

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 allenarly 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

No 6.
incumbency
only, may be
let on what
terms he
pleases, so
that no other
except him-
self be preju-
diced.

set by the said Vicar to the said Laurence, and advocated to the Lords of Session from the said Commissaries, the said pursuers and defenders compearing, it was *alleged* by the said pursuer, That the said tack should be reduced, because it was set, against the law, for the said pursuer's lifetime, and also without consent of the Abbot of Holyroodhouse and convent thereof, to the said vicarage, and also in diminution of the rental. It was *alleged* by the said defender, That howbeit the said pursuer had set the said tack of the said vicarage to the defender, the said pursuer might never come against his own deed so long as he lived, albeit it might not hurt the next intrant; which allegiance of the said defender was admitted, and found, that a parson or vicar setting his benefice for all the days of his life, he may never come in the contrary thereof, *durante vita sua*.

Fol. Dic. v. 1. p. 529. Maitland, MS. p. 178.

* * * Balfour reports this case :

1566. *March 1.*—BE the law and consuetuede of this realme, it is expreslie forbiddin, that a Vicar set his benefice, or the proffetis and dewtie thair of, in tak and assedatioun, without consent of the ordinar and cheptour, at the leist of the ordinar and patron, and for the space of thre zeiris allendarhe; and gif ony sic assedatioun be set, the samin is of nane avail, and may be reducit, at the instance of the successour of him quha set the tak, bot not be himself; because the samin beand set be him in his awin time, he sall never be heard to cum in the contrare thair of, or to desire the samin to be reducit and annullit.

Balfour, (ASSEDATION.) No 23. p. 204.

No 7.
A gift of a
benefice
the entry to
which is ap-
pointed to be
at the death
of the present
incumbent,
found null.

1568. *June 11.* SLEWMAN *against* TOWN of EDINBURGH.

ANENT the action pursued by Mr Alexander Slewman chaplain, against the Town of Edinburgh, who troubled him in a benefice of alterage in St Giles's kirk, given to him by the King, and given under the Privy Seal, conform to the use at that time; it was *alleged* by the said pursuer, That the Town troubled him in the uptaking of the profits of the said benefice; and, if he had any, desired the same to be produced by him before the Lords, who produced a gift under the Privy Seal of the said benefice, given, as said is, to the said pursuer by the decease of the last possessor thereof, when it shall happen him to decease, or to demis the same. It was *alleged* by the Town, That the gift was null in itself, and given against all law, because the possessor was not dead at the time of the giving of the gift, nor yet two years after, or thereby, nor yet demitted the same before his decease; which allegiance of the Town.