

In many Cases Possession is a presumed Title of Property. Property is sometimes presumed from present Possession. Thus Property in Abolition is presumed from Possession 26 July 1672 Hamilton contra the Master of a Ship 10 June 1675 Taylors contra Rankin but contrary appear, by another instructing a positive Title to them, or that they passed from him otherwise than by Alienation 3 Feb. 1672 Scot contra Elliot 27 January 1665 Scot and Scot contra Fletcher 2 Feb. 1672 Semple contra Givan 17 January 1670 Geddes contra Geddes. The natural Connection which is between the Possession and the Property, *l. d. C. de amit. & ret. poss.* makes the Law to presume that they are joined in the Person of the Possessor: and until it is proved, that the Possessor is not the right Owner, the Law will have him by the bare Effect of his Possession, to be considered as such. For seeing it is the Owner who ought to possess, it is natural to suppose, that he who is in Possession is also the right Owner. Property is also presumed from Possession continued for some Years *v. g. triennalis possessor beneficii ecclesiastici, et inde securus.* Incumbents Right to a Benefice, after three Years peaceable and uninterrupted Possession, cannot be quarr during his Lifetime, by any other Candidate or competing Churchman. Patron who had been in the uninterrupted Possession of presenting Ministers *trina vice*, or the three last Vacancies of the Church both the Right of Presentation in possession. Seven Years Possession of a Benefice without a Title gives a possessory judgment 25. Novemb. 1665 Peter contra Mitchellson 10 July 1671 E. Hume contra L. Rislaw 6 Decemb. 1672 Veatch contra Weatherlie. The Superiorities of patronal Benefices, that Ministers were 10 years in Possession of are not removable by the Sovereign Act 23. Feb. 2. Par. W. & M. Decennalis et triennalis possessor beneficii, non tenetur docere de titulo: ~~that~~ even in causa falsi Hope Sit. Improbation Bishop of Galloway contra prebendarys of the Chappel royal that is, 13 Years natural and real Possession (Spotswood Pratt. Sit. Possession) is a presumed Right, till the Possessor's true Title be produced. For if their Title can be found, their Possession will be ascribed to and regulated by it, and tho it cannot be taken away by Certification in an Improbation for not Production, or not abiding by; it may be excluded by a better Right, or improved by positive Proof, and any Exception or Nullity may be offered against the same when produced. Thus an Improbation of Annuitant mortified by the King to the Chappel royal, was for ever extinguished by a voluntary Redemption thereof upon Payment notwithstanding of 13 Years Possession thereafter. In Regard the Right modified had Reversion in the Body of it 11 July 1676 B. of Dunblain contra Kirkland

The Designation of temporal Lands for a glebe where there was Church Lands besides, contrary to Law (Act. 161. Par. 13. J. 6) was reduced, until the Minister, as possessor triennalis et decennalis, had presumptive Title, in Regard the true Title by Designation was produced 6 Feb. 1670 L. Erret contra tra. Mathers. A Right of Annuity granted to a Minister out of the Rents of a College by two of Seven Masters thereof, was found good, albeit the Receiver had been 13 Years in Possession: in Respect the Decree was not subscribed by the Majority of the Masters Feb. 1664 Bury contra Provost and Masters of the old College of St. Andrews. A Minister who had been 13 Years in Possession of certain Rents by a title expressly precarious, was debarred from that Privilege at the Instance of the Receiver for Mackenzie Bury on Act 29 Par. 11. J. 6. Another was not preferred upon the Account of so many Years Possession, or Vicarage Tithe, where the Ministers Title, which was a Decree of Locality, did not include the Tithe in Question 24 Feb. 1661 Lefly contra Minister of Glenmuck. But yet a Minister having been 13 Years in Possession of a certain Stipend, was not restricted to less by a Decree of Locality, which he and his Predecessors has never more as the Title of their Possession: albeit the Debate was with a singular Successor who seeing a Decree of Locality was, one would think, in bona fide to purchase without inquiring further. It was once found, that about a Minister's Possession of the Tithe of his parish pure parochial for the space of 13 Years, would be ascribed to a Decree afterwards produced, because a promiscuous Possession cannot be distinguished and applied to different Titles: yet a Minister having uplifted his Stipend contained in a Decree of Locality by Virtue thereof, and a superplus Duty besides for 13 Years, that 13 Years Possession was a sufficient Title to pursue for Payment of his overplus Duty, notwithstanding of the special Decree of Locality; seeing the Possession of such overplus Duty ought to be imputed to some distinct Title by Decree of Augmentation or the like which Law presumed to have been lost in the Change of Incumbents 23 July 1700 Reliet and Children of Rule contra Ministers of Strirling. But thereafter Novemb. 1700 inter eodem the Lords altered their Opinion and found 13 Possession by a stipendiary Minister, of a superplus Duty ~~over~~ over and above the Quantity of Stipend contained in his Decree of Locality, not to be a sufficient Title to claim that overplus Duty, in Respect of the special Decree. Which Alteration I humbly conceive was wrong. For George McKenry (Hic.) doubts, if absolute Rights granted to Churchmen can after 13 Years Possession be qualified, or elided by extrinsic or correlative Reversions or Obligations? But the L. Stair Inst. lib. 2. Tit. 8. §. 29. is clear, they cannot. As temporary and qualified Rights are thus acquired by 3 or 7 or 10 or 13 Years Possession: so absolute and perpetual Rights are gained to Beneficiaries