

was found relevant ; and found, that all gifts of benefices given in manner above written, are against all laws and not to be admitted.

No 7.

*Fol. Dic. v. I. p. 528. Maitland, MS. p. 186.*

1569. December 17.

PARISHIONERS OF L. against KER.

No 8.

IN an action of double charges moved at the instance of the parishioners of L. against James Ker, alleging him tacksman of the vicarage of L., and therefore charged to answer and obey to them ; and, on the other part, by Walter Ker, *alleging*, That he was provided by the King's Grace to the title of the said vicarage ; it was *alleged* by the said James, tacksman, That he being tacksman, and, by virtue of his tack, being divers years in possession, he should be answered allenary. It was *answered* by the titular of the benefice, that his predecessor, Mr Robert Ker, was continually in possession to the time of his decease, and not the said tacksman, and albeit his allegiance was contrary to the former, yet he ought to have the same probation, because he being in his predecessor's place, and alleging his possession with his title, the elder title with possession continual, should be admitted to probation. THE LORDS admitted the titular's allegiance, in respect of the eldest title to his probation, and repelled the tacksman's allegiance.

A tack of vicarage found to subsist for only three years, see No 13. P. 7939.

Also in the same action, it was *alleged* by the said James Ker tacksman, That he had assedation for divers years to run, because he had assedation of the said vicarage from three years to three years, during the space of nine years, whereof there were six years to run. It was *answered* by the said titular, That the said tack was expired, because there were three years forth run, and a vicar might not set a tack but for three years allenary. It was *replied*, That if the vicar might set no longer tacks but for three years after three years, at the least the said tack should last three years, because the setter was but lately deceased. It was *answered* by the titulars, That the tack of nine years, whereof there were three run, could not stand any years after the vicar's decease ; only the first three years thereof were set by the law, and the rest against the law, in respect that a vicar, by the law and consuetude received in this realme, may only set three years' tacks, and a parson only five years' tacks. THE LORDS found, by interlocutor, that the said tack should stand only but the first three years, which three years, because they were outrun, found the said assedation expired.

*Fol. Dic. v. I. p. 529. Maitland, MS. p. 215.*