

27 June 1700 Court and of Merchant and Chirurgion ⁱⁿ another signed at Dumfries
 the Persons so designed did execute their respective Offices were not
 done. In Respect the first was presumed to be a Writer in Dumfries
 the two last to be Merchant and Chirurgion in Dumfries. Gentleman was
 one refused to be a good Testimony of the Writer of a Paper in Dumfries
 Ireland concerning after the Scottish Form and relative to a Part in a
 22 July 1712 Murray of Broughton contra Lady Lesmptie. But the
 of gentleman in said Writ was thereafter sustained 27 July 1712
 because so the Designation of gentleman is used in several Acts of
 Parliament regulating Pains and Fines by the Quality and Degree of
 Persons as a Character of Distinction peculiar to such as are
 Degree of Barons or landed Men and above that of Yeomen or
 20 The Writ being signed in Ireland where Persons of Fashion sets
 Degree of Merchants [&] Artificers and that of Knight, are known
 the Addition of Esquires or Gentlemen the Designation might to be sustained
 in Scotland. For it cannot be expected, that Persons should Design themselves
 otherwise than as they are commonly known loco contractus and in the
 where they dwell. *Falsa designatio non nocet ubi constat de persona*
 supra pag. 3. If the Witnesses do not subscribe the Writ it is null. *Act*
Par. c. 2. That is null by Exception: Seeing the Want of Witnesses app
 from the Writ itself *M. Kenzie Observ. on d. 1. 5. A Writ containing*
 competent Number of Witnesses mentioned therein and wanting the sub-
 scription of one of them when judicially produced, was annulled, and that
 equal Defect found not to be supplied by the said Witness's signing afterwards
 or intervallo 19 January 1711 Straitoun contra Robertson. Witnesses in Writ
 called instrumentary Witnesses, ought not to subscribe as Witnesses, unless they
 know the Parties and saw them sign, or saw or heard them give Warrant
 to Notaries to subscribe for them, and in Evidence thereof touch the Notary
 Pen, or hear them acknowledge their Subscriptions at the Time, under the
 Pain of Accession to Forgery, d. Act 5. *It is Death, Principals and Acc*
 -servys being liable to the same Punishment by our Law; tho the latter be
 sometimes more mildly dealt with ex gratia *M. Kenzie Ibid.* The contra-
 -vener would be further liable for Damage and Interest to any Person
 having Right to the Writ reduced or annulled ex eo capite 12 Feb. 1689
 Allan contra Blair *M. Kenzie Ibid.* Tho it may thought that the Person to
 whom the Writ was granted should have looked to his own Security, and the
 Witnesses might have trusted to his Exactness. Law obligeth Witnesses to see
 the Party subscribe. &c. Because a Gentlewoman having been allowed
 to take a Paper with her to her own Chamber in Order to sign it, upon
 her Desire and Obedience, that she could not write before Company, and

at her Return brought back the same subscribed; did notwithstanding,
 thereafter raise a Reduction, as if it had not been so. So that *ex*
malis moribus oriuntur bonae leges ^{Law is made upon the necessity of things} *Writ after 10 or 12 Years*
 -Edging his Subscription, the notary ministered that in such a case the
 -scribe or own that they had subscribed, and from that time called out
 the Act of Reduction, it was not in point, but a Writ *Act of Reduc*
 of Year, distinct from the Act of Reduction, and the Act of Reduction
 Syn and Act contra Damages. *Writs* *Act of Reduc*
 the Date, and the Verity of his Deeds, and relative to that of his
 to know the contents of the same, and the Part which is of it, and
 from their View, or otherwise, in Testaments: *Act of Reduc*
 upon this ground, but it was a fine, and that the Writs were not
 thing of the Day of the Writ, and the Grant of Subscriptions, as in many
 1700 Lady Arnis contra James contra James in Lang. & N.
 best Women are allowed to sign Writs in some Cases, of Part of which
 the Press, upon the Declaration of Persons who are supposed to
 have any Authority of them, where they are not at liberty to do so
 whom he will be a Witness: Yet Women cannot be instrumentary Wit-
 -nesses, or Witnesses to Writs or Deeds, where the Oath of Witnesses is alle-
 githor voluntary, and the Function of being Witness is more natural to
 Men *Act of Reduc* *Act of Reduc* *Act of Reduc*
 -not. Powers to Direct Juries, *Act of Reduc* *Act of Reduc* *Act of Reduc*
 for a Witness to a Deed in Favour of himself 21 Nov. 1697 Robert
 Law contra Abercromby. But Persons otherwise incapable to testify
 judicially, as Sons, Brothers, Servants &c. may be instrumentary
 Witnesses, because such are chosen by Consent of Parties, which cuts off
 all Objections against them *Prosper. Farin. de testibus quest. 54* *Act of Reduc*
 107. quest. 55. n. 83. quest. 52. n. 110 & seq. *M. Kenzie Observ. on*
 Act of Reduc. Par. 6. §. 6. It is fit however to choose disinterested Witnesses;
 Seeing if one of two Witnesses interested in the Party should deny Sub-
 -scription, the Writ would be annulled 20 February 1673 Commissary
 of Glasgow contra Nimmo. And if both denied their Subscriptions,
 it might in strict Law be declared false; Yet if there were pregnant
 Circumstances and Arguments to restrict the Truth of the Subscriptions,
 the Writ could not be improved, tho such interested Witnesses should deny
 deny their Subscriptions *M. Kenzie (vini. Part. 1. Tit. 27. §. 6. 1700*
 there be marginal Notes or Additions upon the Paper, these must also
 be signed by the Party, and the Writ should bear that the Witnesses are
 also Witnesses to the marginal Note or Notes whereof the Number, if
 more than one, should be expressed. But the Lords sustained a margi-
 -nal

The original printed Sermons from the Synod of Glasgow and Distinction of Officers