

1629. *March 7.*MORRIS *against* JOHNSTON.

IN a reduction and improbation, the LORDS found a general heir served and retoured to the father might call for improbation of any writs made by his father, whereby the right of an annualrent was provided to the father, and his heirs, which was alleged to have been thereafter dispensed to the defender, and so thereby the pursuer might be prejudged in that prior right; and it was not found necessary that the said pursuer should have been specially served heir to his father in that annualrent, or infest therein, seeing it was constituted to the father by contract only.

*Fol. Dic. v. 1. p. 442. Durie, p. 435.*

\*\*\* Auchinleck reports the same case.

ONE served heir general may call for improbation of contracts made by his authors for no infestment or real right, except he served himself heir to some real right of the lands.

*Auchinleck, MS. p. 96.*

No 30.

A general service is sufficient title, in an improbation of an assignation, by a defunct's predecessor, of an heritable bond, upon which no infestment had passed. a party to make oath on a debt.

1629. *June 13.*LORD KILMARILL *against* CUNNINGHAMHEAD.

No 31.

IN improbation, found that the pursuer ought to produce his eldest infestments, with the progress.

*Item,* That they should, *simul et semel,* produce all reversions.

*Kerse, MS. fol. 206.*

1629. *July 15.*CRAIGIEVAR *against* His VASSALS.

No 32.

IN the action pursued by Craigievar against his vassals, the Advocate appeared in the beginning for the King's interest; but, being advertised by the King to raise reduction of Craigievar's infestment, as surreptitiously purchased, he abstained to concur with the pursuit of improbation, by reason of the King's particular interest; but the LORDS ordained him to concur in the improbation, and to discuss the King's right in the reduction; for he could not be both pursuer and defender in one cause.

*Auchinleck, MS. p. 96.*