

in respect that the original libel concludes for more than is now found due, and that the process was allowed to lie over and fall asleep from the 1765 to the 1770, find that the pursuer has right only to the retoured duties from the father's death till the 23d November last, the date of the Ordinary's interlocutor reclaimed against, and to the full mails and duties since that time during the non-entry; and with these variations they adhere to the Lord Ordinary's interlocutor."

The pursuer reclaimed against this interlocutor, so far as it found that he had right to the full mails and duties only since the date of the Lord Ordinary's interlocutor; maintained he was entitled to them from citation in the action; and in support of his argument, referred to the following authorities: Stair, Dirleton, 25th July 1666, Harper, *voce* NON-ENTRY; 12th June 1673, Faa against Laird of Powrie, *IBIDEM*; 18th July 1678, Fullerton *contra* Denholms, *IBIDEM*.

The defender, in an answer, still contended he was liable only from the date of the interlocutor, and referred to the following authorities and decisions: Lord Stair, b. 2. t. 4. § 24. Bankton, v. 1. p. 624. § 19. Forbes, 22d Jan. 1706, Maitland *contra* Brand, *voce* NON-ENTRY; Bruce, 24th June 1715, Heriot's Hospital *contra* Hepburn, No 54. p. 7986.

THE LORDS found, 'That the pursuer had only right to the retour-duties from the defender's father's death till the 10th May 1770, the date of the citation in the summons of wakening; and to the full mails and duties since that time during the non-entry.'

Lord Ordinary, *Ellick*.
Clerk, *Ross*.

For Spottiswood, *Crosbie*.
For Fraser, *Maclaurin*.

R. H.

Fac. Col. No 97. p. 289.

S E C T. V.

Personal Services.—Suit in Presence at Head Courts.

1662. June 27.

WATSON *against* ELIES.

ALL personal services are taken away from superiors of kirk-lands, by the act 10th Parl. 1633.

Fol. Dic. v. 1. p. 531. Stair.

*** This case is No 46. p. 7975. *b. t.*