

PERSONAL OBJECTION.

10437

his infeftment contains this exprefs provision, that his father at any time during his life may difpone the lands, or any part thereof, and grant infeftments, tacks, or annualrents thereof; fo that this being unquestionably an infeftment, he cannot quarrel the same upon the not refignation; but if his father had granted an obligation to infeft, the defender could not have opposed the same, much more the infeftment being exped. It was *answered*, That the provision did not contain an obligation upon the defender to difpone, ratify, or do any deed; but left only a power to his father to burden the lands, which can only be understood, being done *legitimo modo*, and therefore the infeftment wanting the folemnity of registration is in the same cafe as if there were no infeftment, and fo is null.

No 13.

“ THE LORDS repelled the defence, and found the sasine valid, as to the defender, in refpect of the foresaid provision in his infeftment.”

Stair, v. 1. p. 456.

1670. January 26.

RELICT of Mr PATRICK SHIELS *against* PARISHIONERS of West Calder.

MR PATRICK SHIELS having been minister of West Calder, he was fufpended by the Synod and Bifhop, for not coming to the Presbyteries and Synods; and the act fufpended him *ab officio*, and bore, that if he did not come to the next Synod, they would proceed to depofe him; yet he was not depofed, but continued three years in the poffeffion of the manfe, glebe, and ftipend; his wife now purfues for an ann. The next intrant being admitted within three months after Mr Patrick's death, alleges ſhe could have no ann, becaufe Mr Patrick was fufpended *ab officio et beneficio*, and produces an act of the Synod bearing fo much; and the relict produces that ſame act, extracted and ſubſcribed by unquhile Mr George Hay, who was clerk at the time, and bears only fufpention *ab officio*, and the intrant's act is extracted by the prefent ſubſequent clerk, and bears *ab officio et beneficio*. The relict *alleged*, That the act produced by her, was the only act intimate to Mr Patrick, and which is ſubſcribed by the clerk, who was clerk to the principal act itſelf, and accordingly Mr Patrick was *in bona fide*, and did poffeff three years after.

THE LORDS adhered to that act, and found the ann due, and ordained the other act to be kept *in retentis*, that is might be compared with the register, that he might be cenſured if he extracted it wrong.

Stair, v. 1. p. 668.

No 14.

Where a mi-
niſter had
been ſuſpend-
ed, but allow-
ed to continue
in poſſeſſion,
the ann found
due to his
relict, not-
withſtanding
of the act of
ſuſpention.