

grounds commenced against the minor's father in his own lifetime, so as the father had occasion to consider and consult his defences, and therefore the privileges ought not to be sustained in this case; *3^{to}*, The acts of parliament require not the dwelling-house to be named, although in hornings practice requires it, because of the great prejudice that may follow upon these, and for that charges of horning may be private; for improbations are publicly called from the bench; and it is only the first execution that is here quarrelled, for the second execution bears 'personally apprehended;' *4^{to}*, The vestige of stamping appears, and the execution is old; *5^{to}*, Executions against tutors and curators need not bear the leaving of a copy, and yet, *de facto*, copies were left; nor is there place for this objection, seeing there is compearance for the defenders and their curators.

THE LORDS repelled the allegiances in respect of the answers.

Harcarse, (IMPROBATION AND REDUCTION.) No 566. p. 157.

1688. February 16. ROGER HOPKINS *against* The DUKE of GORDON.

A RIGHT of some teinds and patronages being disposed for L. 300 Sterling, with an express provision, That, in case of not-payment of the money at a precise day condescended on, the disposition and assignation should be null and void; and the assignee having transferred his right to the Duke of Gordon, who infest himself thereon, the disponent commenced reduction and improbation of the assignation, and all that followed thereon, upon the irritancy above-mentioned.

Alleged for the defender, That the pursuer's title being a personal clause in the disposition, it was not sufficient to reduce infestments and real rights.

Answered; The irritant clause being *in gremio* of the defender's author's right, he could not be ignorant of it; and it is sufficient to reduce the disposition and infestment to himself *in consequentiam*.

THE LORDS sustained the pursuer's title and reduced.

Harcarse, (IMPROBATION AND REDUCTION.) No 576. p. 160.

1709. December 16.

FARQUHARSON of Innercauld *against* EARL of ABOYNE.

FARQUHARSON of Innercauld pursues a reduction and improbation against the Earl of Aboyne, of his right to the lands of Grodies, and calls for production of all writs in his person concerning these lands. *Alleged*, I'll take a term for no right, except those from whom you derive right and connect a progress; for *quo jure* can you compel me to produce rights flowing from persons whom you neither represent, nor shew any right derived from them. *Answered*, This doc-

No 63.

No 64.

No 65.

A pursuer of an improbation can reduce no rights but those flowing from his authors, with whom he is connected by progress.