

1665. July 6.

Mr JOHN COLVIL *against* The LORD BALMERINO.

## No 5.

If there be a new intrant, the profits of the glebe fall no farther under the annat, than with regard to crop sown before the minister's death.

MR JOHN COLVIL, as executor, confirmed to umquhil Mr John Colvil, minister at Kirknewton, pursues the Lord Balmerino for the stipend, the year 1663, and for the profit of the glebe. The defender *alleged* absolvitor; because payment is made *bona fide* to the intrant, before intending of this cause.—It was *answered*, It could not be paid *bona fide*, because the minister died after January 1663: Which being so notour to my Lord Balmerino, to whom the most of the parish belongs; and he being so near it, he ought to have made payment to no other, of that year which belonged to the defunct minister, as his annat, extending to the whole years; *annus inchoatus habetur pro completo*, as to the annat; so that if the minister lived till the 1st of January, he has that whole year.—The defender *answered*, That an annat is only due to the wife and bairns of the defunct minister; and this minister had none. *2do*, That the point is so dubious in law, he knew not that it would be his, unless he had lived till Whitsunday. *3tio*, The benefit of the glebe must be the intrants, and falls not under the annat, as a part of the stipend, no more than the manse.

THE LORDS repelled the defence as to the stipend, and found it belonged to the executor, as nearest of kin; and that the defunct surviving the 1st of January, gave him that whole year; but found that the glebe did not fall under the annat, nor did belong to the defunct, but only the crop thereof, if it were sown by himself. (See No 9. which is the same case reported by Newbyth.)

*Fol. Dic. v. 1. p. 35. Stair, v. 1. p. 306.*

1747. July 14.

JAMES, JOHN, ROBERT, and JEAN M'DERMETS, Children of the deceased Mr John M'Dermet, Minister at Air, *against* MONTGOMERY, his Relict.

## No 6.

The relict has right to one half, the children to the other.

IT being controverted between the relict and the children of Mr John M'Dermet, late second minister at Air, whether the annat belonged to the relict and the children *per capita*, or if the children were only entitled to the one half equally among them, and the relict to the other half.

THE LORDS found the children were only entitled to the one half.

*Fol. Dic. v. 3. p. 27. Kilkerran, (ANNAT.) p. 28.*

1663. June 24.

ELIZABETH SCRIMGEOUR *against* MURRAY.

## No 7.

Annat divides between the wife and

THE said Elizabeth pursued the executors of her husband, and insisted upon several points; *first*, she craved the annat, as belonging wholly to her, seeing there