

that this obligation shall only remain till they be of such age as they can rationally provide for themselves. With which explication, the decision is most just and most agreeable to natural equity. See Monsieur Servin's *plaidoiez*, last part, page 181; where, a father not found obliged to keep his bastard daughter, though it be recommended to him. *Quæritur*, if in our law a brother be obliged to aliment his bastard brother. *Sed puto quod non*, with Craig, *Feudorum* p. 265. *Vide* L. 4. D. *ubi pupillus educari debeat*; L. 1, p. 2, D. *de tutela et rationibus*, &c.; L. 73, *in fine*, D. *de jure dotium*; L. 20. D. *soluta matrimonio*; L. 13, p. ult. D. *de administratione tutorum*, *ibique Glossam et D D.* *Vide* Fabrum, *tractatu de alimentis*, p. 29; Stair's system *titulo 5, No. 10.*

*Advocates' MS. No. 250, folio 112.*

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1671. November 11. MATHY against —————

ONE being pursued to pay annualrent for a sum since his denunciation, it was ALLEGED *absolvitor* from annualrent, because he was denounced not at the market cross of the head burgh of the shire where he then dwelt, *viz.* Glasgow, but at the market cross of Edinburgh, within which sheriffdom he dwelt never: upon which denunciation, no annualrent can be due; because the Lords after a most contentious debate betwixt *Dickson* and *Hutchesone* in anno 1664, found, where a man was not denounced within the sheriffdom where he dwelt, that on such a horning neither his escheat should fall, nor annualrent be due; but the only effects thereof should be caption and debarring him *ab agendo et defendendo*: yea, the common law would teach a man so much, though we had no practise for it. Escheat is the punishment of contempt and contumacy; now a man cannot be made *contumax* by a denunciation made at another place than where he lives, since it is not probable it can ever come to his knowledge.

This was found relevant. *Vide supra* No. 243, [10th November 1671, *Fraser of Middelty*;] and *infra* No. 304, [18th January 1672, *Ramsay* against *Renton*;] and 463, § 3, [February 1676.]

*Advocates' MS. No. 251, folio 112.*

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1671. November 11.

IT WAS OBJECTED against a declarator of escheat, It was not tabled. ANSWERED, 1mo, It needed not, since the rebel held no lands of the king. 2do, If he did, then his majesty's advocate's servant concurred for his majesty's interest.

2do,—It was objected that the horning whereupon the escheat was sought, is null, in so far as he is not denounced at the market cross of the Regality within which he then dwelt, and the lands lie. ANSWERED, This being a general decla-