

the other to the multurer, which the defenders averred to have been only one lip-
py for both; the Commissioners for taking the proof having referred to the Lords
an objection made for the pursuer to certain witnesses adduced for the defenders,
That they were within the prohibited degrees to some of the possessors of the
barony, and therefore could not be received as to any of the possessors thereof,
the defenders, applied by petition, praying for a direction to the Commissioners
to repel the objection to the witnesses, so far as concerned such of the defenders
as stood in no relation to the witnesses.

The Lords, on advising this petition, with the answers, "Sustained the objec-
tion as to the whole defenders."

In both cases, the objection was considered as indivisible, and that the defenders
might as well adduce one another, as adduce a witness within the forbidden de-
grees to any of them.

Kilkerran, No. 17. p. 603.

1752. December 19. DR. PARK *against* DALRYMPLE.

Dr. Park brought an action upon the passive titles against Elizabeth Dalrymple,
his wife's sister, for medicines furnished to her deceased father, and fees for at-
tending him. He offered proof of the furnishings and visits; and among other
witnesses, produced the widow of the deceased.

Objected: That the witness was the pursuer's mother-in-law, and therefore
could not be received,

Answered, *1mo*, The witness was also the defender's mother; and so, being
equally related to both parties, there was no fear of partiality; *2do*, She was a
necessary witness.

Replied, *1mo*, Equal relation to both parties does not take off the objection of
relation; *2do*, The furnishing of medicines, and visits of a physician, are open and
voluntary acts, and are easily proved; therefore the widow was not a necessary
witness.

"The Lords sustained the objection."

Act *Geo. Brown.*

Alt. *Boswel.*

Clerk, *Forbes.*

Fac. Coll. No. 48. p. 72.

1755. February 28. BETHIA YULE *against* JOSEPH YULE.

John Yule being eighty years of age and a bachelor, lent out two sums upon
bonds, taking the securities to himself; and failing himself, to his brother Joseph
Yule, his heirs, executors, or assignees.

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No. 189.

No. 190.

A witness
liable to be
set aside,
because of
proximity of
blood to one
of the parties,
cannot be
received,
though he is
of the same
relation to
the other
party.

No. 191.

A tutor ad-
mitted as
witness for
his pupil.