

had the survivance of his father's place. *Quær.* since the father is now deprived, if he may not enter to it, upon his offering to take the test, as if his father were *civiliter mortuus*, and so exclude Mr George his posterior gift.

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1682. *March 9.* MADAM BROOMLAY *alias* FRASER *against* Sir PETER FRASER.

See the prior part of Fountainhall's Report of this case, and the Reports of Harcarse and Sir P. Home, in the Dictionary, page 4378, *et seq.* and page 4817.

MADAM Broomlay *against* Sir Peter Fraser; (7th February 1682.) The Lords, on Newton's report, find him personally liable, unless he will renounce to be heir; though he be a minor only of sixteen years, and at the grammar schools: but in regard it is not yet fully year and day since his father died, they allow him any time within the year, to give in his renunciation.

Whereas he should not have been pursued till year and day was past. The specialty was:—he was infest in fee by his father in his own lifetime, which he did not offer to renounce. See the contrary of this, both in Haddington and Dury, at the 25th June 1624, *Somerville.*

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1682. *March 9.* JOHN MARTIN *against* JOHN BROWN.

AT Privy Council, John Brown of Nunlands is assoilyied from John Martin's pursuit, for having acted as bailie of regality of \_\_\_\_\_ under my Lord Nithsdale, his constituent, who had not taken the test; seeing he had taken it himself, and had a gift of the place *ad vitam et culpam* from him. He was also quarrelled for finding him guilty of the theft of some dozens of apples. Though we say *de minimis non curat lex, yet justitia non consistit in quantitate.*

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1682. *March 10.* CRAWFURD and CAPTAIN WISEHEART *against* JAMES LITSTER.

CRAWFURD, and Captain Wiseheart her husband, *against* James Litster, baxter in Linlithgow, on a decreet-arbitral. The Lords, on Tarbet, Clerk-Register's report, repelled the reason of suspension *against* the seventy-five pounds, and the interest, in respect of the decreet-arbitral; and repelled the reason *against* the 181 pounds, upon account of Litster his own usury; but refused to sustain as to the annualrent thereof: and allow the expense of the comprising, to be paid before the same be delivered up: and allow Litster yet to produce the warrant from Chalmers as to the eighty pounds; otherwise they also sustain he decreet-arbitral as to that.

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