

grandchildren, as no principle can be conceived, which would lead a father to provide for his son, and yet leave his grandchildren destitute; and this difference the case of childrens' claims for their fathers' provisions, from all the other cases resorted to by the defender, L. 102. D. De Cond. Demonstrat; Magistrates of Montrose against Robertson, 21st November 1738, No 50. p. 6398.

No 155

" THE LORDS altered the Lord Ordinary's interlocutor, and found the defender liable.

For Helen, *Henry Dundas.* For James, *Archibald Cockburn.* Clerk, —.
A. E. Fol. Dic. v. 4. p. 185. Fac. Col. No 51. p. 90.

1769. March 10. RUSSEL against RUSSEL.

No 156

A FATHER having granted a bond of provision, in favour of a second son, his heirs, executors, and assignees, payable at the first term after the death of the granter, the grantee predeceased his father. In an action, at the instance of a sister of the grantee, for payment of the bond, it was *pleaded*, That in donations *mortis causa*, the general rule, *quod morte donatarii perit donatio*, may be set aside by a clear indication of a different intention in the donor, which occurs strongly here. *Answered*, Bonds of provision to children are granted in implementation of the natural obligation; and as soon as that ceases, by the death of the child, the provision falls. The adjection of heirs and assignees, which is customary in all bonds of provision, is not sufficient to entitle the extraneous heir of children, after the death of a father, to claim bonds, which, upon their predecease, he had omitted to cancel. THE LORDS found the bond not due.

Fol. Dic. v. 4. p. 186. Fac. Col.

* * * This case is No 36. p. 6372. *voce* IMPLIED CONDITION.

S E C T. XX.

Conditional, and Implied, Provisions to Children.

1672. June 21.

ANNA CARSTAIRS and JOHN RAMSAY, her Husband, *against* JOHN CERSTAIRS, her Father, and SIR JOHN, his Tutor dative.

No 157.

JOHN CARSTAIRS, the father, being obliged by contract of marriage, *in anno* 1649, in case there should be but one daughter procreated of the marriage betwixt him and Isobel Ainsly, to pay to her the sum of L. 20000 after her at-

Provisions in favour of daughters, failing heirs-male of the