

of rights of property except usucapion ; so that nobody can lose his right of property except somebody else acquire it. And this decision was according to good principles ; for while I retain my right of property, it is impossible that the action *rei vindicatio* can ever prescribe ; or, *vice versa*, the property being lost, the action must also be lost. It does not therefore follow, from this decision, that our prescription is not founded on negligence, but that we have no prescription at all of this kind. Supposing that positive prescription were to be founded upon the presumption mentioned, yet it would not follow that this presumption ought to take place against minors : our positive prescription would still be an *adjectio dominii* by continuance of possession. Now, why should that possession run against minors, or why should not they be saved against prescription of their lands as well as of their obligations ?

---

1754. December 13. ARCHIBALD ANGUS *against* DRUMMOND.

THE question here was concerning a sale of lands by an apparent heir, upon the Act 1695 :—at what time the sums due to the creditors were to be accumulated, principal and interests, into one principal sum,—whether from the time of the sale, so as from that time they would be entitled to annualrents of their accumulate sum, or only from the time of the demand, so that they would only draw then the share of the price belonging to them, in the same manner as if the lands had been voluntarily sold by the heir, and the bond granted by the purchaser payable to him, and not to the creditors ? And the Lords found that the *first* rule was to be followed : *dissent. Præsides et Kaimes*, upon account that this was the rule followed in the sales of bankrupt estates, from which the plan of these sales upon the Act 1695 has been copied.

---

1754. December 17. STIRLINGSHIRE ELECTION PROCESS.

[Kaimes, No. 79 ; *Fac. Col.* No. 129.]

IN this case the Lords found that a man, year and day infest after the registration of his seasine, might be enrolled at a meeting for election, in terms of the 16th Act of his present Majesty, notwithstanding he was not year and day infest, and his seasine registered a year before the testing of the writ upon which that election was made, in terms of the Act of the 12th of the Queen. The President endeavoured to reconcile the two acts by saying that the Act of the 12th of the Queen only regarded the right of voting at an election, and the Act of the 16th of the King only the right of being enrolled ; so that a man might be entitled to be enrolled without being entitled to vote at an election till year and day was passed before the teste of the writ ; and therefore, as in this