

No. 150.

1706. June 27. M'ICKEN *against* KENNEDY.

The writer of a bond found sufficiently designed by the general designation of notary.

Forbes.

\* \* This case is No. 62. p. 524. *vide* ANNUAL-RENT.

1708. December 14.

WILLIAM JAMIESON in Glenside, and MARGARET JAMIESON his Daughter,  
*against* ROBERT SHERIFF in Culbeg.

No. 151.

In a writ bearing place and date at the top, and after the clause of registration these words, "Before these witnesses, Thomas Jamieson, writer hereof, and Alexander Jamieson, at Leckie," the words "at Leckie" were sustained as sufficient to design the writer, it being proved that they lived in Leckie at the time.

Robert Sheriff in Culbeg having subscribed a writ of the tenor following, "At Leckie the tenth day of March, 1708, it is concluded and agreed betwixt Robert Sheriff in Culbeg, and William Jamieson in Glenside of Leckie, and Margaret Jamieson his daughter; the said Robert Sheriff obliges him to marry the said Margaret Jamieson under the pain of 500 merks Scots; wherefore we consent to the registration of thir presents, in the books of Session, or any other Judge competent, before these witnesses, the said Thomas Jamieson writer hereof, and Alexander Jamieson at Leckie, day, month, and year of God foresaid." Upon this obligation William Jamieson and his daughter pursued Robert Sheriff for the 500 merks, in respect he had resiled from the purpose of marriage.

Alleged for the defender: The obligation is null by the act of Parliament 1681, for want of the designation of writer and witnesses.

Answered for the pursuer: These words "At Leckie" sufficiently design both.

Replied for the defender: The word "said" being prefixed to Thomas Jamieson's name, who is not mentioned in any former part, is an evidence that he was previously designed, and not to be designed by the words "At Leckie;" *2do*, In stile persons are not designed "at," but "in" such a place; *3tio*, The words "At Leckie" design the place, and not the writer and witnesses, as appears from the following words, "day, month, and year of God foresaid," without further mention of the place.

Duplied for the pursuer: If the writ by mistake mentioned the word "said" before Thomas's name, while he had not been formerly spoke of, the words "At Leckie" were the more necessary to design him, for helping the mistake; and the word being *inutiliter adjectum*, the designation *per illud inutile non vitatur*; *2do*, To live "at" or to live "in" such a place, are promiscuously used for one and the same; *3tio*, The words "At Leckie" cannot be allowed to design the place, because that was expressed at the head of the writ; and the words "day, month, and year" have been added *per incuriam*, they being expressed at the top; so that in