

it at granting the discharge), was not meant to be included in that discharge, and mentioned some circumstances that raised in us a strong suspicion that it was not intended to be comprehended; yet we could not allow a proof by witnesses to redargue an express writing.

No. 21. 1748, Feb. 11. WILLIAM TAYLOR *against* LORD BRACO.

IN the case mentioned 26th November 1747, (No. 17, *voce* FRAUD), betwixt these parties, Lord Braco objected to William Taylor's bond, which was by Andrew Geddes, younger of as principal, and Archibald his father as cautioner, yet the testing clause run thus, "In witness whereof I have written and subscribed these presents, at" &c.; which bond, if it was Andrew the principal, then Archibald the father, who sold the lands, was not bound; and if it was Archibald the father, then it was null as to both, because not signed by the principal debtor. But upon answers, the Lords repelled the objection, agreeably to two precedents in point, 14th February 1712, Orr *against* Wallace, (DICT. No. 153, p. 16919), and 15th January 1734, Gilmour *against* Representatives of Pollock.

* * * Relative to the case of Gilmour, the note in the manuscript, at the date 15th January 1734, is as follows:—The Lords adhered to the Ordinary's interlocutor. The former decision (alluding to Orr *against* Wallace) was the *ratio decidendi* that moved the Lords.

No. 23. 1749, June 2. BARBARA ANGUS *against* DR COLT.

See Note of No. 18, *voce* CAUTIONER.

No. 24. 1749, June 2. SINCLAIR *against* JAMES CADDEL, Upholsterer.

CADDEL hired Sinclair as a journeyman for three years, by a writing, not stamped paper, and the writer not designed. He entered to the service and continued 15 months, and then left him. Caddel sued him in the Bailie-Court, who ordained him to make out his service, and granted warrant to incarcerate him till he found caution for that effect. He suspended, and objected, 1st, That the contract was unlawful, being *species servitutis*; 2dly, Not stamped paper, as an indenture of apprentices ought to be, nor as all contracts must be; 3dly, The writing null, because no writer. But Murkle found the letters orderly proceeded, and gave expences. Sinclair reclaimed, and we had no regard to the first, nor did we look on him as an apprentice; but found some difficulty as to the other two; and on the whole, found that having begun the second year's service, he must complete that year, and adhered as to expences; but suspended as to the third year.

No. 25. 1749, July 22. PICKEN *against* JANET CROSBIE.

THE deceased Picken disposed an adjudication he had for £.500 Scots to his wife in liferent, and two daughters in fee. His son obtained a reduction in absence of this disposition, and they pursued a reduction of that decret. A proof before answer was allowed, and the pursuer proved sufficiently that the defunct could not write, if it was not sometimes by initial letters. But on the other hand, there was a clear proof by instru-