

sent her not, or thrust her out of doors, yet it taketh off the presumption that her meaning was not to entertain her *gratis*. *2do*, Entertainment *ex pietate* not extended beyond father and mother, especially where the person entertained has sufficient provision, and the father is so far liberated of that burden.

THE LORDS found the entertainment in question presumed to be made *animo donandi*, till the requisition; but from thenceforth, found the father liable.

Fol. Dic. v. 2. p. 141. Stair, v. 2. p. 770.

* * * Fountainhall reports this case :

A PURSUIT for the sum of _____ for alimentering the defender's child: The LORDS found this defence relevant, That the pursuers having kept their own grandchild, the defender's daughter, in family with them, it was presumed to be *ex pietate parentali*, and so there were no expenses due for her aliment, except there had been a paction to the contrary: As also, found this reply relevant, That the pursuer required the defender to take home his daughter, and that he sought her back, and she was ready to part with her, so as to make the defender liable for her aliment since the requisition or offer, and found them probable by writ, witnesses, or oath of party, reserving the modification to themselves of the aliment.

Fountainhall, MS.

1683. *January.*

ALCORN *against* CHARTERIS.

No 100.

THE LORDS found, That a mother might crave allowance for alimentering, without paction, her daughter, after pupilarity, to whom she was then debtor; because *debitor non præsumitur donare*.

Fol. Dic. v. 2. p. 141. Harcarse, (ALIMENT.) No 19. p. 5.

1701. *February 15.*

WILSON *against* ARCHIBALD.

No 101.

PETER ARCHIBALD's daughter, a young lass, having staid three years in the house of James Wilson, burghess of Edinburgh, and got her breeding and education there, he pursues her father for her aliment during that time.—*See* 2d *January* 1700, *voce* PROCESS.—*Alleged, imo*, She was put in the quality of a servant, and went their errands; *2do*, No aliment, because no paction; and though she was a minor, yet he might validly have pactioned for an aliment with her father; which not having done, it was to be presumed gratuitous. *Answered to the first*, She was not capable of doing any service worthy of her board and entertainment; *2do*, She was not kept as a servant, but put to schools and liberally educated: As to the *second*, Whatever may be presumed, where a