

is time whereof there is no memory of man to the contrary: those
 are in England prescriptions of shorter time, by Statutes 32 H. 8 cap.
 1. Mary 2. cap. 2. 5. Eliz. cap. 5. 55.
 2. 21 Jac. 1. cap. 16. 2. cap. 2. 10 & 11 J. 3. cap. 14. 12 & 13 W. 3. cap. 3. 3. 4. cap. 16. 16 & 17. 17. 18. 19. 20.
 Statutes of Prescription.
 In Scotland some things prescribe in 40, some in 20, some in 13, some
 in 5, some in 4, and others in 3 years: We have also an Annual
 and 6 months prescription. The times of Prescriptions are Different
 Regulated in Different Views: One to Leave to the owners of things and
 to those who pretend to any rights, a certain time to recover them
 and the other, to give peace and quiet to those whom others would
 Disturb in their possessions or in their rights, after the said time
 is Expired.

Tit. 1.

Prescription of 40 Years.

Hereditables are acquire by 40 years possession without a title,
 being presumed from Possession thus 40 years possession of a plot in the
 Rectory of a Church, was found to constitute a right to the Rectory in favour
 of the Church which had so long possession against another church; it is
 necessary to prove by what title the former have the Rectory Decemb. 11. 12.
 Par. 1. of the Charter contra Par. 1. of the Charter of Hemric. Again, real
 or hereditables are acquire by 40 years continued and peaceable posses-
 sion without any title from the owner of the Land or Tenement subject
 to the service. Vid. supra par. 1.

As to real and heritable rights, in respect of the great prejudice
 sustained what thro' abstracting, Corrupting and Concealing of these
 the owners Minority and less age; what thro' Injury of time War plagues
 fire or the like unhappy Accidents; and what thro' Counterfeiting and
 forging false writes and Evidents and Concealing the same till out
 of Improving thereof be taken away: A singular Successor in Land
 annual rents or other hereditables, hath good right by a Charter and
 with 40 years peaceable and continued possession thereon from the date
 the Infeftment by himself or his Ancestor and their tenants, or otherwise
 their right act 12 Par. 22 J. 6. As lessees and Wardlees. By a Charter
 here is understood any Warrant for Infeftment, as a possession or pre-
 of seisin; or even a bond or obligation to grant seisin Stair lib. 2. p.
 519 & 20. Sir George Mackenzie Observes on de act 12. double, where the
 a Superior is obliged to Receive a Vassal who has been 40 years in posses-
 sion unless he can Infeft a Charter granted by the Superior to him
 or his predecessors: Because the Statute mentions possession upon
 Charters granted by Superiors and Ancestors Populative, and not
 a Charter there is no title against the Superior. The others are op-

Opinion that the Superior would be Excluded by his 40 Years possession
 from his right of Superiority. Hereditables acquire and gained by a more
 slender title of Prescription to Lands, than to singular Successors, for a lye
 it seisin Regularly is not sustained in favour of singular Successors,
 Mediate or Immediate: Yet an heir hath good right to heritables by the
 Ancestors of seisin one or more without any Warrant or Infeftment
 Continued and standing together on Records or Receipts of Clere constable
 and Clothe with 40 years uninterrupted possession de act 12. By
 seisin continued and standing together, we do not mean seisin stand-
 ing undisturbed, but only seisin either continued 40 years in the person
 of the heir first Infeft, or Renewed in the persons of his Ancestors
 so as there be a Continuation of seisin as well as Possession of 40 years
 and the free fall not to the Superior in case of non entry for want of
 a Vassal 11. Feb. 1571. E. Argyle contra E. Marquis of Huntly Stair lib. 5. p. 15.
 Beautiful being unnecessary to Infeft that there was a present
 otherwise than by the Narrative of the seisin in Land given by the
 reasonable to be heard from seisin possession by one or more continued
 seisin in case of a Charter or other Infeftment or Immortal Immortal
 necessary to Infeft the seisin of singular Successors claiming the
 benefit of Prescription. The same law cannot be applied in the case of
 another as hereditables. In legal seisin are given to singular
 persons only, and not to them and their heirs; the Charter and other
 rights for given in favour of a man and his heirs, may be a title of such
 seisin to an apparent heir, who is reputed in Law one person with the
 predecessor. Nor is it absurd, that if a person Infeft at his death after he
 hath possessed 38 years, or several heirs die after Continued Infeft-
 ments and so long possession, any subsequent possession in their appar-
 ent heirs, should not complete the prescription; more than that the
 person first Infeft at his dying after possessing for a year, his
 apparent heir's possession 39 years, should be allowed to make up
 Prescription, which would open a door to forgery after the death of
 parties and witnesses. But the necessity of several seisins is a check
 to such unlawful practices; it being more difficult to counterfeit
 and easie to Redargue different seisins by Different Witnesses and
 witnesses, than it is hard to falsify or easie to Disprove one seisin.
 However the Argument Drawn from the facility of forging seisins,
 is much taken off by the Law appointing them to be Registered. There
 is not Required that free Exactness in the Continuation of seisins,
 as in the Continuation of possessions some Interval betwixt the death
 of one and the service of another heir being unavoidable, for that
 a year of Deliberation is allowed to apparent heirs, that they may