

(Lib. 2. Tit. 5. pr.) seems to insinuate from his treating of it between Rights of Property and unquestionable Services: I shall not dispute, nor is it much material to dispute it; but since the only Effect and Intendment of Annual Rents, is to burden and retrench another's Property, I have cho- sen to treat of them among personal Services. In England they have three Terms of Law for expressing annual Duties of Lands viz. 1. Rent, 2. Fee so called because it is ever accompanied with some corporeal Service in Fee at least. This is of the Nature of a Fee Duty with us differing from it in this that for Rent Services, if behind at the Day, the Land may be distrained at the Day by the common Law, without any particular Agreement concerning it. Rent Charge, is a yearly Rent either reserved by lease or purchase, or granted by him in fee, whereby he makes over his Estate to another, or granted by him of his Land to another upon this Condition, that it shall be useful to him or his Heirs Distress at their own Hand for such Rent when behind. This so called, because the Lands are charged with such Distress by Force of the Writing only, and not by common Law, as in the case of a Rent Service. 3. Rent Seck (Reditus) for dry Rent, is a Rent either reserved by one out of his Estate passed on to another, or granted out of his Estate to another, without any Clause of Distress in the Deed. This is so called because it can be recovered only by the Rent one in a pice. It answers to our Infestment of Annual Rent. Rent Charge and Rent Seck are distinguished from an Annuity, which does not out of any Land but chargeth only the Person, that is the grantor or his Heirs, and is to be recover'd by a Writ of Annuity against them: Our Law allows of no such summary Distress as the English use for their Rent Charge except the pinning of Beasts found eating or destroying the grass Woods Hedging or planting of others. Act. 11. Sep. 2. Part. 1. 7. For otherwise all Execution with us must proceed upon the Deceit or Precept of a Judge.

Annual Rents (the effectual Burdens upon the Properties of others) are ac- quired by Charities or Dispositions, and Seisins. The Symbol of of an Annual Rent if payable in Money is a Penny; and if payable in Vidual a Parcel of Victual. Yet Seisin of an Annual Rent bearing only to be given according to the Latent Writies used and wont in such Cases, was sustained, tho' it mention'd not De- livery of any such Symbol, and was of a Date 36 Years old, and never clothe with Possession 23 March, 1635 Somervel contra Somervel of Drumm. An- nual Rents use not to be held Fee or Burgage, but either Ward or Blench or Mortification; and most frequently Blench, for the Redendo of a Penny, by publick or lease Infestments. Some Annual Rents are constituted by In- festment distinct from that of the Property; others, by Reservation in In- festments of Property, where the Proprietor & Seisin serveth both. Some An- nual Renters again are Creditors by Infestment in a principal Sum producing a yearly Annual Rent: Others are Creditors only in an Annual Rent without a principal Sum. Again Annual Rents are either in Fee and Heretage, or in Life Rents. Annual Renters have a triple Security for their Payment 1. One person

personal against the Debtor, yea, a Mans Obligation to give an Infest- ment of Annual Rent out of his Land, was sustained relevant to Oblige him to pay the same yearly 23 Decemb. 1630 Ogilvie contra L. Ogilvie, 2. An An- nual renter hath a real Security against the Ground, whereof any part may be pinned for this debitum fundi, affecting inamquamque glebam. Where one hath an Infestment of Annual Rent out of two Tenements promi- suously, the Annual renter may take the whole Payment out of any one of them, tho' these chance to belong to different Heretors at the time. In which case the Heretor of the distressed Tenement, must be assigned to the Decree for recovering his Relief of the other Tenement pro rata, which the Annual renter by partial favour without any benefit assigned to him- self did not touch 26 June 1662. Thompkin contra L. Calm v. Stewart's Answers to Direct. Debts. 3. Annual Rents cum jus civile non in algeat malitiam. But a Person having Infestment of Annual Rent in several Lands belonging to his Debtor in one of which ~~was~~ another Heretor hath a posterior particular Infestment, and having also a general Infestment for another Debt posterior to the above particular Infestment: He may exact the whole Annual Rent in his first Infestment out of any of the Lands af- fected thereby; and being so paid out of the Debtors Effects, that Right ex- tinguisheth, so as it cannot be assigned to the Creditor excluded. But if that Cre- ditor pay the sum in the preferable Infestment out of his own Means and Effects, he may oblige the Creditor whom he satisfies to communicate and assign the said Infestment to him for recovering proportionable Payment of his Annual Rent out of the clear Lands with this Qualitie, that the as- signation should not be made use of against the Credent's other Infestment 21 Decemb. 1710 Nicolson contra Haliday 21 Feb. 1676. Bruce contra Mitchell. One disposing an Annual Rent out of Lands lying discontigue cannot write the same, so as Seisin taken in any one of those Lands may suf- fice for all, Stewart said. For the uniting of Lands belongs only to the Sovereign. By the English Law all such happening to be upon the Ground at the time of payment of the Rent Charge or Rent Seck, may be distrained or pinned, if they be only levant et couchant, that is if they have been so long upon their Ground that they have lien down and arisen again to feed. Which in their Latin Records are called levantis et couchantibus. By our ancient Custom their Latin Records are called levantis et couchantibus. By our ancient Custom all in vecta et illata upon the Ground whether goods and gear belonging to Strangers, or to Tenants and Possessors, might have been pinned for pay- ment of the Annual Rent, tho' the Tenants owed not so much to their Master or owed Nothing as when the Term of Payment of the Rent was not come, who were left to seek their Relief off the Heretor for whose Debt the pinning was used. Notwithstanding that Law (Act 37. Part. 3. p. 3.) provides, that Tenants shall not be distrained for the Masters Debts further than their Term.