

No 33. said reply and possession, which they admitted in this judgment possessory, without prejudice to the defender to reduce upon his anteriority, *prout de jure*.

Act. *Stuart & Hay.*

Alt. *Burnet.*

Clerk, *Hay.*

Fol. Dic. v. 2. p. 90. Durie, p. 810.

1636. July 13. BISHOP OF EDINBURGH *against* BROWN.

No 34. A TACK of teinds from an abbot, there having 40 years possession ensued upon it, found sufficient to defend against a spuilzie pursued by the titular, reserving reduction as accords.

Fol. Dic. v. 2. p. 90. Durie.

* * * This case is No 39. p. 2719, *voce* COMPETENT.

No 35. 1665. November 25. MR JAMES PETER *against* JOHN MITCHELSON.

MR JAMES PETER minister of Terregh, pursues Mitchelson for a part of his stipend, due out of the defender's lands; who *alleged* no process, till the pursuer produced a title to the defender's teinds, seeing he broke them by a tack.

It was *replied*, he offered him to prove seven years possession, as a part of the stipend of Terregh;

Which the LORDS sustained without any title of possession.

Fol. Dic. v. 2. p. 90. Stair, v. 1. p. 314.

No 36. 1672. December 6. JOHN VEATCH *against* WEDDERLIE.

A possessory judgment by several years possession, was found competent in the case of stipend.

THE kirk of Westruther being erected *in anno* 1650, there was a locality not only out of the teinds, but by a bond of the heritors so much localled upon their stock. The minister was accordingly in possession, till of late that Wedderlie one of the heritors suspends on this reason, that there was no decret of locality produced, but only letters of horning. It was *answered*, That ministers being in possession of their stipends for the space of seven years, have the benefit of a possessory judgment, because ordinarily they have no writs, but use of payment of their stipends, and any writs their predecessors had, are ordinarily between hands lost; and this decret of locality had been lost, but the letters of horning contain the whole tenor of it. It was *replied*, that in stipends constituted in teinds, which are ordinary, much might be yeilded to the ministers; but when it affects the stock, as to that they have no privilege.