

No 3.

Sheriff charges Lauriston for his retour. Lauriston suspends, and *alleges*, that the Sheriff can have no personal action against him, seeing he never took sasine upon the said precept, but that the Sheriff had liberty to point the ground. THE LORDS repelled the allegiance, in respect of the act of Parliament, James 6. Parliament 11. cap. 74., and found the action at the Sheriff's instance both personal and real, and that this taking forth of the precept of Chancery, obliges him (whether he took sasine or not) to relieve the Sheriff.

Auchinleck, MS. p. 212.

* * Durie's and Spottiswood's reports of this case are No 2. p. 10163, *voce* PERSONAL AND REAL.

1630. March 12.

SOMERVELL *against* L. DRUM.

No 4.
Relief not due to the superior in an infestment of annualrent.

SOMERVELL's father being infest in an annualrent out of Somervell of Drum's father's land, to be holden of him and his heirs blench for payment of a penny; and the charges being executed upon the retour, as heir to his father, to enter him therein; and being suspended by the superior, that he could not receive him, while he paid *ad quod jure facere tenetur*, as his retour bears, which he alleged to be two years duty of the annualrent itself, seeing it had no other extent, in respect the extent of the retour bore, *quod seipsum valet*, being an annualrent out of the lands, and therefore that the superior ought to have the double of the retoured duty, at the entry of the vassal, which was two years duty of the annualrent; this reason was not sustained, for the LORDS found, that for the entry of the vassal, neither one nor two years duty could be craved by the superior, but only the blench-duty of the reddendo, therefore the letters were found orderly proceeded.

Act. *Nicolson.*

Alt. ———.

Clerk, *Hay.*

Fol. Dic. v. 2. p. 334. Durie, p. 506.

1696. February 25.

EARL OF CASSILIS *against* KENNEDY.

No 5.

RELIEF is not a full year's rent, but only a favourable rent, viz. the retoured duty; and when a superior enters an appriser, he is entitled to a full year's rent by Parliament 1469, c. 36, but he is not entitled both to a full year's rent and to relief.

Fol. Dic. v. 2. p. 334. Fountainhall.

* * This case is No 26. p. 9309. *voce* NON-ENTRY.

Relief is *debitum fundi*; See PERSONAL AND REAL.

Relief betwixt principal and cautioners; See CAUTIONER.

Relief betwixt *correi debendi*; See DEBTOR AND CREDITOR.

See APPENDIX.