

was no *corpus delicti*, that there was already a certification against it as to all civil effects, and the actual forgery could only be tried by the Court of Justiciary. The Lords notwithstanding gave a diligence to prove, for they thought that a pursuer who had got a certification in absence, perhaps against a party out of the kingdom, but who at the same time could prove the actual forgery, could not be obliged to rely wholly on the validity of his certification, but might bring his proof of the forgery in case the writing should afterwards appear, whether the forger could be punished or not; and in Barclay's case they took the proof, as is observed by Sir George M'Kenzie, and Lord Stair, 26th January 1670. (See No. 37. *voce* WITNESS.)

No. 31. 1753, Feb. 8. HUMPHRY PARSONS, &c. *against* JAMES SMITH.

SMITH was accused by Humphry Parsons, &c. executors of John Brown, and his Majesty's Advocate, of forging a receipt by Brown to him of about L.69 sterling in part payment of two accepted bills due by him to Brown, which receipt was written by Smith and said to be signed by Brown the day before he was cut for the stone, whereof he died. We had evidence of the forgery quite convincing, though there could be no direct proof, at the same time that Smith seemed by the proof to have had the character of an honest man, and though a very low man, a carrier, yet had great trust in the country. We found the receipt forged, but would not remit him to the Justiciary, but gave the same judgment as in Forrester's case, viz. pillory and transportation for life. Forrester's case is marked 7th November 1751, (No. 24.)

No. 32. 1753, March 2. ALEXANDER IRVINE *against* RAMSAY.

IN 1743 Mr Alexander Irvine of Sapphock, Advocate, entailed his estate on a series of heirs, of whom this pursuer was one, but reserved powers to alter. In December 1744 he married his only daughter to Ramsay the defender, settling marriage articles with Sir Alexander Ramsay of Balmain at a country change-house called Gilliebrands near Aberdeen, whereby he settled the property of his estate on Ramsay, and after the marriage a formal contract of marriage was executed with a small variation that he insisted on in favours of his daughters, but even during his life he did not seem pleased in his own mind with the terms of the contract. However, he lived in perfect friendship with his son-in-law Mr Ramsay and with his daughter, (who at her marriage wanted four weeks of eleven years of her age) and as he was declining fast in his health and strength, gave Mr Ramsay a factory for managing his affairs, and died in the end of November 1746. The young Lady and her husband lived also in perfect harmony together till her death in 1750, and she made over to him a pretty considerable personal estate that descended to her by her father's death, but by her death and the death of the other intermediate heirs, Alexander Irvine, son of John Irvine, Writer in the Chancery Office, who became next heir by the entail 1743, pursued reduction of the marriage-articles and contract of marriage with Mr Ramsay on the head of fraud and circumvention, as well as of incapacity of Sapphock by reason of his many infirmities,—and a very long proof before answer was brought on both sides, which was advised the 25th June 1752. The qualifications of fraud were very numerous, the Lady's non-age, the father's incapacity, at least great weakness, the machi-