

ANSWERED, That they could not be both *domini in solidum*, per l. 3, § 4. *D. de Acquir. et Amit. Poss.*; and so the possession could not be both in the father and in the son. *Vol. I. Page 261.*

1684. January 17. ——— GIBSON, MINISTER at AULDHAMSTOCKS, against The MINISTER of COCKBURNSPATH.

IN a debate between ——— Gibson, Minister at Auldhamstocks, and ———, Minister at Cockburnspath, as to the possession of vicarage and teind-herring; the Lords sustained a decret as a sufficient probation, though the other minister claiming right was not at all called thereto. *Vol. I. Page 261.*

1684. January 17. The COMMISSARIES of EDINBURGH against The ARCHBISHOP of ST ANDREW'S and the BISHOP of EDINBURGH.

THE four Commissaries of Edinburgh pursue the Archbishop of St Andrew's and the Bishop of Edinburgh, for paying the locality imposed upon them, when the said Commissaries quitted (in 1609) the confirmation of the great testaments through Scotland, to the respective diocesan Commissaries, *viz.* £606 Scots. The question fell in between the two defenders.

St Andrew's ALLEGED,—The Bishopric of Edinburgh was, in 1633, erected out of his See, and with this quality, That the titular Bishops of Edinburgh should relieve him of a proportional part of that contribution-money; and that, by a decret-arbitral, in 1670, the Bishop of Edinburgh's proportion was declared to be the half, *viz.* £303; and that this Bishop's predecessors, *viz.* Wiseheart and Young, were in use of paying it 13 years; which was *triennalis et decennalis possessio*, and so was sufficient to liberate the Archbishop, a churchman, from that proportion.

ANSWERED for the Bishop of Edinburgh,—That the quota and proportion of the half imposed on his See was too great, considering the vast disproportion of the two Bishoprics' rents; and he denied the Commissaries were in possession; but, *esto* his predecessors had paid it, they being but administrators of the benefice, that cannot prejudge him.

REPLIED,—His erection is burdened with a proportion; and, *ex* § 1. *Intitut. de Societate*, where the parts are not defined, *præsumuntur esse æquales*.

The Lords, on this debate, found there was due to the Commissaries of Edinburgh, betwixt the two, £606; but, before answer, what part of this should be paid by the Bishop of Edinburgh, they ordained probation to be led of the Commissaries' possession, and their getting payment from the preceding Bishops of Edinburgh; and how long,—if the length required by the foresaid *regula cancellaria*; *item*, how much of the revenue and patrimony of St Andrew's was dismembered, taken off, and incorporated into the Bishopric of Edinburgh, that they might thereafter consider if the equal division of the total £606 between them was just and rational. *Vol. I. Page 261.*