

No. 20. 1744, Jan. 5. CRAWFURD *against* CAMPBELL.

See Note of No. 20, *voce* HUSBAND AND WIFE.

No. 21. 1744, Jan. 24. NISBET *against* HUNTER.

UPON my report without informations, the Lords found it a good objection against two witnesses in a process on the passive titles, that they were uncles to the pursuer, though they were brother-uterine to one of the defenders the wife and brother-in-law to the husband.

No. 22. 1744, Feb. 21. SIR P. MURRAY of Ochtertyre *against* MURRAYS.

THE process was about a money settlement registrated in the Sheriff-Court of Perth, and afterwards unwarrantably taken up out of the record as was alleged. The Sheriff-Clerk was adduced as a witness, and answered some interrogatories, but demurred to answer others that might affect himself. But we found he must answer as commonly happens in exhibitions, and even diligence, where the questions are, Had you given, or have you fraudfully put, away?

No. 23. 1744, Feb. 24, 28. M'ILHOSE *against* REID.

A CONCERT among creditors of a bankrupt with him to come in *pari passu*, and to discharge him; the concert as to the *pari passu* preference was admitted, but the question was, Whether the other part was proveable by witnesses? 2dly, There were but three witnesses, and two of them carried on this process and paid the expense. Arniston and I both doubted the competency of a proof by witnesses, and likewise of the hability of these two witnesses. We altered the interlocutor. We did not determine either of these points, but found no sufficient evidence of that part of the concert. But upon a reclaiming bill it was carried by President's casting vote the 28th February to grant diligence against two new witnesses to prove this.

No. 24. 1744, July 18. CAMERON *against* LAWSON.

See Note of No. 24, *voce* HUSBAND AND WIFE.

No. 25. 1744, Dec. 19. WEIR *against* STEEL.

See Note of No. 17, *voce* PRESUMPTION.

No. 26. 1744, Dec. 21. M'LEOD *against* M'LEOD.

THE question reported was, Whether John M'Kenzie, writer, could be adduced a witness against his client Cadboll, to depone what he knew of an arrestment that was used in Cadboll's hands by a creditor of M'Leod of Genzies even before the term of payment was procured by Cadboll himself. They found that he behoved to depone upon