

DIVISION XV.

Interruption of the Negative Prescription.

S E C T. I.

What diligence sufficient.—Effect of partial interruption.

1612. *July 2.* Sir ROBERT DOUGLAS *against* Lord HERRIES.

No 403.

THE LORDS found that a summons of removing raised within three years interrupts the prescription; notwithstanding it was alleged the said summons was passed from *pro loco et tempore*; and yet the Lord Herries could not have compelled them to have insisted upon the warning.

Kerse, MS. fol. 265.

1627. *July 25.* WILLIAM ROSS *against* PATRICK ELLIOT.

No 404.

IN an action of registration pursued by William Ross against Patrick Elliot, to hear and see a bond of 100 merks granted by the defender's father *anno* 1584 30th May, to the pursuer, registered against him as heir to his father; *excepted*, That the bond was prescribed, in respect that the summons was dated the 28th of May 1624, two days allenary before the expiration of 40 years, and the day of compearance was long after. *Replied*, That this citation was a sufficient interruption. THE LORDS found the exception relevant.

Spottiswood, (DE PRÆSCRIPTIONE & USUCAPIONE.) p. 236.

No 405.

Found that a charge of horning and denunciation are sufficient interruption of prescription, although

1629. *July 21.*

MORRIS *against* JOHNSTON.

A CONTRACT being alleged to be null, because it was alleged more than 40 years since the date thereof, and sincesyne no action intended thereon, and therefore that it was prescribed conform to the 28th act, Parl. James III., the allegiance was repelled because it was registered within that space, within