

No 103. 1627. *December 1.* BAILLIE *against* FLEMING.

IN improbations, found no process against the successor to produce his author's evidents, except the apparent heir of the author be summoned, where the author is fully denuded, and has not an apparent heir to be summoned.—

See No 98. p. 6684.

*Kerse, MS. fol. 208.*

No 104. 1628. *July 20.* HENDERSON *against* KNOCKHALL.

IN improbation of comprising, where the process thereof is called to be produced, it is not necessary to call the clerk of the comprising, because he being a privy clerk of the party's own chusing, the pursuer of the improbation is not holden to summon him, but the defender should deal with him to produce the process.

*Auchinleck, MS. p. 94.*

No 105. 1662. *January 22.* ADAM HEPBURN *against* HELEN HEPBURN.

ADAM HEPBURN, brother to the deceased Thomas Hepburn of Humby, pursues reduction and improbation against Helen Hepburn, his brother's daughter, of a disposition made by him to his daughter on death-bed.

“ THE LORDS granted a third term for production, in respect of the probation, albeit there was but a writ or two called for *nominatim*.

*Fol. Dic. v. 1. p. 447. Stair, v. 1. p. 87.*

No 106. 1665. *December 16.* HOME *against* E. HOME.

MR ROBERT HOME having pursued a transferring of an old process against the Earl of Home, for establishing a debt against him as heir served and retoured to Dame Anna Home his mother, and the Earl having raised an improbation of the said old process and grounds thereof, and particularly of that retour which he quarrelled as false and forged; the LORDS found, that, Mr Robert Home, defender in the improbation, ought to produce the said retour, albeit he alleged that it was the Earl's evident, and that he ought not to produce the same, nor the grounds thereof.

*Fol. Dic. v. 1. p. 447. Newbyth, MS. p. 46.*