

The Reversion competent to a possib. Acceptor Excluded from his predecessors estate for not Renouncing property, Expires if he do not Renounce that Religion within 10 Years, not reckoning the Years of Minority, after his Incurring the Forfeiture; and the Estate belongs to the next protestant heir, with all its Lawfull Conditions and Burdens, act 3 Jess. 9 Par. 4. L. 11.

Tit. 5

Prescription of 5 Years.

Arrestments upon Decree to Registered Bonds or Contracts, not pursued and Insisted in within 5 Years after Laying on thereof and arrestments and depending Actions not pursued within 5 Years after Laying on do fall by prescription act 9 Par. 2 Jess. 1 Ch. 2. Arrestment laid on in the debtors own hand, prescribes in the same time 10 Novemb 1688 Schaw contra Macrailes.

Ministers Stipends not pursued within 3 Years after the same are due, prescribe as to the manner of proof by witnesses, act 9 Par. 2 Jess. 1 Ch. 2. because Ministers are presumes not to want their Stipends money, which are upon the Matter Alimentary. A more qualification being a part of a Stipend doth thus prescribe, tho' of a more Nature it doth not, McKeirne observ. an. d. act 9. but this prescription was not Extended to tithe due to Bishops or other titulars 20 March 1683. Hamelton contra Kerr, who were not thought to be under so great necessity, as poor Ministers, to demand payment for their Subsistence.

Multure, and Mails and duties of tenants who Labour the ground by themselves or sub tenants, not Claim'd within 5 Years after the tenants Removal from the ground prescribe as to the manner of proof by witnesses act 9 Par. 2 Jess. 1 Ch. 2. The Benefit of this Prescription is Competent only to tenants who labour the ground themselves or by their Sub tenants, and not to the feat of Land who had Entred to the possession thereof by virtue of a tack from the life renter, whose tack duties were not found prescribed by clapping of five Years after Expiring of the tack, and his Commencing to possess as proprietor 9 Decemb. 1709 Murray of Philiphaugh contra Grollier of Morton hall. Some of several tacks men of a paper Mill having assign'd the Interest in the tack Instruments Materials and Trading Stock to one of their own number for so many Years; upon this obliging himself not only to Relieve them of the principal tack duty, but also to pay to each of them a Super plus duty yearly for their Shares of the profits, and to leave the Instruments &c. in the same Condition; these Annual prestations of an over plus duty were found to fall under the Quinquennial

Quinquennial prescription 2 January 1711 Dues of Colding knows contra Temple of Fulwood.

Bargains concerning <sup>99 a Sale of Cattel 2 Feb. 1688</sup> Moveables, or Sums of Money probable by witnesses, ~~prescribes~~ not fixed within 5 Years after making the Bargain, prescribe also as to the manner of proof by witnesses act 9 Par. 2 Jess. 1 Ch. 2.

When it is said that things prescribe quod non in probantur by witnesses, that is, they can be proved after ward only by an oath of party. A Ministers Stipend not pursued within 3 Years, was not found proven by the Deed of Locality to be Resting, but only by the oath or Word of the Parishioners acknowledging the same to be still resting 23 July 1678 Baird contra Parishioners of Gyvie. In an Action for payment of a Bond, the defence of Compensation upon a debt due by the pursuer to the defender prescribes quod non in probantur, and Refers to the pursuers oath, was respelled, unless the defender would offer to prove by the pursuers oath, that the said debt was still resting, 13 January 1712 Kerries contra Maxwell of Orchardtown.

Actions proceeding upon Warrings, Spuilzies, Ejection, Arrestments or for Ministers Stipends, Multure, Mails and duties of tenants, and Bargains about Moveables, prescribe in five Years, if not waivered, that is, if a new Summons be not raised and Executed within that time act 9 Par. 2 Jess. 1 Ch. 2. junct. act 14 Jess. 1 Par. 17.

None of the foregoing Quinquennial prescriptions run against Minors.

The Legal Reversion of Special dedications where the Debtor produces a process Prescribe in favour of the adjudger in five Years after the decree and in favour of the debtors apparent heir acquiring right to execute the dedications, in five Years from the acquisition being made public by Infestment or process, act 19 Par. 2 Jess. 3 junct. act 6 Par. 1 Jess. 1 Ch. 2.

Because the writes of persons forfeited use to be abstracted, by just fees duties and other Annual prestations due out of a forfeited persons lands prescribe quod ad the King or his Donatory, if no Diligence be done for the same within 5 Years preceding the forfeiture act 2 Par. 9 L. 6 junct. act 33 Jess. 2 Par. 11. L. 11. A person the herelage of a forfeited person cannot now be affected with fees duties or Annualments preceding the forfeiture. act 33 Jess. 2 Par. 11. L. 11.