

the granter's subscription were sustained, the careful provision made by acts of Parliament concerning blank writs, reduction of deeds *in lecto*, and fraudulent conveyances in prejudice of creditors, might easily be eluded. No. 118.

Answered for the pursuer : Though in other places, as in England, a writ is not probative till the witnesses make *affidavit* upon the verity thereof; with us writs formally signed before witnesses are valid and receive present execution, until they be improved or reduced. Witnesses are only adhibited to ascertain the date and the verity of the parties' subscription, without being obliged to know the contents of the body of the paper; yea, oft-times that is industriously concealed from their view, as particularly in testaments. The defender cannot found any thing upon the act 1696, unless in the terms thereof he subsume and prove that the Lady's name was blank at the subscribing of the bond.

The Lords repelled the reason of reduction and extinction of the bond. Though some were of opinion that it could not be quarrelled so much upon the act of Parliament 1696, as upon this ground, That the witnesses, who saw nothing of the writ above the parties' subscription, could not be held as witnesses to a subscription; that being a relative word implying *aliquid super*, which they did not see.

*Forbes, p. 225.*

1708. November 23.

SIM against DONALDSON.

No. 119.

A witness, after 10 or 12 years, acknowledged his subscription; but did not remember that he saw the parties subscribe, or heard them own that they had subscribed. He declared, That he knew their subscriptions, and was sure he would not have subscribed witness, except in the presence of the parties. This the Lords found probative, notwithstanding the act of Parl. 1681, requiring witnesses to see the parties subscribe, or acknowlege their subscriptions, which doth not import that a witness, after a tract of years, can distinctly remember the thing.

*Forbes.*

This case is No. 132. p. 16713. *voce* WITNESS.

1710. February 1.

BAILLIE against LOCKHART.

No. 120.

It being objected by one of the parties in a minute of sale, That the writ was null, because one of the two instrumentary witnesses was infamous, *infamia juris*; in so far as there was a decree of improbation of a bond obtained against him some years before, finding him accessory to the forgery, and ordaining it to be