No 18.

taining no formal union, but only a dispensation, to take off the necessity of several sasines in the discontiguous parts, recognition is to be inferred from a disposition of the major part of each of these contiguous parcels. THE LORDS found, that the dispensation for taking sasine at one place, and the reddendo of one duty in the charter of resignation, do not import a civil union of the discontiguous tenements, which therefore are to be considered as *distincta tenementa*, so as alienation of the major part of each does recognosce that tenement only.

Fol. Dic. v. 2. *p.* 313. 314. *Stair. Harcarse. Sir P. Home. P. Falconer.*

*** The reports of this case are No 61. p. 6470. No 67. p. 6500, and No 71. p. 6513., *voce* IMPLIED DISCHARGE AND RENUNCIATION.

1682. *January.* EARL AIRLY *against* STRACHAN.

No 19.

ONE Strachan having disponed to his eldest son John the fee of his estate, to be holden base of the disponer, John wadset the half to John Watt, who made requisition, and charged the granter of the wadset's daughters, his heirs; and upon their renunciation, apprised from them as lawfully charged to enter heir to their father, and obtained a charter from the King upon the apprising; and thereafter disponed the lands, without consent of the superior, to Stuart. My Lord Airly got a gift of recognition; against which it was *alleged* for the daughters of John, who were now served heir to their grandfather; That no recognition of the defender's lands could be incurred by John Watt's disposition to Stuart; because, 1*mo*, The ground of the apprising was but 1200 merks, which is not the half of the worth of the lands; 2*do*, The charter from the King is from the wrong superior; for the apprising is led against the defenders as charged to enter heir to their father only, who was never the King's vassal, but held base of the grandfather.

"THE LORDS assoilzied from the recognition;" and the donatar did not insist for the 1200 merks belonging to Watt.

Harcarse, (RECOGNITION.) *No* 822. *p.* 229.

1682. *March.* LAIRD of DUN *against* KEITH of JACKSTON.

No 20.

IN a declarator of recognition, it was *alleged* for the defender, That the lands disponed in wadset were partly ward, partly blench, and partly feu, and so the ward can be considered *pro rata* only with the other lands; which the Lords sustained; just as if there had been two ward-tenements for a sum, which compared to one would be the major part, but would not be the major

part of both. 2*do*, It was further *alleged* for the defender, That the wadset, though it was not feu but blench, yet being granted after the year 1640, when wards were abolished by the powers then in being, the vassal should be excused from the effect of the feudal delinquency; especially seeing, before the King's restoration, there was a requisition of the wadset sums, and apprising led of the lands, which creditors might lawfully do.

No 20.

THE LORDS, before answer, allowed trial to be made of the worth of the lands wadset.

Harcarse, (RECOGNITION.) *No* 283. *p*. 229.

1683. *February and March.*
KING'S ADVOCATE *against* CREDITORS of CROMARTY.

No 21.

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

A wadset being granted of several distinct tenements, one of which held ward, the ward-lands were found to recognosce, though the other subjects were of more value than the wadset sum.

Redeemable rights though the debt be paid before the concourse of other alienations, yet if not actually renounced, do come *in computo* to make up a major part, and to infer recognition.

Sasines which are intrinsically null, as wanting essential solemnities, are not to be respected as grounds of recognition.

Fol. Dic. v. 2. *p.* 313. 314.

*** P. Falconer's and Harcarse's reports of this case, are No 60. p. 6467. *voce* IMPLIED DISCHARGE AND RENUNCIATION.

*** Sir P. Home also reports the same case:

IN the declarator of recognition at the instance of his Majesty's Advocate against the Creditors of the estate of Cromarty, the LORDS decided these points; 1*mo*, That alienations, though without consent of the superior, yet, if they be confirmed before the major part be analzied, cannot recognosce themselves, nor come *in computo* to make the recognition as to other lands; 2*do*, That a confirmation, after a major part is alienated, and before the gift, doth secure the rights confimed, but must come *in computo* to make up the major part, for the recognoscing of what is not confirmed; 3*tio*, That a *novodamus* doth so secure anent a recognition, that all the alienations before the *novodamus* cannot come *in computo* to make up the ground of recognition; 4*to*, That notwithstanding of the infeftments upon which recognition is craved be likewise of lands of different holdings, and belong to different heritors, must be considered as a ground of recognition *quod valorem* of the whole sums whereupon infeftment was taken, without respect to the relief that might be ex-