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 Belshes.* 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 Maxwel 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 infeft, he must produce the predecessor's infeftment, 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-*

tare super hæreditate paterna;—the LORDS, notwithstanding, did ordain them to produce, reserving the said defence, and all others, after production.

Fol. Dic. v. 1. *p.* 589. *Gosford, MS. No* 222.

No 27.
produce in an improbation, reserving his defence, that *non tenetur placitare.*

*** A similar decision was pronounced, 27th November 1678, Guthrie against Lord Guthrie, No 16. p. 9069.

1678. *February* 15. GORDON *against* MAXWELL.

No 28.

THIS privilege not competent to exclude a wife's revocation of a donation granted to her husband, and falling by his death to his heir a minor.

Fol. Dic. v. 1. *p.* 590. *Stair. Fountainhall.*

*** This case is No. 353. p. 6144. *voce* HUSBAND and WIFE.

1710. *February* 1. CRAWFURD *against* CRAWFURD.

No 29.
A minor was found obliged to *exhibite* his writs, which it was alleged his predecessor had fraudulently altered, so as to exclude the pursuer.

THE deceased James Crawfurd of Ardmillan, in 1682, makes a disposition and tailzie of his estate in favours of James, his grandchild by his eldest son, whereupon a charter is obtained from the Bishop of Galloway superior, and the tailzie is completed by infeftment; but the disposition never being registrated, and means used with the old man to alienate his mind from his grandchild, by James Crawfurd his second son, (as is alleged;) it was represented, that he had forgot to make it redeemable, or to reserve a power and faculty to alter; but the tailzie being all written with the said James the second son's hand, he proposed to his father to cut off the first two sheets, and write them over again, and insert a clause of redemption on payment of three pounds Scots, and then keeping the third sheet (which was the tail, containing the parties and witnesses subscriptions) entire, he would batter the two new transcribed sheets thereto; which motion was yielded to, and the old father subscribes the margins, and presently uses an order of redemption, and consigns the three pounds Scots, whereby the estate fell to James the second son, the next substitute in the tailzie. But providence baffling human prudence, ordered it so, that the two old sheets were not destroyed, but found entire after old Ardmillan's death lying beside him. There is now a reduction, improbation, and declarator raised at the grandchild's instance against his uncle James (who is now dead) his son, for proving the foresaid fraudulent contrivance and alteration to seclude his nephew, and get the estate to himself; and produced the two first sheets, which exactly quadrate with the rest of the tailzie, and bore no reversion nor power to alter. *Alleged*, I am both minor and a pupil, and so *non teneor pla-*