

1736. *July 28.* MONCRIEFF *against* FAIRHOLM of PILTOUN.

No. 4.

A YOUNG woman pursuing her mother, who liferented her portion of 12,000 merks, and her stepfather, who also by his contract of marriage was bound to aliment the pursuer according to her rank and quality; the defender offering to aliment her in his family, the Lords found the pursuer entitled to a separate aliment. Some laid their opinion on the voluntary obligation, but others differed, because that would extend to such obligations on parents to aliment their own children; and therefore laid their opinion on the obligation on the liferenter to aliment the fiar. (See DICT. No. 88. p. 454.)

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1737. *June 10. November 4.*

BLAIR, Younger, *against* TRUSTEES and CREDITORS of SCOT of Blair, his Father.

No. 5.

A LIFERENT being constituted to one by a contract of marriage, and the estate provided to a series of heirs, but the destination being altered by the heir of the marriage; the heir, who on his death, succeeded through that alteration, found to have no claim of aliment from the liferenter, though he would also have been heir by the former investiture, had there been no contract of marriage. *2do*, Found, That the heir's claim of aliment against the liferenter, is not effectual in competition with the liferenter's creditors who have affected the subject, for they thought this aliment not founded in the statute 1491, but introduced by custom *ad exemptum* of a ward superior, and vassals. The interlocutor in general sustains the defences, but these were the grounds they went upon. *Vide inter eosd. voce* PROVISION TO HEIRS AND CHILDREN.

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1737. *November 18.*

MARY BOSWELL *against* DAVID BOSWELL of Glasmouth.

No. 6.

RELICT's aliment to the term out of an encumbered estate proportioned not to her jointure, but to her husband's circumstances at the time; and therefore living separately from him with a conventional aliment of 200 merks, whereas her jointure was L.500, there was modified one-fourth of 200 merks. (See DICT. No. 121. p. 5916.)