

1710. February 11. IRVINE *against* MACJORE.

No 39.
Found to
conformity
with the
above.

A PROTEST for remeid of law is given in by Irvine of Stank against Macjore and other merchants in Dumfries. Stank having paid L. 100 Sterling of a debt, a copy of a discharge was sent from Edinburgh to be a pattern, which bore these words, "Written by James Reid, writer in Edinburgh." Stank having given this to be transcribed by an ignorant boy, he copies it *verbatim*, and inserts the foresaid words, as if it had been written by Reid, without the altering this clause, and putting in his own name in place of it. When this discharge was produced before the Lords, it was quarrelled as not only wanting the true writer's name, but containing a false one. The error was acknowledged on both sides; but the Lords being tied up by the 179th act of Parliament 1593, behoved to find it null. But it being offered, for supporting it, to prove the numeration by witnesses present, which the Lords allowed; but they being dead or absent, Stank succumbed; so decret passed against him, and he thinking himself wronged to pay a sum twice, caused his daughter give in this appeal, not being in town himself. This is the first I have seen presented by a woman.

Fol. Dic. v. 2. p. 215. Fountainball, v. 2. p. 567.

1712. July 9. LAWRIE *against* REID.

No 40.
A writ, where
the sum was
changed from
a less to a
greater, not
allowed to be
supported by
evidence, to
any extent.

THOMAS REID, Clerk of Dalkeith, being debtor by bond to Alexander Lawrie, merchant there, in 1000 merks, and being charged, it was suspended on the reason of arrestment, and other grounds; but the arresters having consented, decret went forth, and partial payments followed; but, in their accounting, a difference arose about a discharge bearing L. 30 Sterling, whereas, Lawrie contended it was only L. 13, and that the word *thirteen*, by manufacture, was turned into *thirty*, and offered to improve it as false, altered, and vitiated; whereon the Lords put them both under caution, Lawrie the charger to insist in his complaint, till the final termination of it; and Reid, that he should answer all the diets of process; and allowed either party a diligence to cite the instrumentary witnesses, and others, to clear the matter of fact, viz. for Lawrie to prove that the receipt quarrelled was only granted for L. 13 Sterling, and Reid to astruct its verity, and that truly L. 30 Sterling was paid down at that time; and; accordingly, the witnesses in the discharge deponed they saw no more but L. 13 Sterling. Two extraneous witnesses adduced by Reid deponed, that they were present at a counting betwixt them, where Lawrie acquiesced that he had got the whole L. 30 Sterling. This probation coming to be advised, Lawrie *alleged*, That he had fully cancelled and redargued the verity of the discharge, and by the only proper competent witnesses present at the numeration; whereas, the others deponed on words they might easily mistake for an