

The Widow of M'Culloch of Forchousikie against His Heir. There had been no contract; so that all the provision which the widow had, was a terce of certain lands, in which her husband was infest. This afforded her £40. But there were certain lands, in which her husband was not infest, but not fraudulently, or with a view to disappoint her. Out of the rents of these, the Lords gave her an additional aliment of £20 *per annum*, for seven years. This afforded her in whole £60, which was precisely a third of the heir's free income, after paying interest of debts and aliment to four younger children; which aliment they also fixed at £60. The heir's total free income was £240.

1780. *June 24.* STEWART of STEWARTHALL *against* MRS CHARLOTTE CAMPBELL.

No claim for aliment lies at the instance of the heir, fiar of a tailyed estate, against the widow annuitant of the predecessor, entitled to said annuity by her contract of marriage. She is not a liferentrix in the sense of the law; she is a creditor, against whom no claim lies.

APPEAL.

1776. *August 3 and December 11.* HONEYMAN *against* IRVINE.

AN appeal to the House of Lords, and served, stops all proceedings; and, according to legal ideas, there can be no proceeding after an appeal; for it is understood, by a fiction of law, that the records of the Court appealed from are removed into the House of Lords in consequence of the appeal. So that no record remaining before them, the Court appealed from has no cause in which they can proceed.

Disputes having happened betwixt the burghs of Kirkwall and Stromness, they came to law. Grahame was agent for Stromness, and, for credit to enable him to carry on the lawsuits, drew upon Honeyman. Honeyman answered his drafts,—and, for his reimbursement, got indorsations from Grahame to certain bills granted him by the inhabitants of Stromness for their share of the expense.

These bills were put in suit at the instance, and in the name of Grahame. The inhabitants disputed the payment, and raised a reduction of the bills, in which they called both Grahame and Honeyman. The proceedings, however, were in name of Grahame, but plainly for behoof of Honeyman, who never disclaimed the process. The pursuers prevailed, and the bills were reduced; not only so, but expenses were given,—and given against the defenders, conjunctly and severally; which included Honeyman.