1766. *June* 24. CADBOLL *against* ———.

IN this case the Lords found, unanimously, that the enrolment of a freeholder who is minor, was void and null; though it was adjected to the enrolment that he was not to vote till he was of age, and he was in fact *majorennitati proximus.*

1766. *June* 26. CAMPBELL of OTTER *against* ———.

THIS case was mentioned before, 19th December 1765, and this day the Lords adhered *(dissent. tantum* Coalston,) to the judgment that forfeiture did not interrupt prescription.

Lord Hailes gave an historical deduction, showing that the forfeiture of Lord Lauderdale was different from the forfeiture of Otter, because the forfeiture of Lauderdale was by foreign force, that is, by the English Parliament and Cromwell, who conquered the kingdom, in opposition to the Scotch Parliament and the established government under Charles II., who had been called home and acknowledged by the Scotch nation; and therefore such forfeiture might very fitly be compared to the Vandals possessing lands in Africk, which, by the civil law, interrupted prescription; whereas the forfeiture of Otter was by an established government under James II.

But Pitfour, Kaimes, and President, declared their opinion, that in the positive prescription there was no interruption by a *non valentia agere.* There was another point in the cause much debated, but the determination of it put off. The author of the person who pleaded the prescription disponed the lands to him, reserving the liferent of Ann Stirling, which liferent had been constituted by the true proprietor: the prescriber made a bargain with Ann Stirling, whereby he gave her certain feuduties in place of her jointure, and upon this bargain he possessed the lands.

The question was two-fold,—1*mo,* Whether the possession of the prescriber could be ascribed to his right of property, or whether it must not be ascribed to the liferent which he had acquired? 2*do,* Whether, supposing the last, he was not bound to prove when Ann Stirling died. (See *infra,* 6th August.)

1766. *July* 16. EARL of ROSEBERRY *against* CREDITORS of VISCOUNT PRIMROSE.

[*Fac. Coll. IV.* p. 267.]

IN this case the Lords determined, unanimously, a very general point of law, *viz.* That an heir of provision of a particular estate, such as an heir of tailyie, is not by his service universally liable, but only *in valorem,* like an heir *cum beneficio inventarii.*