

August. And at first we agreed to set him on the pillory for an hour, but before the sentence was written, we thought that would make him infamous, which we thought too severe, and therefore left it out of the sentence.

No. 34. 1751, July 26. *GIBB against WALKER AND SIMPSON.*

See Note of No. 19, *voce* CAUTIONER.

No. 35. 1752, Dec. 19. *PARK against ELIZABETH DALRYMPLE.*

THE Lords sustained an objection to a witness, that she was mother-in-law to the adducer, notwithstanding the answer that she was in the same relation to the objector.

No. 36. 1753, Feb. 7. *CHRISTIE against WILLIAM ROBERTSON.*

Two menial servants of Christie's and two cottars were admitted witnesses for proving the value of his crops of corn 1751 and 1752 cut down by him while they were in his service, as necessary witnesses, but not to prove matters of judgment, viz. the different values of crops of corn and crops of grass of the same grounds.

No. 37. 1753, Feb. 16. *THE DUKE OF ROXBURGH against CHATTO.*

IN this trial of forgery, mentioned *supra* February 6, (No. 30, *voce* FRAUD) Mr Walter Pringle, Advocate, was adduced for the pursuer, and being interrogated, Whether the prisoner had showed him the writing quarrelled, what the tenor or purport and date of it were, and what conversation he had with Mr Robert Pringle, one of the Duke's lawyers, concerning it? Objected, that he was employed as counsel for the prisoner, and therefore could not be obliged to reveal any of his client's secrets. The Lords found him obliged to depone, Whether he had seen the writing, and what he remembered of the tenor and date of it, and what conversation he had with Mr Robert Pringle, but would not ask him from whom he got the paper, nor any thing that his client said to him about it? which was agreeable to the precedent, 21st December 1675, Creditors of Wamphray against Lord Wamphray, (Dict. No. 12. p. 347.)

No. 38. 1753, Feb. 16, July 5. *SAME PARTIES.*

IN this trial of forgery one of the instrumentary witnesses dying during the trial, other witnesses were adduced to prove what he said of the matter on death-bed; and the defender objected to the competency, for that was but hearsay evidence. But the Court repelled the objection, and distinguished between the evidence of hearsay of an ordinary witness and of a person so connected with the crime, that the confession of an accomplice is a pregnant circumstance even where he is not or cannot be adduced a witness. That in a trial of murder evidence will be admitted of what the person killed said, and whom he charged. And in the trial of James M'Grigor for the rape of Jean Keay, her declaration was allowed to be read to the Jury.