the Place l. 13. § 4. ff. eod. Les Loix Civiles de Ibid. Sect. 4. § 4. 4
Liferenter of Lands ought to pay the Land Tax and other Im-
=posts and common Duty: l. 28. ff. de usu et usufruct. Cq. Les Loix
de Ibid. § 5.
As the Superior of Ward Lands or his Donatory is obliged to aliment
the Heir thereof while the Ward continues, Act 25 Par. 3. J. 4. So by Con-
=sequence and Parity of Reason, our Custom obligeth Liferenters
to aliment the Heir of the Estate liferented, if he hath not aliunde to
entertain himself Stair Lib. 2. Tit. 6. § 5. and subjects them to an
Action of Alyment at his Instance. This Custom Sir George McKenzie
(Observ. on d. Act 25 Par. 3. J. 4.) impugns, as neither founded in
the Letter nor in the Reason of Law, nor yet agreeable to the Principles
and Analogy of it. Because 1° Both Superiors and Liferenters being
expressly ordained to find Caution; and Superiors only expressly appointed
to aliment the Heir; casus omissus habetur pro omisso 2° Tho there
be equal Reason for obliging Liferenters as well as Superiors, to give
Surety not to wast that which they have only a temporary Right to;
Yet there is not the same Reason for burdening a Liferenter, who is a
singular Successor, with the Heir's Aliment, as for laying the Weight of
it upon the Superior who is in Effect his Tutor during the Ward, espe-
=cially considering, that it is highly unreasonable to take from a Liferen-
-ter without Consent, what was given for an onerous Cause and apply the
same to the Behoof of one representing the Author of the Liferent
and bound to warrant it. But our Practice doth notwithstanding extend
the Obligation to Liferenters. Aliment is due to apparent Heirs not
only by Liferenters of the whole Estate 21 Feb. 1631 Finnie contra Oliphant
12 Feb. 1635 Hepburn contra Seaton. But even where the whole Estate is not
liferented, if the rest be affected by Diligence for Debts of the deceased equivalent
to the Value thereof, tho no Diligence was used in his own Lifetime 13 Feb.
1662 Birnie contra Liferenters of Rossie. But Sir George McKenzie
(Ibid) doubts, if this will hold where the Debts are only personal. A Man mar-
=rying a Liferentrix, and giving her a Provision in Contemplation of her
Jointure would seem (tho a mere Stranger) not exempted from the Burden
of the Heir's Aliment: Seeing he was bound to know, that the Liferent
was liable to such a legal Burden. But whither he being found so liable,
would be free of any Part of the Provision given in Respect of the whole Jointure
tanquam causa data non secuta? cogitandum. A Person having disponed a
Part of his Estate to his Son and his Wife in conjunct Fee, Aliment was found
due to the Son's apparent Heir, only by his Mother who liferented his whole

Estate

Estate, and no Part to be due by his Grandfather who remained in the Fee
of the rest of the Estate 26 Feb. 1675 Whiteford contra L. Lamington.
Because Law obligeth Liferenters to aliment only the Fiar whose Estate they
enjoy, and the Grandfather liferented no Part of the Estate whereof his grand-
child was Fiar. Tho a Liferenter should by Paction quit part of her Jointure
to her Husband or his Creditors, yet if his Heir have no other of Maintenance
=ance, she must aliment him 27. November 1685 L. Kirkland contra
his Mother and Grandmother. But the Heir can claim no Aliment for any
Years or Time preceeding the Commencement of his Action of Aliment
eodem die inter eosdem. Where an Estate is affected with several Liferents,
all the Liferenters are liable for the Heir's Aliment pro rata of their
respective Liferents 12 Decemb. 1677 Preston of Airdrie contra Life-
=renters. Where there was at the Death of a Liferenter's Husband when
her Liferent commenced, a sufficient Estate to have maintained the
Heir, and that Heir afterwards exhausted the Estate with Debts and a
new Liferent to his own Wife; his Heir was found to have no Claim for
Aliment off the first Liferenter: Seeing the Estate was to be considered
as it was when the Liferent commenced, and she could not suffer Preju-
by any subsequent Deed
dice of the then immediate Heir 7 January 1682 Hamilton contra
Hamilton. If a Liferent be no more than sufficient to aliment the
Liferenter, the apparent Heir must rather want, than the Person pro-
vided for an onerous Cause Stair Lib. 3. Tit. 5. § 3. in fin. pr. Liferenters
by Reservation, are not liable in Consequence of the Act of Parlia-
=ment, to aliment apparent Heirs out of their reserved Liferents 7 July
1629 Hamilton contra his Goodsir 21 July 1636 L. Ramorny contra
Law. But a Father is bound to aliment his Son and apparent Heir
out of his reserved Liferent, jure naturæ, eodem die inter eosdem. And
one having infeft his Son in his Estate, in Recompence of a great
Tocher brought by his Son's Wife worth all the Estate he then had, re-
serving his own Liferent; was found liable by the Law of Nature, to
aliment his Grandchild the apparent Heir of that Marriage after his
Son's Death 27 June 1662 Ruthven contra L. Gairn junct Stair Ibid.
§ 3. Our Custom indulgeth the Privilege of Aliment not only to apparent
Heirs who are Minors but also to such as are Majors
Rig contra Lady Carberry. Tho these may do for themselves, and the
Statute (d. Act 25. Par. 3. J. 4.) from the Reason whereof Liferenters
are bound to aliment the Heirs of the liferented Estates, is conceived in
Favour of Heirs who are Minors: Because some Heirs are not bound by
their Quality to follow Callings or Imployments, to gain their Livelyhood.

Nay