engaged in great commercial concerns, may be worth nothing; but the extent of a man's fortune, when realised, is commonly pretty well known to his fellow citizens. The danger of disclosing his affairs too, is incomparably greater to the one than the other. Supposing, however, there were objections to this mode of taxation, it is surely better than allowing persons like the defender, with large personal fortunes, not employed in trade, to be almost wholly exempted from paying any share of the poor's rates.

The Lord Ordinary "remitted the cause to the Magistrates, and found the defender liable in expenses."

On advising a reclaiming petition, with answers, the Court thought the mode of assessment complained of was sanctioned both by the 1579, c. 74, and by immemorial usage. But it was at the same time observed, that although persons in the defender's situation should be obliged, in one shape or another, to contribute to the support of the poor, as nearly as possible in proportion to their fortunes, the rule adopted in Edinburgh, of making every person pay according to the rent of the house which he inhabits, is perhaps preferable, as affording a *datum* sufficiently accurate, and in no case liable to partiality.

The Lords unanimously adhered.

Lord Ordinary, *Swinton.* Act. *Lord Advocate Dundas, Arch. Campbell, Connell.*
Alt. *Solicitor-General Blair, Tait.* Clerk, *Sinclair.*

R. D. *Fac. Col.* (Appendix.) *p.* 15.

1801. *November* 28.

Kirk-Session of Rescobie, *against* Kirk-Session of Aberlemno, Kirk-Session, of Dunnichen, and Kirk-Session of Forfar.

No 19.
A bastard-child is to be maintained by the parish where the mother has

In the month of September 1800, a child about two years of age was exposed at the door of a house in the parish of Rescobie. While the child was taken care of in the mean time by the kirk-session of that parish, it was found that the child was born in the parish of Aberlemno: That his father was unknown:

No 19. been domiciled for three years previous to it is birth.

That his mother, Agnes Allan, was unable to maintain him, and was a vagrant: That during the earlier part of her life, she had resided in the parish of Dunnichen; but that during the five or six last years, she had principally haunted the town and parish of Forfar.

In order to determine who were bound to maintain the child, the kirk-session of Rescobie called the other three kirk-sessions of Aberlemno, Dunnichen, and Forfar, in an action of relief before the Sheriff of Forfar; who, after allowing a proof to all parties, pronounced this interlocutor, 25th March 1801: 'Finds, That the kirk-session of the parish of Aberlemno is bound to take charge, and to free and relieve the pursuers of the custody of the child mentioned in the petition; and that the said kirk-session is bound to make payment to the pursuers, in name of the kirk-session of Rescobie, of the expense which they have already disbursed, on account of the said child; and appoints an account thereof to be given in; assoilzies the kirk-session of Forfar; finds no expenses due; and decerns accordingly.'

A bill of advocation was presented; on advising which, (4th September 1801) Lord Meadowbank 'took the case to report, and ordered memorial.'

When the question is with regard to the maintenance of an adult person, who, by old age, disease or misfortune, has been reduced to want, the rule which has been established is, that the parish where he has resided principally for the last three years, when able to earn his subsistence by his industry, must bear the burden of supporting him; Parish of Dunse *contra* the parish of Edrom, 6th June 1745, No 3. p. 10553.; Baxter *contra* Parish of Crailing, 7th August 1767, No 8. p. 10573.; Waddel *contra* the Heritors of Hutton, 14th June 1781, No 14. p. 10583.; Runciman *contra* the Heritors of Mordington, 24th January 1784, No 15. p. 10583.; insomuch that a dancing-master, who had no fixed residence any where, but frequented various parishes, was found entitled to support from that parish where, for three years, he had taught dancing during the winter months, although during these months he merely lodged with a householder, and for public teaching occasionally hired a room in the inn; 18th December 1800, Parish of Dalmellington *contra* Magistrates of Irvine. (Not yet reported; See APPENDIX.)

With regard to the maintenance of a child which may not have lived three years, the term required by law to fix a residence, it should seem that the strongest connection with any place which the child has been able to form should regulate where the burden of his maintenance should be imposed, and it seems just that the place of nativity should be the rule. But the child is not to be viewed altogether as an individual, but as a member of its parent's family. These two circumstances have varied the decisions upon this point. If the parish of the child's birth, and of the parents residence, be the same, that must bear the burden of the maintenance of the child; Kirk-session of Inveresk against Tranent, 3d March 1757, No 7. p. 10571. If, on the other hand, they be different, the place of the parents residence for the last three years has been considered as the stronger connection, and that has been made li-

able for the aliment of the child accordingly; Parish of Coldingham against Dunse, No 13. p. 10582.; Buick against Parish of St Vigean's, 25th January 1800. (Not yet collected; See APPENDIX.)—Again, though the parent may not have acquired a legal residence in the parish where his child was born, still his residing there for one or two years, combined with the birth of the child, has been found to subject the *locus originis* of the child, and to exempt the parish where the parent himself would have been alimented; Parish of Melross against Bowden, 24th January 1786, No 16. p. 10584. No 19.

Though, in the case of this child, the mother was a vagrant, her principal haunt or place of residence had been the burgh of Forfar for five or six years past. There she had at different times occupied two rooms, and had frequently been seen during that time walking about the streets of the town with her child. From the principles recognised in the case of the Magistrates of Irvine, (mentioned above) she would have been entitled to claim aliment from Forfar for herself; and the parish, bound to maintain the mother, must also maintain the child, according to the cases of Dunse and St Vigean's.

It occurred to one of the Judges, that a person pursuing no line of industry, could scarce acquite a legal residence in any place, having no *status* or situation of life there; but it was observed, that a legal residence may be obtained by a person not following any industrious occupation by residence alone; and that the parish must support such a one when he falls into indigence, as they had themselves to blame for permitting a vagrant to remain so long among them, as the act 1672, c. 18. was enacted, to afford relief from such oppression.

THE LORDS 'found, That the parish of Forfar is bound to relieve the parish of Rescobie of the maintenance of the child.'

Lord Ordinary, *Meadowbank*. For Rescobie, *Reddie*. Agent, *Ja. Robertson*, W. S. For Dunnichen, *Monypenny*. Agent, *Alex. Cunningham*, W. S. For Forfar, *Inglis*. Agent, *William Inglis*, W. S. For Aberlemno, *Baird*. Agent, *Pat. Orr*, W. S. Clerk, *Sinclair*.

F. *Fac. Col. No 7. p. 14.*

1804. *January* 17. POLLOCK *against* DARLING.

No 20.
Those persons are entitled to relief under the system of poor-laws, who, tho' in ordinary seasons able to gain their livelihood, are reduced, during a dearth of pro-

By the failure of the two successive crops of 1799 and 1800, Scotland was afflicted for two years with an extreme dearth of provisions. To relieve the lower classes of the community, by whom this calamity was most severely felt, the heritors of some parishes, where such a measure was found necessary, imposed, with the assistance of their kirk-sessions, an assessment under the poor-laws, payable one half by themselves, the other by the tenantry or householders of the parish.

In the parish of Dunse, a poor's-rate had been established for almost a century, there never being fewer than from one hundred to one hundred and twen-