

## DIVISION II.

## Positive Prescription of forty years.

## SECT. I.

Act 1594, cap. 218.—Effect of the Positive Prescription on a *jus crediti*,  
over the Subject acquired.

1615. February 13. LA. DRUMLANRIG against WEMYSS.

In the reduction pursued by the La. of Drumlanrig *contra* James Wemyss, the LORDS fand, That an instrument of sasine granted upon a precept, which precept was improven, was redeemable notwithstanding that the infetment was clad with 40 years possession; and so they fand, that the precept should be produced, and that the act of Parliament made *in anno* 1594, anent the production of procuratories and precepts, could not be extended in this case.

*Fol. Dic. v. 2. p. 102. Kerse, MS. fol. 77.*

No 69.

1630. February 4. EARL of KINGHORN against STRANG.

By analogy of the statute 1594, cap. 218. a decree at an assignee's instance, with a comprising and infetment following upon it, being sought to be reduced for want of the assignation; the LORDS, in respect that the appriser had been in possession for 48 years without interruption, found no necessity to produce the assignation.

*Fol. Dic. v. 2. p. 102. Durie.*

No 70.

\*\*\* This case is No 35. p. 6630. *voce* IMPROBATION.