

ART AND PART.

1609. December 2.

COWGRANE.

A MAN in the Lenox, pursued Denniston of Cowgrane and certain others, for the spoliation, or way-taking, refetting, with-holding, and detaining of certain his nolt; litifcontestation being made, he proved the away-taking furth of his byre of four nolt by Cowgrane, and that they were taken to the house of another Denniston that night, and kept all that night; which the LORDS found to be approbation of the spuizie against the said pursuer, in respect of their refett. Thereafter it being *alleged*, That Cowgrane was dead since the act of litifcontestation, the LORDS found, That no sentence could be given against him, because the depositions of the witnesses contained probation against Cowgrane.—THE LORDS found, That the act of litifcontestation made the quantity to divide in equal portions against all the defenders against whom any thing was proven; and therefore they deducted that part which answered to Cowgrane's part, and decerned for the rest against the remanent defenders,

Fol. Dic. v. 1. p. 28. Haddington, MS. No 1672.

No 1.

A man found art and part in a spuizie, because the goods had been conveyed directly to his house.

1628. January 26.

E. ROXBURGH against L. LANGTOUN.

IN a spuizie of teinds by the Earl of Roxburgh against the Laird of Langtoun and others, it being proven that the corns spuizied were after the spuiziation casten in the L. Langtoun's barns, and were threshen there, and thereafter disposed off by him.—THE LORDS found this receipt, and using of the corns, to be a ratihibition; and consequently found the spuizie proven against him, albeit he was not the actual spuizier, but that others were proven to have actually committed the act of spuiziation.

No 2.

One found liable in a spuizie of teinds, because the corns were threshed in his barn, and he disposed of them.

A.G. Nicolson.

Alt. ———.

Clerk, Hay.

Fol. Dic. v. 1. p. 28. Durie, p. 334.