

No. 94. person that had a mind to take such indirect courses, to seduce or suborne two or three women, who through the imbecility and weakness of their sex, might be easily persuaded to depone upon acts of adultery against the most innocent person in the world. The Lords remitted the cause to the Commissaries, and found, that women, *omni exceptione majores*, were habile witnesses in the case of divorce for adultery.

Sir P. Home MS. v. 1. No. 605.

No. 95. 1683. *January.* PEARSON *against* WRIGHT.

Found that a tenant, who possessed only a house and yard, was admissible as a witness, although he had no tack.

* * This case is mentioned by Sir P. Home, in Paip against Newton, No. 143. p. 9012. *voce* MINOR.

1684. *February 28.* ERSKINE *against* ROBERTSON.

No. 96:
A witness adduced at the instance of several parties having a joint interest, was rejected, being son-in-law of one of them.

A servant hired by the day may be a witness.

Mary Erskine, relict of James Hair, against Thomas Robertson, merchant in Edinburgh, and Robert Miln, for repairing her damage in demolishing a tenement lying in the kirk-heugh belonging to her. The Lords, on Castlehill's report, before answer, grant commission to him, and my Lord Drumcairn, to visit the house, and to examine witnesses and workmen anent the condition of the house, if it was ruinous *vitio intrinseco* the time of the alleged damage, and what condition it is now in, and wherethrough the said damage, if any be, was occasioned; and if Thomas (and Robert Miln his mason) was only digging a foundation in his own ground, (*nam unicuique licet facere in suo*,) and assign the day of March next for that effect; and grant diligence to both parties to cite witnesses to compear before the said Lords at such times as they will appoint, for Thomas alleged the falling of her gavel was through fault of itself, it having only a mud foundation.

1685. *January 28.*—Thomas Robertson gave in a bill in his affair with Mary Erskine, mentioned 28th February, 1684, showing, that there was a mutual probation allowed anent the condition of that house, and whence the damage arose, and that he had taken out a diligence, but it was lost, so that the witnesses refused to come in, and therefore craving it might be renewed. The Lords granted the desire of the bill, providing he did not stop nor delay the advising of her probation, when it came in by the course of the roll, but that, he should close his probation against the same time.