

1541. *December 18.*BISHOP OF ABERDEEN *against* the EXECUTORS of the late BISHOP.

No. 3.

IN a cause moved betwixt the bishop of Aberdeen, and the Executors of umquhile Gavin, bishop thereof, the LORDS decerned that of the practice of Scotland, all prelates of the realm might set five years tacks, and that their successors should, and ought to keep the same, and so that the said William bishop ought to keep five years tacks set to certain tenants by the said umquhile bishop Gavin, and not to claim the duties and grassums therefor.

Fol. Dic. v. 1. p. 528. Sinclair, MS. p. 7.

* * * Balfour reports this case :

ALL bischoppis, and utheris prelati within this realme, may set five zeir takkis to thair tenentis, or utheris, of landis or possessiounis pertening to thame as part and patrimonie of thair benefices, without consent of thair cheptour or convent; and thair successouris aucht and sould warrand and keip the samin, and may not seik ony girsum, proffeit, or commoditie thairfoir.

Balfour (ASSEDATION,) No 20. p. 204.

1542. *May 25.*The PROVOST of QUEEN'S COLLEGE *against* The LAIRD of BUCCLEUGH.

No. 4.

ALL prelati within this realme may set in tak and assedatioun thair teindis, or ony uther propertie, or part and patrimonie of thair prelatie, with consent of thair cheptour, for all the dayis and space of ninetene zeiris, and thair successouris ar bund and oblist to warrand the samin.

Fol. Dic. v. 1. p. 529. Balfour, (ASSEDATION.) No 21. p. 204.

* * * Sinclair reports this case :

THE LORDS absolved the Laird of Buccleugh from the summons intended against him by the Provost of the Queen's College anent the reduction of his 19 years' tack of the kirk of ———, set to him by the Provost's predecessor, Mr Robert Erskine, because the reason of the summons was not relevant nor sufficient to reduce the tack, viz. that the said tack was set within the half of the just avail of the kirks fruits, which cause of the practice of Scotland has no place, *ut de jure communi L. 27. De rescindenda venditione*; and lately in the reduction of 19 years tacks of certain teinds and lands of Pitlochrie, of the moved by the commendator of the priory against Sir

William Ramsay, tacksman thereof, the same reason was repelled by the Lords; for, in all tacks and feus of teinds or lands temporal or ecclesiastical, it is required allenary to the effect that the alienation or tack be of strength, that the said rental thereof be not diminished, how little ever it be eiked, albeit the lands or teinds be worth ten times more than they gave. *2do*, THE LORDS repelled the reason of the said Provost, alleging that his predecessor might not set for 19 years *etiam cum consensu capituli*, since the property of the provosty pertained thereto, and no ways to the prebendary and chapter, because *De consuetudine regni prelatus quicumque secularis vel religiosus cum consensu capituli assedare potest proprietatem suæ dignitatis et prelaturæ pro tanto spatio etiam irrevocabiliter quo predecessores.*

No 4.

Sinclair, MS. p. 30.

1558. *March 26.* PARSON OF MUCKARSIE *against* ABERCROMBY.

ANENT the action pursued by the Parson of Muckarsie against Mr William Abercromby for reduction of a letter of tack for the space of five years, set by the said Parson's predecessor for the said parsonage, it was *alleged* by the said Parson, That the said tack should be reduced, because his predecessor might set but three years by the law, and, at the least, he was not obliged to keep any tack set by his predecessor for more years than three; which allegiance was repelled, and found by the LORDS that a parson may set his benefice for five years, and his successors to keep the same.

No 5.
When tacks are let by kirkmen for no longer than five years, their successors are bound to maintain the tenants in possession.

Fol. Dic. v. 1. p. 528. Maitland, MS. p. 125.

* * Balfour reports this case :

A PERSON may set five zeiris takkis and assedatiounis of his benefice, and of the fruitis thairof, bot not of his manse; and his successour is bund and oblist to warrand the samin. And mairover, gif the setter happinis to deceis befor the ishe of the takkis, his successour may not seik ony farther dewtie fra the takkismen than that quhilk is contenit in the tak, untill the zeiris and termis specifyit thairin be fullie outrun and completit.

Balfour, (ASSEDATION.) No 22. p. 204.

1566. *February 28.* VICAR OF BOWTON *against* COCKBURN.

ANENT the action pursued by the Vicar of Bowton against Laurence Cockburn before the Commissaries of Edinburgh, for reduction of a letter of tack

No 6.
Tacks to endure during the letter's