

No. 153. quo actus valeat; and ita comparatum est ut conjuncta pro disjunctis, et disjuncta pro conjunctis accipiantur, L. 53. D. De Verb. Sig. for supporting writs.

Forbes, p. 587.

1712. February 20.

GILBERT, MARY, and VEMEA RULES, Younger Children to the deceased Mr. ROBERT RULE, late Minister of the Gospel at Stirling, *against* The CREDITORS of MR. ROBERT CRAIG of Riccartoun.

No. 154.

A writ signed in Edinburgh sustained, though it bore only, "written by J. R. writer, which was held to be a sufficient designation.

In the ranking of the creditors of Riccartoun, the younger children of the deceased Mr. Robert Rule, competed upon an heritable bond and infeftment for £324 Sterling, granted by Mr. Robert Craig the common debtor to their father in March 1703, to which they had right by disposition and infeftment from him upon deathbed, ratified by Dr. Rule the granter's eldest son and heir.

Alleged for the other creditors: The foresaid debt is extinguished, being conveyed by the Doctor as heir, to James Smart, late servant to my Lord Poltoun, for Riccartoun's behoof. No regard can be had to the ratification, because it doth not design the writer, bearing only to be written by John Russel, writer, which is no designation at all, and by act 5, Parl. 3. Ch. 2. is not suppliable; so July 27, 1710, Sir Thomas Kennedy against Oswald, (Not reported,) a ticket was found null for that one of the witnesses therein was designed only writer hereof; and July 14, 1626, the execution of a horning was found null, for not designing the house, though the party was designed burges in such a burgh, No. 87. p. 3748.

Answered: The ratification is sufficiently formal, because, 1st, Writer, being *nomen officii*, is as good a designation as preacher of the Gospel, or Doctor of physic, or merchant traveller in England, or as mason, wright, &c. would be to an artificer who (having no certain habitation) goes about where he may find work. The decision betwixt Sir Thomas Kennedy and Oswald comes not up to this case, because "writer hereof" was no designation at all; 2^{do}, It is presumed that John Russel was writer in Edinburgh, where the ratification was signed; so a writ was sustained, though one of the witnesses was designed merchant, and the other chirurgeon, without mentioning the place where, in respect the witnesses were understood to be merchant and chirurgeon at Dumfries, where the writ bore to be signed, June 27, 1700, Reid against Brown of Nunland, (Not reported;) now the designation of chirurgeon, or merchant, is as uncertain as that of writer.

The Lords repelled the objection against the ratification, that the writer was not sufficiently designed.

Forbes, p. 591.