

(Ex debito naturali.)

1764. February 11.

Younger CHILDREN of Seaton of Carrifton, *against* the HEIR.

GEORGE SEATON of Carrifton, possessing an estate as heir apparent to his father, very little above 1400 merks yearly of free rent, burdened his eldest son and heir with an annuity of 600 merks yearly to his wife, and a provision of L. 100 to each of his six other children; but having died in apparenacy, after possessing the estate but two years, these provisions became ineffectual.

This produced a process of aliment against the heir, who was but eleven years of age, at the instance of the widow, and her six other children. It was admitted by the tutor for the heir, That he was bound *ex jure naturæ*, to aliment his mother, and the quantum was submitted. But they *contended*, That the natural obligation to aliment relations is not extended beyond one's own children; that therefore he was not bound, *qua* brother, to aliment the pursuers, nor as representing his grand-father; because there is no natural obligation upon a man to aliment his grand-children; and that he does not represent his father, who was only bound to aliment the pursuers, his children. The Judges considered, that children arrived to the age of fourteen, may make a shift for bread to themselves; but that children under that age are helpless, and that it would be a defect in law if there should exist an infant, having near relations in easy circumstances, and yet no person bound to provide for him.

In this view, they modified 600 merks yearly to the mother, and an aliment of 100 merks yearly to each of the three younger children, until they should arrive at the age of fourteen.

*Fol. Dic. v. 3. p. 23. Select Dec. No 214. p. 279.*

1767. February 3.

COUNTESS DOWAGER of CAITHNESS *against* The COUNTESS and EARL FIFE, and Sir JOHN SINCLAIR of Stevenfon.

ALEXANDER, late Earl of Caithness, by contract of marriage with Lady Margaret Primrose, became bound to invest her in an annuity of 4000 merks out of his lands, payable at Martinmas and Whitsunday equally, the first term's payment to commence at either of the terms that should first happen after his decease; and he further obliged himself, his heirs and successors, to provide her in a convenient jointure-house.

Some time after the marriage, a voluntary separation took place between them, and thereupon the Earl became bound to pay to the Countess L. 1000 Scots yearly; which, upon the Earl's succeeding to his brother, in the estate of Murkle, was, upon a process brought by the Countess, increased to L. 200 Sterling yearly.

No 68.

The next heir found obliged to aliment the widow and children of the former heir, who had died in apparenacy, after possessing the estate two years.

No 69.

Whether aliment of a widow, until the first term after her husband's death, the expence of her mourning, and the rent of a jointure-house, fall to be paid by the heir or executor?