No. 29. real creditors as void and null, for that the bankrupt's own titles (upon which their infeftments 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

deceased Mr Alexander Irvine of Saphock, advocate, and Mr Ramsay, on the faith of which Mr Ramsay married Saphock's daughter, then about 11 years of age in December 1744, together with a formal contract of marriage in terms of these articles, but with some variations in favours of the Lady in May 1745, though Saphock continued in perfect friendship with Ramsay till his death in December 1746, and gave him a factory for managing his estate, and though the Lady lived in perfect harmony with her husband till her death in 1750, and conveyed to him a valuable personal estate that descended to her from her father; however, the Court, though greatly divided, reduced both articles and contract by the President's casting vote. They altered that interlocutor, and found the reasons of reduction not proven; but they again altered this last interlocutor, and adhered to the first, 2d March 1753. Ramsay appealed, and the House of Lords, though they seemed not to approve either of the articles, or of the manner of entering into them, yet since marriage actually followed, they on Lord Chancellor's motion reversed our decree *nem. con.* 10th December 1753. *Vide inter eosdem voce* IMPROBATION. No. 32.

1753. *December* 21.

WILLIAM STEWART'S CASE, as accessory to Forging a Bond by LOCHIEL to FASSEFERN his Brother.

WHETHER a person, after being served with a complaint of forgery can himself be put on examination? Argued at the Bar and on the Bench, when the Court seemed inclined to examine him, but proposed first to have a precedent laid before them in the case of Fitzgerald; upon which the prisoner's counsel passed from the objection, and for him agreed to submit to examination, and he was examined accordingly. I was for examining him. *Vide* my reasons on the papers. No. 33.

See Case of Gordon of Park, *voce* TAILZIE.

See No. 1. *voce* HUSBAND AND WIFE, and Case of Orr and Sibbald against Harvie, 10th June 1735, IBIDEM.

See Scott Hepburn against M'Lauchlan, 14th January 1752, *voce PACTUM ILLICITUM.*

See Rogers against Renny, 24th February 1737, *voce* WRONGOUS IMPRISONMENT.

See Duke of Roxburgh against Chatto, 5th July 1753, *voce* WITNESS.

See NOTES.