

No. 73. conferred *in tempus indebitum*, because the setter died before the entry ; the exception will be repelled as not competent to the proponer.

*Haddington MS. No. 2506.*

\* \* \* See Home against Home, 9th January, 1612, No. 15. p. 7940. *voce* KIRK  
PATRIMONY.

No. 74. 1616. *March 9.* LYNCE *against* His TENANTS.

In action of removing pursued by William Lynce of Drumkillo against his tenants, the Lords found an exception proponed upon ane tack set by Steven of Boyngill not relevant, except it were alleged that Steven was infest ; albeit it was offered to be proved, that Drumkillo was infest upon the resignation of Steven, and that the infestment bore, that the lands pertained of before to the said Steven as immediate tenant to the King. *Ratio decidendi* was, because Drumkillo's infestment proceeded upon the resignation of David Cannon, father to Steven, who was holden of the King ; and albeit Steven's name was used for greater security, yet that was in favours of Drumkillo, and could not be turned to his prejudice.

*Kerse MS. p. 103.*

No. 75. 1621. *February 25.* WINRAHAM *against* The LORD HENDERSON.

Tack set by a life-renter sustained after her decease in favours of the tacksman, for a small silver duty to the ——— by the tenant, ay and while the tacksman be warned.

The contrary of this decided betwixt Carleshall and Mr. Homer Blair, *in anno* 1600, or 1601, or 1602.

*Kerse MS. p. 104.*

No. 76. 1621. *November 28.* GAITS *against* His PARISHIONERS.

In an action of spuilzie of vicarage-teinds pursued at the instance of Mr. Patrick Gaits, Minister at Bunckle and Preston, titular of the vicarage, against the heritor thereof, against which an exception was proponed upon a tack, set by the preceding Minister of some of the vicarage teinds, for the space of three years, during the setter's life-time, and for the space of three years after his decease ; and for proving of this exception, the tack of this tenor being produced ; the Lords found it proved not the exception, for the years of the spuilzie acclaimed, which were