

APPENDIX.

PART I.

PROCESS.

1753. February. DUKE OF ROXBURGH against WILLIAM CHATTO.

THE Duke of Roxburgh having given in a complaint to the Court of Session, of forgery against William Chatto, concluding the deed ought be found forged and counterfeited, and the said William Chatto punished with the pains of law; The defence was, That the writing alleged to be false and forged is not produced, being destroyed by the respondent himself, as he acknowledged in his examination; that the pursuer has already obtained a certification against it, which gives him sufficient security; and he can proceed no farther against the respondent to have him punished. It was answered, That certifications are often recalled upon equitable considerations, and the pursuer must be allowed to bring direct evidence of the forgery, in order to shut the door against after questions. It is a different point after the forgery is found proved, whether the Lords will or can remit the respondent to the justiciary.

“ The Lords granted diligence to prove, and a conjunct probation to the respondent.”

NO. 1.

In a reduction and im-probation, after certification against the forged deed, the pursuer may bring a direct proof of the forgery.

Sel. Dec. No. 42. p. 47.