

1566. December 12. N. against DAVID FITGARNE.

No 36.

BE the law and consuetude of this realme, quhen any persoun is promovit, or provydit to a chanonrie, or benefice of ane cathedrall kirk, being of ane ecclesiasticall and spirituall patronage, wadset ony landis as pertening to the patrimonie of the said chanonrie or benefice, in few, to ony persoun or persounis, the samin sould be done with consent and assent of baith the Bischop and patroun of the said kirk, and als of the Chaptour of the samin, at the least of the Bischop or patroun, or uther haveand his powar, or beand in his place, and of the Chaptour of the said kirk ; utherwayis the samin is of nane avail in the self, and aucht and sould be reducit.

Fol. Dic. v. 1. p. 529. Balfour, (FEWS.) No 1. p. 170.

1567. March 19.

ARCHIBALD DOUGLAS, Parson of Douglas, against The TENANTS thereof.

No 37.

ANE persoun or vicar havand gleib or kirk landis pertening to his vicarage or personage, may on na wayis set the samin in few, or for lang takkis, without consent of the patroun thairof, gif thay have ony, albeit the said benefice war annexit to ony cathedrall kirk, and the consent of the Chaptour thairof interponit to the setting of the said few.

Fol. Dic. v. 1. p. 529. Balfour, (FEWS.) No 2. p. 171.

1610. January 11. SMETON against HEPBURN.

THE Laird of Smeton Hepburn pursued Robert Hepburn of Overhalls, to remove from the lands of Leflatt. The defender *excepted*, That he was tenant and farmer to my Lord Buccleugh, of the lands of Overhalls, whereof the lands of Leflatt were parts and pertinents, and, by virtue thereof, had possessed them these 15 years bygone, and his master not being warned, no process should be granted. It was *replied*, That the lands libelled could not be called part and pertinents of Overhalls, because the pursuer and his author were infest therein *per expressum* by a charter, to whose feu, set to them, Patrick Earl of Bothwell, author in effect to my Lord Buccleugh, had consented.—THE LORDS being moved with the reply of special infestment, inclined partly to have repelled the allegiance of not warning; but because the warning being also from pasturage of 15 summers, through Overhalls, they found it necessary to warn my Lord of Buccleugh. In that cause the LORDS found, that feus of kirk-lands belonging to laick patronages needed no confirmation.

Fol. Dic. v. 1. p. 529. Haddington, MS. No 1723.

No 38.
Feus of kirk-lands belonging to laick patrons, need no confirmation.