

in this cause, *viz.* That the daughter could not legate sums in prejudice of her mother and uncle, who were substitute to her. *Vide* No. 354, [Bonnar against Arnot, February 1683 ; Dict. p. 12,976.]

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1683. *February.* OGILVY *against* JAMES HUME; and FAIRY *against* CRAIG-DARROCH and LAG.

IN a pursuit at the instance of the representatives of an apothecary, for payment of a bond for apprentice fee, granted to the defunct by his apprentice,—it was alleged, That the apprentice having been bound for five years, his master died after he had served but three years, a proportion of the fee ought to be retained, as *causa data non secuta*. Answered for the pursuers, That, after three years, in which time the apprentice had sufficiently learned the trade, the want of his future service was only prejudicial to the master. The Lords allowed retention of a proportion, which was modified.—*February* 1683, *Ogilvy against James Hume*.

And in another case, where a master broke, while some years of the apprenticeship were to run, the Lords allowed a proportional abatement.—*James Fairy against Craigdarroch and Lag*.

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1683. *February.* ROBERT HEPBURN *against* SIR JAMES TURNER.

POSTERIOR apprisers of ward-lands, within year and day of the first effectual appriser, (who had taxed the ward, and paid a great composition to the superior,) craving to come *in pari passu* with him after the expiring of his apprising;—it was alleged for the first effectual appriser, That the other co-apprisers behaved not only to pay a share of the expenses of his apprising, but likewise a share of the composition for taxing the ward-lands; seeing the king's charter of apprising contained a clause, that, after expiring of the legal, a new infeftment should be expedite; and the said first appriser, having a separate estate, which might be affected by the marriage-casualty, if the ward should fall, was obliged to get it taxed, which is profitable to the pursuer. Answered for the posterior apprisers, They are content to take their hazard of the casualties of ward and marriage, and, not being in the like circumstances of danger, cannot be obliged to pay any share of the taxing: therefore, the first effectual apprising being expired, the lands must divide, and the obtainer must expedite his own infeftment. The Lords found the posterior apprisers not obliged to bear a proportion of the composition paid for the taxing, but declared, that if, at any time, they should make use of the benefit of the taxing, they should be liable in a share of the composition.

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1683. *February.* GEORGE TELFER *against* WILLIAM PATON.

A DONATOR of escheat having pursued a special declarator against the rebel's