

No 21. on by the defender; as also the defence, that *minor non tenetur placitare super hæreditate paterna*: And, on bill and answers, adhered.

Reporter, *Lord Elchies.*

Act. *W. Grant.*

Alt. *R. Craigie & Lockhart.*

Clerk, *Murray.*

*D. Falconer, v. 2. No 83. p. 90.*

## S E C T. II.

The Privilege of *Minor non tenetur* is not a defence against production.—Nor against actions to which the Minor is liable from the nature of his right.—Nor against a proving of the tenor.

No 22.

A minor has no privilege to defend him from producing his writs in an exhibition, which concludes no challenge of his right to his predecessor's estate, being calculated only to force production.

1582. *July.* FLEMING *against* LORD FLEMING.

MRS JEAN FLEMING, daughter lawful to umquhile Lord Fleming, that departed in France, pursued my Lord Fleming to hear and see certain charters, and precepts of sasine, to be retreated and reduced. It was *answered* by the Lord Fleming, That he ought not to produce the evidents, nor enter in plea, because he was *minor annis et quod non tenebatur placitare de hæreditate*. It was *answered*, *Quod ante omnia est exhibendum*, and that he ought not to be heard to make any allegiance before the exhibition. To this was *answered*, That the words of the law, '*placitare*' fuit *largissimæ significationis*, and behoved to be extended to all manner of entering into process; and so, if the said Lord was compelled to produce his evidents, he behoved *placitare*, and to enter into process; and to what effect should he produce his evidence, since there could no process be deduced against him.—THE LORDS, notwithstanding of his allegiance, ordained him to produce his evidents.

*Fol. Dic. v. 1. p. 189. Colvil, MS. p. 335.*

No 23.

1593. *February 15.* FOROUS *against* GOURLAY and STEVENSON.

In the action pursued by Forous against Gourlay, the LORDS found, that *minor tenetur placitare super hæreditate*, anent actions of any thing that concerns redemption of lands from minors. See No 19. p. 8917.

*Fol. Dic. v. 1. p. 590. Haddington, MS. No 372.*