

No 65.

right confirmed, and no more. THE LORDS found the Sovereign's simple confirmation, without a *novodamus*, cannot defend against the donatar to the life-rent escheat, where the annual rebellion was run out before the confirmation, though the gift be posterior to the said confirmation.

*Fountainhall, v. 2. p. 569.*

1739. February 2.

GIBSON against SCOT.

No 66.

FOUND, That a charter of confirmation of a disposition granted by the last vassal to his apparent heir, implied a discharge of all former feu duties.

*Fol. Dic. v. 3. p. 304. Kilkerran, No 1. p. 297.*

## S E C T. X.

### Effect of Public Infeftment with respect to Recognition.

No 67.

Public infeftment of the whole lands does not save from recognition, if the base infeftments, granted by the purchaser and his author, extend above the half.

But a public infeftment of part of the lands, is safe against recognition, if not already incurred.

1681. July 7, and March 1683. HAY against CREDITORS of MURIE.

CONFIRMATION of a base right must save from recognition, *quia hoc agitur* by the confirmation; or, if a particular part of the barony be disposed to be holden of the superior, a charter of resignation or confirmation, will also save that part from recognition; but where the whole ward-lands are disposed to be holden of the superior, a charter of resignation or confirmation will have no effect to save from recognition, because no more is intended thereby, than to receive one vassal in place of another, subjected to the same burdens and to the same grounds of challenge that lay against the former vassal; and therefore, in this case, the deeds of the author will be conjoined with those of the singular successor to infer recognition, as if all were granted by the same person.

A purchaser of a part of a barony holding ward, being infeft upon a charter of resignation, which imports the superior's consent, no base right thereafter granted by the author can be brought *in computo*, to subject the public infeftment to recognition. But a charter of resignation will not save the lands contained in the charter from recognition, where the major part was alienated before the date of the resignation. And as to base rights granted by the resigner after resignation, before the same is completed by infeftment, the LORDS found, that such right, granted before subscribing of the charter in the case of