

1610. July 25. DOUGLAS against LORD BUCCLEUGH.

No 95.

In an action of improbation pursued by Sir James Douglas of Drumlanrig, knight, against Walter Lord Scott of Buccleugh, for exhibition of his writs of the barony of Hawick, granted to him and his predecessors by the King's Majesty, and his Highness's predecessors, it was *alleged*, that seeing the pursuer's infestments were, in *anno* 1509, granted by King James IV. upon the recognition, that the Lords cannot compel the Lord Buccleugh to produce any infestments granted by the Kings before that time. To the which it was *answered*, That the allegiance ought to be repelled, except they would condescend upon some right granted by the Kings for the time, before the same year 1509; in which case, if they would produce the same, the LORDS would take order for all others not produced; otherwise certification ought to be granted, as was decided betwixt the Earl of Glencairn and the Earl of Home.*—THE LORDS repelled the allegiance, and declared that if they would not produce an infestment under the Great Seal, before the said year 1509, that they would consider of the allegiance.

Kerse, MS. fol. 204.

1612. February 7. SCOTT against JOHNSTON.

No 96.

In an action of improbation pursued by Scott of Bonnington and Johnston of Wamphray, the LORDS found, that in respect Bonnington, in his own cause of improbation, had produced all such writs as he had, and declared that he had no more, therefore he could never be holden to produce any out of his own hands thereafter; and yet they admitted him to prove the having of the evidents by Wamphray himself; which probation they restrict to writ, or oath of party; and that because it was alleged by Bonnington, that there was a charter accepted by Wamphray, wherein there was a reversion inserted, which was directly contrary to the writs produced, which bore no such reversion. Thereafter the matter being reasoned *in presentia*, the exception was found relevant to be proved *per testes omni exceptione majores*, and that these witnesses should be such as could read and write.

Kerse, MS. fol. 205.

* * Haddington reports the same case :

THE Laird of Wamphray pursued Simon Scott for improbation of all reversions, contracts, bonds, and securities for making reversions alleged made to him, his father, or good-father, by this Wamphray, his father, good-father, or

* Examine General List of Names.