

against a person Infested prely in that piece of ground. No Argument
can be drawn from the Exceptions of Actions of Warrantice, seeing they
are necessarily Excepted from the Common Rule of both the Positive and
Negative prescriptions: And the Meaning of the Clause is, that Warrantice
by bond prescribes Negative, and warrantice by Infestment prescribes
Positive.

There is no Negative Prescription of the obligation to pay parsonage tithes
7 Feb. 1666 E. Pannure contra Parishioners of 16 June 1681
and contra L. Orbielow & specifies des Benefices Eccles. 21. 10. 11. 12.
no. 485 Grimaudes des vicines liv. 3. Chap. Premier. No course of law
can extinguish the obligation to pay such tithes: because all the
Land of Scotland except Eccles. of Ministers, lands disponed cum
curia, and such as belong in due time to the Churches, Hospitales
and Temples, are liable to Parsonage tithes by Antiquity
and therefore not Exempted of these (as well as all tithes) until
Dulie continued, the Act Exercised for the space of 40 Years, which
that Law should universally go into use. For do tithes have
facultatis Prescribere in that ^{part} Art. 1. 45. 1. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.
the terms of his tithes to himself perpetually, except that after
after his decease happened to build a Mill of his own upon these lands
and the heritor of the Mill and his Successors having been in the
memorial possession of Induction Mill tithes of the said lands the
Faculty Competent to the heritor of the Lands of building a Mill
in his own Bounds was found not prescribed 14 March 1709
Rigues contra Haliburton of Newmains. An heritor having
a Decree of Sale of his tithes, decreeing the titular to Denude
of in his favour at the subsequent term, and the heritor to pay the
price upon the others performance, and in case of the titulars failure
to denude either to Consign the price at the term and to Intromit
with and dispose of his own tithes, or to obtain the price and pay the
annual rent thereof to the titular, without prejudice to the heritor
require the titular to denude in his favour at the said term
or any time thereafter: the heritor who had been always in
possession of his own tithes since the Decree, was found not
Excluded from the benefit thereof by his neglecting to Re-
quire the titular within 40 Years to Dispose the tithes to him
in the terms of the Decree, 4 June 1710 Lady Cardross contra
Graham of Buchlivy. Because 1. the heritors right by the Decree

Decree to require the titular to Denude was not more facultatis, es-
pecially considering that he possessed the tithes: And the Decree of Sale
furnished him a perpetual Exception against the titular according to
the rule que sunt temporalia ad agendum, sunt perpetua ad Excipi-
endum. 2. It being incumbent upon the titular to denude conform to
Decree against a certain Day, before any performance on the heritors
part; Dies Interpellavit pro homine, the lapsing of the term constituted
the Sale without any necessity upon the heritor to require performance
from the titular, whose failure to Dispose could only prejudice himself
C. 155 Godfrey, jura. It was therefore for the titular to denude
against the titular, when he was in possession of the tithes, and behind
the price in his own hands: And the Decree, which was not like a Minute
of Sale, but an helve title to possess, could not be taken from him
until he had denuded, unless the titular had acquired a contrary right by
prescription. A faculty likewise to a heritor to bid in of any
tithes to have in at pleasure, if granted by act of the presbytery,
and if by charter by the heritor and Registrar, should not
be liable to Prescription. The obligations upon which
action may be commenced when the heritor pleases to temporaria
ad agendum and prescribe: 4. An Exception upon a bill of
Exchange to prove Compensation 20 March 1707 Corrie contra
Hamilton of Wilkieson contra Hamilton & discharges to Exline
Murray of Eldon were formerly thought to be perpetual, and not
liable to Prescription: And a reply upon Compensation, to Effect
such an Exception, also perpetual 10 July 1712 Interlocum because
as Reus Excipiendus fit actor: 6. In personarum compensationem
the first pursuer turns Defender and now Compensation cannot
be offered upon a prescribed debt, it being extinguished by the
prescription both as to Action and Exception. July 1719 Carmichael
of Bonnington contra Carmichael of Nantilly. 7. In sup.
1666) The Lord Dirlotown Decree 30 Leslie contra Leslie 9 Decemb.
and Acquired, being paid at the next prescribable, and that a Decree
of life rent Decree may be raised upon it 40 Years after
seeing the but lands life rent, tho he survive 40 Years, would
fall to the Superior, and there is no reason he should be a
gainer or in better case thro his own fault and long Conti-
nuance