

to the Earl of Southesk, another witness insert. The pursuer thereupon craved the defender would more particularly design the other witness John Carnagie, servitor to the Earl of Southesk, because there were several persons servants, or attendants, upon the Earl at that time of the same name, and condescends upon two of them having several designations, beside this common one. The defender alleged that he was obliged to condescend no further, seeing the act of Parliament required no more than the name, surname and designation. It was answered, that the intent of designations being to find out the person of the witness, that he might be adduced in the improbation, a general designation would not suffice, but behoved to be made special, or otherwise, if the pursuer should cite any person of that designation, and that person should deny the subscription, his testimony would improve, or at the best, the defender behoved then to design specially another of the same common designation, otherwise it were a compendious way to all forgery, as if witnesses should be insert of such a name, indwellers in Edinburgh, or any other town; in that case, if the testimony of none of them should improve, there were no remedy for the falsehood.

The Lords found that all the persons that were the Earl of Southesk's servants or attendants at that time, and were called John Carnagy, that were alive, should be cited, and the hand writs of any that were so designed, that were dead, should be produced by either party to be compared with this subscription, that thereby it might appear if the subscription could be astructed by the testimony or hand writing of any other.

Stair, v. 1. p. 730.

1671. December 5.

DICKSON *against* DICKSON

No. 111.

A ticket from one brother to another, bearing "That he should bear the half of the expense of repairing a certain house," found null, as wanting witnesses, and not being holograph.

Stair.

* * This case is No. 167. p. 11490. *voce* PRESUMPTION.

1675. January 23.

VANS *against* MALLOCH.

No. 112.

Umquhile David Trench stationer, having granted a bond to Helen Sim for 4000 merks, she assigns the same to Mr. John Vans her oye, who thereupon pursued Malloch as executor to Trench, who alleged absolvitor, because the bond is null, as having but one witness, and not being holograph. It was answered, that albeit the whole words were not written with Trench's hand, yet the substantials of the bond were, viz. "I David Trench, stationer in Edinburgh," and these words

A bond found to be holograph in which only the debtor's name, sum, and dates,