

cure, upon his resignation of his own lands, infestment in a neighbouring heritor's lands, under a new or special name, which would unsettle all property.

No 94.

*Fol. Dic. v. 2. p. 104. Forbes, p. 503.*

1714. July 2.

DUNBAR against SINCLAIR.

No 95.

Forty years possession of land as part and pertinent of other lands contained in a charter, not sustained as a right of prescription, the charter having been lately granted, and consequently not a warrant for the possession.

*Fol. Dic. v. 2. p. 104. Forbes, MS.*

\* \* \* This case is No 18: p. 9640. *voce* PART and PERTINENTS.

## S E C T. V.

Title requisite in the Prescription of Right to Teinds and Rights granted by Ecclesiastics.

1627. February 17. DOUGLAS and STUART against TENANTS.

No 96.

In a removing of William Douglas and John Stuart against the Tenants of Aymoth and Coldingham, an exception being proponed by Hume of Nynwells upon his heritable infestment, as heir to his goodsir, who also was infest as heir to his brother, who was infest by the Laird of Banff, who also was infest and in possession conform thereto these forty years bypast; this exception was repelled in this judgment possessor, because the defender alleged not that either his own nor any of his predecessors infestments were confirmed, the same being kirk-lands; and it was repelled, where the excipient alleged, that in this judgment he ought not to dispute upon the validity of his author's right, after so long possession.

Act. Craig &amp; Stuart.

Alt. Nicolson &amp; Belshes.

Clerk, Gibson.

*Fol. Dic. v. 2. p. 104. Durie, p. 278.*