

sum were paid, requires no redemption, but may be summarily taken off by payment or satisfaction, in same way as an apprising; and that the appriser, though not infest, having right to the mails and duties, might exclude the pursuer, who thereby would exhaust the mails and duties.

THE LORDS found the defence of payment competent to the appriser, without infestment.

*Stair, v. 2. p. 759.*

No 5.  
ment of that  
sum by an ap-  
priser.

1682. *March.* FINDOWRY *against* TOWN OF BRECHIN.

FOUND, That for the constitution of rights and mortifications to towns or hospitals, a sasine is necessary to denude the disponent, in a competition with a singular successor, though sasine be not required for continuing such a right, in respect that *communitas non moritur*.

*Fol. Dic. v. 1. p. 469. Harcarse, (INFESTMENT.) No 588. p. 163.*

No 6.

1757. *July 6.*

WILSON *against* SELLERS.

No equity can relieve against want of infestment.

*Fac. Col.*

No 7.

\* \* \* This case is No 19. p. 5184. *voce* GROUNDS and WARRANTS.

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## S E C T. II.

### Effect of Resignation.—Effect of Renunciation.

1588. *January.*

MUIR *against* MUIR.

THERE was one Robert Muir burgess of Kirkcaldy, and Moreston his mother, pursued John Muir his brother, to hear and see a pretended renunciation, made in the Bailie's hands of a tenement of land, together with the infestment and sasine that followed thereupon, to be reduced and rescinded, because the said tenement being wadset to one Smellie, burgess of the said burgh, and who compeared personally before the bailies of Kirkcaldy, and there granted

No 8.  
In double  
resignations  
the first was  
preferred,  
though sasine  
was first  
taken upon  
the other.