effectual 14 Feb. 1648 Arbuthnot of Knox contra Lady Knox. Sir James Stewart (Answers to Durlet Doubts Tit. Recognition) is of Opinion that a Minor may be restored against Recognition incurred by disponing his Ward Lands: Because that is only delictum feudale which he commits by Facility or Inadvertency. But the Lord Stair (Inst. Lib. 2. Tit. 5. § 12. & Tit. 14. § 6) says that Minority doth afford no Exception in this Matter which of its own Nature is criminal, and that Recognition will be incurred by the Deed of one who has Curators or Interdicters without their Consent. And this Recognition was found incurred by a Seisin of Ward Lands to be held of the Superior albeit the Seisin was unconfirmed granted by an illiterate Person and accepted for a Minor absent in England without his Knowledge or Warrant from him 30 January & 5 Feb. 1663 Lady Carnegy contra L. Cranburn. Because Ignorantia juris non excusat, especially where there is copia peritorum to advise with as there was here. And if Ignorance were sustained to excuse Recognition, there could never be Place for it: Seeing it cannot be supposed that any Person would do a Deed which he knows would forfeit his own Right and be ineffectual to the Receiver 2. There needed no other Procuratory for taking Seisin than the Precept of Seisin, the having whereof is sufficient Mandate & Warrant to be Attorney for the Receiver especially in the Case where a Grandfather gave Infeftment to his own Grandchild. Alienations made by a Person drunk is sustained to infer Recognition, where he was not so to that Degree of Stupidity as to want the Use of his Reason 29 July 1672 L. Hallon contra E. Northesk. Recognition is incurred by taking Seisin the nullity for some accidental Effect or want of some Solemnity extrinsick to the Nature of Seisin as the Year of the King's Reign tho not being registred or not confirmed by the Superior &c or other accidental Solemnity introduced by Statute or Custom Craig Feud. Lib. 3. Tit. 8. § 9. Stair Lib. 2. Tit. 3. § 5. Quaerur whether a Vassal disponing a Se. to be holden of his Superior and granting Seisin before Confirmation incurs Recognition? The Reason why it would seem it doth not is, because such an Infeftment being null, unless confirmed is no Alienation of the Property: But the same upon the Matter as if the Vassal did alienate upon this Condition, if the Superior consent, and that otherwise the Deed should be null; which the Feudists agree to be no Ground of Recognition. It is answered that Recognition is not incurred by taking Seisin that labours under any essential or substantial Nullity, as the Want of the proper Symbols &c. But Recognition follows upon a Seisin tho null by Statute or Custom for want of some circumstantial or accidental Requisite extrinsick to the Nature of Seisin, as the not being registred or not being confirmed by the Superior &c. Therefore a Seisin to be held of the Superior not

own Deed, which ought not to be made use of to the Prejudice of anterior Creditors or Purchasers. But albeit Infeftments of Ward Lands not exceeding the Half, are null as to the Vassal Receiver, they are null as to the Superior whom they exclude not from any Casualty of Superiority, as Ward. Nonentry &c. Stair Lib. 2. Tit. 3. § 32. Again, Recognition is not incurred by several Infeftments that reckoned jointly exceed the Half unless these were all standing Deeds at one Time, that is none of them purged or extinct before the rest were granted 23 Feb. 1681 Hay contra Creditors of Murrie. Nor is Recognition incurred by Deeds of an Apprifer or Adjudger during the Course of the Legal, [redacted] 15 July 1707 Creditors of Edinglassie contra Gordon of Carnousie. Because while the Legal is current, the Apprifer is but a Creditor, and the Reverser Proprietor with the Burden of the Apprifer's Security. Craig (Lib. 3. Tit. 3. § 9.) insinuates, that Recognition is not incurred in Ward Holdings, where there is a probable Ground to doubt the Nature of the Holding: As when the Reddendo bears Payment of Money with Services used and wont.

Recognition is incurred by the Vassal's Alienation to his Brother, tho his apparent Heir for the Time 29 July 1672 L. Hallown contra E. Vorth & Stair Voc. Vers. This Privilege Tit. 5. § 18. Seeing the Vassal might have had Children of his own to disappoint his Brother's succeeding to him. Yea it was inferred from the Vassal's Disposition to his Eldest Son his Heirs and Assignys, and the Sons Alienation of the major Part to Strangers: Albeit the Disposition to the Son was legal, and Recognition could not be incurred by the Deed of the Son who was not Vassal. Partly, in Regard the Father bound not up the Son from disponing to the Prejudice of the Superior, by a Clause irritant, and qui facit per alium facit per se. Partly for that the Son did not purge his Alienation before the Father's Death, at which Time he became directly at least apparent Vassal 15 July 1674 Erskine Lyon contra Forbes. A Wife's alienating her Ward Lands to her Husband his Heirs and Assignys whatsoever nomine dotis doth infer Recognition 14 January 1725 Hall of Dunglass contra Craw. Recognition is incurred by a Disposition from a Ward Vassal to his Wife in Fee, failing Heirs of her Body, who never accepted or made use of by her: Which is not considered as a Substitution to the Heirs of the Granter's Body who are not in dispositione positi, but as a conditional Disposition to her in case he died without Heirs of his Body. Notwithstanding which Recognition, a prior conjunct Fee granted to the Husband and Wife by the Superior, was found to stand effectual