

(Ex debito naturali.)

No 75.

that then she herself becomes under curatory : That therefore can afford no argument in the present question. The case *Largo contra Monnypenny*, 14th July 1557, is but a single one, and probably would not be made a precedent now ; as a mother may no doubt perform the office of tutory, though she has made an irregular step of this kind.

As to the circumstances of this case, the pursuer has produced a certificate that she has lived irreproachably since her unfortunate connection with the defender. The defender still affects to doubt whether he is the father ; and is, besides, married to another woman, who, it is to be feared, might prove to the child one of the worst of stepmothers.

The defender also *contended*, That there was no medium for finding him liable in aliment, so long as till the child was 14 years old. Girls become *puberes* at 12 ; may chuse curators to themselves ; may marry ; may dispose of their persons at pleasure. The mother must then lose all authority over her child. The defender, therefore, cannot be ordained to pay to the mother aliment after that period. In the case *Burgefs contra Halliday*, aliment was found due till 10 years of age only, and that too upon the father's consent. There is no example of the aliment's being extended beyond seven, in *foro contentioso*. In the case *Paterfon contra Cochrane*, 14th February 1758, *Fac. Col.* No 97. p. 173. (*See TRIENNIAL PRESCRIPTION.*) aliment was found due for 14 years ; but there the term was not the point in debate.

*Answered* for the pursuer : This question does not depend upon the age of puberty. The child must be maintained by the father till it may be supposed capable of acquiring aliment for itself. In this country it seldom happens that girls are able to earn their own maintenance before the age of 14. The decision, *Paterfon contra Cochrane*, is quite express, finding maintenance due till the child was 14 years of age ; and in the other, *Burgefs contra Halliday*, the only point in debate was with regard to the custody.

THE LORDS adhered to the Lord Ordinary's interlocutor. (*See BASTARD.*)

Adv. *Ilay Campbell.*Adv. *Geo. Wallace.*Clerk, *Kirkpatrick.**Fol. Dic. v. 3. p. 25. Fac. Col. No 12. p. 19.**Rolland.*1778. *March 7.* ROBERT OLIVER *against* JANET SCOTT.

No 76.  
Extent and duration of an aliment due by a day-labourer, for a bastard child.

THE justices of peace of the county of Roxburgh found Oliver, a day-labourer, liable to Janet Scott, a woman of the same rank, by whom he had a bastard child, in the sum of L. 4 Sterling annually, of aliment for the said child, during her continuing to keep and maintain the child.

*(Læ debito naturali.)*

In a suspension of this judgment, at the instance of Oliver, the Lord Ordinary found that he was liable in that sum annually, until the child should attain the age of fourteen years.

But the Court, in reviewing this judgment, were of opinion, that, for persons in his circumstances, the sum was too large, and the time too long; and, therefore, they 'restricted the quantum of the aliment to L. 3 in the year, to be paid quarterly, until the child should attain the age of seven years; and also, thereafter, until either that the father shall take the child into his own keeping, or that the child shall attain the age of ten years.'

For Suspendor, *H. Erskine.*Adv. *Adam Ogilvie.**Fol. Dic. v. 3. p. 25. Fac. Col. No 21. p. 36.*

1782. November 19. JANET GLENDINNING against JAMES FLINT.

JANET GLENDINNING sued Flint for aliment of a bastard female child, whom she had born him.

In determining the *quantum* of that allowance, the Court was influenced by a specific obligation under the hand of Flint. With regard to the endurance of it, or of the mother's right to the custody of her child, their Lordships seemed to be chiefly moved by the consideration of the child's being of the female sex.

THE LORD ORDINARY had found, 'That the pursuer, Janet Glendinning, was entitled to keep the child until it attain the age of seven years, and to be paid an aliment therefor, at the rate of L. 100 Scots yearly.' But

The Court varied that interlocutor, and 'found the pursuer entitled to aliment for her child, at the rate of L. 10 Sterling per annum, ay and until she arrives at the age of ten years complete; reserving to the child to apply afterwards for aliment, as accords.'

Lord Ordinary, *Westhall,* Adv. *Little.* Adv. *Henry Erskine.* Clerk, *Colquhoun.**Fol. Dic. v. 3. p. 25. Fac. Col. No 68. p. 106.**Stewart.*

1782. November 29. AGNES PATERSON against ALEXANDER SPEIRS.

AGNES PATERSON, a woman of low rank, having brought an action against Speirs, who was possessed of a considerable estate, for aliment of a natural child of the male sex, of whom he was the father, the Lord Ordinary pronounced two interlocutors, one of them respecting the *quantum*, and the other concerning the duration of the aliment.

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No 77.

How long the mother is entitled to the custody of a female bastard child, and to payment from the father for its maintenance.

No 78.

To a male bastard child, an aliment of L. 100 Scots per annum, till he arrive at.