

entering vassals is the characteristic of the right of superiority. Accordingly, though the infeftment of a person, interposed between the superior and vassal, is, *quoad* the right of superiority, void and null; yet this infeftment will carry in favour of the grantee, as a donatary or assignee, all the duties and casualties of superiority; and the only criterion of its nullity is, that it confers not the power of entering vassals; Lord Stair, b. 2. l. 4. § 5. Douglas of Kelhead against Vassals, 30th Jan. 1671, *voce* SUPERIOR and VASSAL. Every right of superiority, therefore, whether in liferent or in fee, necessarily comprehending the privilege of entering vassals, it is plain, that in this, as well as in other respects, the right of the liferenter, while it subsists, is exclusive of that of the fiar; which, meanwhile, remains dormant or suspended; Stair, b. 2. l. 6. § 8. And hence has arisen the general practice, that liferenters concur with fiars in granting charters or precepts of *clare constat*. Thus, it is evident, that the multiplication of superiors, which the liferent-conveyances in question were designed to create, would be attended with every effect belonging to the right of superiority; and, of course, would subject the pursuer to the obvious inconveniences which must result from a vassal's subordination to thirteen additional superiors.

The Court "sustained the reasons of reduction."

In a reclaiming petition against this judgment, the defenders endeavoured to found an exception from the general rule thereby adopted, upon this alleged specialty, that several of the subjects in question, though by the indulgence of the superior, they have been contained in one charter, were, however, different tenements, and held for different prestations. But the Court refused this petition, without answers.

Lord Ordinary, *Gardenston*. Act. *Baillie*. Alt. *Lord Advocate, H. Erskine*. Clerk, *Robertson*.
S. *Fol. Dic. v. 3. p. 427. Fac. Col. No 25. p. 46.*

* * * This case was appealed.

THE HOUSE OF LORDS, 19th February 1782, 'ORDERED and ADJUDGED, That the appeal be dismissed, and the interlocutors complained of be affirmed.'

1781. February 17. SLOAN LAURIE against HAMILTON and CAMPBELL.

No 196.

CAMPBELL of Skerrington held certain lands, and among others, the two-merk lands of Horsecleugh, of the Earl of Dumfries, who, in 1774, conveyed the superiority of these lands to different persons in liferent, for the purpose of giving them freehold qualifications. Campbell was ignorant of these proceedings till within a short time of the election 1780, when he brought a redue-

No 196.

tion, for setting them aside. Sloan Laurie, one of the disponees, claimed to be enrolled at Michaelmas 1780, on the two merk-land of Horsecleugh and others; but to this claim, Campbell, who was himself a freeholder, *objected*, That the claimant's titles were null, as tending to create an undue multiplication of superiors on the vassal. The freeholders sustained the objection; but the LORDS found they did wrong, and ordered the claimant's name to be added to the roll.

Fol. Dic. v. 3. p. 428. Fac. Col.

* * * This case is No 9. p. 7786. *voce* JUS TERTII.

SECT. IX.

Alteration of Circumstances.

1771. February 14.

The Hon. CHARLES HOPE WEIR *against* Mr ALEXANDER BRUCE.

No 197.

Reduction of a decree of division of valuation, by which a freeholder's qualification was reduced below L. 400 Scots, found to be a sufficient ground for striking him of the roll, though he had been upwards of four months enrolled.

THE property lands of Bonnyton, in the county of Linlithgow, were valued *in cumulo* at L. 800 Scots. Mr Glen, the proprietor, obtained from the Commissioners of Supply a division of that valuation into two parts; one of which, valued at L. 402 : 9 : 7, he conveyed to Mr Alexander Bruce; the other, valued at L. 397 : 10 : 5, with another small subject to make up the full valuation of a freehold qualification, he conveyed to Dr Glen. In the course of stating objections to these qualifications, it appeared; that a pendicle of land called Cornilaws, which, in dividing the *cumulo* valuation, had been considered as part of the lands of Bonnyton, and as forming a part of Mr Bruce's qualification, was held burgage of the town of Linlithgow; so that the valuation of these two parts should have stood thus: Dr Glen's part, valued at L. 397 : 10 : 5, should have been L. 411 : 9 : 9, and Mr Bruce's, valued at L. 400 : 9 : 7, should have been only L. 388 : 10 : 3.

The objection to Mr Bruce, that he did not possess the valuation required by law, being stated, it was *answered*, That the objection did not appear from the decret of division, which was *ex facie* regular, and must be held to be just till set aside by a process of reduction. The Court was of opinion, that this objection was not competent in a summary complaint; and accordingly sustained Mr Bruce's qualification.

Thereafter, Mr Hope Weir brought a reduction of the decree of valuation; in which it was found, that Cornilaws was no part of the lands of Bonnyton, but a burgage tenement held of the town of Linlithgow; and the decree was accordingly reduced and declared to be null and void. Objections to Mr Bruce's