

(Ex debito naturali.)

No 45. tars, without consideration of their being parents, but *super jure naturæ*, which they found would not extend to the obligation of charity, and which had no definite rule, but at the discretion of the giver, and was not allowed as a civil obligation by any nation.

Fol. Dic. v. 1. p. 32. Stair, v. 2. p. 365.

1756. March 2. CATHARINE DRUMMOND against ROBERT STEWART.

No 46.
A mother, who alimanted an idiot son while he had no fortune, found to have no claim for repayment when he succeeded to an estate.

CATHARINE DRUMMOND, mother to Robert Stewart an idiot, alimanted him from the year 1721 till the year 1751. He had no fortune whatever. In that year he succeeded to the estate of Ardvorlick, of L. 840 Scots yearly rent. In the year 1756, Catharine Drummond brought a process of aliment against her son, concluding for aliment from the 1721 till the 1751, as well as after this last period.

'THE LORDS found no aliment due till 1751; and, after that period, modified L. 40 to the pursuer.'

Act. ———.

Alt. And. Pringle.

Fol. Dic. v. 3. p. 22. Fac. Col. No 195. p. 289.

Sir J. Dalrymple.

1757. July 12. JEAN HOME against ASSIGNEE of Lady Wedderburn.

No 47.
Prior aliment by a mother deemed to be *ex pietate*, notwithstanding a child's supervenient fortune.

JEAN HOME, with her sister Isabel, had a bond of provision from their brother for 5000 merks; but it contained a clause, 'That the money should be divided betwixt them by Ninian Home, by such proportions as he should think fit to appoint, by any writ under his hand, *etiam in articulo mortis*.'

This power of division was never exercised by Ninian Home. At his death, one half of the 5000 merks fell to Jean, by the legal construction of the bond.

From the date of the bond till the death of Ninian Home, which was twenty years, Jean Home, who had no fortune except the prospect of this bond, had lived in family with her mother Lady Wedderburn.

After the death of Ninian, Lady Wedderburn claimed aliment as due by her daughter Jean, for this intermediate space, in respect of her supervenient fortune.

In an action betwixt Lady Wedderburn's assignee and Jean Home, concerning this claim of aliment,

'THE LORDS found, That Lady Wedderburn had no claim of aliment.'

For Assignee, Patrick Home.

For Jean Home, J. Dalrymple.

Fol. Dic. v. 2. p. 22. Fac. Col. No 43. p. 70.

Sir J. Dalrymple.