

should recover the said debt, to pay 200 merks more, of which 100 merks was to be paid to the said Lawrie; and it cannot be thought, that Dumbar would have given away so considerable a sum, the bond and annualrent of the said sum extending to L. 100 Sterling, for 300 merks presently, and 200 merks upon the condition foresaid. 4. It appeared by the bond and assignation, that they were written with one hand, and the witnesses' subscriptions appeared to be all written with one hand. 5. The writer and witnesses are obscure persons and not known, and the designation of them is so general, that they could not be well found, being designed writers, indwellers in Edinburgh, and no otherways. 6. It appeared, by comparing other papers written by Dumbar, both as to the character and the spelling, that the said papers being written by Dumbar are the same write that the bond and assignation is of. 7. It appeared by some papers subscribed by Davidson, produced by Wauchope to astruct and approve, that his subscription to the said papers is not like that of the bond.

No 213.

Divers papers were produced, being alleged to be forged by Dumbar, being bonds granted by persons who were dead, and whereof the writer and witnesses were likewise dead; which did labour of the same grounds of suspicion and falsehood; and albeit they were not declared to be false, yet being questioned and a warrant being given by the Lords to apprehend Dumbar, he had escaped and was fugitive; and the said Dumbar is looked upon, and is *pessimæ famæ* as a falsary and a forger.

THE LORDS were ill satisfied, that their macer should have taken a right to, and used such a writ, but as yet have not censured him. *In præsentia.*

*Dirleton, No 385. p. 188.*

1697. July 29.

JOHNSTON *against* JOHNSTON.

WILLIAM JOHNSTON offering to improve a disposition produced by his brother Robert against him, and upon the abiding at the verity of it, being ordained to consign L. 40, in case he succumb, he represents by a bill, that he being in the poor's roll, he cannot command the money; and it were hard, because of his poverty, that forgery should escape, *cum crimina non debent manere impunita.* THE LORDS, on the other hand, considering calumny is not to be encouraged, therefore they ordained him to enact himself to undergo three months imprisonment, in case the disposition be found a true deed. *Qui non habet in ære luat in corpore.*

No 214.

*Fol. Dic. v. 1. p. 458. Fountainball, v. 1. p. 790.*