

1746. *July 30.* CAMPBELL *against* EARL of BREADALBANE.

No 443.

PRESCRIPTION of a right was found to be interrupted in favour of the real owner, by a transaction with one who, at the time, was apparently in the right, but whose title was afterwards set aside. (See No 356. p. 11156.)

Fol. Dic. v. 4. p. 112. D. Falconer.

*** This case is No 16. p. 6554. *voce* IMPLIED OBLIGATION.

1747. *January 27.* CLERK *against* EARL of HOME.

No 444.

AN apprising being conveyed to several disponees, having separate interests, interruption used by one of them was found available only to save his own interest from prescription.

Fol. Dic. v. 4. p. 114. D. Falconer. Kilkerran.

*** This case is No 6. p. 10662.

1747. *December 15.*

THOMSON *against* The MAGISTRATES of DUNFERMLINE.

MR JAMES THOMSON, Minister of Dunfermline, pursued the Magistrates before the Regality Court there, for L. 40 Scots yearly of manse mail, allocated to him by a decret of the Commissioners 1683, with relief to the Magistrates of L. 10 from the heritors of the landward parish; and obtained decret.

Suspended; for that the Minister produced only a copy of a pretended decret, together with some receipts to the Magistrates, recovered from the Town-clerk, more than 40 years old.

2dly, The decret was prescribed, in so far as for 40 years the Minister had been in use of uplifting L. 10 from the Town, and L. 30 from the heritors.

Answered; He referred to a horning 1685 on the decret, which was a sufficient title, and, by practice, ground for a second horning; and his right was saved from prescription, both by his partial receipts from the Town, and by receiving the L. 30 from the heritors, who were subsidiarily liable.

THE LORD ORDINARY sustained the reasons of suspension; which the LORDS, on bill and answers, repelled.—*See* PROOF. (See No 19. p. 8504.)

Act. *A. Macdonall.*

Alt. *Ferguson.*

Clerk, *Gibson.*

Fol. Dic. v. 4. p. 114. D. Falconer, v. 1. No 224. p. 309.

No 445.
Prescription of a right to manse-mail found interrupted by receipts for partial payments by those who were primarily liable, and other partial payments by parties *subsidiarily* liable.