three are dead, the writ will be declared false; albeit if the
three being alive did formally approve it, it would subsist,
improven by them. But albeit the testimonies of the witnesses
in such a case deny their subscriptions, will not improve the
writ in the direct manner of improbation, they may
=ever, as admitted in the indirect manner Stair ibid. 8.
where writs are questioned after the death of the witnesses
there in insert, they being only presumed to be true till the
=ny is proved, all probabilities and presumptions by indirect
articles are admitted to improve the same and other, to
to approve. Yea, the testimonies of instrumentary witnesses
taken in Ireland and produced in Scotland which affirmed
writ quarrelled, were found not to exclude pregnant
of improbation 12 feb. 1679 Murray alias Brickloun co
Murray. If the witnesses be not so designed, or they may
sufficiently known, the defender must design them more
=ticular by other ways they will not be sustained as probation
21 feb. 1672 Baillie wit. Somervel Stair ibid. 825.

The indirect manner of improbation, is partly by
witnesses, who are received what ever objections may be
Hering Nov. 6. 1628 Lady Fowy contra Captain Carrolay
tib. 4 Gil. 43 & 44, and the Lords Conquiers it depending, what
is to be given to their testimonies; partly by strong presumptions
are conjectures arising from comparation and literal
the writ impugned doth not agree with the same
subscription to other writs of that kind, it is most suspicious
and if both the subscriptions of the party and witnesses
hand writ, out all unlike their true subscriptions
may be improved by certain conjecture and
1 Gil. 27 & 6 Vers. If the writ stamed to be improven. But
were hard to infer the punishment of false hood from
such proof which is at best presumptive; seeing the
ler of a writ to a stranger, the acquainted with his
nary subscription, might kindly subscribe it
to it other ways than he used to do; that he or his
thereafter quarrell the writ. Again arguments for the
improving of a writ in the indirect manner may be drawn
from the given planets of the pretended subscribed or
=nesses, as that they could not write their own names, or were
alibi at the date of the quarrelled writ Stair ibid. 824. Q.
that the party whose hand bears at Edinburgh, was there
at Caithness, in both which so distant places he could not
be in one day. But in improbations except the alibi, viz. that
the party was not in the place where the hand bears to be
signed, so long before or after, is never received, for
adm

admiculum alterius majoris et gravioris presumptionis
Spotswood Prat. Gil. Improbation. Mr. Sir George Mckenzie
Crim. part 1 Gil. 27 & 6 Vers. In the indirect manner the
Lords use is of opinion, that a writ, tho it might be annulled
upon such a presumption, could not be declared false; because
people do often through error or mistake insert a wrong date.
Yea, the Lords exonized from improbation of a writ false in
the date, and did not annull it, because the instrumentary
witnesses owned the verity of the subscription upon, with
23 feb. 1662 Mayne contra Hoss. An assignation was not
held to be false, albeit it was not subscribed of the date
bore: in respect it was subscribed in lieu of a for
assignation of that tenor and date, missing containing
a reservation thereof, and not assignation being produced
in process he was ordained to the right sum, but to
the last as to the verity of the subscription and not of the
date 10 July 1669 Hayne contra Jardine. Therefore when they
Creditor, lib. 2 tit. 4 § 1 will have a wrong date to annull the
whole writ, and say the Lords Stair Com. 1 Gil. 42 & 19 verso
thinks date and place essential to a writ where the verity
of it is questioned; these answers [illegible] to be understood,
that the date is so far essential to a writ, that either reason
would be sustained for improving a writing of a date 19
January 1662 Grant contra Grant. If the improven
of a writ in the date, may cause the [illegible] to specify the
date, and a writ proved to be a false date, will be declared
false, unless the information arise from the false date, as
taken of bailie of Banffshire & Dorset of Mckenzie ibid. Yea,
the words used to take the death of the defender himself,
in an improbation Mckenzie ibid. albeit regularly one is
not obliged to swear upon the crime he is charged with. The
indirect manner of improbation is not allowed, unless the
direct manner hath failed by the death of the writer and
instrumentary witnesses. But albeit in a clear improbation
after the direct manner, there is no place for the indirect
way of improving or approving the writ quarrelled: yet
in an improbation after the direct manner, by the writer
and two instrumentary witnesses, the testimony of one of
these witnesses being quarrelled by the defender in the
improbation upon this ground, that he offered to prove
that witness got a bribe from the pursuer to deny his
subscription to the writ quarrelled: the Lords gave leave
and to file the instrumentary witnesses, and also to
cite witnesses to prove the objection made against one
of