

rule of counting must be uniformly the same, till an alteration of the rent be made appear.

*Page 492.*

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1711. *February 13.* The MAGISTRATES of Paisley *against* their VASSALS.

IN the process at the instance of the town of Paisley against their vassals, the Lords, *July 20, 1710*, having found the defenders liable for their proportion of the cess in time coming, did now find them liable also for their proportion of the cess for the year 1705, and since then; and that the cess must be subdivided and proportioned among the heritors, by the commissioners of supply of the shire in manner following; viz. by leading before them a probation of the real rent of the whole lands in property and superiority liable in cess, and imposing and proportioning the said cess upon the lands in property and superiority, according to the real rent thereof.

*Page 495.*

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1711. *February 16.* ANDREW CUTLER, late Apprentice to the deceased HOMER GRIERSON, Chirurgeon in Dumfries, *against* MARGARET LITTLETON, Homer's relict.

IN the action at the instance of Andrew Cutler against Margaret Littleton, as representing Homer Grierson, for repayment of the half of L20 Sterling, paid in name of prentice-fee by the pursuer to Homer Grierson, with annual-rents thereof since the payment; upon the ground of law, *causa data non secuta*, the master having died while the half of the time of the prenticeship was to run: *Stair, Instit. Tit. Restitution, §. 17* :—

ALLEGED for the Defender,—No part of the prentice fee can be repeted: because the defender, after her husband's death, kept open shop and a young man capable to teach the pursuer, all the time contracted. And *July 24, 1707*, representatives of *Rule contra those of Reid*, one of three persons to whom a bond for 600 merks was granted for their overseeing the granter's interment, and children during their minority; having died before he was at any trouble or expense in overseeing the children; his representative was found, notwithstanding, to have right to the third part of the sum. Therefore, much more ought the defender to be asoilyied in this case; where the money was paid, and the prentice educated more than two years. The citations out of my Lord Stair's Institutions come not home to the case: for things given *intuitu matrimonii*, if marriage do not follow, or be dissolved within year and day, return to the giver, because in that case marriage is reputed not to have been.

REPLIED for the pursuer,—Since indentures, that are mutual obligements, continue till the expiration of the prenticeship, *eo momento* that the master died