original grant under the King's own hand. The pursuer *answered*, That this defence ought to be repelled, because such concessions, contrary to the common course of law, are *stricti juris*, and not to be extended *ad effectus non expressos, præsertim prohibitos*; but the adjection of assignees is no ways to allow alienations of the fee, without consent, but to this effect; because *feuda* and *beneficia* are in themselves *stricti juris*, and belong not to assignees, unless assignees be expressed; and therefore, albeit no infeftment had been taken, the disposition, charter, or precept could not be assigned; so that this is adjected, to the end that those may be assigned before infeftment, but after infeftment assignation hath no effect, and this is the true intent of assignees; in dispositions of lands, it is clear, when the disponer is obliged to infeft the acquirer, his heirs, and assignees whatsoever, there is no ground whereon to compel him to grant a second infeftment to a new assignee, but only to grant the first infeftment to that person himself, or to any assignee whatsoever, which clears the sense in this case. It hath also this further effect, that singular successors thereby might have right to a part of the lands, which though it would not infer recognition if done, yet if there were no mention of assignees, it would be null, and as not done in the same case as a tack, not mentioning assignees.

No 58.

The Lords repelled this also. *5thly*, It was further *alleged*, That recognition takes only place where there is contempt and ingratitude, and so no deed done through ignorance infers it, as when it is dubious whether the holding be ward or not; and therefore recognition cannot be inferred, seeing there is so much ground here to doubt this right, being a taxed ward, and to his heirs and assignees; and it is not clear, whether it would be incurred through a sasine *a se*, or to one in his family, whereupon the wisest of men might doubt, much more Dirleton, being illiterate, not able to read or write. It was *answered*, *Ignorantia juris neminem excusat.* *2dly*, *Ubi est copia peritorum ignorantia est supina.* Here Dirleton did this deed clandestinely, without consulting his ordinary advocates, or any lawyers, and so was inexcuseable; and if pretence of ignorance could suffice, there could be no recognition, seeing it cannot miss to be ignorance that any should do that deed that will be ineffectual, and lose their right.

The Lords repelled this defence, and all the defences jointly, and decerned, see No 11. p. 7732. *Fol. Dic. v. 2. p. 76. Stair, v. 1. p. 172.*

*** See a similar case 14th January 1696, Lockhart against Creditors of Nicolson, No 6. p. 6411, *voce* Implied Discharge and Renunciation.

1665. *January* 31. Anderson *against* Provan.

No 59.

If a master assign his rent, the assignee has the same privilege of hypothec that the master had.

Fol. Dic. v. 2. p. 78.

*** This case is No 36. p. 6235, *voce* Hypothec.