

former tack, being twenty years ago, and the liferenter herself having possessed and laboured the same until the lands were much deteriorated; in consideration whereof she gave the abatement on the new tack.

It was REPLIED, That the pursuer's receipts could infer no homologation, because they were only partial of what she had received, and not of the full tack-duty.

The Lords did find it relevant, that the pursuer knew of the defender's tack, and, notwithstanding, suffered him to possess without any interruption, and ordained her to give her oath upon the verity of her knowledge; but, if she denied the same, they declared they would grant commission to some neighbours, to try if the lands were deteriorated the time of the last tack, or were in as good condition as when the former tack was granted.

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1674. *January 8.* HAMILTON of WISHAW *against* FORBES, Sheriff-Depute of Aberdeen.

THE Sheriff-depute, being charged to make payment of the taxation of that shire, imposed *in anno* 1665, did SUSPEND, upon that reason;—That, by the Act of Convention, the Sheriff-principal, deputies, or their clerks, are empowered to collect. But so it is, that the Earl of Marshall, being Sheriff-principal before the suspender was admitted his depute, had appointed Mr James Kennedie, his Sheriff-clerk, collector; who accordingly had collected, and made payment, for two years together, before the suspender's admission, who had continued in office during the whole terms of the taxation; whereas the suspender was only in place the last terms of the taxation.

It was ANSWERED, That the Act of Convention, appointing the Sheriff-deputes, as well as the principal and clerks, to be collectors, they are liable to the king, in case any of them malverse. But so it is, that Kennedie, the Sheriff-clerk, had uplifted, and now become bankrupt; for which the suspender is liable, seeing he ought to have looked to his sufficiency; and all he can crave is to get a warrant to seek his relief.

The Lords did sustain the reason of suspension, and found, That, not only for the bygone terms before the Sheriff-depute's admission, but even for the subsequent terms, he could not be liable,—the clerk being appointed collector, whom he could not hinder, and who was approven by the general collector, and got payment from him; but if that term's taxation was not at all uplifted, they found the suspender liable to collect and count, the Sheriff-principal and clerk being now dead.

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1674. *January 9.* HALBERT GLADSTANES *against* JOHN EDGAR of WEDDERLY.

In a suspension and reduction of a bond of corroboration, whereupon the said John Edgar was charged for payment of the sum of £800, upon the reason of minority and lesion, in so far as, in the bond of corroboration, the whole annu-