

No 5.

THE LORDS having discussed the fourth reason, and heard the whole dispute at length *in prasentia*, the defender, after interlocutor, but not pronounced, on the fourth reason, borrowed the process, and refused to re-deliver it. The Town called upon a copy, and represented the manner of abstracting the process. The question was, what should be done, and whether Sir William might, before litiscontestation, or any interlocutor pronounced, take up his process.

THE LORDS admitted protestation on the copy, and ordained an act of sederunt, prohibiting the clerks to give up any process to the pursuer, after it was disputed to the full in all the members thereof, though no interlocutor were passed or pronounced thereupon, lest, after so long debate and hearing, the LORDS should, at the discretion of the parties, lifting their process, lose their time; but what had been disputed should be advised *de recenti*.

*Stair, v. 1. p. 269. & 278.*

No 6.

Taxation for a particular year held sufficiently discharged, by the discharge of one who was held and reputed collector.

1665. December 14. Duke of HAMILTON *against* Laird of CLACKMANNAN.

THE Duke of Hamilton, as Collector of the taxations 1633, charges the Laird of Clackmannan, who suspends, and produces discharges of the first three terms. It was *alleged*, These discharges could not liberate, because they were granted by John Scobie, who was neither Sheriff, Bailie, nor Clerk; nor does it appear that he had any warrant or commission, nor do his discharges mention any commission or warrant. It was *answered*, That by the discharges produced, it appears, that Ormiston and Humbie, deputed for the Duke, had granted discharges to this John Scobie, and offered to prove, that he was in use of uplifting the taxations during the terms themselves, and was commonly reputed as Collector thereof, which must be sufficient *post tantum tempus*. It was *answered*, That that ground would not oblige the Sheriff, and so both the heritor and Sheriff being free, the King loseth his right.

Yet the LORDS sustained the reason.

*Stair, v. 1. p. 326.*

No 7.

An inhibition of teinds sufficiently executed by a Sheriff in that part, and not by a messenger.

1666. January 27. Earl of EGLINTON *against* Laird of CUNNINGHAMEHEAD.

THE Earl of Eglinton pursues the Laird of Cunninghamehead for the teinds of his lands, conform to a decret of valuation. The defender *alleged* absolutor, because he bruiked by virtue of a tack, at least by tacit relocation, which must defend ay and while the same be interrupted by inhibition or process. It was *replied*, The pursuer produces inhibition, and craves only the valued duties for the years thereafter. It was *answered*, The inhibition is directed to mes-