

No 210.

A party incarcerated upon suspicion of forgery.

1621. July 14.

LIVINGSTON *against* GALLOWAY.

IN an action of double pointing betwixt Livingston and Galloway, wherein a term was assigned to Galloway to improve Livingston's comprising, after that the witnesses and comprisers were examined in presence of the Lords, and that the Lords had found, that the foresaid comprising produced by Livingston should make no faith, the LORDS incontinent, before the pronouncing of the sentence against Livingston, as they had found before, found that Galloway should not be suffered to insist or prosecute the foresaid improbation, but decerned Livingston to be answered, and obeyed, and committed Galloway to the tolbooth of Edinburgh; the reason whereof was, because Galloway had, upon an extrajudicial declaration made by the persons, appraisers, taken instruments under the subscription of a notary and witnesses, bearing, That they never made any such apprising, which instruments Galloway produced; whereby the LORDS found that to be a suspicious and unlawful diligence upon the improver's part, and which tended to engage the appraisers, by abiding at the instrument, to impugn the comprising, which the LORDS found to be of a dangerous consequence; and therefore decerned, as is above mentioned, That by this proceeding, others should beware to do the like, and to seek such extrajudicial confessions. And here it is to be observed, that no subornation was tried against Galloway.

Act. Livingston, younger.

Alt. Craig.

Clerk, Gibson.

*Durie, p. 2.*

No 211.

1661. July 26.

LORD LAMMERTON *against* EARL of LEVEN.

IN a reduction and improbation, there appearing some grounds of suspicion against the writs produced; upon application of the pursuer, the producer was ordained to be kept close prisoner in the tolbooth till the event of the proof.

*Fol. Dic. v. 1. p. 458. Stair.*

\*\* This case is No 174. p. 6753.

No 212.

Improbation not sustained against titles of honour.

1671. November 24.

EARL of SUTHERLAND *against* EARL of ERROL.

THE Earl of Sutherland pursues the Earl of Errol for declaring his priority of dignity, and for that effect, calls for improbation of all patents of honour, charters, and other writs, granted to the Earl of Errol, or his predecessors, containing any title of dignity; and also, of all other writs granted to what-