

No 414. year imported a several obligation, and every year did prescribe by 40 years silence; so that the payment of subsequent annualrent, or a part of the principal did not interrupt the prescription of any bygone annualrents, if there were no pursuit therefor within 40 years. Otherways they found that bygone annualrents, feu-duties, or the like yearly prestations, might be claimed for 80 years past, if one year had been paid within 40 years last, contrary to the common custom, which doth ever sustain the defence of prescription as to all bygoners, 40 years before the summons, albeit payment had been made yearly since the 40 years.

*Fol. Dic. v. 2. p. 128. Stair, v. 1. p. 765. v. 2. p. 64.*

\* \* \* Gosford reports this case :

1672. February 7.—HENRY BLAIR, as executor to Jean Blair, did pursue the Laird of Ardblair, as cautioner in a bond for 1200 merks, whereof the said Jean was liferenter, for payment of the annualrents from the date of the bond, which was *in anno* 1624, until the year 1669. It was *alleged*, That the annualrents were prescribed, not being sought within 40 years after the date of the bond. It was *answered*, That it was interrupted by payment of a year's annualrent within the years of prescription, and so the whole annualrent might be sought from the date of the bond, which was *in anno* 1624, until interruption was made by payment. It was *duplied*, That prescription being once interrupted, all might be sought which were due before the interruption, either rents of lands or annualrents of money.

THE LORDS did only sustain the summons for the space of 40 years before the liferenter's decease, but would not sustain the same for any years preceding 40, notwithstanding the interruption in the case of *annua præstatio*, such as rents of lands or annualrents.

*Gosford, MS. No 467. p. 242.*

No 415. 1671. November 23. ROLLAND *against* CRAIGIEVAR.

A PARTY claiming exemption from the jurisdiction of a regality not having answered to the Court for above the space of 40 years, but the Sheriff-court only; this answer was not sustained, that the jurisdiction being exercised as to others, was preserved as to the whole.

*Fol. Dic. v. 2. p. 129. Stair.*

\* \* \* This case is No 35. p. 10724.

\* \* \* See 28th November 1676, Sheil *against* Parishioners of Prestonhaugh, No 61. p. 10761.