

DIVISION V.

Bills by the lapse of time lose their Privileges.

1711. July 17.

DAME ELIZABETH NICOLSON *against* WILLIAM MORISON of Prestoungrange.

IN the action of recourse at the instance of the Lady Nicolson against Prestoungrange, for two thousand five hundred merks, contained in a bill of exchange, drawn by him payable to her, and protested for not payment, mentioned the seventh of February last, No 130. p. 1552.: THE LORDS found, That whatever, in the case of foreign bills, may be held a sufficient instruction, that the drawer was certiorated of his bill's being duly protested; yet in this case of an inland bill, where the possessor did not pursue recourse till two or three years after it was protested, this certioration must be instructed otherways than by the possessor's oath.

Forbes, p. 526,

No 181.

Found, that when an inland bill had lain over 2 or 3 years, due negotiation could not be proven by the holder's oath.

1715. February 18.

MURRAY of Deuchar *against* JOHN GRIERSON, Son to Sir Robert Grieron of Lagg.

DOUGLAS and HUNTER drew a bill upon John Grieron, payable to Michael Coulter, in the year 1709; which Grieron accepted, but did not pay, nor was the bill protested for not payment: but Coulter, the possessor, indorses to Douglas the drawer, who re-indorses to Coulter; and Grieron being arrested in England in the name of Coulter, who having declined to prosecute Grieron, Douglas deletes the indorsation to Coulter, and of new indorses the bill to Murray of Deuchar; and he having pursued Grieron the acceptor, he defends, on this reason, that he had compensations, and several other defences competent to him, against Douglas; one of the original drawers and indorser, which he was ready instantly to instruct.

It was *alleged* for the pursuer: That no compensation, nor any other allegiance competent against Douglas, was receiveable against the pursuer, possessor of the bill, for an onerous cause; because bills pass from hand to hand, as a bag of money, for the benefit of commerce, and admit of no exception, but payment instructed by receipts on the back of the bill.

It was *answered*: The privileges of bills of exchange duly negotiated are great, to which the possessor of this bill has no claim, but is only to be considered as a common assignee to a bond or other right; because this bill is not duly nego-

No 182.

A bill being allowed to lie over without any diligence for payment, during five years, the Lords found, that the indorsee was only to be considered as a common assignee, liable to the exceptions competent against his cedent.