

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

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

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

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

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. i. p. 590. Stair. Fountainhall.*

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

1710. February 1. CRAWFURD against CRAWFURD.

THE deceased James Crawford 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 infestment; but the disposition never being registrated, and means used with the old man to alienate his mind from his grandchild, by James Crawford 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-*

No 29.  
A minor was  
found obliged  
to exhibit his  
writs, which  
it was alleged  
his predeces-  
sor had frau-  
dulently alter-  
ed, so as to  
exclude the  
pursuer.