

dinarly lift a part of all the six terms, and albeit the Sheriff completed the first four, yet he might have done it out of his own money, or out of the other two, and so when the King charges for the other two, the Sheriff's discharges will exclude him, so that he shall not want the first four, but so much of the other two; and, therefore, unless the suspender can produce a discharge of the first four, the general discharge granted to the Sheriff cannot liberate him. It was answered, That when the King or his collector charges, the collector's general discharges cannot but meet himself, and whether the suspender had paid or not, the general collector cannot seek these terms twice. It is true, if the Sheriff were charged, the suspender behoved to show to him his discharge, but the Earl of Marishall, Sheriff, could not charge the suspender for the taxation of these lands, because the Earl of Marishall was both Sheriff and heritor at that time, and sold the land to the suspender with warrandice.

THE LORDS found the general discharge sufficient to the suspender, against the general collector, or any authorised by him.

Stair, v. 1. p. 490.

No 6.

1667. December 6.

COLLECTOR of the TAXATION against The PARSON of OLDHAMSTOCKS.

In the case, the Collector of the Taxation contra the Parson of Oldhamstocks, a question was moved, whether the successor in the benefice be liable for the taxation due by his predecessors; his patrimony consisting most of teinds; but was not decided at this time.

Direlton, No 115. p. 48.

No 7.

1668. January 17.

WALTER STUART against ROBERT ACHESON.

WALTER STUART, as being infeft in the barony of North Berwick, and being charged for the whole taxation thereof, charges Robert Acheson for his proportion, according to the stent roll; who suspends on this reason, That his interest is only teinds, which is only applied to the kirk, whereof he produces the Bishop's testificate; and, therefore, by the exception of the act of convention, he is free. The charger answered, *Non relevat*, because the suspender ought to have convened at the diet appointed, by the act of convention, for making of the stent roll, and there have instructed that his teinds were exhausted; wherein having failed, and being taxed, no other could pay for him, neither could the King lose that proportion. It was answered, That he had no interest to convene, the Minister having the only right to his teinds.

No 8.
Taxation found to affect those contained in the stent-roll, seeing they did not convene, and were stented; although, if they had convened, they could have freed themselves.