

1637. March 31. VEITCH against M'DOUGALL.

KATHARINE VEITCH being pursued by Sir John M'Dougall to remove from the lands of ———, and she excepting upon her infestment of terce, whereto it was *replied*, That she had renounced the same; and she offering to improve that writ, the LORDS found, that improbation could not be received *hoc loco* by exception or duply, in respect the writ was registrate, and so ought to be pursued in an ordinary action of improbation; neither was it respected, that the defender *alleged*, that it was but registrate one day or two at the furthest, before the intenting of this pursuit against her, who was but a poor woman, and who ought not to be put to pursue and intent a new process to improve, where the writ is but lately registrate, and done by the party of purpose to put her to further trouble. Likens the clerk, in whose books the writ quarrelled is registrate, hath the principal ready to be produced, and likewise did produce the samen before the LORDS; notwithstanding whereof the LORDS found, that they could not receive the improbation *hoc ordine*, but only *per viam actionis*, seeing the writ was registrate a day before the intenting of this action of removing.

Act. Craig.

Alt. Burnet.

Clerk, Gibson.

Fol. Dic. v. 1. p. 173. Durie, p. 844.

No 45.
Found as
above.

1665. November 16. WILLIAM DICKSON against JOHN HOME.

WILLIAM DICKSON having charged John Home upon a bond of L. 37 Scots, he suspends, and offers to improve the bond as not subscribed by him, but another John Home. It was *answered*, Improbation was not receivable, but in a reduction, or where the original writ was produced; but this bond was registrate in an inferior court, and the charger was not obliged to produce, nor was the clerk called.

THE LORDS, in respect the matter was of small importance, admitted the reason of improbation, the suspender consigning principal sum and annual rent; and declared they would modify a great penalty in case he succumbed; and ordained letters to be direct against the clerk of the inferior court to produce the principal.

Fol. Dic. v. 1. p. 173. Stair, v. 1. p. 309.

15 X 2

No 46.
In a matter
of small im-
portance, im-
probation of
a registered
bond was re-
ceived in a
suspension.