

command, and in law *trium annorum cohærentium apochæ præsumunt solutionem præteritorum*; and they produced sundry tickets of these three last years, subscribed by the merchants, bearing receipt of the victual, as the same was delivered at ilk several time; which, after computation of the several receipts, they alleged would make appear that all these three years were completely paid; the LORDS repelled this exception, in respect of the foresaid decret obtained for the rests now acclaimed, and found, That the merchants tickets could not take away the same, in respect it was not shown that the Masters self had granted three several discharges of the three immediate years next subsequent to the years controverted, without which the ground in law holds not; for the Master might have directed the tenants to answer the merchant of the rests addebted by them, and the merchants tickets, albeit given in the years subsequent to the years acclaimed, did import nothing to the contrary; and therefore the exception was repelled.

Act. *M<sup>c</sup>Gill.*

Alt. \_\_\_\_\_

Clerk, *Gibson.**Fol. Dic. v. 2. p. 137. Durie, p. 807.*

No 62.

1667. *July.* Sir GEORGE PRESTON *against* Sir JOHN SCOT.

No 63.

SIR John Scot having pursued for payment of an annualrent of 500 merks out of Sir John Preston's lands, he *alleged* payment; thereupon litiscontestation being made, he produces three receipts, each L. 500, bearing to an account, and alleged that the odd 50 merks were for public burden; which completing three years, must assoilzie from bygones. It was *answered*, The dicharges bore to be granted by a factor, which was not probative, and that they wanted witnesses, and that, being given by a factor, they could not infer payment of all preceding. It was *answered*, That discharges of annualrents or rents are sufficient without witnesses.

THE LORDS found, That discharges to tenants were sufficient without witnesses, but not being granted by an annualrenter to an heritor; and found that the factor's discharge could not infer payment of bygones.

*Fol. Dic. v. 2. p. 137. Stair, v. 1. p. 481.*

\* \* \* The reverse was found, 14th February 1612, Wedderburn against Nisbet, No 21. p. 6322. & No 7. p. 7181.