

for any board or aliment either by him or his father; and, that from the near relation, it must be presumed to have been furnished *ex pietate*, as he being an apprentice all the time, and earning no wages, had no means of payment. THE LORDS were of opinion, that the debt was due both by father and son, and sustained the claim. See APPENDIX.

No 132.

Fol. Dic. v. 4. p. 122.

S E C T. IV.

Deeds in favour of a Wife or Child, whether presumed in satisfaction of their legal Claims.

1627. February 24. Ross against LILLIE or KELLIE.

No 133.

A CHILD was not excluded from his legitim, though he had a bond of provision, since it did not bear to be in satisfaction of the legitim.

Fol. Dic. v. 2. p. 143. Spottiswood. Durie.

* * This case is No 2. p. 2366. *voce* COLLATION.

* * A similar decision was pronounced, 16th July 1678, Murray against Murray, No 9. p. 2372. *voce* COLLATION.

1629. March 3. CARMICHAEL against GIBSON.

No 134.

A FATHER being debtor to the son in a legacy left by the mother, and after the father's decease, the father's executor being convened to pay the legacy, it was found, That payment made by the father for binding of the son as apprentice to a craft, ought to be ascribed in satisfaction of the legacy, *pro tanto*, and ought not to be found to have been given *ex affectione domestica*, or *ex pietate paterna*; for it was presumed that he would liberate himself of his debt before he would gift any thing; but this cause was betwixt poor persons, whose substance was mean, and the sums small, the legacy being of L. 80, and the prentice-fee paid L. 60, and the whole gear in the testament not exceeding L. 200 or L. 300, and that was the chief reason of the decision.

Durie, p. 431.