

* * * Newbyth reports this case :

No 409.

1665. *February 15.*—IN an action of registration of a bond, pursued at the instance of James Butter against James Gray of Ballegerno, &c. there being a defence proponed, viz. No registration, because the bond was prescribed, not being pursued within 40 years; to which it was *answered*, That there was a summons raised and executed upon six days within the 40 years: THE LORDS found the same sufficient to interrupt, albeit the action was not called till after the 40 years were expired.

Newbyth, MS. p. 26.

* * * Stair's report of this case is No 363. p. 11183.

1665. *July 5.* ADAM AINSLIE *against* GEORGE GLADSTANES.

No 410.
Found in
conformity to
Butter a-
gainst Gray,
supra.

ADAM AINSLIE pursues a summons of registration against George Gladstanes, as representing his father, Walter Gladstanes, for payment of a debt. This summons being raised *in anno* 1650, and executed by a Sheriff in that part, and wakened *in anno* 1664, and then called; it was *alleged*, No process because the debt was prescribed, nothing being done thereupon by the space of 40 years. It was *replied*, That the pursuer had raised his summons *in anno* 1650, and executed the same; and albeit they were not called till 1669, yet the first summons being within the 40 years, albeit not called since they were executed, was sufficient to interrupt the prescription. THE LORDS found the prescription sufficiently interrupted by the first summons, and execution of a Sheriff in that part, the same being truly executed.

Fol. Dic. v. 2. p. 127. Newbyth, MS. p. 32.

1666. *June 15.* SINCLAIR *against* LD. HOUSTON.

No 411.

A DECREE of poinding the ground against tenants though informal, the proprietor not being called, was found sufficient to stop the negative prescription of the annualrent.

Fol. Dic. v. 2. p. 128. Stair.

* * * This case is No 15. p. 1289., *voce* BASE INFECTMENT.