

1693. November 24. Row against Dick.

No. 111.

The Lords advised James Row's petition again Grange Dick's two daughters, as heirs to Lessly of Newton; and inclined once to examine his prentices *ex officio* before answer, and the women-witness, and to have considered his count-books, and taken his oath in supplement on the verity of them: But considering this was offered in the act extracted by himself, and repelled, they would not introduce such a dangerous preparative as to encourage merchants to furnish prodigal minors lavishly; and that our count-books had not the faith and credit of the Mercatorian books abroad, which were kept with that exactness, that they were almost equal to public registers: And they found a holograph letter, bearing date in his majority, could not prove its own date.

*Fountainhall, v. 1. p. 571.*

1696. November 21.

NICOLSON OF TILlicOUTRIE against SIR PATRICK NISBET.

No. 112.

Sir Thomas Nicolson of Tillicoutrie gives in a petition against Sir Patrick Nisbet of Dean, complaining he had raised an inhibition against him on a patched-up debt, and had prevailed with one Mr. William Robertson, an old messenger in Edinburgh, to give him an execution, as if it had been published at the market-crosses of Stirling and Clackmannan, within which two shires Tillicoutrie's lands lie, and got it signed by one Blair and Wat, two of the Privy Council posts as witnesses; whereas the execution was altogether false, and none of them had been one foot out of the Town of Edinburgh, and yet Sir Patrick had given in this execution to George Robertson, and got it registered. This being a recent forgery, the Lords sent for the messenger, and, upon examination, he acknowledged, that at Sir Patrick Nisbet's desire, and promise to warrant him, he signed the execution as done at these market-crosses, though it was not so, and that he got only three 14 shilling pieces; and, after some further trial, they sent the messenger and one of the witnesses (who was not so ingenuous) to prison, and delayed till Tuesday the consideration, if they might summarily proceed against Sir Patrick, by citing him to answer on this complaint, there being no summons of improbation yet raised, and who will allege ignorance in the whole affair, and that the messenger's knavery cannot be imputed to him; and that he received the execution from him as a true deed, and he was not bound to think otherwise.

Whether a *socius criminis* can be admitted as a witness to prove forgery?

1696. December 17.

The complaint, mentioned 21st November 1696, at Tillicoutrie's instance, anent the false execution of the inhibition, and which Sir Patrick consented to have discussed summarily, *per modum simplicis quærelæ*, dispensing with the for-