

presenting Mr Rule, who had a decret of locality, to which presumption must cede, 24th February 1681, Dr Leslie *contra* the Minister of Glenmuck, No 200. p. 11001.

No 202.

*Answered* for the pursuers; Thirteen years possession is a presumptive title to any minister, though he be a stipendiary; seeing, *imo*, The reason of that possessory privilege, viz. Because churchmen are supposed ignorant and negligent of their rights, whereof they are but liferenters, and these rights are subject to be lost in the change of incumbents, doth equally hold in the case of stipendiaries and beneficed persons; *2do*, Any stipendiary minister may, notwithstanding his decret of locality, get an augmentation of stipend from the Commission out of the free teinds of his parish, or enjoy a mortification; and thirteen years possession of the teind-duty claimed, is upon the matter a tacit augmentation, or perhaps was mortified to such a pious use. The decision 1681, betwixt Leslie and the Minister of Glenmuck, No 200. p. 11001. concerns the case of a minister who had been thirteen years in possession of the teinds of his parish, *jure parochi*, whose possession was ascribed to a decret of locality afterward produced; because a promiscuous possession could not be extinguished and applied to different titles. But here a minister having uplifted his stipend, contained in a decret of locality, by virtue thereof, and a superplus duty beside for thirteen years, that thirteen years possession must be imputed to a distinct title by mortification, or a decret of augmentation, or the like, which law presumes to be lost; and how many ministers in Scotland have both localities and separate titles for additional stipend?

THE LORDS sustained the pursuers title of *decennalis et triennalis possessio*, as sufficient, notwithstanding of the special decret of locality. But thereafter,

November 1708, upon a reclaiming bill given in by the defenders, and answers made thereto by the pursuers, the LORDS altered their former interlocutor, and repelled the pursuers allegiance, founded upon *decennalis et triennalis possessio*, in respect of the decret of locality, to which the presumptive title must cede.

*Fol. Dic. v. 2. p. 114. Forbes, p. 273.*

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1733. July. MINISTER of Morbittle *against* HERITORS.

No 203.

*Triennalis et decennalis possessio* was sustained in a process for bygone services of carrying coals, and certain quantities of butter. (See APPENDIX.)

*Fol. Dic. v. 2. p. 114.*