

No 136.

certification once granted, could never be rescinded, but in some cases alle-  
 narily, such as for not citation, or false citation of the defender to the action,  
 improbation, fraud, or violence of the pursuer of the improbation, his having  
 of the writs called for in his own hands, the obtaining of the decret during  
 submission betwixt the parties, or the defender being absent *reipub.* or  
 such particular causes. But upon a common allegiance *in facto*, such as was  
 contained in this reason, the certification granted in an improbation could  
 never be reduced, otherwise *nullus erit litium et falsitatum finis*. It was *an-*  
*swered*, that Mr John Gordon could never be in *bona fide* to impugn or im-  
 prove that writ which he had expressly ratified. In respect whereof, the LORDS  
 found the reasons of reduction relevant, especially because it was alleged that  
 certification granted in improbations had been retreated betwixt Diliston, tu-  
 tor of Belchester, and William Home of Balita, and betwixt Esselmont and  
 —.\* Thereafter, Mr John Gordon *alleged*, That no respect should be had  
 to this alleged ratification, because the same was evidently false *ex inspectione*,  
 albeit the users thereof had kept it up while all the witnesses inserted and  
 writer of the body were dead; which decease of the writer and witnesses in-  
 serted being offered to be proved by the defender, the LORDS retreated their  
 former interlocutor, and found the exception relevant against the reason of  
 the summons of reduction.

*Haddington, MS. No 2056.*

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1611. June 4. BISHOP of St Andrews *against* His VASSALS and SUB-VASSALS.

No 137.

IN an improbation pursued by the bishop of St Andrews against a number  
 of his vassals and their sub-vassals, the LORDS would not grant certification  
 against their sub-vassals, while the production of the vassals were first discussed,  
 because they satisfied the production that takes away the bishop's interest  
 against the sub-vassals; and if the vassals produce not, certification being  
 granted against them, the sub-vassals will fall *in consequentiam*.

*Fol. Dic. v. 1. p. 450. Haddington, MS. No 2191.*

1618. July 1.

A. *against* B.

No 138.

IN improbations, a day being assigned to the party compearing to produce,  
 and the production satisfied, the LORDS found \_\_\_\_\_ might propone  
 an allegiance that some of the writs were in the pursuer's hand, or his  
 predecessor's, he making faith, that he has just cause to propone the same.

*Kerse, MS. fol. 206.*

\* Examine General List of Names.