

the supposed delinquent's moveables that belonged to him. The Court, upon advising printed informations, sustained the defence of prescription, and dismissed the indictment. M'Laurin.—Books of Adjournal. (PRESCRIPTION.)

No 343.

*Fol. Dic. v. 4. p. 110.*

## DIVISION XII.

## Who Privileged against Prescription?

1590. The Duke of LENNOX *against* the Laird of BALFOUR.

THE Duke of Lennox having right from the King to an obligation made by Cardinal Beaton, *anno* 1545, to the Laird of Grange, treasurer for the time, bearing, That the Cardinal had borrowed 3000 crowns from the Treasurer, and obliged him to repay it; the Duke pursued the Laird of Balfour as only executor living to the Cardinal for the said sum. *Excepted*, That it was prescribed, 40 years bygone. *Replied*, That the act did not militate in this case, because, since the making of the obligation, the princes were almost ever minors, *contra quos non currit præscriptio*. *Duplied*, That this was *præscriptio introducta a lege & statuto Parliamenti*, and so behoved to take effect *contra ipsos minores*, and that they could have no privilege granted to them in this case. The LORDS repelled the exception *in præsentia regis*, 1590.

No 344.

*Spottiswood*, (PRÆSCRIPTIONE ET USUCAPIONE) p. 236.

1610. February 24.

ALEXANDER CUMMING of Balgray *against* NEILL MONTGOMERY, younger, and Others.

*Alleged* for the defender, not pursued within three years. *Replied*, The pursuer was minor at the time of the committing, as also at the time of the intenting of this cause, at the least he intended within three years, after he was 21 years, *et contra minorem non currit præscriptio*. Admits the summons and reply to probation.

No 345.

*Robert Cockburn, Miller against Learmont*

*Fol. Dic. v. 2. p. 123. Nicolson, MS. No 443. p. 316.*