

## VENTRE INSPICIENDO.

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1699. *June 30.*Ross *against* GRAY:

No. 1.

ROBERT ROSS, writer in Edinburgh, being informed, on his death-bed, that Margaret Gray, his wife, gave herself out to be with child, and, considering the many attempts she had made to strangle him, and the suspicions of her disloyalty to his bed, so that he had not cohabited with her for sundry months, he did sign a declaration, bearing, that if she brought forth any child after his decease, if it did not answer the time he named, then he disowned it as one of his, and entreated the Judges it might not succeed in any part of his estate, heritable or moveable. He deceasing, and she still averring herself to be with child, Janet and Anna Rosses, his sisters, as nearest heirs, gave in a bill to the Lords, representing the foresaid matter of fact, and that, by her treachery, a suppositious birth be not obtruded to carry away the estate belonging to them, and therefore supplicating, that, conform to the famous edict of the Roman law *de ventre inspiciendo*, some may be appointed to visit and oversee her, and that she should intimate a month before the supposed time of her delivery to the heirs, that some grave matrons and other witnesses may attend, to prevent all fraud and subornation, with certification, if she fail, the child shall have no claim nor interest in his succession. The like had been craved, and granted, in 1695, in the case of Marjory Forbes, Lady Drum, (whose husband was commonly reputed impotent); and in the case of the Emperor Henry's wife, called Constantia, she bore her child on a public theatre in the market-place, because, being fifty, the next heirs doubted her being with child. The Lords questioned how far such a complaint should be received summarily, it seeming more competent to the Commissaries only; yet, in respect of the husband's declarations, and the flagrant report of the case, they appointed my Lord Whitehill to call her, and intimate that she might give advertisement some competent time before her delivery, that he ordain midwives and others to be present, to prevent all abuses, and, if he thought fit, to cause inspect her presently, whether they thought her with child or not.

*Fountainhall, v. 2. p. 56.*