

D I L I G E N C E.

S E C T. I.

Diligence prestable by Apprisers.

1625. July 2. KINCAID *against* HALIBURTON.

EVEN after the act 6th, Parl. 1621, an appriser is only liable to account for actual intromissions, and not for what he might have intromitted with; for he is not bound to intromit with any more than he pleases, or to do diligence.

No 1.

Fol. Dic. v. 1. p. 236. Durie.

*** See This case, No 1. p. 314.

** The like was decided in a case, Tutor of Balmaghie *contra* Maxwell,
16th January 1634, No 2. p. 283.

1629. December 23. JOHN DICKSON *against* YOUNG.

Two comprisers contending which of them should be answered of the money and tacks after the redemption of the lands comprised by them, (for the lands comprised were under reversion, and were redeemed, and the sum whereupon the same was redeemable, was found to come in place of the lands to them, who should be found to have best right by comprising), the first compriser being in possession of the lands before they were redeemed, and the second *alleging*, that the first comprising was extinct by intromission with the duties of the lands, which satisfied the first compriser's sum, which was referred to his oath, and he deponing that the first year of his entry to the lands, the same was waste, and he plenished the same, and reaped no profit at all of the land but was a loser of a part of his own stock by the evil season, and the neighbours' goods which did eat his corns and grass, and that he set the same thereafter for a

No 2.

If an adjudger enter into possession of the lands adjudged, he becomes liable for the rent *qua* tenant, and he has no claim upon the debtor tho' he should be a loser by his possession.