

No 114.
bond was for
an appren-
tice-fee by
indenture,
of which the
master had
not fulfilled
his part.

son, that the bond ought to be reduced, in regard the same was granted by the suspender for his brother, Hugh Fraser's apprentice-fee, to the said Gun, who by the indenture was obliged to educate the said Hugh in the employment of apothecary surgeon, which he failed to do by his turning bankrupt shortly thereafter, and so was *causa data non secuta*; and that this was the cause of the bond is to be presumed, from its bearing the same date with the indenture; besides, he offered farther to astruct the same by the writer and instrumentary witnesses.

THE LORDS found that the bond and the indentures being of the same date is relevant to presume that the indentures and apprentice-fee therein mentioned was the cause of the bond charged on; the suspender astructing the same by the writer and instrumentary witnesses in the said indentures and bond; and to reduce the bond charged on *pro tanto* and proportionably to the time the apprentice was not alimented, educated, and instructed by his master, according to the indentures.

Fol. Dic. v. 2. p. 222. Forbes, MS. p. 45.

No 115. 1730. December. ROBERTSONS against DUNBAR.

IN a competition upon a defunct's executry, it being *alleged* against a creditor, That the Commissary's deliverance, upon his application, was antedated, in order to bring him in within the six months, this allegiance was found relevant to be proved by the Commissary's oath. See APPENDIX.

Fol. Dic. v. 2. p. 219.

No 116. 1734. February 14. NEILSON against RUSSEL.

IN a competition betwixt an onerous indorsee to a bill and an arrester, it having been found relevant to prefer the arrester, that the bill was not completed by subscription of the drawer at the time of the arrestment, the same was found relevant to be proved *prout de jure*. See APPENDIX.

Fol. Dic. v. 2. p. 218.

1742. November 3.

Mrs JEAN WHITEFOORD, and DALRYMPLE, her Husband, against AITON and his Spouse.

No 117.
▲ legacy
found not
competent to
be proved by
witnesses, to

THE deceased Doctor Hamilton having, by his missive in 1743, directed to Mrs Dalrymple, left her his watch in the following words; "I give you my watch, chain, and seal, which you shall enjoy after my death;" after the Doc.