

swears to the facts in Measuring such Cloth is always given
 11 November 1625 Nielson Glen & M'Gowan. The Rewards of false
 Weights or Measures are presumed to have used them or to have
 had them only for use; unless the presumption be taken off
 by proving that they were probably bought or Borrowed or
 laid aside when found upon trial to be insufficient. Where
 one being indicted of using false weights and Measures, and
 Measures, the Jury by their Verdict found that
 his weights were light and his Measures short, but the
 quantity wanting to full weights and Measures not proved
 he was acquitted, in respect the Verdict was Uncertain, and
 did conform to the Statute 10 July 1671 Andrew Cochran.

Sect. 3.

Concerning the trial of falsehood.

Falsehood by words or facts that have no Relation to
 Writing and may be easily discovered are tried in the first Instance
 before the Lords of Justiciary.

Whereas of Offence only use to try in the first Instance
 falsehood of Writs, touching the Civil Rights and Interests of
 parties; & where the falsehood is to be Explicated in the first
 direct Manner, by presumptive briefing from the Comper
 letters, or from the Circumstances of the subscriber of the
 writ, or witnesses to it; and when a forger is proved
 and found to be false, is Remitted to the Court of Justiciary
 an Judgment founded upon the false writ, and the Lords
 of Justiciary are bound up against him, which is found
 Relevant and Referred to the Justice who sustain the Special
 pro Veritate and a Probatio probatur, and by their Verdict
 find the Person guilty in respect thereof; without Repeating
 and Laying over again the proof before the Lords of Justiciary
 and a person that had been tried in the Sessions for a
 witness and had to them published by the said Decree
 of Improbation.

Mr George Mackenzie (Crim. parts, tit. 7. § 1) speaks of the
 Actions of false hood of papers in prima Instantia before
 peculiarly to the Lords of Justiciary, as those of Breve to be
 Comper

Comperaries: Because the trial of falsehood requires an exact
 and more tedious search than is Comperent with the short form and
 summary style of the Court of Justiciary. But the Lords of Justiciary
 only use to try in the first Instance the falsehood of writs touching
 the Civil Rights and Interests of parties: yet the Lords of Justice
 are in use to try the falsehood of writs in the first Instance,
 where no proper hath such a Civil Interest therein as to bring
 the matter before the Court of Justiciary where they have
 done to do it, and the writ is to be declared false in the easy di
 rect Manner, by the testimony of the writer and justia
 monetary witnesses. Thus persons were tried and found guilty in
 the first Instance before the Court of Justiciary for forging a
 Receipt of poison as granted by a Woman to a Doctor of Medicine
 to fix upon her a Design of poisoning her husband 25 January
 1694 Daniel Nicolson & Doctor Elliot. Upon the Lords of Justiciary
 have tried other forgeries in the first Instance, as the for
 gery of Subscriptions to a bond of Cautiony offered to the Bill
 Chamber for obtaining a Writ for 2 December 1696. Andrew
 & James Great, 20 Feb. 1710 Andrew Adam. Nor can the County
 Doubt, but that the forger of a writ touching quell upon him, by
 his Confession, where there is no Occasion by Law Expressate
 on by proof in the direct or indirect Manner, may in the
 first Instance be tried and convicted before that Court. And
 when their power of trying the forgery of a person in the first
 Instance was disputed, they Expressly sustained themselves
 Comperent to Judge it 22 November 1714 Sir Robert Dundas
 of Northfield & others. Again, one being indicted of using a
 false passport for tickets, it was pleaded for the Person that
 the trial of falsehood belongs to the Lords of Justiciary in the
 first Instance, whether the writ be Not only false or the
 falsehood more latent and difficult to be discovered, the
 Civil Action of Improbation being prejudicial to the Crimi
 nal pursuit. For, if as the Lords of Justiciary are not the
 of the proof of a Crime, neither can the Jury who are on
 ly to Comper whether a fact be proved, Judge of Innocence
 provided for Demand touching any writ to be false, or
 for supporting a trial direct, and the An Inquisit might