

No 2. Sheriff might be compelled to pay the same, who for his relief might either point the ground, or charge the party obtainer of the precept out of the chancery, personally to pay the same, and which the LORDS found the parties might be compelled to pay, albeit he never took sasine by virtue of the said precept, conform to the 74th act of Parliament, 1587; and albeit the lands lay in non-entry ay and while sasine were taken. See RELIEF CASUALTY OF.

Fol. Dic. v. 2. p. 62. Durie, p. 359.

* * Spottiswood reports this case :

ALL Sheriffs, &c. are charged in their accounts to the Exchequer, according to the book of *responde*; and therefore if one take out a precept of sasine out of the chancery, albeit he never take sasine thereupon, yet the Sheriff will be charged for the duties of the land, because of the *responde*, and he will have his relief of the party obtainer of the precept, not only by pointing of the ground, but will also have personal action against him for the same.

Spottiswood, (FISCUS.) p. 132.

No 3. 1635. November 14. DICKSON against A DONATAR.

THE casualty of marriage is *a debitum fundi*.

Fol. Dic. v. 2. p. 62. Durie.

* * This case is No 4. p. 2169., *voce* CHARGE TO ENTER HEIR.

1664, July 13. GRAHAM of Hiltoun against The HERITORS of CLACKMANNAN.

No 4.
Land-tax not
debitum fundi,
and therefore
not good a-
gainst singu-
lar successors.

GRAHAM of Hiltoun having obtained a decret against the Heritors of Clackmannan, for a sum of money imposed upon that shire, by the committee of estates; the Heritors of the shire have raised a review, and alleged, that this decret being obtained before the commissioners, in the English time, he has liberty to quarrel the justice thereof, within a year, conform to act of Parliament; and now alleges that the said commissioners did unjustly repel the defence proponed for singular successors within the said shire, that they ought not to be liable for any part of the said imposition, having acquired their rights long after the same, and before any diligence was used upon the said act of the committee. It was *answered*, that there was no injustice there, because this being a public burden imposed upon a shire by authority of Parliament, it is *debitum fundi*, and effecteth singular sussesors, especially seeing the act of the committee of estates was ratified in the Parliament 1641; which parliament and committee, though they be now rescinded, yet it is with express reservation of