

to the changes that are made on the debt secured ; and though it may be admitted that a right in security, be it legal or conventional, subsists till the whole debt is paid. Yet the question is not whether the security subsists till the whole debt is paid, which is not denied ; but the question is, to what extent of debt it subsists, and to that extent, and that only, can the security subsist.

“ *July 21.*—Find that payments made, does not restrict the adjudication, but that the same is to be ranked for the whole, till what remains due be paid.

“ It was considered that had a diamond been given in pledge, the pledge would be entire for the last farthing.”

1758. *July 28.* WILLIAM EARL of HOME, *against* The OFFICERS of STATE.

THIS case is reported in *Fac. Coll. (Mor. 10,777.)* Lord KILKERRAN has the following note of what was said by the Judges.

“ *July 28.*—It was argued by *Kaimes* with his usual ingenuity and accuracy, that patronages were not capable of prescription ; but to this I could not agree, as it is a matter on which our law writers seem to agree, and there is no pulling up that by ingenious arguments, that it had been more reasonable to be otherwise, nor is even that plain. Who doubts but a right to a burial place may be acquired by prescription? and the arguments against it are the same, or rather stronger, as in the case of patronages. There are other acts of possession, *viz.* with respect to the teinds; nevertheless I should have a great doubt, that an incumbent’s possessing on one act of presentation, would amount to a prescription. A second point was argued by *Affleck, and Colston, and Kaimes*, that the right in the crown to lands, and the right of the crown to patronages, were so far different, that the King was presumptive proprietor of all lands *jure coronæ*, but otherwise in patronages, as is fully argued in the petition; that the rule in these is but nevertheless had this been the question, I should have been of opinion that the *jus coronæ* would have been a sufficient title ; but neither of these questions are now to be determined, for that the third point seems to admit of no answer, that there was no possession here to infer a prescription, as the crown had right to present *per vices* ; and therefore had right to present in two of the three

for the crown ; and the vote

being put *July 28, 1758*, the Lords altered and preferred the Earl of Home seven to six.

1758. *December 14.* JOHN PHILIP, Auditor of the Revenue in Scotland, *against* The EARL of Rothes.

THIS case is reported in *Fac. Coll. (Mor. p. 15,609.)* The following is Lord KILKERRAN’S note of the opinions of the Judges.

“ The questions here stated are chiefly, *1mo*, Whether the tailyie is effectual,