

The Lords, *in præsentia*, found a man could not pass by his father who stood last vested and seased, and enter to his goodsire; and that the doing thereof inferred behaviour, unless he could condescend on some pregnant presumptions that he was ignorant of his father's being infest: which is *ignorantia facti*, and so *nonnunquam excusat*; though it may be called *ignorantia juris, unusquisque enim tenetur scire quæ sunt in publica custodia*, and should seek the registers.

*Advocates' MS. No. 268, folio 115.*

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1671. *November 23.* ROLLAND of DISBLAIR, and OTHERS *against* CRAIGIEVAR.

IN the debate about the regality of Lundors, pursued by Disblair Rolland, Sir Patrick Young of Seaton, and others, against Craigievar; it was ALLEGED, that though they were indeed vassals of the Abbacy of Lundors, and so liable to that regality before the act of annexation in 1587; yet by that act, (and the act 13, *in anno 1633*,) they became vassals to his Majesty, and so became subject to the courts within the royalty; and accordingly, by the space of forty years and more, they had prescribed immunity from the regality court, and had given suit and presence with the sheriff.

To this it was ANSWERED,—That *jurisdictio nequit præscribi. 2do*, That some of the vassals of that regality, benorth the Cairnamont, have acknowledged the jurisdiction, and answered to the Court, and been amerced for their absence; which use of some must interrupt the prescription *quoad* the whole. *3tio*, In counting the forty years, the ten years of the English usurpation must not be reckoned, because, during that time, all regalities were suppressed. *4to*, They offered to prove positive acts of interruption within the years of prescription.

The debate being reported, the Lords found immunity from jurisdiction might be prescribed, but they behoved to make up forty years beside those under the usurpers. They sustained likewise the reply of interruption for eliding their exception upon prescription, but found the exercising the jurisdiction *quoad* some did not interrupt *quoad* the rest.

There were sundry acts of homologation condescended upon, whereby they alleged thir persons had *tacite* acknowledged the regality; as their adjusting their proportions of stents and public burdens with the rest of the vassals of the regality, &c. But thir were referred to the mutual declarators, one of the right of regality, the other against it, as to their proper place.

*Advocates' MS. No. 269, folio 115.*

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1671. *November 10 and 24.* SIR ROBERT BARCLAY of Peirstone, *against* LIDDELL and OTHERS.

*November 10.* PEIRSTONE having had dealing with one Robert King, tailor; after count and reckoning, King is found his debtor in L.1100; they agree that