

The bills, upon production, appeared the one signed by both drawers, and with the acceptance; the other signed by one of the drawers, and the place of acceptance torn off. No 207.

The charger *alleged*, The bill accepted was brought to him by the other drawer, to which he adhibited his subscription, and deposited it in the hands of a third person; but he did not know whether the acceptance might not have been forged by his partner, who had since absconded, and had perhaps received the money, on giving up the other draft by himself, which might have been the one truly accepted; and he offered to abide by, with this quality, to wit, the truth of his own subscription, and that it was so delivered to him.

THE LORDS allowed him to abide by *qualificate*.

*D. Falconer, v. I. No 187. p. 252.*

1747. November 19.

YOUNG *against* WATT.

No 208.

ELIZABETH YOUNG having proponed improbation by way of exception before the Ordinary, against a receipt produced by James Watt, defender, in a process at her instance against him; after the said Watt had abidden by, and that several witnesses had been examined before the Ordinary, the pursuer, Elizabeth Young, applied by petition, craving that Watt, the defender, might be brought before the Lords, to answer such interrogatories as should be put to him; which was refused, as in all views out of form; for besides, that, after witnesses are examined, it is irregular to ask an examination of the party, so where an improbation is proponed, only by way of exception before the Ordinary, which resolves into no more than a voidance of the debt, it is the Ordinary only who examines the party; and the party is never examined in presence, but where the forgery is brought before the Court by complaint.

*Kilkerran, (IMPROBATION.) No 6. p. 283.*

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SECT. X.

Consignment by the Pursuer.—Summary incarceration upon suspicion of forgery.—Improbation against titles of honour.

1581. December.

A. *against* B.

No 209.

It was found by interlocutor, That the King's Advocate in actions of improbation should consign as well as other parties.

*Fol. Dic. v. I. p. 458. Colville, MS. p. 312.*