

vid. G. 20th comm. 2. Et. G. 20. Ed. 2. 5. 18. 2. vid. Inf. pag. 1624.

is due to him. In this Action of Reduction in probation the King need
to produce Nothing to prove that he is Superior, because he is presumed to
be general Superior, and is investi jure Corona in all the Lands of Scotland.
But other Superiors must produce a Title in the Lands as their active
Title. Mc Kenzie Observ. on Act 9. Par. 1. 7. 1. Tho' they need not to instruct
their Right to the Superiority in a Process at their Instance against Vas-
sals who derive their Right from them, or to prove that the Defendant or
their Vassals: But the Vassals must either acknowledge the Superior's Right
of Superiority, or disclaim him upon their Peril 25 Feb. 1662 Arbuthnot
contra Keith unless the Right of the Superiority be newly acquired, and
no Investment given to the Vassal or his Predecessors in Virtue thereof
Stair Lib. 2. Tit. 7. 5. 6. Saying if the Pursuer be Superior there is no
Harm done, and if he be not Superior, the Defender incurs no Danger by
disclaiming. But no Process of Nonentry was sustained at the Instance
of a singular Successor in the Superiority, who had never been acknowl-
ged by the Defender or his Predecessors, until the Pursuer produced a
proof of Rights to the Superiority from the Defender's Superior 18 Janus.
1661 E. Queensbury contra Irving. Where the Superior libels only that
he is investi v. q. in such an Earldom, and that the Defender's Lands are
Part and Pertinent of the Earldom, without producing any Thing to in-
struct that he stands expressly investi in these Lands as a Part of the Ear-
dom: The Lords would not in that case put the Defender to produce sim-
pliciter, but allow a Day to the Pursuer to prove Part and Pertinent, and
the same Day to the Defender to produce, if that were proved. Since it were
hard to propose and lay upon the Secrets of their Rights to a Person who
had no certain Interest, and any one might pretend that another's Land
is Part and Pertinent of his Land, tho' it be not. The Superior's Investment
in the Fee invests him also to pursue real Actions against others than
his Vassals to whom he disposed, as predecessors who can show no Right
17 Novemb. 1629 L. Lag contra his Tenants. But on appearance ^{four}
ing on his Predecessor's Right, or a singular Successor producing his
Author's Right, will exclude the Superior unless he insist for Ward
or Nonentry Stair Lib. 9. 3.

2. Superiority carries a Right to the Duty and Service contained
in the Vassal's Reddendo. That Superiors may the better know the Redden-
dos in their Vassals Charters, they of late began to keep Chartularies
yes. But that being no Title of Action against Vassals for paying their
Dutys, some take Bond from the Vassals narrating the Tenor of the
Charter, and obliging the Vassals to pay or perform the Reddendo. The
Superior hath for the Duty and Service contained in their Reddendos
not

not only personal Action against the Vassals, and all Intromitters
with the Fruits and Profits of the Land, as Heretors have for their
Task-Dutys against their Tenants and Intromitters with the
Rents Stair Lib. 9. 7. But also hath real Action of pointing
the Ground against the Vassal and his singular Successors Stair
Lib. 9. 8. But he cannot claim annual Services as winning and
leading Peats, Shearing and leading Corns &c. or any Consideration
for the not Performance, unless such Services be required yearly in
due Time 30 January 1624 L. Carnoustie contra Keith 10 Feb.
1627 L. Somple contra Blair Stair Lib. 9. 7. Bygone profits of all
Casualties of Superiority requiring Declarator, as Nonentry, Lifent-
Eskial, Recognition, Marriage of the Vassal, &c. which profits of
immediately to come to the Superior, but from the profits of property
of the Vassal, by casualties arising from his Delinquency and giving no
immediate Access to his Declarator, so long as they are not declared
and reduced to a liquid Sum, belong to the Superior's Heir and not to his
Executors: As the Heir only, and not the Executors of a Party injured by de-
-forcement and Contravention of Law, can pursue Reparation.
But such bygone profits would after Declarator, which liquidates
and consolidates them with the Superiority, go to the Superior's Heir.
As Sentence in a Process of Deforcement or Contravention,
which turns the Partial Damage and Interest into a liquid Debt,
makes that liquid Sum fall to his Heir. Bygone Feu Bleich or
Ward-Dutys, which are not so properly casualties, as Fruits or Pro-
-fits arising immediately ex Tomisio directis without Necessity of
Declarator, belong to the Superior's Executors 11 July 1678 Fea contra
L. Balmerino & L. Pourie. By the feudal Law, a Vassal
might have been pursued for the Superiority-casualties of Non-
-entry or Ward or Marriage which are Fruits thereof in his Super-
-rior's Baron Court, and judged by his Pares Curie. But our cus-
-tom allows only Barons to pursue their Vassal and Tenants in their
own Court for liquid Mails and Dutys: Whereas the casualties of Nonentry, Ward
or Marriage wherein the Vassal may have several legal Defences, and only to
be sued for before the Lords of Session the Sovereign Court of Justice Stewart
Answers to Direct. Doubt St. Baron Courts.

3. If a Superior refuse upon Precept out of the Chancery, to invest one
servi and retained Heir to his Vassal, that Superior's Superior tenetur
supplere vicem of the immediate Superior, by receiving the Subvassal's salvo
jure, without Necessity upon the Subvassal, to instruct the immediate
Superior's Right, than by Accepts of the Feu Dutys granted by him
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