

## S E C T. XI.

After succumbing in the direct manner of improbation, whether the indirect be competent.

1587. *February.*HAY *against* CHIN.

No 221.

JAMES HAY took to improve a letter of factory made by Mr Thomas Chin, directly by the witnesses inserted therein. The witnesses being examined, they abode by the same, for the most part, at least two of them. The other party, after the LORDS had pronounced, and given absolvitor from the improbation, would have taken to improve indirectly, which the LORDS would not receive.

*Fol. Dic. v. I. p. 458. Colvil, MS. p. 424.*

1588. *June.*LADY POLTON *against* ———.

No 222.

THE LADY POLTON, called Donaldson, took to improve a renunciation of her liferent, of certain of the lands of Polton, whereinto she was infest, and that directly *et per testes instrumentarios et insertos*. The process being advised, and the LORDS finding that the notary and two of the witnesses that were in life abode by the said instrument of discharge, and approved the same, the said Lady desired to be admitted to improve indirectly. THE LORDS refused to admit the indirect manner, after that the said instrument was approved directly.

*Fol. Dic. v. I. p. 458. Colvil, MS. p. 426.*

1592. *February 10.*BROCKETT *against* BROCKETT.

No 223.

Evidents taken to be improved, being approved in the direct manner, the indirect cannot be there-after received.

IN an action betwixt Brockett against Brockett, the son founding his right upon an assignation made by his father to him, of a room, with the plenishing thereof, the father took to improve the assignation; and the hail witnesses inserted being examined, and abiding at the same assignation, he would have entered to the indirect manner, which the LORDS refused altogether to do, in respect it was found good, and approved by the direct manner. Farther *alleged*, That the notary who subscribed the said assignation in name of the father, was deprived long before the alleged date of the said assignation, and therefore the same could make no faith. THE LORDS repelled likewise that allegiance, and sustained the assignation, for the causes foresaid.

*Fol. Dic. v. I. p. 458. Haddington, MS. No 134.*