dinarily 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. No 6.

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

Stair, v. 1. p. 490.

1667. *December* 6.

COLLECTOR of the TAXATION *against* The PARSON of OLDHAMSTOCKS. No 7.

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.

Dirleton, No 115. p. 48.

1668. *January* 17. WALTER STUART *against* ROBERT ACHESON. 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.

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. THE LORDS repelled the reason, and adhered to the stent roll, but prejudice to the suspender to seek his relief of any party he pleaseth, as accords.

Stair, v. 1. p. 508.

1668. *January* 22. Lady WAMPHRAY (DOUGLAS) *against* Laird of WAMPHRAY.

No 9.

A WIFE being infeft in certain lands for an annuity of 2000 merks yearly; which sum the husband obliged himself to pay, infeft or not infeft, and to warrant the lands to be worth 2000 merks yearly, the annualrent was found liable for the public burdens.

Fol. Dic. v. 2. p. 290. Stair. Dirleton.

*** This case is No 284. p. 6073. *voce* HUSBAND and WIFE.

1668. *February* 8. Sir JOHN WEMYSS *against* The LAIRD of TOUCHON.

No 10.

In what cases appriser liable for public burdens.

SIR JOHN WEMYSS having a commission from the Parliament to lift the maintenance when he was General Commissary, charges the Laird of Touchon for his lands, who suspended on this reason, That, by that act and commission, singular successors are excepted. The pursuer *answered*, That the act excepteth singular successors who bought the lands, but the suspender is apparent heir, and bought in apprisings for small sums; and as wadsetters are not freed as singular successors nor apprisers within the legal, so neither can the suspender; for albeit the legal as to the appriser be expired, yet the act of Parliament between debtor and creditor makes all apprisings bought in by apparent heirs redeemable from them, on payment of the sums they bought them in for, within ten years after they bought them; and, therefore, as to Touchon, who is apparent heir, he is in the same case with an appriser within the legal.

Which the LORDS found relevant, and decerned against Touchon.

1669. *January* 2.—SIR JOHN WEMYSS having charged Touchon for maintenance, due *in anno* 1648 or 1650, conform to act of Parliament, and commission granted to him, and decreet of the Lords; Touchon suspends on this reason, That singular successors are free by the act, and he is a singular successor by apprising. It was *answered*, That the exception of the act was only in favour of singular successors who had bought the lands, which cannot be extended to apprisers, who oft-times have the lands for far less than the true price.

THE LORDS found the act not to extend to apprisers, unless the sums were a competent price for the land apprised; and, therefore, found the letters orderly proceeded.

Stair, v. 1. p. 522. & 577.