83. Plus an extract of letters of publication of Interdict
was sustained as a sufficient admiscle to proved the
of a bond of Interdiction; seeing such a writ ought not to
=lined. 26 July 1662 Lady Milntown contra L. Milntown.
the tenor of writs that may be extinguished by simple Rel
as personal Unregistred Bonds or the like writs granted
for a time can only be made up by oath of the Debtor or
Clearly proving the special way or manner how they
left 19 Feb. 1636 Lord Grendraught contra L. Banff &
ibid. Stuart informed to Detail, double Pl. proving the
Because debtors think themselves secure by retiring and
buying their bonds without taking any discharge of the
being Regularier a principal unregistred bond penes
=tenem, or which cannot be produced, presumitur solutum
left the Contrary be instructed by Witnesses, viz. that
bond came into the debtors hand other ways than by surre
dor from the Creditor in order to be Cancelled; or that it co
not be lost, seeing the term of payment was not
This Interlocutor was a Motion to Endeavour the cause amiss
of his bond, by offering to prove by witnesses, either
the writ after the time when it is alledged to have
lost or destroyed was in the Creditors hand, or in the
=tor's possession; or that the debt was paid or satisfi
=ed Stair lib. 4 Tit. 32. §. 3. Payment of a bond which
=not be produced is allowed to be proved by the witnesses
partly because writs not to be taken to Instrument
=ment of a Retired principal bond; partly, for that the
in such an extraordinary case, being Judged to prove
tenor of the bond by Witnesses, the debtor should be allowed
to prove his defence the same way.

After Litis contestation in an Action for proving
the tenor of a writ, and witnesses received, the pursuer
may alter his libel, if he find upon better Information
=ony that the writ is of another tenor than he libelled be
fore, Stalwood Prat. Tit. proving the Genor.

The calling of the Drawer and writer of a Disposition
were allowed to be taken summarly, upon a petition, w
out a formal process of proving the Genor, for supplying
=tice sheets of the Narrative of the said Disposition, which
had been torn off thro' careless keeping in the hands of an
Agent, whose papers fell in Confusion after his death
the whole Dispositive part subscriptions and Marge
of the writ being still entire; 17 July 1712 Hum
Lady

Hume Lady Eccles Supplicant.

The Genor of a Writ may be proved as to some Articles,
and not as to others alledged to have been in it, when the testimo
=nies of the witnesses and written admiscles do not Mention these
other Articles, Stair ibid. 97.

The Genor of letters of Horning and Executions thereof
not certainly and Judicially produced, are not admitted to be
proved by Witnesses Act. 4 Parl. 6 Ch. 6. Not only because upon
such letters Mens Esteem may fall, which is of more Impor
=tance than to be trusted to the Witness of Witnesses
which our Law doth not Rule for sufficient Evidence but also
point; but also because witnesses cannot know or remember
the precise tenor of all the formalities of the Executions
which are only trusted to Messengers those invested Persons
thereto by Law for such acts.

Sir John Nisbet (Decis. 283.) on the same question Tit.
proving of the tenor, Sir James Stewart Solicitor to the
doubts and arrest, d. Tit. proving the Tenor) Thinks, that for
the same reason the tenor of executions of Apprizing made
by Messengers cannot be proved. But in point Mar. viz
Robertson Act. 4 Parl. 6 Ch. 6 Ch. and Edmond
Boyd & Mallock 19 December 1677 Ill. Lords were all Clear,
that the Act of Parliament Authorizing the tenor of Execu
=tions of Horning to be proved by witnesses is Unlimited,
and doth not Exclude Executions of Apprizing which
they found might be so proved. Upon Sir Alexander Mackenzie
(ibid. Decis.) Whether the tenor of letters of Horning may
not be proved, if there be other Judicials of Writ: Being
proving the tenor of letters of Horning Discharged, and
only proving the tenor of by Witnesses, and if the Horning and
Execution be Registred, the Recording both takes off the
suspicion of falsehood, and makes the witnesses who are
to Depone, know what solemnities were used.

It hath been much questioned, whether the tenor of
Deeds and Judicial deeds can be made up and proved?
It's alledged on the one side, that the tenor of these can
not be proved because 1st they proceed and the Validity of them
depend upon several formalities, that witnesses are neither
supposed to know, nor allowed to prove, viz. what is law:
for it is not Enough, that witnesses Remember there was
such a deed, since they cannot be positive, at least
ought not to be trusted that the same was formally