SECT. IX.

Lesion in Legal Proceedings.

1621. *January* 31. BAILLIE *against* SILVERTONHILL.

No 136.

A DECREE of certification in an improbation, pronounced in absence, against a minor of six years old, found irreducible, and that he could not be heard to produce.

Fol. Dic. v. 1. 583. *Kerse.*

*** This case is No 12. p. 6616, *voce* IMPROBATION.

1624. *November* 27. FORRESTER *against* SINCLAIR and CUNNINGHAM.

No 137.

THE LORDS reponed a minor against a decreet given for circumduction of the term, eight days after it was pronounced, upon supplication to propone an exception *noviter veniens ad notitiam.*

Fol. Dic. v. 1. *p.* 430. *Kerse, MS. fol.* 146.

1638. *December* 1. STUART *against* STUART.

No 138.
A decree of exoneration obtained by a tutor against his pupil and curators, was reduced *ex capite minorennitatis, et læsionis*, although the curator appeared and defended, several articles having been omitted by the tutor, out of the charge, and several answers having been neglected to be proponed for the minor.

ONE William Stuart pursues restitution, after he had past the age of 21 years, but far within the time of *anni utiles*, against Robert Stuart, who was his tutor, while he was a pupil, and which tutor had obtained a decreet of exoneration before the LORDS, against his said pupil, and his curators, they compearing after count and reckoning, and thereupon heard and allowed, and decerned by the LORDS; against the which sentence, and articles of the count, this party desiring to be reponed, as being thereby enormly prejudged, by sundry omissions left out by the tutor, and by sundry answers omitted to be given in to his charge, by his curators; and the said Robert compearing, *alleged*, That this action ought not to be sustained, in respect of the sentence given against him, authorised with his curators compearing, who, if they had done him any wrong, either in commission or omission, they are answerable to him therefore, and they are his direct parties, who are in law countable to him, and he cannot come back again upon him, to crave a new account, as prejudged by the first, in respect of his sentence *parte comparente*, whereby he is *in tuto*; otherwise there could never be an end of such actions, which were a dangerous prepara-