

No 212. that he deponed falsely, and against the verity, seeing he contended, that of the law any witness might lawfully receive from him, who used and produced him, good deed, if he deponed nothing against the truth, which allegiance was repelled.

Act. *Hope & Stuart.*

Alt. *Nicolson Younger and Elder.*

Clerk, *Gibson.*

Fol. Dic. v. 2. p. 194. Durie, p. 67. & 117.

. Spottiswood reports another point of this case :

1624. *March 16.*—A REPROBATOR is only when a party takes him to improve that judicial confession given by the witness in judgment, as what free goods he hath, or whose man he is, &c. which, if it be improved by a process of reprobator, his deposition will not be respected in that cause. And this should be done before sentence.

In the action of the reprobator pursued by Isabel Gichen against William Cochran and Francis Keith, the LORDS suffered both witnesses to be deduced in the cause, and Francis Keith's oath likewise to be taken upon interrogatories, because they did think the cause of the same nature with an improbation.

Fol. Dic. v. 2. p. 195. Spottiswood, p. 294.

No 213. 1632. *July 7.* LORD RENTON *against* LORD WEDDERBURN.

THAT a witness was corrupted, and bribed to depone falsely, found probable by the oath only of the party in whose favour the deposition was.

Fol. Dic. v. 2. p. 195. Durie.

. This case is No 224. p. 6787. *voce* IMPROBATION.

1635. *December 3.* ROBISON *against* WHITE.

No 214.

If a reprobator be protested for, an action of reprobator is competent after sentence to annul the same as well as before. But in this case the Lords ordained the reducer to consign L. 100 to be given to the defender, in case after trial it

ONE ROBISON, baxter in Dundee, having obtained decret *in foro contensioso*, against David White, maltman there, for payment of the price of certain victual wrongously intromitted with by him; which being desired to be reduced, upon this reason, viz. That the witnesses who proved that cause, and upon which probation the sentence only depended, have since confessed, that they deponed falsely, and were suborned to do the same; whereupon the reducer *alleged*, That they ought to be re-examined, that the verity might be known, and that he might not suffer by an unjust probation and sentence; and the defender opposing his sentence given against the party compearing, and that there was no protestation made by the pursuer, for reservation of his action of reprobation, which ought to have been done, if he intended to have quarrelled their depositions, and which is the only way permitted in law to parties, fearing to