

No 124. null and void. The objection to the titles and progress applied with equal force to Ewing; for the disposition in his favour specially narrated the rights of John Lindsay his author, and particularly mentioned, that John Lindsay the younger had made up no titles, and could transfer no right; so that he purchased *a non habente* with his eyes open, and must suffer accordingly.

Answered for Ewing; The pursuer could derive no benefit now from the want of title in her brother at the time of the conveyance; for, by passing by him, her immediate predecessor, who was three years in possession, and making up her titles to one more remote, she had fallen under the enactment of the statute 1695, c. 24. and hence she was bound to implement her brother's onerous deeds, and to supply any defects that might appear upon the disposition to John Lindsay the defender's author.

The following judgment was given: 'In respect that the disposition by John Lindsay to his uncle John the cooper was gratuitous, granted during apparen- cy, and without titles established in his person, therefore the Lords reduce the same;' and to this interlocutor, upon advising a petition and answers, they adhered.

Lord Ordinary, *Barjarg.*

For Janet Lindsay, *Geo. Wallace.*

For John Ewing, *James Colquhoun.*

Clerk, *Tait.*

R. H.

Fac. Col. No 11. p. 26.

1782. July 5.

OLIVER MELVIL *against* MR ROBERT ARNOT, Minister at Ceres.

No 125.
A slight act of homologation, occasioned by the influence of a father, and only a few days posterior to minority, not sufficient to bar *restitutionem in integrum.*

WHILE in the nineteenth year of his age, Oliver Melvil, jointly with his father David Melvil, granted certain bills to Mr Arnot. A state of accounts between the two last mentioned gentlemen, of which these bills were articles, having been drawn up, with a docquet certifying its justness and accuracy, this docquet, only fourteen days after his majority, was subscribed by Oliver, together with his father.

Oliver, on the head of minority and lesion, instituted, within the *quadriennium utile*, an action of reduction of these bills; against which action it was *pleaded*, That having, when arrived at full age, homologated them, by subscribing the docquet above-mentioned, he had precluded himself from all claim of restitution.

THE LORDS were of opinion, that the salutary privilege of *restitutio in integrum*, was not to be barred in a case like the present, in which the act alleged to infer homologation was of such a slight nature; especially as it occurred so very recently after nonage, and had proceeded from duty to a father.

They therefore adhered to the Lord Ordinary's interlocutor, 'finding no act of homologation on the part of the pursuer sufficient to bar reduction; and sustaining the reasons thereof.'

Lord Ordinary, *Westhall.*

Act. *Craig.*

Alt. *Hay.*

Clerk, *Horne.*

S.

Fol. Dic. v. 4. p. 7. Fac. Col. No 51. p. 80.

The subject MINOR is continued in Vol. XXII.