

No 2.

1610.

ROSS *against* STEWART.

IN an action of improbation pursued by James Ross against Robert Stewart macer, for production of certain assignations made to him of divers bonds, by the said James Ross's creditors, for the which the said Robert Stewart had comprised the said James Ross's lands, to hear and see the same proven, and consequently the comprising to fall; it was found that neither the said James Ross himself, nor no other person, whether his creditor, or having right from him to the lands comprised, might be heard to improve the said assignations; because it was alleged that the creditors, makers of the same, are content to ratify and approve the same judicially, or otherwise by their letters of ratification; which was found sufficient to exclude all persons from the improbation, notwithstanding it was reasoned that the parties had interest to improve, in respect of the comprising led thereupon.

*Kerse, MS. fol. 204.*

No 3.

1610. *February 27.* L. DRUMLEANRICK *against* GLADSTONES and SCOT.

HE who in a pursuit of improbation libels himself only heritable proprietor, and produces for his title his own sasine upon his own registration, and deduces no right of the lands from his predecessors, will get no certification against the defenders for not production of infestments alleged made to them of the lands libelled, by the King's predecessors, or by the pursuers forbiere; because the LORDS think it not reasonable that a man lately infest in lands by the King, shall upon his recent infestment rip up mens charter chests, and compel them to produce their old evidents, anterior to his title by many years and generations.

*Fol. Dic. v. 1. p. 443. Haddington, MS. No 1830.*

No 4.

1610. *June 29.* MELDRUM of Badinseat *against* IRVINES.

HE who is seased upon a precept of *clare constat*, in taking improbation of another man's evidents of the same lands, will not compel him to produce, unless he show any preceding infestment of the lands, competent to his predecessors or authors, to whom he pretends himself heir.

*Fol. Dic. v. 1. p. 443. Haddington, MS. No 1936.*