

his father, as often as the lands were in their own hands. It was answered, That by the canon law, that privilege was only personal to the monks themselves, and not to any singular successor, as appears by the D. D. Panorm. &c. and therefore it cannot belong to the defender. Replied, That the privilege is notour, and by a decret *in foro* recovered before the Commissaries of Edinburgh *in anno* 1589, it was found, That the privilege did belong to the Lord of erection, and has ever been enjoyed since syne.

No. 100.

The Lords found the allegiance and reply relevant.

Fol. Dic. v. 2. p. 437. Gilmour, No. 110. p. 81.

1675. January 28.

The MINISTER of TULLIALLANE against COLVILL of Larg and Kincardine.

It was found by the Lords Commissioners for teinds, That the heritors of lands having right *cum decimis inclusis* were not liable to the augmentations of Ministers' stipends, and that no locality could be given out of their teinds, the said infeftments being before the year 1587; and that the feu-duty payable to church-men for stock and teind in victual was not liable thereto, because the teinds not being separate from the stock, and the heritors having right to the lands free of teinds, in effect there were not *decimæ*; and by the acts of Parliament, and the King's decret-arbitral, teinds are liable to Ministers' augmentations, in consideration that the Lords of erection and titulars had right thereto from the King since the act of annexation; and that the King, who might have questioned their rights, was pleased by the said acts of Parliament, and decret-arbitral, to affect them with the burden of Ministers' stipends; whereas such rights *cum decimis*, were granted by church-men, and did not flow from the King, but from them, at such time as by the law then standing, they might have granted the same.

No. 101.

Found that heritors of land, having right *cum decimis inclusis*, were not liable to the augmentation of Ministers' stipend.

Fol. Dic. v. 2. p. 437. Dirleton, No. 229. p. 108.

1676. June 9.

BURNET against GIB.

It was found relevant to free a piece of land from paying teind, that it had been mortified for a glebe, whether for a kirk or chapel, wherein there was divine worship, though it was not designed by process or course of law, but by consent.

No. 102

Stair. Dirleton.

* * This case is No. 35. p. 15640.