

*(Ex debito naturali.)*

No 80. But a second reclaiming petition being preferred, which was followed with answers, the LORDS found, 'That the pursuer was entitled to an aliment, and to the expence of the process of reduction, till the date of the final interlocutor, repelling the reasons of reduction.'

Mr Jardine reclaimed; but his petition, after being advised with answers, was refused.

Lord Ordinary, *Hales.* Aft. *Wight, Stuart.* Aft. *Lord Advocate, Blair.*  
Clerk, *Menzies.*

*Fol. Dic. v. 3. p. 25. Fac. Col. No 60. p. 109.*

*Craigie.*

1741. February. CAMPBELL against His FATHER.

No 81.

*Foris-familia-*  
*tion* does not  
preclude the  
claim for ali-  
ment.

THE LORDS found that *foris-familia*tion did not exclude a claim of aliment *super jure natura*.

*Fol. Dic. v. 3. p. 22. Kilkerran, (ALIMENT.) No 5. p. 22.*

1710. July 20.

MR ALEXANDER BROWN of Thornydikes the Elder, against GEORGE BROWN his Eldest, and ALEXANDER BROWN his Second Son.

No 82.

Children  
bound to ali-  
ment their  
parents.

OLD Thornydikes having, after providing George, his eldest son, in his contract of marriage, to L. 100 Sterling yearly during his own lifetime, and to the fee of the lands of Thornydikes, disposed the lands of Bassindean to Alexander his second son, in his contract of marriage; whereby the old father, denuded of all, and reduced to extreme want and misery through his exuberant fondness for his children, was necessitated to pursue a process of aliment against them: Founding his claim upon the law of nature and nations, That obligeth children to maintain their indigent parents, though they got nothing from them; and much more obligeth the defenders to allow *beneficium competentiae* to their aged father, who divested himself of his all in their favours, *L. 5. §. 2. ff. de agnoscendis et alendis liberis et parentibus, L. 1. eodem.*

The defenders did not much controvert the pursuer's title to an aliment, but each of them endeavoured to free himself of the burden, by throwing it over upon the other.

*Alleged* for the eldest son: He could be liable to no part of his father's aliment, till the lands of Bassindean, disposed to the second son, be first discussed; because, when the eldest son got the lands of Thornydikes disposed to him, his fa-