

superiority of this pendicle to Mr Sloan Laurie, for the purpose of creating a freehold qualification.

At the meeting for electing a member of Parliament for the county of Ayr, in 1780, Mr Sloan Laurie exhibited his claim to be enrolled. It was opposed by Mr Campbell, the vassal, a freeholder; who *alleged*, that the conveyance on which it was founded, tending to an undue multiplication of superiors, was void and null, by way of exception, and without the aid of reduction or declarator; Stair, b. 2. tit. 4. § 5.; Bankton, book 2. tit. 4. § 8. February 17. 1761. Douglas of Kelhead*; that he had never recognised the claimant as his superior, and in evidence of his fixed purpose never to do so, had already commenced a suit for declaring the inefficacy of the granter's right; so that no possession either had followed or could follow upon it.

This challenge was brought under review of the Court of Session.

Observed on the Bench; The multiplication of superiors, without the consent of the vassal, is unquestionably illegal. Still, however, a grant of superiority having that effect, may be valid, if not reduced by the vassal. It may even be secured against reduction, by the grantee's acquiring right to the superiority which remains with his author. It is therefore *jus tertii* in the freeholders to canvass this circumstance in the claimant's right.

THE LORDS repelled the objection.'

For the Objector, *Wight, Rolland.*

C.

Fac. Col. No 86. p. 142.

SECT. II.

Competent to a Defender to found upon a third party's interest, or other argument, to show there is no ground of claim.

1611. *January 31.* CADDELL *against* VAUSS.

A SHERIFF being pursued to pay the debt for which the rebel was denounced, because he being charged to take him had not obeyed, the Sheriff will have interest to reduce the horning, although the rebel concur not.

Fol. Dic. v. I. p. 516. Haddington, MS. No 2133.

* See APPENDIX.

No 9.
claimant to be enrolled, that the titles produced, by a multiplication of superiors, were prejudicial to the vassals. This found to be *jus tertii* to the freeholders.

No 10.