

1668. *January 4.*

No. 108.

Dow of Aricho *against* CAMPBEL of Calder.

Dow of Aricho having pursued Campbel of Calder, as heir to his father, for payment of a bond, wherein his father was cautioner for the Marquis of Argyle, the bond bore but one witness to Calder's subscription; and George Campbel, one of the witnesses, being examined if he saw him subscribe, deponed negative, but that it was Calder's hand-writing to the best of his knowledge. There were also other writs produced subscribed by Calder to compare the subscriptions.

The Lords would not sustain the bond, having but one witness to Calder's subscription, upon the foresaid testimony and adminicles.

Stair, v. 1. p. 499.

1668. *January 24.*

No. 109.

MAGISTRATES of DUNDEE *against* The EARL of FINDLATER.

It being objected against a bond, granted before act 1681, That it was null as to one of the cautioners, having neither date nor witnesses to his subscription; and being offered to be proved, that this cautioner signed the same day, and before the same witnesses with the other debtors in the bond; the Lords, before answer, ordained the witnesses to be examined upon this fact.

Stair.

* * * This case is No. 5. p. 3348. *voce* DEBTOR AND CREDITOR.

1671. *June 8.*

No. 110.

Designation applicable to various persons of the same name.

SIR WILLIAM STUART of Kirkhill, *against* SIR GEORGE M'KENZIE and KETTLESTOUN.

Sir William Stuart, as heir by progress to Sir Lewis Stuart, his goodsire, pursues improbation of a bond, bearing to be granted to Mr. John Stuart of Kettlestoun, his son granting an annuity of 3000 merks yearly during his life, and some other provisions: Which bond is assigned by Kettlestoun to Sir George M'Kenzie, and being produced, Kettlestoun has abidden by the same, and has declared upon oath, that he was not present when it was subscribed, but that he received it from his father, as now it is. One of the witnesses inserted, being then Kettlestoun's servant, deponed, that the subscription to this bond as witness is his subscription, but that he did not see Sir Lewis subscribe, nor any of the other witnesses; and remembers nothing of the matter, and that he knows not John Carnegie, servitor