

No 24.

to a part, seeing the charter could not be divided anent the trial of the tenor thereof. Likeas they found, that the personal bond concerning some other of the lands therein contained, gave the pursuer interest to seek probation of the tenor of the said charter, albeit the defender alleged, that a personal bond could not produce action for proving of the tenor of a real right, except some other action had been first moved upon that personal bond, which might in law produce a pursuit concerning a real right in the person of the maker of the bond, which was repelled.

Act. *Aiton et Stuart.*Alt. *Hope et Belsbes.*Clerk, *Gibson.**Durie, p. 345.*

* * * This case is shortly observed by Kerse in the following words :

It was repelled in an action of probation of proving the tenor of a charter.

Kerse, MS. fol. 146.

No 25.

1628. *March 12.* ALEXANDER BALMANNO *against* WILLIAM YULE.

IN an action of reduction pursued by Alexander Balmanno against William Yule, for reducing of a disposition of a low cellar, made by John Maxwell to umquhile Nicol Yule, the defender's father, and that *ex capite inhibitionis*; *alleged*, No process against William Yule, because minor, *et sic non tenebatur placitare super hæreditate*.—Found not relevant against the production.

Fol. Dic. v. 1. p. 589. Spottiswood, (REDUCTION.) p. 269.

1665. *January 31.* KELLO *against* PRINGLE.

No 26.

IN all events where the minor himself is not infest, he must produce the predecessor's infestment, to evidence that it is *hæreditas paterna*, without which he cannot have the benefit of the exception.

Fol. Dic. v. 1. p. 589. Stair. Newbyth.

* * * This case is No 11. p. 9063.

1670. *January 8.* MR JOHN WILKIE *against* ANDERSON of Dowhill.

No 27.

A minor is
obliged to

IN an improbation pursued at Wilkie's instance, it being *alleged* for the defenders, that no certification could be granted, *quia minor; non tenetur placi-*