

taken of himself, when such fowling was Lawfull, or a Vassal holding
 having possessed his lands; the Immediate Superior will, for receiving an appri-
 : vizer of his Immediate Vassals right, get only so much as extends to a few
 few duty payable to the said Vassal being the appriizer when Entire could
 claim no more from the Vassal 15 Feb. 1634 L. Monkland contra
 Gester Spotswood par. Jul. Comprising Infine. But the Superior is not
 to accept from an appriizer of lands holden to him, the Vassal is obli-
 : gable to his Immediate Vassal by a Subaltern Infestment Stair lib. 3 p. 16
 926. The Reason of the Disparity is, Because a few Infestment is
 heritable Lease, for Meliorating and Improving the ground, and the
 duty payable in consideration thereof is presumed Presumptive
 it is sure to be the true Rent at the time of granting the Fee. Clear
 precise Quantity of the Years Rent due to the Superior may not
 perhaps be known to the Appriizer, it is sufficient for him to offer to
 the Superior a Sum of Money some way proportionable to a Years Rent
 and a bond with Caution for what more the Lords should think fit.
 The Appriizer will off the first Year of the Years rent due to
 Superior, get Deduction of Real Burdens affecting the Land with
 Superior's Consent 18 July 1633 Baird contra Stair lib. 3 p. 16
 Defalcation was Indulged to an appriizer upon the Account of a lease
 so affecting the Land: Only he is not obliged in such a Case to make his
 full payment of the Years Duty to the Superior, but only to find
 to pay Immediately after the lease is ended, when he may
 accept to Enjoy the Rents 18 July 1633 Baird contra 11 March
 1636 Seal contra Elliot of Stobbs. The Superior ought to receive
 his Vassal offering him a Charter with a Years Rent, will be
 obliging him to Instruct his Vassal's Right which he is not
 presumed to be Master off, Eodem die inter Eodem 9 Feb. 1667
 Ramsay contra Ker Stair lib. 3 p. 25 M. Kenrie observ. on c. 37
 5 J. 3 Albeit the Superior have a pretence to the property 11 March
 1636 Seal contra Elliot of Stobbs 4 July 1667 Schein contra Christoph
 or an Interest to found the ground for bygone Fees duties Resting
 to him 9 March 1636 Cowan contra Lord Elphinstone of the
 Reason is, Because a Charge against the Superior to Enter an appri-
 : vizer, is Conceiv'd with a Salvo Jure Pujus lib. 3 p. 25, a saving
 of all Right belonging to the Superior or any other persons and
 the Superior by giving obedience to such a Charge, doth not lose
 himself of any Right of property: So when that is Rescued, he
 can be no loser though Receiving also Compensation Money from
 the Appriizer. Yea a Superior was not Exclude from any right

in his own person, by Receiving an Appriizer without Expressly Reserving
 his own right, being the Receiving was necessary 19 July 1667 Hospital of
 Glasgow contra Campbell and actus agentium Non operantur ultra Comm
 Intentionem. But the Common Charter of appriizing do not preserve the
 Superior of his Right: Yet a Charter of appriizing not mentioning a
 previous Charge to have been given and hearing for numerous Causes,
 and warranty from the grantors fact and deed, was not considered as
 granted only in obedience, and the grantor was not allowed to quarrel
 the same for not production of Original rights, in respect of the obli-
 gation of Warandue 6 January 1710 Glenedenney contra Irvine & Mun-
 coltraid. A Superior is obliged to receive all appriizers as a judge who
 Charge him (See in. Supra par. 3 Book 1. Chap. 2) the one is to receive
 the full Charge: Without prejudice to them to dispute their preference
 in time and place convenient 11 March 1625 Macgregor contra Craig
 But he gets only one Years Rent for all of them, and if one be preferred
 he must better to the best the proportions paying him to the Superior
 22 July 1625 Seal contra Balthazar and Hay contra Stobbs and Smith
 Stair lib. 3 p. 25 926. lib. 2 p. 14 932. It was said to be a fee, but left
 undecided. A Superior may be forced to receive a lease at his own bidding, but
 he is not bound to receive the same if he is not bound by the law.

The Lord Stair (lib. 3 p. 25) is of opinion, that a Superior ought to receive an
 appriizer and his heirs should stand upon his legal Duty, he the Superior
 failed, and to return to the Superior himself with appriizer to his custody
 of him during his term, Vassal's minority, or during his absence
 obliging to Enter the appriizer after a Charge and offer of a Charter to be granted
 with a Years rent, can no longer keep any Equity thro' the death or death of the
 Vassal appriizer or appriizer from 9 Feb. 1667 Black contra Brown, which is
 agreeable to that principle of Law, Quod dicitur Aditio p. 11 inus Imples
 : atur per eum in eum persona Imples a real, including pro Imples in appri-
 : vizer purchasing for Maids and duties, was once excluded to be satisfied the
 Superior for a Years Rent; He being then ready to receive him: Albeit he was
 Charged before and did not obey 22 July 1667 Granton contra Fermeil of
 Achincroft. But this Decision the Lords Disposed Not to follow in time fowling.
 And it was afterwards found that an Appriizer within the legal might
 possess without taking Infestment or paying a Years Rent: The appriizing
 being Equivalent to an assignation to Maids and duties, so long as the
 person against whom the appriizing was laid was not denuded by
 another taking Infestment 3 Decemb. 1672 Hay contra L. Earlston
 A Superior who is Charged may Redem the appriizing by adjudication
 and Retain the land to himself if Content to pay the Debt appriized for