

IMPROBATION.

No. 1. 1735, Jan. 16. RANKINE *against* CRAWFURD.

IN respect of the long taciturnity since the certification, and that the means of improving are now perished, the Lords repelled the objection to the decret of certification. I mentioned a precedent to the same purpose December 1610, L. of Urie against Gordon.

No. 2. 1741, June 9. ABERCROMBIE of Tulliebodie *against* CUMMING.

THE question was, Whether a defender in an improbation who alleged he had possessed upon charter and sasine for the years of the positive prescription could be allowed to prove his possession before taking terms, and the production closed, since he produces instantly a pretty probable evidence of possession by tacks? and the Lords allowed the same term to prove 40 years possession that the defender takes to satisfy production.

No. 3. 1743, Dec. 7. ROBERTSON *against* JOHN ALLASON.

IT appeared to us that in this case there was either a plain forgery or a gross fraud on the pursuer Robertson the creditor in this bill, accepted by the three Allasons, or both. The Lords allowed Robertson the pursuer to abide by the bill under protest, that the same was delivered to him signed by all the three brothers Allasons, and that upon the faith thereof he lent the money to Robert Allason.

* * The case Connel against Orr 16th June 1747 is referred to, as decided in the same way. That case is thus mentioned in the Notes.

ORR accepted a bill to Connel and Watson partners for 20 guineas, but the acceptance not signed by them, and the bill was written by Watson and remained in his hands. Connel afterwards insisted with Watson to deposit the bill for both their behoof, and they accordingly signed the draught and deposited the bill afterwards. Connel charged Orr for payment, and Orr suspended and produced a bill of the same date and sum, payable to the same persons, and written by Watson, and by him discharged. Connel pursued improbation of the bill produced by Orr, and he has abidden by it *sub periculo falsi*. Orr has also raised improbation, and Connel offered to abide by *qualificate* that this bill was by Watson deposited as the true bill;—and after long debate, Whether he should abide simply or not? it carried to allow him to abide *qualificate*. *Renit. multum* Arniston, Tinwald, et Drummore.

No. 4. 1744, Nov. 2. OGILVIE *against* OGILVIE.

IMPROBATION being proponed against the warrants of some adjudications after they had by a decret-arbitral been ranked with the other creditors, particularly the pursuers; the warrants were amissing, and it was made a question at the Bar, Whether falsehood is competent against writs concerning which a decret-arbitral had been pronounced or if falsehood by the regulations 1695 is only competent against the submission or decret, or the arbiters'