

they relied on the cases of *Rex vs. Dodd*; LEACH, C. C. 187. *Rex vs. Atchurst*, ib. 173. *Rex vs. Newland* ib. 350. *Rex vs. Thornton*, ib. 723. *Rex vs. Ruffel*, ib. 10.

The *Attorney General*, in answer, admitted the general principle, that the person whose name is charged to be forged, is not an admissible Witness; but he contended, that this was not the case with Mr. Grant, he said he did not produce him to prove, that his name had been forged; on the contrary, he admitted the signature to be his own: and therefore, Mr. Grant was not within the letter of the cases cited. He stood upon the common ground, and the inquiry as had been settled in *Abraham's qui tam*, vs. *Bunn* 4. Burr. 2254. and in *Bell vs. Harwood*, 3. Term. Repts. 308. was, whether the Witness was under the bias of interest or influence, or in other words, whether the objection should go to his competency or to his credit. In the case of *Rex vs. Whiting*, SALK. 283, where the defendant by some slight, got his mother-in-law's hand to a note for £100. instead of £5, it had indeed been ruled by Holt. Ch. Just. that the mother-in-law (who as in the present case admitted her signature) could not be a Witness; but this case was no longer held to be law in *Rex vs. Bray*, (HILARY 1786) Lord Hardwicke shook its authority, and it was afterwards overruled by Lee Ch. Justice in *Rex vs. Broughton* 2 SRR. 1229. and by Lord Mansfield in *Abrahams vs. Bunn*: so that these were cases which by doing away the principle on which alone Mr. Grant could be refused, had virtually decided that he ought to be heard. He had no direct interest, for the Receipt had been withdrawn from the files of the K. B. as soon as the "*Inscription en faux*," was made; and could not be again used in that action. There was therefore no more than the bare pos-

sibility of his being liable to another action, which was not sufficient to make him incompetent, whatever effect it might have upon his credit; for which, he cited. *Carter vs. Pearce*, 1 Term, Repts. 163. He contended further that Mr. Grant ought to be heard from the necessity of his testimony, which frequently happened in Criminal cases. He cited in support of this principle: Leach Hawk. vol. 4. p. 443. *Rex vs. McCarty*, Salk. 286. *Rex vs. Fox*. Str. 652. and *Rex vs. Moise Strange*, 595, where the defendant was indicted for tearing a note, and the prosecutor was admitted to prove the fact, though it was objected, that he was swearing to set up his own demand. He further urged the Propriety of admitting Mr. Grant's testimony, because the action which had been pending in Court was then compromised, and concluded by stating, that Juries were the proper judges of facts, of Witnesses, their testimony and conduct; that the whole tenor of modern decisions tended to restore to them this right; and that, in the spirit of this idea, Lord Mansfield had declared in the case of *Abrahams* and *Bunn*; "that where the matter was doubtful the Witness should be heard, and the objection go to his credit only."

Mr. Stuart argued in reply, that in the cases cited by Mr. Ker. The persons whose names had been forged had been declared to be incompetent witnesses upon the ground of interest. They were interested, because it would be for their advantage if the instrument should be declared a forgery; that Mr. Grant was in like manner interested in the present question, for it mattered not whether he was called to prove that he never signed the receipt, or that it was altered after he did sign it; If it was declared to be a forgery on either of those principles, the advantage to him was the same.