

A N N A T.

1629. June 16.

SMEITON *against* The RELICT of the late MINISTER of ST BOTHANS.

THE late minister dying in April 1628, before either Whitsunday or Martinmas that year, and it being controverted betwixt the relict and the new intrant, if the stipend of that year, wherein the late minister died before any of the terms were come, should pertain to his relict and bairns, as for the crop, which would belong to them for the service of the late minister; or if they would have only right thereto, as annat, according to the order of the kirk:—THE LORDS found, That the late minister dying before any of the terms came, no part of that year's stipend was due to him for that year, and consequently could not be claimed by his relict and bairns by any other right, but as the annat; by virtue whereof only, it was found to pertain to them, and no otherwise; and that they should seek nothing of that crop 1629, for the annat; for the order of the kirk is, that if the minister live after Michaelmas, his executors get the whole year's stipend, as due to the minister for his service, seeing then the crop is separate from the ground; and also they will get the half of the year subsequent for the annat: But if the minister die, before any of the terms come, that year wherein he dies, the executor will get no annat, but that whole year's stipend, and no further.

No 1.
The annat found to extend to a whole year more than the defunct had right to *proprio jure*.

Act. Stuart.

Clerk. Hay.

Fol. Dic. v. 1. p. 35. Durie, p. 446.

1661. July 26.

WILLIAM KER *against* PARISHIONERS OF CARDINE.

WILLIAM KER, as executor, confirmed to umquhile Mr Andrew Ker, his father, pursues the minister and parishioners of Cardine, for intromitting with his father's stipend of the kirk of Cardine, in anno 1652 and 1653, and for the annatine 1654; because his father died on the 22d. of November 1653.—The defenders *alleged* absolvitor, Because he being colleague minister, placed with the defunct's consent, and the defunct being suspended by the presbytery, he got right to these years stipends, and obtained decret against the heritors, and uplifted conform; and so was *bona fide* possessor *cum titulo*. 2do, He offered him to prove, by an act of presbytery, that at the time of his entry, he was provided to 800 merks of

No 2.
Found to extend only to half a year.