

flowed *a non habente potestatem*, the King being denuded in favours of the Admiral, by the patent. *Advocates' MS. No. 625, folio 297.*

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1677. *July 28.* GRIERSON *against* COLQUHON.

GRIERSON and Colquhon, anent the returning of the prentice fee, or a part of it, conform to the time the prenticeship stood, or that was to run when the prentice died. See of this a little note, *supra*, No. 133. It seems not so precisely reasonable that it should divide equally *pro rata temporis*: but more should be allowed to the master the first year, than for the second or subsequent ones; because he is at the same expence upon his prentice the first year, that he is afterwards, and at much more trouble and pains in teaching him his calling, and gets far less service from him, whereof the boy is not yet capable; and so the master's benefit and acknowledgment, upon that account, should be more in the beginning of the apprenticeship than afterwards. But Mr Colquhon's bond he gave, providing how it should return and when, would regulate that case. *Vide Paullum in L. 4, § 5, D. de Statuliberis: Joannem Vandum, libro 1 Variarum Quæstionum.*

*Advocates' MS. No. 628, folio 298.*

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1677. *July.*

A WOMAN is provided to the half of the fee of some lands, failyieing of children of the marriage, the other half going to the heirs of the husband: the husband dies and leaves a son: the woman raises a pursuit of declarator that she ought to have right to the half of the fee, because the child was not her husband's but got upon her by another man, and not procreated of that marriage by him. Sir John Gilmour, being president, took the summons and tore it, and imprisoned the woman. See Craig, page 270, *de quadam regina* that in spleen against her son called him a bastard. In the Countess Dowager of Erroll's pursuit against the Earl, it was alleged against her, that she could not crave the additional jointure of 10 chalders of victual, provided to her in case there were no children procreated of the marriage betwixt them, because it was her own wyte that did not cohabit: *sibi imputet* that she had no children.

The Lords laughed heartily at the defence: and it is true indeed in one sense that *per eum non stetit* there was no bairns.

*Advocates' MS. No. 632, § 1, folio 299.*

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1677. *July.* ANENT CLAUSES OF CONQUEST, IN CONTRACTS OF MARRIAGE.

CLAUSES of conquest, in contracts matrimonial, provided to heirs of the marriage,