

Judge of Direct forgery by fabricating a writ which falls under the force of Direct proof: For what ends their finding the Crime of using a writ proved or not proved signify, the writ was once tried and found to be false. But more especially, if a trial of false hood in the Direct Manner, as by Comparing letters (which turns frequently on point of law of the Greatest intricacy) must be before the Court of Session, where this Exception is competent, that a person having Interest viz. the person from whom the writ got the writ be and not called; at least a Diligence would be allowed to bring that person into the field to oppose in the Improbation, and Diligence against favors of writs for Recovering them to support the deed quarrelled: Whereas the forms of the Judiciary allow no Incident Diligence for biting parties as Defendants, or for Recovery of writs. If the Direct Manner of Improbation cannot take place so long as the Direct Manner is competent: And how the person whose Subscription is said to be Counterpoised, is not called to swear upon the Verity or false hood thereof; nor is his name given out in the list of the Subscribers to the Pannol. The Lords found the Court competent to find the Crime of forgery or using false or forged passes. But in regard it appeared from the Debate, that the only Means of improving the said passes are Directs, therefore they remit the same to be tried summarily before the Lords of Session.

6 September 1715 William & John Baillies. So that for George Mackenzie's opinion as afore said in this Matter is groundless. Albeit because of the Difficulty to prove that the use of a false writ known to be false which is Required to make such Use guilty of falsehood Custom allows the pursuer of an Improbation before the Court of Session to fix the Knowledge upon him by putting him to a wordedially to the writ quarrelled: the pursuer in whose favour this legal Remedy was introduced should not to make use of it, if he can prove the Use.

known to be otherwise 20 January 1694 Daniel Nicolson & Nathaniel Macnol 6 September 1715 William & John Baillies. The use of a false writ who Refuses to Abide by it in a Civil Action may be charged of forgery at the suit of the Kings Advocates: for his using the writ by Refusing to Abide by it, shall not under a pursuit for the Crime, and Otherwise there would be no stop to forgery, which if not Detected would be profitable, and be attended with no hazard the Disorder, paying Criminals and Received Distressed in falsehood, which cannot be other ways proved, as was done by the Lord of Session. 9 November 1669 Lady Gowrie contra Captain Barclay.

Forgery of ones Subscription to a writ may be tried at the suit of the Kings Advocates in order to punishment, albeit the person whose Subscription is forged, should not only Refuse to Concur, but also own the writ to have been truly subscribed by him; whose passing from this forgery, and his Interest wronged thereby, cannot Excuse a forger whose the Summatory writ negates any the verity of their Subscriptions, 2 December 1696 Patrick & James Heas.

When sentence is given against a forger, the Lord ordains the false writ to be Cancelled before them.

Part 4 Of Fraudulent Bankruptcy.

Law doth not only Reduce and annul fraudulent deeds to the prejudice of Creditors, but also doth punish the quarrels and their Ancestors, who are Reputed Dishonest, false, and infamous, incapable of all honours, Dignities and offices, or to pass in any quality, or to bear Interest in or out of the country. ment Act 23. c. 6. Example for as have been found to be in their own Matters, will never prove honest in the affairs of others. And notwithstanding thereof the same may be proved by the oath of the Receiver of the Right Act 18. c. 23. c. 6. When Bankrupts are so made incapable to be witness out of the country, that is