

(OF THE ACT 1491.)

No 22. brother bound *super jure naturæ* to aliment his younger brother, 24th January 1663, children of Netherlie, (See the next division of this Title); 29th June 1676, Row *contra* Row, (Stair, v. 2. p. 434. See PRESUMPTION); and there is as good reason that the uncle, (who requires no more but an aliment himself,) should maintain his poor indigent niece.—THE LORDS thought the demand altogether new, without law or precedent, and that the circumstance of his fatuity did not alter the case; for he might reconvalesce, and this might be as well craved if the fiar were an infant, who could be maintained on a small expence; and therefore found no ground for modifying an aliment in this case, but affoizied the defender from the libel, as altogether irrelevant.

Fol. Dic. v. 1. p. 30. Fountainball, v. 2. p. 493.

1722. February.

HUGH, MASTER of Lovat *against* Captain SIMON FRASER.

No 23.
Donatar of
escheat liable.

THE estate of Lovat was settled in liferent to Fraferdale, and in fee to his son. Fraferdale having forfeited his liferent escheat, the LORDS found the donatar liable to aliment the fiar, who had no separate estate for his subsistence.

Fol. Dic. v. 1. p. 30.

1729 January 24.

LAING *against* KAY.

No 24.
A man dis-
pones to his
wife in life-
rent, and to
his nephew in
fee. The
nephew's
child, in par-
ticular cir-
cumstances,
not entitled
to be alimen-
ted by the
liferenter.

ONE having disposed his lands in favour of his wife, her heirs and assignees, with this *proviso*, That after her death, a certain portion thereof should accrefce and belong to his nephew; the nephew's daughter and only child, after her father's decease, intented action against the wife for aliment, as apparent heir to her father and grand uncle. The defence was, That there was no relation betwixt the pursuer and defender, and therefore no aliment due *super jure naturæ*.
2do, The defender liferents no lands, to which the pursuer can succeed as fiar.
3tio, The pursuer's father was denuded of this claim, in his own lifetime, having disposed the same to his creditors, for their security and payment, and to his wife whatever should remain.—The pursuer was not found entitled to any aliment.

Fol. Dic. v. 1. p. 30.