

Friday, June 11.

FIRST DIVISION.

[Lord Craighill, Ordinary.

YOUNG v. JOHNSON AND WRIGHT.

Process—Expenses—Objections to Auditor's Report  
—Fees to Counsel.

Held that fees which by indulgence of counsel, and owing to a client's poverty, have not been paid at the time, may subsequently be recovered from an unsuccessful opponent.

Wright, one of the unsuccessful defenders in the action reported *ante*, p. 545, objected to the Auditor's report, *inter alia*, that charges to the extent of £78, 8s. had been allowed for fees to pursuer's counsel, no such fees having been admittedly lent at the time. It was stated for the pursuer that the fees had not been paid owing to the pursuer's inability to advance money at the time.

Authority—*Tough's Trustees v. Dumbarton Water Commissioners*, May 14, 1874, 1 R. 879.

At advising—

LORD PRESIDENT—Mr Wright's first objection is founded merely on the fact that fees to counsel have not been paid. That is plainly a bad objection. The fees were not paid originally because the pursuer was in a poor condition in life and could not advance the money; and it has been sanctioned more than once as a rule of practice that an agent may in such circumstances, if counsel extend such indulgence, send the fees afterwards when the account of expenses has been paid by the opposite party. Mr Wright suggested that in such a case the agent might not send on the fees to counsel, having received them; I can only say that if an agent were found to have so acted, his name would not long remain on the rolls of Court, and that is the best security against such conduct.

Mr Wright's other objections are objections to detail, of which the Auditor is the best, and indeed the only judge.

LORD DEAS, LORD MURE, and LORD SHAND concurred.

The Court refused the objections for defender Wright.

Counsel for Pursuer—J. M. Gibson. Agent—D. Howard Smith, L.A.

Counsel and Agent for Wright—Party.

Saturday, June 12.

FIRST DIVISION.

[Sheriff of Lanarkshire.

BEATTIE (INSPECTOR OF BARONY PARISH)  
v. M'ULLOCH.

Poor—Relief—Able-bodied—Minor Pubes.

In a question of poor-law administration there is no general rule that a minor *pubes* is merely on account of his age, not to be considered an able-bodied workman, but each case is to be determined according as the particular applicant for relief is or is not shown to be fairly embarked in a trade from which he may earn a livelihood.

A lad sixteen years old, who was considered by a medical man not to be in a condition to look after himself although in good health, had, six months before applying for relief, been for three months in a bottle manufactory at six shillings a-week, but had on no other occasion before or since been in work of any kind. He was discharged from the bottle-work owing to a strike, and had since been unable to find employment in that trade. Held that he was not in the position of having been fairly established in a trade, and therefore that he was a proper object of parochial relief.

This case related to a claim for relief from the Barony Parish, Glasgow, by John M'Culloch, a boy aged sixteen. The inspector stated "that he refused relief because the applicant is a young and strong able-bodied man, and has for some time been supporting and is now able to support himself, and is therefore not a proper object of parochial relief." M'Culloch denied that he was "able to support himself. Admitted he is young, being sixteen years of age. Explained that he has a mother and a sister deriving relief from the poorhouse. Admitted he worked in a bottling-store for three months."

The following was the proof in the case:—  
"John M'Culloch, the pauper, aged sixteen, sworn—I do not know the day when I was born. I am older than my sister, who is fifteen years of age and two months. I was working in a bottle-house a good while since—six months since. I was there for three months. I was getting 6s. a-week. The bottle-blowers came out on strike, and we all were put away. I have been looking for a situation of late, and there is no place to go to. I have been at two or three bottle-houses for work, and they do not need any just now. I could not get work. (Q) Are you in good health just now?—(A) I cannot complain.

"Dr M'Ewan, sworn—I do not know whether I have examined the pauper boy or not. I do not remember anything at all about the boy. I have a copy of a certificate that I gave, and I find the name is John M'Culloch, but I cannot say whether the pauper is the boy or not. Although the boy is in good health he requires attention, and he ought to be sent to the parochial board to inquire into the circumstances, as he is not in a condition to look after himself. He has no parents, and the parochial authorities would look