

superior, to hear and see him decerned to enter him, in default of his immediate superio.

No 18.

1624. July 29.—CAPRINGTON, vassal to Shaw of Foulshells, having charged him to enter, and being entered, to infest him upon his retour; and upon his refusal, pursuing Shaw of Keir, who was Foulshells's superior, to enter him, his summons was sustained; but he was decerned to pay the non-entry of all the years that Foulshells was in non-entry, *tanquam debitum fundi*, reserving his relief.

Haddington, MS. v. 2. fol. 244.

1628. July 13.

DUNBAR Supplicant.

DUNBAR of Bandene being served and retoured in Galloway, as heir to his father in certain lands, raised precepts out of the Chancery, and required the Sheriff to give him sasine. Bandene means himself by a bill, and therewith produced before the Lords the instruments of the Sheriff's refusal, and desired the director of the Chancery might have a warrant to direct new precepts to a person specially designed to be Sheriff in that part, for giving to him sasine.—THE LORDS granted the bill.

No 19.

Fol. Dic. v. 1. p. 470. Auchinleck, MS. p. 212.

1629. July 16.

SCOT against DEANS.

A SASINE of a house in the town of Hawick, granted to the pursuer by the Bailie of the burgh, it being a burgh of barony, was sustained, the same sasine containing the pursuer's retour therein insert, extracted out of the Chancellery to be warrant thereto; albeit the defender alleged it to be null, not proceeding by virtue of precept out of the Chancellery, nor yet by the superior's precept of *clare constat*, without one of which, he alleged the naked retour could not be a warrant to the Bailies to give sasine in this burgh of barony, which he alleged hath not that privilege, as the King's burgh royal, whose Bailies give sasine usually by hesp and staple; and the giving of this sasine cannot be warranted by the retour, for that answers not to any point of the brieve; notwithstanding whereof the sasine was sustained; but here the superior concurred with the pursuer. See PROOF.

No 20.
An infestment within burgh of barony was sustained, upon no other warrant than a retour, without either a precept out of Chancery, or a precept of *clare constat* from the superior.

Clerk, Hay.

Fol. Dic. v. 1. p. 470. Durie, p. 463.