

secured to be furthcoming, occasions would offer; wherein the defender has no prejudice, since the law will oblige him either to pay annualrent for the tocher, or to grant an aliment equivalent; and the pursuer is content to find caution to make the money furthcoming to such as it shall be found to belong to, failing the pursuer's daughter.

No 106.

THE LORDS found the aliment due to the mother, and decerned the defender to pay the principal sum upon caution *ut supra*.

Fol. Dic. v. 2. p. 142. Gilmour, No 75. p. 56.

* * * In the case Wilkie against Morison, 7th July 1675, No 125. p. 5923. *voce* HUSBAND and WIFE, a mother having alimented her son, an infant, until his death, she was found to have action against extraneous heirs, though she liferented his whole effects.

1664. June 25. GEORGE MELVILL *against* MR THOMAS FERGUSSON.

GEORGE MELVILL pursues Mr Thomas Fergusson's step-son for the value of his aliment, after the mother's decease. The defender *alleged* absolvitor, because the defunct was his own mother, and he had no means of his own; and it must be presumed that she entertained him free, out of her maternal affection, and that his step-father did the same, after he had married his mother.

THE LORDS sustained the first part of the defence, but not the second anent the step-father after the mother's decease.

Fol. Dic. v. 2. p. 141. Stair, v. 1. p. 206.

* * * A similar decision was pronounced, 2d February 1672, Guthrie *against* Ld. of Mackerston, No 74. p. 10137. *voce* PERICULUM.

1668. December 15. MARY WINRAHAME *against* MR JAMES ELEIS.

JAMES MURRAY of Deuchar having married his daughter to James Eleis of Stenopmiln, leaves to the seven sons of the marriage beside the heir, 7000 merks, and the portion of the deceasing to accresce to the surviving; which sum was uplifted by James Eleis, who in his testament nominates his eldest son and heir his executor and universal legatar, and ordains him to pay all his debts out of the first end of his moveables, and then leaves 9000 merks to Patrick his second son, in satisfaction of all that he might succeed to by the decease of the testator his father. Margaret Winrahame, relict and executrix-creditrix to her husband, obtained a decret before the Commissaries *against* Mr James Eleis, who suspends on this reason, That Patrick's legacy of 9000 merks, being in full satisfaction of all he could demand by his father's death, must be understood in

No 107.

A mother having alimented her son, was not entitled to payment therefor; but she having married, the step-father was found entitled to payment for alimenting her son after her decease.

No 108.

A father becoming debtor to his minor children, by uplifting a bond due to them; his heir being sued for payment, was assolvitor from the annualrents of those years during which the children continued in their