

Disord. Brother or sister Uncle or Aunt Nephew or Niece
 cannot bear witness for the party to whom they stand so Re-
 lated. But they are not Exempted from Giving, if required,
 testimony against one another, *Slair ibid.* A person who
 was a subscribing witness to a Disposition granted in fa-
 vour of his Nephew quarrelled as Capite decem, was Re-
 quied from Jurisprudence for the Nephew that the Disposi-
 tion was granted in Liege pons the 19 June 1713 *Endors of Br.*
histoun contra Hamilton of Dalziel. Prosper Garinaci
Co. Gelibus Quest. 54 n. 32 is of opinion that those Incapable
 to bear witness for parties by Reason of affinity, may
 be Received when the tie of affinity, which was the cause of
 the Disability is Dissolved by Death. But yet will us a Bro-
 ther or sister cannot be witness for him whose sister he Mar-
 ried, or who was Married to his sister, the sister he deca
 15 January 1679 Brown contra Gorn of Kirkcubright. Be-
 cause affinity doth not cease by the death of the wife. But
 Brothers in law by marrying the sisters, may bear witness
 for one. And likewise, that being only affiliated, affiliated *Slair*
ibid. 39 vers. Ninety. Prosper Garman are Inhabile witnesses
 for one another upon the account of propinquity of blood 15 Jan-
 uary 1679 Brown contra Gorn of Kirkcubright. *Whence or*
son. ended 18 Parl. 23. f. 6 Crim. part 2. Tit. 17. 84 if more
 different witnesses are at hand, or competent Evidence is
 given that they may be had *Slair ibid.* 4 Tit. 43 89 vers. Ninety.
 In France the testimony of Relations and Allies of the par-
 ties even down to the Children of second & third inclusively
 is Rejected in Civil matters whether it be for or against them
See de la Civil. & Crim. 1 part 1 Liv. 3. Tit. 6 sect. 3. Art.
Godhear. Affinity or Consanguinity is no objection against
 a witness if he be Equally Near or allied to both parties
Prosper Garman de Gelibus Quest. 54. n. 45. 46. 116. 205.
 And tho' those of too near Consanguinity or affinity can
 not bear witness for their Kind folk or allies, they may
 be Received witnesses against them, *Prosper Garman. ibid. n. 73*
 Husband or wife, father or son being Excepted at Supra
 Quarta if unlawful Relation by Bastardy,
 be a good objection against a witness. By the Civil law
 l. 4 § 3 ff de. g. ad. 2. Affins and in the opinion of the Doctor
Prosper Garman. ibid. n. 73. 74 Unlawful affinity is no Just

Objection against a witness. So the Lord of Session admitted a wil-
 ness within the Degree of blood being a Bastard whom the
 law Reputes to be procreated at incest, *patre doli* not made
 Consanguinity: albeit it was pleaded, that the being of a Bas-
 tard took not away the grounds and Reason of affection. *24 No-*
vemb. 1624 L. Bunning tour contra Crawford. And the Lord
 of Justiciary once found, that a man might bear witness for
 his wife's Natural father 21 Feb. 1676 *Tiraneis. McRum's*
case. But in another case they Refused to put in a Bastard's
 son as witness for his natural father 15 Decemb. 1690 *James*
Douglas & Brown. And in the opinion of the Doctors the Un-
 lawful affinity doth not Bar a witness, yet Unlawful bondan-
 quinity is a Just objection, so as a Bastard cannot be Received
 witness for his natural father *Prosper Garman. ibid. n. 137.*

of the Evidence of persons who have a Dependence
 on the party who would make use of their testimony is Rejec-
 ted. King Robert's Statute (d. Cap. 34) Incapacitates servants
 to be witnesses. And so does the Civil law l. 38. de. test. lib. 1
 l. 24 ff. de. l. 11 § 1 ff. de. pons. But by Custom *Personal* for
 servants are Habile witnesses against their Masters, tho' not
 for them *Prosper Garman de Gelibus Quest. 55 n. 97* *When*
the Criminal 2 Tit. 26 38 Because suspected to favour the In-
 terest of their Master, and to Declare only what he Desires, for
 servants are Habile witnesses for their fellow Domesticked *inferred*
Slair with them, and may witness in favour of their former Mas-
 ter being out of his service at the time, unless he had put him
 away with a Deceit full View to use them as witnesses, *Prosper Gar-*
man ibid. n. 32. 34. 145. 150. Slair ibid. 4 Tit. 43 89 *2nd. Sixty.*
Sir George Mackenzie (ibid.) Inclines to think, that a servant
 Dismissed since the Citation to Depose, cannot be a witness for
 his former Master. But yet a person was admitted to bear
 witness for one whose service he left not till after he was Cited
 to Depose 4 Feb. 1709 L. Cadogan contra Hamilton of Pimphor-
 ston. Moveable Tenants, i.e. such as possess without standing
 tenes are not Competent witnesses for their Masters *Slair ibid.*
2nd. Seventy. That is, Moveable Tenants in Country Land, by
 Labouring whereof they live and subsist. For a Moveable Te-
 nant in a Dwelling House in a burgh Royal 11 June 1623
Watson contra Gynlar or in a Country Town 26 July 1712
Goodie contra McLaure spotswood *Pal. G. L. Probation & Wines*