

No 191. 1760 February 5. CAMPBELL and GRAHAM *against* MUIR.

THE Earl of Glencairn conveyed the superiority of certain lands to Boyd Porterfield of that ilk, the vassal, who disposed it partly to Daniel Campbell of Shawfield, and partly to William Graham younger of Gartmore in liferent, and to the Earl in fee. *Objected*, That as the charter from the Crown to Mr Porterfield contained one joint *reddendo* for the whole lands, it was not in his power to separate them without the consent of the Crown. *Answered*, The precept bears to assignees, which implies consent to dispose the lands in whole or in part; at any rate, the superior cannot be prejudiced by the division, the whole lands, and every part thereof, being liable for the *reddendo*. THE LORDS repelled the objection, and ordained the claimants to be added to the roll.

Fol. Dic. v. 3. p. 426.

* * * This case is No. 8. p. 7783. *voce* JUS TERTII.

No 192. 1761. July 28. STEWART *against* DALRYMPLE.

ALEXANDER Earl of Galloway, in the view of creating certain freehold qualifications, granted a feu-charter of certain lands to Lord Garlies, his son, and afterwards obtained a charter from the Crown upon his own resignation, and conveyed parcels of the superiority to Mr Walter Stewart and others, his friends. The freeholders, on different grounds, refused to enrol; and complaints being presented, it was pleaded for them, *inter alia*, That the dispositions to the claimants were null, as granted without the consent of Lord Garlies the vassal, which was necessary before the superiority could be divided. *Answered*, That as the vassal may sell part of the lands without the consent of the superior, so, in like manner, may the superior sell a part of his superiority without consulting the vassal. But here there was no division of the superiority of any one fee, but a distribution of the superiorities of several distinct fees, distinguished into several parcels, each parcel consisting of so many pounds and merk lands; and that at any rate the objection was *jus tertii* to the freeholders, as the vassal did not object. THE LORDS repelled the objection.

Fol. Dic. v. 3. p. 427.

* * * This case is No. 18. p. 8579.

No 193. 1780. March. FERGUSON *against* MONTGOMERY.

SIR JOHN ANSTRUTHER held the lordship of Giffen blanch of the Earl of Eglinton, for payment of one penny Scots, *si petatur tantum*. The Earl split this superiority into different parts, for creating qualifications. *Objected* to the