

GENERAL LETTERS.

1624. November 16. TROUP *against* LO. HERRIES.

IN an action betwixt Troup and Lo. Herries, a horning was sustained, whereupon Troup sought declarator against the Lord Herries of his escheat, albeit the same was quarrelled as null, being only executed upon general letters, raised upon a prebendar's decret of general letters conform; which allegiance was repelled, and the horning found good, albeit the same proceeded upon general letters, and decret of letters conform generally, not bearing any special quantity, by reason that there was a special charge given to the party denounced, to pay a special and certain particular quantity, contained in a special execution of the general letters; in respect of the which special charge, the horning was found good, notwithstanding that the charger had no special warrant by his letters or decret, to charge the party for that special quantity; and notwithstanding of the act of Parliament, viz. 142d act, 12th Parl. *anno* 1592, which requires that there should be a warrant for a special charge, otherways allows not of horning; for the LORDS thought that the party charged for a special quantity, ought to suspend; otherways if he did not, the horning ought not to be found null.

Act. Nicolson.

Alt. Belsber.

Clerk, Scot.

Durie, p. 147.

1626. December 6. JAMIESON *against* TENANTS.

IN a suspension betwixt Mr William Jamieson and the Tenants of Longnewton, for suspending of the charges raised at the minister's instance, upon his decret of general letters conform, as provided to the right of the parsonage of that kirk, the LORDS sustained a declaration given in by the minister, containing the special quantity of the victual, for the which the suspenders

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No 1.

Horning on general letters sustained, a special charge having been given to the debtor.

No 2.

A minister having charged on general letters; his declaration as to the precise quantity of victual due

No 2.
by a suspender, was allowed to be tried in the suspension, without a new action.

were charged, which the LORDS received to be taken in and tried in the same suspension, without any new process or action therefor, the charger proving, that the teinds, the year controverted, extended to that quantity contained in the declaration foresaid, and that the defenders intromitted with the same that year, and that the minister had served inhibition for the same *debito tempore* that year; which declaration, fortified with the answer, offering to prove the particulars foresaid, the LORDS sustained, and found it not necessary to the minister to allege or prove that the suspenders had ever been in use to pay that duty acclaimed for these teinds by the minister at any time preceding, or that the minister had ever been in possession of that quantity, without the which the said declaration was admitted.

Act. *Belcher.*

Alt. —.

Clerk, *Hay.**Durie, p. 243.*

1627: February 22. DICKSON against L. AITKEN.

No 3.
A charge upon a general decree of letters conform might have been given at the instance of a kirkman to his tacksman of teinds.

IN a suspension betwixt L. Aitkin against Dickson, whereby the special charge given by L. Aitkin to the suspender upon L. Aitkin's decret of letters conform generally, given against all and sundry, were suspended as not orderly directed, nor executed upon a general decret of letters, conform to a tack of teinds set to the charger; which he affirmed could not be sustained by this order of process, by a special charge so summarly executed against a party who was not specially called; but the most that the party might lawfully do, was to pursue for the teinds by way of action of spuilzie, or wrongous intromission; which reason was rejected, and the special charge received to be discussed *hoc ordine* without further process, in respect that the decret of letters conform was given to a tack of teinds, set by a kirkman; and as the like charges would be sustained at a kirkman's instance, to his tacksman.

Act. *Fowlis.*

Alt. —.

Clerk, *Gibson.**Durie, p. 280.*

* * * 1665. June 8.—THE LORDS intimated to the writers, keeper of the signet, and clerk of the bills, an act of sederunt, prohibiting general letters, upon presentations or collations of ministers, whether having benefices or modified stipends, until every incumbent obtained a decret conform, albeit they should produce their predecessors decret conform, or a decret of locality, containing the stipend particularly.

Stair, v. 1. p. 279.