

be assigned to him to satisfy the production ; but reserve to him, at discussing the reasons of reduction, to found upon his titles now produced, and, to the pursuer, his objections against the same, as accords, and remit.

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1776.      ROSS of AUCHNACLOICH *against* MACKENZIE of ARDROSS.

IN the cause between M'Kenzie of Ardross and Ross of Auchnacloch, the Lords found, that a decret of adjudication, though completed by charter and sasine, may be cut off by the negative prescription, as to some of the subjects which have never been possessed, although it has been continued in force as to the other subjects upon which possession had followed ; and, upon this ground, the heir of the family was preferred to the adjudger, with respect to certain of the lands under adjudication, but never possessed by the adjudger ; though, as to the other lands in the adjudger's possession, the adjudger was preferred.

How far diligence against a principal saves against prescription in favours of the cautioner, see reclaiming petition, *Boyd's Trustees against Earl of Home*, refused 27th February 1777.

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1777.      MARCH .      M'TAVISH *against* CAMPBELL of KILBERRY.

CAMPBELL of Kilberry granted commission to M'Tavish to be his wood-keeper, and, *inter alia*, with power to cut as much hazel as he should think proper, out of the price whereof he was to retain £12 Scots of yearly wages. Soon after, Kilberry prohibited all cutting of hazel, and M'Tavish having continued in his service for 17 years, pursued him for £17 sterling of wages ; against which, one of the defences pleaded for Kilberry was, the triennial prescription. To this defence, however, the Lords seemed to pay little regard, the debt being constituted by a written obligation ; and M'Tavish having obtained decret against Kilberry, before the Sheriff of Argyleshire, the Lord Auchinleck, Ordinary, found the letters orderly proceeded, and gave expenses : and the Lords adhered.

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WILSON *against* CAMPBELL of OTTAR ; and M'LEAN *against* DUKE of ARGYLE.

WHERE a person, standing infest in lands as proprietor, purchases in a life-rent affecting these lands, prescription will run in his favours against the person and his heirs from whom the life-rent flowed. The life-rent will be considered as a burden upon his possession ; and his possession, even under that burden, and more so when freed of that burden, will be considered as in virtue of his property as *dominus*, and give him the benefit of prescription. If indeed