

1678. July 9.

HENDERSON *against* MONTEITH.

No 570.

THERE being two witnesses to a disposition, one of them acknowledged his subscription, the other, whose subscription had only the initial letter of his christian name, denied his subscription, adding this for the reason, "That he never was in the custom of subscribing in that manner;" but his deposition being most distinctly redargued by production of many writings subscribed by him after that manner, the LORDS found the writ in question probative.

*Fol. Dic. v. 2. p. 266. Stair.*

\*.\* This case is No 229. p. 11552. *voce* PRESUMPTION.

1683. February 14.

MURRAY *against* MURRAY.

No 571.

THE LORDS sustained indirect articles of improbation, notwithstanding the direct were extant, and that the witnesses inserted had abidden by and approbated; and upon the probation of the indirect articles, their Lordships did find the witnesses who had been examined in Ireland, false and feigned; but the specialty in this case was, That the witnesses themselves were dead, and not examined before the Lords of Session here, or by their commission, but only the extracts of their depositions, taken in a civil pursuit before the High Court of Chancery in Ireland, sent over here; and the witnesses were *viles personæ*, and of no fame; but in regard it did not appear the defender had any accession to the forgery, being only user of the forged deed, the LORDS refused to remit him the Court of Justiciary.

*Fol. Dic. v. 2. p. 267. Falconer.*

\*.\* This case is No 18. p. 4806. *voce* FORUM COMPETENS.

1684. January.

SIR ROBERT MURRAY of Abercainny *against* \_\_\_\_\_.

No 572.

THE LORDS sustained an execution, the messenger and one of the witnesses inserted, and some not designed by name, being positive, albeit some of the witnesses inserted deponed *non memini*, and the execution was not ancient.

*Fol. Dic. v. 2. p. 265. Harcarsé, (INHIBITION.) No 633. p. 174.*