

No 66. younger children, according to his circumstances, which would be implied, though not expressed, yet, in respect of the state of his affairs, the younger children could not compete with onerous creditors for aliment."

To this interlocutor the Court adhered, on advising two successive reclaiming petitions for the creditors, with answers, the children having acquiesced in the finding as to their aliment.

Lord Ordinary, *Justice-Clerk.*

For Creditors, *Rolland.*

Alt. *Abercromby, Ross.*

Clerk, *Home.*

S.

Fol. Dic. v. 4. p. 187. Fac. Col. No 203. p. 427.

SECT. VIII.

Where the Husband is not the Granter of the Obligation.

No 67. 1710. June 15. LESLIE *against* CREDITORS of LESLIE.

A FATHER, in his son's contract of marriage, having obliged himself to pay a certain sum "to him and his spouse in conjunct fee and liferent, and to the heirs and children of the marriage in fee, whom failing, to the son's heirs and assignees whatsoever;" and the son having, after his wife's decease, granted a disposition of the subject, the LORDS found, That the granter's daughter, and only child of the marriage, was in the common case of an heir of provision, and had interest thereby to challenge any gratuitous deeds done by her father to her prejudice.

Fol. Dic. v. 2. p. 282. Forbes.

*** This case is No 120. p. 1018. *voce* BANKRUPT.

1718. February. FEA *against* TRAIL.

No 68. A MAN, in his contract of marriage, obtained lands to be disposed to him from his father, to himself and wife in conjunct fee and liferent, and to the heirs whatsoever of the marriage in fee. In this case it was found, That the husband could do no voluntary or gratuitous deed in prejudice of the heir of the marriage, and particularly that he could not disappoint the heir of the marriage, even by a deed in favour of the second son of the marriage. *See* APPENDIX.

Fol. Dic. v. 2. p. 283.