

1800. December 16.

FRANCIS ROSS, Collector of the Poores Rates of the City of Glasgow, *against*
ROBERT CARRICK.

THE mode of levying poors rates on the inhabitants of Glasgow, is explained in the case, No. 18. p. 10587, 2d December 1797, Laurie against Dreghorn.

It had, for at least ten or twelve years prior to 1799, been the practice for the committee of assessors to permit their collector to give to any contributor who demanded it, inspection of the book containing the amount of poors rates imposed on each individual. But the committee, alleging that this had led to unpleasant consequences, owing to the disclosure it occasioned of the opinion which they had formed of the wealth of individuals, gave orders to their collector not to exhibit to any contributor any part of the book, but the entry which related to his own assessment.

The assessors for 1799, rated Robert Carrick's share of the assessment for that year at L. 50 : 13 : 4.

When payment of this sum was demanded, Mr Carrick stated, that it amounted to an eightieth part of the whole poors rate levied on Glasgow for that year; and that, as it could not be maintained that he possessed an eightieth part of the whole property liable to assessment, it necessarily followed, that the wealth of many of the inhabitants must have been greatly underrated. He therefore demanded inspection of the assessors' books, agreeably to the former practice, in order that he might be able to point out to the assessors the mistakes of this sort into which they had fallen. He further stated, that being himself both a member of the Town-Council, and a director of the Town hospitals, he was entitled, in either of these capacities, as well as in that of a contributor, to the inspection which he required.

His demand was refused; and an action for payment was brought against him, in name of the collector, before the Magistrates, in which they pronounced the following judgment: " Find, That the defender being assessed
" for poors rates, is entitled to inspection, in the pursuer's hands, of the book
" in which is entered his proportion of the assessment, and to know accord-
" ing to what rule or rate the assessment is proportioned upon him, and that
" the same has been adopted with regard to all the other persons assessed in
" payment of poors rates; and for that purpose, ordains the pursuer to give
" inspection of the said book in his the pursuer's custody; but finds, That
" although the defender is entitled to be satisfied, by inspection of the said
" book, of the sum in which he is assessed, and that the same rule or prin-
" ciple of assessment has been applied in fixing the proportion of others, ac-

NO. 3.

Is a contributor for the support of the poor within a royal burgh, entitled to insist for inspection of the books of the assessors, for the purpose of investigating whether he is rated proportionally with the other inhabitants?

No. 3. “ cording to the judgment of the assessors, of the extent of the means and
 “ wealth of the persons assessed, yet that the defender, in his character of
 “ one assessed for the maintenance of the poor, is not entitled to such an in-
 “ spection of the same, as to know the amount of the sum upon each person
 “ for the said purpose ; because, if the defender, in that capacity, be allowed
 “ such inspection, every other person would be entitled to demand the same
 “ thing, to comply with which demand would be inexpedient : Finds, That
 “ it is not necessary in this process to determine how far the defender, as a
 “ member of the Town Council, and as one of the directors of the
 “ Town’s hospital, has a right to examine all the particulars in the said
 “ book ; but reserves to consider the defender’s claim upon that head, when
 “ he shall bring a proper action, in his character of a member of the Coun-
 “ cil, and director of the hospital, in the event that the directors of the hos-
 “ pital, who are the custodiers of the said book, shall, upon application to
 “ them, refuse the defender such inspection.”

Mr Carrick brought this judgment under review by advocacy, in which the pursuers

Pleaded : The discretionary powers of the assessors, in fixing the assess-
 ment payable by individuals, have been fully sanctioned in former cases,
 and, from the respectability of those who hold the office of assessors, there is
 no chance that these powers will be abused. Even if the books were shewn
 to the defender, and he thought he discovered mistakes in them, his own
 opinion could not be taken against theirs ; and he surely could not expect,
 in a case of this sort, to be allowed a proof of the extent of the fortune of any
 inhabitant whom he might choose to single out as underrated. To comply
 with his demand, therefore, would only gratify idle curiosity, while it would
 hurt the feelings of many individuals.

Answered : The proportion which the defender’s share bears to the whole
 assessment, of itself affords strong evidence of mistake, if not of partiality.
 And if it be true, that it would be difficult in a court of law to correct in-
 justice done by the assessors, there is the greater necessity for rendering their
 proceedings public ; so that if they shall not be restrained from doing injus-
 tice, by the apprehension of their sentences being overturned by the decree
 of a superior tribunal, they may at least be deterred from it by the fear of pu-
 blic odium.

The Lord Ordinary took the case to report.

On advising memorials, the Court were unanimously of opinion, that un-
 less a case of wilful and corrupt partiality were made out, they could not
 controul the rate of assessment imposed by the stentmasters. But they
 thought, that the inspection demanded by the defender should be granted.
 On this last point, however, several of the Judges seemed to be considerably in ;

fluenced by the circumstance of the defender's being a member of the Town-Council, and a director of the hospitals.

“ The Lords found, That the defender Mr Carrick had a right to demand
 “ from the Magistrates of Glasgow, and their collector of their poors rates,
 “ inspection of the books kept by them, relative to the assessments for the
 “ poor, and to examine the same ; and therefore remitted the cause to the
 “ Magistrates of Glasgow, with these instructions, That they alter their in-
 “ terlocutor complained of, in so far as it refuses inspection of the said
 “ books ; and that they appoint their collector to give inspection thereof to
 “ the defender ; but, in the mean time, to decern against the defender for
 “ payment of the sum of L. 50 : 13 : 4 Sterling, as the assessment laid upon
 “ him for the year in question, and to allow the decret to be extracted for
 “ the same, without prejudice to his being afterwards heard in any action of
 “ declarator for repetition, if he shall be advised to insist therein, and reser-
 “ ving all defences against such action, as accords.”

Lord Ordinary, *Cullen.* Act. *Arch. Campbell sen.* Alt. *Hay.* Clerk, *Home.*

R. D.

Fac. Coll. (Appendix) No. 11. p. 20.

1806. *March 4.*

BROWN and ANOTHER, *against* KIRK-SESSION of Mordington.

MARY BROWN resided with her husband and family in the parish of Mordington, for more than three years previous to 1794.

At that time her husband and his family went to Berwick-upon-Tweed, where he carried on the business of a tailor till 1798, when he failed, and his effects were attached by his creditors. Soon after he left his family, and enlisted in a regiment in foreign service.

Mary Brown was under the necessity of applying to the parish-officers of Berwick for assistance, which was afforded to her in the mean time, though it appeared that her family had not, by the laws of England, acquired a legal settlement in Berwick ; and as, upon inquiry, it was found, that their last legal settlement was in the parish of Mordington, an application was made to that parish for relief, which was refused.

Upon this Mary Brown and the overseer of the poor of the parish of Berwick, raised an action before the Sheriff of Berwickshire, against the Heritors and Kirk-session of Mordington for an aliment. The Sheriff found that no claim lay against the parish.

NO. 4.

Residence of a pauper for three years in a parish in England, which does not by the English law entitle to a settlement, does not liberate a parish in Scotland, where a settlement had been previously acquired, from the aliment of the pauper.