

can the condescence upon one man for another be admitted? Again, though in the interpretation of writs formal as to the solemnity, an error in one part may be explained or corrected by another; if the substantial solemnity of a writ were allowed to be corrected by a condescence, and probation of extrinsic facts not contained therein, our security by the act 1681 is at an end, at least altogether precarious. The designations of persons in executions or libels are in a different case; for these may be drawn over again, if wrong at first; but a *jus quæsitum* through the nullity of a voluntary conveyance cannot be taken away from parties interested, by a subsequent condescence. And a messenger may more easily mistake the names of witnesses, than the granter of a bond or assignation will mistake the persons subscribing to his deed.

The Lords unanimously sustained the nullity, and found it not suppliable, now after the act of Parliament 1681; and declared they would decide so in all time coming.

Forbes, p. 179.

1708. February 20.

MARGARET BOSWAL and WILLIAM HAMILTON of Grange Breich her Husband,
against CORNET GEORGE BOSWAL.

No. 307.

In the action at the instance of Margaret Boswal and her husband, against Cornet Boswal her father, the Lords sustained a marginal note upon the pursuer's contract of marriage in favours of the Cornet; albeit no witnesses were subscribing thereto, and the contract did not bear that the witnesses to it, were also witnesses to the marginal note; in respect the pursuer's double of the same contract produced by themselves bore the very same marginal note, and they did not disown the verity of their subscription thereof.

Forbes, p. 248.

1709. June 7. HAY of ARNBATH against The DUKE of GORDON.

Sir Patrick Ogilvy of Boyne holding some lands as vassal to the Duke of Gordon, and having sold them to Arnboth, he agrees with the Duke, and grants bond for 1600 merks, as a year's rent of these lands for an entry, and obtains the Duke's charter to himself, and a bond from him, whereby the Duke obliges himself, that how soon Arnboth shall present a charter to him of the lands sold by Boyne to Arnboth, containing the old *reddendo*, he shall grant a charter of confirmation thereof in favours of Arnboth. The Duke being pursued by Arnboth upon his bond, to confirm his right; it was alleged for the Duke, his bond was null, because it wanted the date, place, and designation of the witnesses, which are *inter essentialia*

No. 308.

An informal writ supported as being relative to other writs, which possessed the forms requisite at the time they were executed.