

Answered: By the act 13. Sess. 3. Parl. 2. Charles I. the annat is mentioned as due to the minister and his executors, and so it is at his disposal.

Replied: The said act 13. clears only what is the annat, and not whom it is due to; and by the act of Parliament 1647, it is due to the nearest of kin: And though the act 13. mentions executors, that is upon supposition that the nearest of kin are executors.

THE LORDS found the annat to be due to the nearest of kin, and preferred him to the legator.

Harcarse, (MINISTERS.) No 695. p. 196.

1694. February 20. DONALDSON against DOCTOR BROWN of Dolphington.

THE LORDS found the patron's gifting a second stipend to the last minister's widow and children, was a pious use contained within the act of Parliament, if they dwelt in the parish at the time: And found they would not take cognition in what case the manse was at the minister's entry in 1664, so as to burden his executors after 20 years silence, though the legal prescription in these cases is only 40 years: And found the annat was a legal gratuity that could not be burdened with the minister's debt, not being *in bonis defuncti*. (See MANSE.)

Fol. Dic. v. 1. p. 36. Fountainhall, v. 1. p. 611.

1673. July 16. KER against the PARISHIONERS of Morumside.

ISOBEL KER pursues the parishioners of Morumside for the annat of her husband's stipend for the whole year in which he died, having died in April.—The defendes *alleged* no process till the annat were confirmed, because it would belong to the minister's executors, and be subject to his moveable debt.—It was *answered*, That the annat being due after the minister's death, was not *in bonis defuncti*, but was granted to his nearest friends *ex gratia*; and whatsoever might be alleged by creditors, it did require confirmation.

THE LORDS found no necessity of confirmation of the annat.

Fol. Dic. v. 1. p. 36. Stair, v. 2. p. 215.

* * This was found likewise, in the case, Ker against the Parishioners of Cardine, No 2.

No 13.

No 14.

Annat is a legal gratuity, not *in bonis defuncti*, or affectable by the minister's debts.

No 15.

The right of the widow, children, and nearest of kin, to the annat, needs not confirmation.