

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.