

1764. August 4. STEELE *against* Earl of HOME.

No 448.

THE debtor in a bond defending himself upon the negative prescription of 40 years, the pursuer *urged*, That a process had been brought formerly for payment, which interrupted the prescription; and, in proof of this, an extracted act was produced, dated in 1682. *Answered*, This is not sufficient; the pursuer has not produced the summons, nor any other step of process in that pretended action. *Replied*, As soon as an act is extracted, the warrants of it are sent to the record; so that they could not be produced; but, at any rate, there is no necessity to produce warrants after so long a time. THE LORDS found the prescription validly interrupted.

Fol. Dic. v. 4. p. 114. Fac. Col. Kames.

* * * This case is No 113. p. 5555. *voce* HERITABLE and MOVEABLE.

1776. July 5. ROBERTSON *against* ROBERTSON.

No 449.

JOHN ROBERTSON pursued his niece Janet Robertson, as representing her father, the eldest son of Paul Robertson of Pittagown, for payment of 1000 merks, provided in Paul's marriage-contract, to the heirs of the marriage. And, in 1763, the COURT found the pursuer entitled only to one third of the sum, as there were three children of the marriage. The pursuer having obtained right from his sister Grizel to her third, brought action, in 1773, for that share. *Urged* on the part of the defenders, That much more than 40 years had elapsed between 1725, when this sum became payable to Grizel, and 1773, the date of the conveyance to the pursuers. *Answered*, The process in 1763, though only for the part, must interrupt the prescription as to the whole. THE LORDS sustained the defence of prescription. (See APPENDIX.)

Fol. Dic. v. 4. p. 113.

1784. July 21.

Sir JAMES GRANT *against* The CREDITORS of the YORK-BUILDINGS COMPANY.

No 450.
Whether prescription of a debt due by a corporation, was interrupted by a horning used against some of the members, who

THE York-Buildings Company was debtor by bond to the predecessor of Sir James Grant, who brought an action in the year 1735, calling by name the then Governor and six Assistants of the Company, for themselves, and as representing the Company. And upon the decret which followed, a horning was executed in the month of July 1740.