

No 78.

1627. *February 13.* LADY BORTHWICK *against* Her VASSALS.

IN improbations pursued by liferenters, the certification is restricted to the pursuer's interest, *i. e.* albeit the writs called for be decerned to make no faith in that process, it is only meant in so far as may prejudice the liferenter, and will not benefit the heritor.

*Fol. Dic. v. 1. p. 453. Spottiswood, (IMPROBATION.) p. 165.*

\* \* \* This case is also reported by Auchinleck.

IN an improbation pursued at the instance of a liferenter, the certification being general in the summons, is restricted by the Lords only for bruiking of the liferent.

*Item*, no certification was granted by the Lords at the instance of the Lady Borthwick for writs made by her husband, father, or goodsire, except she condescend, that her umquhile husband was heir to them, and not apparent heir *active et non passive*, as charged to enter heir.

*Auchinleck, MS. p. 90.*

\* \* \* See Durie's report of this case, No 4. p. 25. See No 23. p. 6626.

No 79.

1624. *January 15.* HAMILTON *against* MATHIESON.

FOUND, That certification of improbation cannot be granted, except the conclusion of the summons bearing conclusion of improbation before the reasons, notwithstanding there be a reason of improbation contained in the summons.

*Fol. Dic. v. 1. p. 447. Kerse, MS. fol. 207.*

No 80.

1627. *February 15.* E. KINGHORN *against* GRANGE.

CERTIFICATION sustained upon conclusion of improbation without a reason of improbation.

*Fol. Dic. v. 1. p. 447. Kerse, MS. fol. 208.*

\* \* \* Auchinleck mentions the following additional particulars relative to the same case :

1627. *July 27.*—IN improbations, certification cannot be granted for evidents not contained in the incident, but the same may lie over till the incident be concluded.

IN improbations, minors are not holden to give oaths upon their having of the evidents in their own hands, especially pupils, nor yet other minors of