

- No. 29. real creditors as void and null, for that the bankrupt's own titles (upon which their infestments depended) were only completed after his bankruptcy, and after the process of ranking and sale. Lord Drummore repelled the objection, and we adhered.

1753. February 6.

CHATTO'S CASE.

No. 30.
Forgery.

THE Lords found, that they might take trial of a forgery of a writing, though it was not produced, and certification had been pronounced against it, and the defender said he burned it, though it was alleged for him that in that case the actual forgery could only be tried in the Court of Justiciary; and they granted the Duke of Roxburgh, complainer, a diligence to cite witnesses to prove it. *Vide inter eosdem voce* WITNESS. *Vide* 26th January 1670, Captain Barclay's Case.

1753. February 8.

HUMPHRY PARSONS, &c. EXECUTORS of JOHN BROWN, and HIS MAJESTY'S ADVOCATE, *against* JAMES SMITH.

No. 31.
Forgery.

IN a trial of forgery, Humphry Parsons, &c. executors of John Brown, and his Majesty's Advocate, against James Smith, of a receipt of L.69 sterling by Brown to Smith, in part payment of two bills, all of Smith's handwriting, but which bears to be signed by Brown at Edinburgh the day before he was cut for the stone, whereof he died in a few days; we could have no direct proof, but the evidence of the forgery was quite convincing at the same time by the proof. Smith had in the country the character of an honest man, and though a very low man originally, a common carrier, yet had acquired great trust in the country; therefore though we found the receipt forged, yet we would not remit him to the Court of Justiciary; and gave the same judgment as in Forrester's case, No. 24. *supra*, viz. pillory and transportation for life.

1753. March 2. ALEXANDER IRVINE *against* Mr RAMSAY IRVINE.

No. 32.

IN the reduction Alexander Irvine against Mr Ramsay Irvine, the Lords reduced on fraud and circumvention marriage articles entered into by the