

No 105.

THE LORDS found, That there was no sufficient title produced to carry on this action.

Reporter, *Elchies.*Act. *Lockhart.*Alt. *R. Craigie.**D. Falconer, v. 2. No 70. p. 76.*

S E C T. VIII.

English Administrator, whether liable to action in Scotland.

1782. *November 26.*HUGH ROSS *against* Mrs. Ross.

No 106.

In a process of reduction, the defender was found not obliged to produce an English will, which had been proved and deposited in Doctors Commons.

UPON the death of Mr Ross, his estate of Kerse, in Scotland, devolved on Hugh Ross, his eldest son, subject to an annuity in favour of his relict, who was a native of Scotland, where she likewise possessed a landed estate. His moveable succession in England was regulated by a latter-will and three codicils, which were proved in Doctors Commons, and deposited in that court as the warrant for letters of administration.

Mrs Ross having found it necessary to deduce an adjudication against the estate of Kerse, for her annuities; Mr Ross commenced an action of reduction-improbation against her, in order to set aside, as a forged deed, one of the codicils executed by his father in her favour; *contending*, in support of the competency of this action, that the defender, a native of Scotland, possessed of heritable property here, and who was at that time insisting in an adjudication against his estate which was situated in Scotland, was obliged to submit this writing to the cognisance of the courts of this country.

THE LORD ORDINARY found "That the defender was not obliged to produce the writing called for." And to this judgment, upon advising a reclaiming petition for the pursuer, with answers for the defender,

THE LORDS unanimously adhered.

Lord Ordinary, *Westhall.*Act. *Geo. Fergusson.*Alt. *Blair.*Clerk, *Menzies.**C.**Fol. Dic. v. 3. p. 230. Fac. Col. No 71. p. 110.*