

examining several witnesses these Officers were adduced by Lord Advocate, because the complaint was singly at his instance ; but as they had a direct interest in and might gain or loose by the issue of the cause and get free of the bill if it was improven, for then the bill would either be cancelled by this Court or by the Court of Justiciary, if we should remit them to that Court,—therefore we sustained the objection and would not examine them.

No. 24. 1751, Nov. 7. JOHN FORRESTER'S CASE.

JOHN FORRESTER bought about L.600 sterling worth of iron from John Jamieson and Partners of the Rope Manufactory at Leith, and very soon after broke, and they compounded with him for ten-sixteenths of the price provided he would give them good bills for the money. He sent them from Glasgow six several bills indorsed to them, but upon enquiry they could get no account of the acceptors, in number five, except one Cock, merchant in Crieff, who denied his subscription, and one Calpine that had been a tobacco cutter in Glasgow, but was gone before the dates of his bills, and as was said since dead, and they could not learn whether any such persons as the other three pretended acceptors ever had a being. They therefore presented a summary complaint to us charging him with forging these bills. Forrester owned that Cock, merchant in Crieff, was not the acceptor, but another Cock had taken that designation, and he owned that none of the bills but Calpine's were due to him, but that he had got them to give his creditors on his giving his obligation to return the bills or give goods to the value. He brought a sort of proof that there was another James Cock that kept an alehouse in Crieff, and that the person who gave him the bills accepted James Cock, (which, as well as all the other bills were of Forrester's own hand-writing,) after giving them, took an opportunity before the company then present to bid him Forrester direct to him merchant in Crieff, but could not produce any of the acceptors or tell where they were. Great pains was taken by the complainers to recover Calpine's true subscriptions, and very undue practices were used by Forrester and his friends to suppress them, for which we punished his brother-in-law Wells, (*Vide* No. 33. *voce* WITNESS.) The proof was argued and advised yesterday. We were all convinced that the whole of these bills were forged, but our proof as to Calpine was not very clear, and as to the bills, that it did not appear whether there were such persons as the pretended acceptors,—though that was a *species falsi* and an egregious roguery, we doubted if it was such a forgery as was by our law and custom punished capitally,—but we agreed that the bill said to be accepted by James Cock, merchant in Crieff was a forgery in the properest sense, because here was a true man, and his name and designation agreed to no other person, and if the other person mentioned by the prisoner assumed that name and designation with the prisoner's knowledge, which must have been the case since he was intimately acquainted with him, and wrote both bill and address, then both were guilty of the forgery. Yet as the prisoner seemed not to intend that diligence should go on it against the true man, we agreed not to remit him to the Justice-Court, (though the President thought he deserved it) and we pronounced the following interlocutor, “ Find the bill, &c. with an acceptance by James Cock, &c. false, feigned, counterfeit, and forged by the said John Forrester ; and find it proved that the other five bills are false and feigned, and therefore reduce,” &c. (*Vide* full copy on the prints.)