

pursue at his own instance, without the advice and information of a third person.

No 5.

*Fol. Dic. v. 1. p. 525. Colvil, MS. p. 393.*

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CHALMERS *against* DICK.

No 6.

THE King's Advocate may take away writ to improve at his own instance without an informer, for the King's interest is separated from the party's, *nam interest Reipub. et regis, ne crimina maneat impunita*. This was found in an action pursued by James Chalmers against William Dick.

*Fol. Dic. v. 1. p. 526. Spottiswood, (IMPROBATION.) p. 166.*

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1597. February. THIRLESTANE *against* DURHAM.

No 7.

IN an action of reduction and improbation, pursued by the King's Advocate against my Lord Thirlestane for reduction and improbation of his infeftment of the lands of Merkle and Trafrayne, granted by the King to my Lord Chancellor by forfeiture of the Earl Bothwell, or by the said Earl, before his forfeiture, and confirmed by the King, it was *alleged* by Mr James Durham, admitted for his interest to defend, That the said infeftments could not be reduced nor decerned to make no faith for non-production at the Advocate's instance, because the said lands being disposed by his Majesty upon the Earl Bothwell's forfeiture to the Duke and Laird of Buccleugh, his Advocate had no interest to quarrel the said Lord Thirlestane's infeftments, seeing his Highness could report no commodity by the annulling thereof; and so could have no process, unless one of the said parties that was infeft upon the Earl Bothwell's forfeiture, were informers of the advocate. It was *answered* by the advocate, That the reduction and improbation was of infeftments granted originally by the King, and past his Highness' Great Seal, and so his Advocate had interest to pursue without an informer. In respect of which reply, found relevant by the Lords, the exception was repelled.

Found that the King's advocate might pursue improbation of a charter under the great seal, without any informer, although the same lands were disposed under that seal to another.

*Fol. Dic. v. 1. p. 526. Haddington, MS. No 609.*

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1610. June 23. COLT *against* SIMPSON.

No 8.

IMPROBATIONS cannot be pursued by way of action without concurrence of the Advocate.

*Fol. Dic. v. 1. p. 526. Haddington, MS. No 1914.*