

WITNESS.

16663

the horn that craves to be received. Receives not the witnesses produced by the rebel: Receives the cordiner by interlocutor. No. 48.

*Nicolson MS. No. 536. p. 371.*

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1628. January 10. PATERSON *against* LAIRD of GRANGE. No. 49.

A rebel may be debarred to use witnesses though they be at the Bar.

*Auchinleck MS. p. 254.*

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1628. November 19. A. *against* B. No. 50.

A procurator may be used as witness against his client, for proving the having of a writ for production whereof his client is pursued.

*Auchinleck MS. p. 254.*

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1629. July 10. WELLS *against* MUIRHEAD. No. 51.

The skipper of a ship admitted witness *cum nota* to prove the delivery of victual transported by him to a factor at London, albeit it was alleged that he might lose or win in the cause, seeing by his charter party he would be obliged for delivery in case a factor denied the same.

*Auchinleck MS. p. 254.*

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1629. December 4. CRICHTON *against* WATSON. No. 52.

Robert Crichton, Sheriff of Nidsdale, being charged by Andrew Watson to take and apprehend the Laird of Closeburn, suspends, that he was ready to obey, and desired the officer and party to go with him, and show him the rebel; which they refused, and that he, notwithstanding, went immediately after the charge to the house of Closeburn, and searched, but could not find the rebel, where upon all the premises he took instruments. It was replied, that the pursuer offered him to prove by witnesses that he offered to go with the Sheriff; but the Lords repelled this reply in respect of this instrument produced.

In the same suspension it was alleged by Watson, that he offered to prove by witnesses, that since the charge the Sheriff intercommuned with the rebel, in places within the sheriffdom, where he might have apprehended him. The Lords found the allegiance relevant to be proved by witnesses, the pursuer first condescending