

RECOGNITION.

1339I

was apparent heir, and the deeds flowing from him were not sufficient *per se*, because he was the King's vassal. This was formerly decided in 1674, Lord Lyon against Forbes of Auchintoul, No 13, p. 13387.

No 16.

*Fol. Dic. v. 2. p. 315. Fountainhall, MS.*

1681. *January 26.* EDIE *against* THOIRS.

No 17.

THE smaller servitudes are sufficiently constituted by prescription, so as to be effectual against the superior, to whom the lands return by recognition.

*Fol. Dic. v. 2. p. 216. Stair.*

\* \* \* This case is No 76. p. 6518., *voce* IMPLIED DISCHARGE & RENUNCIATION.

1681. *February 23.* HAY *against* CREDITORS of MUIRIE.

No 18.

RECOGNITION is not incurred, unless the major part of the ward-fee be alienated by deeds consisting together at the same time.

1681. *July 7.*—AN infeftment for relief of cautionry, being only conditional in case of distress, was found not to be like an infeftment of annualrent for a pure debt, to be computed as an alienation for the full sum in the bond, unless distress had followed; and the cautioners having paid the sum, and taken assignation, without distress, made no difference; but it was found, that it might be conjoined as a conditional distress by hazard; so that, for instance, if the half of the fee should be alienated, such an infeftment for relief might be computed at some certain value to infer an alienation of the major part; for the Lords thought, that even a wadset, though of the whole barony, if there was a back-tack for payment of the annualrents, would not infer recognition, unless the sum exceeded the value of half of the barony.

1683. *March 15.*—BUT infeftment for relief, bearing, that the cautioner was distressed, and therefore disposing for his relief, declaring his entry to be at a certain term, and that he should apply his intromissions towards payment of the debt; was a sufficient ground of recognition *quoad valorem* of the sum.

DISCONTIGUOUS lands were all contained in one charter, bearing one reddendo. It was *pleaded*, That the major part of the whole must be alienated to infer recognition of any part. *Answered*, Lands are united, either naturally, when contiguous, or civilly, when discontinuous. Lands are united by a formal clause of union into one barony or tenement, and the charter in question con-