

1665. December 5. RICHARD CUNNINGHAM *against* DUKE of HAMILTON.

Richard Cunningham pursues the Duke and Duchess of Hamilton, for payment of a bond, granted by the late Duke, which being produced, appeared to have been blank in the sum, date and creditor's name. The defenders alleged, the bond was null, as wanting the designation of the writer. It was answered, that they did now design him, which has been always allowed by the Lords. It was answered, that though the Lords have done so, *ex officio*; yet in a case of this nature, where the debt is so old, never mentioned before, and the bond in the substantial blank, in which case the Lords ought to keep by the express words in the act of Parliament, that such writs are null, and not to be supplied by an equivalent.

The Lords repelled the defence, and admitted the designation.

Stair, v. 1. p. 322.

No. 294.

A writ wanting the designation of the writer sustained, and the party allowed to point him out.

1667. July 26.

PHILIP *against* CHEAP.

A deed being subscribed by notaries, because the party could not write, was found null, because the notaries' subscription did not bear, that it was by command of the party; nor was it found suppliable by a proof of witnesses that the command was actually given, because even in ordinary cases order or command is not so proveable.

Stair.

* * This case is No. 41. p. 16837.

No. 295.

1668. January 4.

Dow *against* CAMPBELL.

In a pursuit upon the passive titles for payment of a bond, objected, There is but one witness to the bond. In order to support the bond a proof being admitted, other writs were produced of the debtor's hand-writing, and one witness deponed that the subscription was his. The Lords found these not sufficient to support the bond.

Stair.

* * This case is No. 108. p. 16884.

No. 296.