

No. 212. tion, having compared the same with the other not controverted subscriptions; the pursuer making faith, that this is the same letter which he received from the deceased Viscount, his servant or messenger.

Stair, v. 1. p. 728.

No. 213.

1674. *November 7.*

BOYD *against* STORIE.

Discharges by a master to his tenants sustained against him, though neither holograph nor having witnesses.

Dirleton. Stair.

* * This case is No. 297. p. 12456. *voce* PROOF.

No. 214.

A commission from one merchant to another sustained, though subscribed only by initials without witnesses.

1676 *January 11.*

THOMSON *against* CRICHTON.

Patrick Crichton having delivered certain goods to Francis Thomson, who was bound to Bourdeaux, gave him commission to sell them, and to return tobacco and wine with the product; but Francis having gone to Ostend Patrick sent him a second commission, to sell his goods, and to return such goods as he thought would be most profitable in Scotland, and Francis having loaded several goods at Ostend, sent them home, in a Dutch ship to Scotland, and came himself another way. The ship having arrived before Francis' return, his wife did deliver a part of the goods to Patrick Crichton, as the product of his goods. The said Francis Thomson, after his return, pursues the said Patrick Crichton for delivery of the goods, which he had unwarrantably gotten from his wife, pretending that they were the return of his own goods, before the Dean of Guild of Edinburgh, and obtained a decret. Patrick Crichton suspends, and alleges the decret was null, wanting probation, there being nothing to instruct the commission sent the charger at Ostend, but a paper subscribed only with the initial letters, *P. C.* without witnesses. And though bills of exchange amongst merchants are used to be sustained without witnesses by the common custom of nations; yet they were never sustained by initial letters only; *2do*, The ground of the decret is, that by the second commission Francis Thomson bought Holland and Damask, with the product of the suspender's money, and that the same was taken by violence, by a Dutch privateer; and there was nothing adduced to prove the same, but an attest of the Dutch skipper and mariners, which could not prove, unless they had deponed judicially as witnesses; *3tio*, There is nothing to prove that the product of the suspender's goods was the Holland and Damask, but the charger's assertion, whereby he would impute the loss of that parcel, taken by the privateer, to the suspender only, his goods being safe in the same cargo, which cannot be allowed, unless it were instructed by