

the assignee without any Entry 29 January & 23 Decemb. 1673 *Significavit contra Kintock*, Stair lib. 2 tit. 3 § 5 tit. 4 § 32. The necessity of the Superior's Consent to voluntary alienations made by his Vassals was not thought so Unreasonable a Matter in those times when men lived soberly upon the produce of their own Estates, and the Selling of Land for Money was Rare, and no Legal Execution for Debt against Heiritage, but only against Moveables by the Brieve of *sequestratio*. But when the Nobility began thro' living Splendour to Run themselves into vast Debts, which could not be recovered by Diligence against their Moveables: Oppressions and adjudications were introduced for affecting the Heiritage of Debtors, and Voluntary Dispositions thereon became Precarious. In Case of a Superior's Refusal to Accept of Resignation in favour or grant Confirmation to a Singular Successor upon a Voluntary Disposition made by his Vassal, the Singular Successor may, by getting from his Vassal a bond for a Sum Equivalent to the price of the Land, and paying off the Land for payment, force the Superior to Enter him upon a Charge. Craig lib. 2. The Superior being obliged to receive Assignments assigned upon payment of a Year's Rent lib. 37 Par. 5 § 3. Involuntarily lib. 2 § 11 Ch. 2. Upon a procuratorship of Resignation or Surrender to within Burgh holding Burghage the Magistrates & Burgh are obliged to receive and Infeud the person with his former Resignation is made, albeit he is not a Burgher which Charge is not the Holding, 22 July 1634 *Hay contra Baillies of Aberdeen*. Albeit Superiors of other Lands not burghage are not compelled to receive such Resignations and to Charge their Vassals against their Will. The Reason of the Difference is, because Burghage Land is not held of the Magistrates as Superiors, but in Burghage of the King whose Baillies only the Magistrates are. The Barons of Exchequer do not Refuse Resignations made by the Kings Vassals or Confirmations. Because a Statute of Parliament (Act 66 Par. 5 § 6) mentions In the Narrative, Ordinances of Privy Council, that the King and his Commissioners, is, the Commissioners of Exchequer, ought not to Deny Confirmation upon the Reasonable Expenses of any party: Our Lawyers (Stair lib. 2 tit. 3 § 43 Vers. Gaillardes also being Consulted, McKenzie observe d. Act 66) Conclude from thence, that the Lords of Exchequer ought not to Refuse Confirmations to the Kings Vassals.

Of Resignations made by them, the the foresaid Ordinances of Privy Council are not repeated In the Statutory part of that Law. In respect the Inserting such Ordinances did Motives of the Statute, Argues rather an Appropriation of them than any Derogation. And De Grassi, when the Lords Refuse to grant Confirmations, the Kings Vassals protest, that the Refusal shall not prejudice their Rights. McKenzie lib. 2.

Quæritur If a Vassal may resign his fee to the Superior against his Will? If he answers, the Vassal may resign his fee, whether he be Ward, Blanch or Lord, as a Humanum ius, etiam in re Superioris: Provided all Casualties are gone (re Pleas), and the Superior has no prejudice by the Renunciation in any right already taken to him. For the Resignation may be Effectual for the future, according to the Rule, *Quære Licet Renunciare factis rebus in futuro*. The Vassal cannot Renounce his land without being liable to the Seller for Damage and Interest. But a Vassal cannot Resign to the Superior before the Resignation of G. G. A Ward Vassal cannot alter the Condition of his Marriage due, & to payment thereof by the Resignation of his Ward fee, or a Burgher from a Burgh. Imposed upon him as such by offering to Renounce his Burgh fee. 26 March 1628 Douglas contra L. Wetherburn Craig lib. 3 tit. 1 § 48 § 5. Stair lib. 2 tit. 11 § 6 Stuart Answer to Dirlé Douts tit. 1. Because the Maxim that it is free for every one to Renounce his Right, Prevails then only, when by Renouncing his Right he injures not others. lib. 2 tit. 2 § 584.

When a Superior receives a Singular Successor, he may Claim a Year's Rent of the Lands, as an Acknowledgement for Changing his Vassal McKenzie Inst lib. 2 tit. 7 § 2. This in the Law of England is termed a fine of Alienation. If the Alienation and Resignation accepted by the Superior be assigned, the Superior cannot be compelled to Enter the assignee without a new Composition, but only the Rent in whose favour it was Nomination made or his heir: for this is just fictio brevis manus, as if the Buyer had been Infeud and de novo Disposed. Stuart Answer to Dirlé Douts tit. 1. Entry of Assign upon Resig. No years rent or other Composition is due to the Magistrates of a Burgh for receiving and Infeuding a Singular Successor in Burghage Lands.