

heritable bond, as for money lent to that extent, (29th June 1772.) From this, it appeared, that, at the date of the first heritable bond in January 1772, Warden had not only not advanced or lent any money to Law, but that he did not do so for five months thereafter; and, even as to the second bond, it appeared that the narrative was false. It was true money had been advanced on the cautionry, but none had been lent; and further, as to both payments, it appeared, that, instead of taking a discharge of the rent to Law, he took only a discharge to himself and an assignation against Law. So that, if Warden had died, his representatives would have been entitled to have claimed on both debts; first on the heritable bond as for lent money, next on the above assignation for relief of the cautionry. In a reduction of both bonds, on the above mentioned clause of the statute 1696, the Lords reduced the bond for the L.300; but, as to the other bond for L.73, they assoilyed, (August 1777.)

As to the bond L.73, a false narrative is not sufficient to render a deed null; see Dict. *voce* Proof; and, as to taking double securities, there is no law against it: only one of them must be used, or, if both, only to one effect.

FRAUDULENT BANKRUPT.

1776. February .

against JAMES and GEORGE KELTIE.

JAMES Keltie, wright in Nicolson Street, having failed in his circumstances, his effects were sequestrated in terms of the late statute, and William Gillespie, writer in Edinburgh, was appointed factor thereon. Gillespie, finding that Keltie did not comply with the terms of the statute, complained to the Court; who granted warrant for apprehending Keltie and bringing him before them for examination. He was examined accordingly; and, upon his examination and an inspection of his papers, sufficient ground of suspicion was discovered that he had entered into a fraudulent plan to defraud his creditors, in which he was assisted by his brother George Keltie. The Court therefore recommended to the King's Counsel, as interested for the public, to look into the proceedings, and to give their advice and assistance to bring those who were guilty to proper punishment.

They did so, and an application was made by the Solicitor General, as advocate depute, for having a proper punishment inflicted upon them. At advising this application, with the answers and writs produced, the Court pronounced the following interlocutors, (13th February 1776):—

“ Find sufficient evidence that the said James Keltie is a fraudulent bankrupt, and that the said George Keltie has been partaker, art and part, with him in the plan of defrauding his creditors: Therefore ordain the said James Keltie to be carried from the bar back to the tolbooth of Edinburgh, and also ordain the said George Keltie to be imprisoned within the tolbooth of Edin-

burgh ; both of them therein to remain till to-morrow at ten o'clock, and then to be brought to the bar of this Court, to hear sentence pronounced against them for the said crimes ; and grant warrant to the Magistrates," &c.

And, on the day following, *viz.* 14th February 1776, the Lords pronounced this interlocutor :—

“ Find sufficient evidence, that the said James Keltie is a fraudulent bankrupt ; and that the said George Keltie has been partaker, art and part, with him, the said James, in the plan of defrauding his creditors : Therefore ordain the said James Keltie, and the said George Keltie, to be carried back to the said tolbooth of Edinburgh, therein to remain till Wednesday the 28th day of February current, at 12 o'clock mid-day ; and then ordain the said George Keltie to be set at liberty ; but ordain the said James Keltie, at the time foresaid, to be carried from the said tolbooth of Edinburgh, to the pillory in Edinburgh, and there to be put up, and stand bareheaded for the space of one hour, from 12 o'clock at noon till one o'clock afternoon, with a paper affixed on his breast, bearing this inscription in large characters, *Fraudulent Bankrupt*, and thereafter ordain him to be set at liberty ; and decern accordingly : And the Lords grant warrant to, and ordain the Magistrates of Edinburgh to see this sentence properly put in execution ; and ordain the same to be recorded in the books of Sederunt, for the terror of others from committing the like crimes in time coming.”

Upon a reclaiming petition the Lords remitted the pillory.

1764. *June 23.* JAMES EWART'S CREDITORS *against* JAMES EWART.

JAMES EWART, accountant to the Royal Bank, having failed in his circumstances, was, on a caption, imprisoned in the tolbooth of Edinburgh. His Creditors, suspecting fraud, petitioned the Court for examination ; and, 15th June 1764, he was examined accordingly. One of the clerks was ordered to search for his books and to bring them to the Court, and afterwards also for his papers : all were brought. They were ordered to remain in the clerk's hands. An interlocutor was wrote accordingly, and a warrant to carry him back to prison, ordering the Magistrates not to liberate him, even though the creditor-incarcerator should consent, without special order of Court. And the Lords recommended to his Majesty's advocate to inquire into the circumstances of the case, and to prosecute him as a fraudulent bankrupt, if he saw cause.

23d June 1764, on a petition of Ewart's Creditors, they allowed their trustee to see his books and papers in the clerk's hands, and to borrow any they should find necessary.

No prosecution was brought.