

1737. *February 24.* HIS MAJESTY ADVOCATE *against* ROBERT RENNIE.

No 215.

OF this date, it is marked in the day-book of interlocutors, that, in the complaint, at the instance of his Majesty's Advocate against Robert Rennie, for forgery, the LORDS found, that the act 1701, anent personal liberty, does not comprehend processes for forgery, before the Court of Session.

*C. Home, No 55. p. 96.*

---

1739. *January 27.* MARY RUSSELL *against* ADIE.

No 216.

WHERE a complaint against a forger, after stating the facts, bore, that the complainer had from said facts good ground to complain, and inform that the deed was false and forged, and therefore craved warrant to macers and messengers to apprehend, &c. the LORDS were of opinion, that the fact not being directly charged, they could not grant warrant to commit, but that they might grant warrant to apprehend, and bring the person before the Court, in order to examination; with this further order, if he should happen to be brought on a feriate day, or when the Court was not sitting, to commit till the Court should have opportunity to call him; in which terms, warrant was granted accordingly.

*Kilkerran, (DELINQUENCY.) No 4. p. 156.*

---

1741. *July 10.* KNOX and Others *against* DOIG and Others.

No 217.

IN this case, which is the first to be met with upon the effect of one's failing in an improbation of the execution of the summons, which can only be proponed *peremptorie causæ*. it was established as the rule, that the pursuer prevails in every conclusion of his libel that required no other parties to have been called, and which it was not *pars judicis* to have over-ruled as contrary to law; in applying whereof, it was found, that he was not to prevail in a conclusion for a sum certain, libelled at random, for expenses; for that such conclusion could go no further on the defender's losing this wager of law, than it would in any common case where the pursuer prevailed; notwithstanding which, the conclusion of a sum for expense is always restricted to the real expense.

*Fol. Dic. v. 3. p. 313. Kilkerran, (IMPROBATION.) No 3. p. 281.*