

## SECT. XVI.

## Inhibition of Teinds.

1622. March 23. GORDON against L. GAIRLIES.

No. 236.

The Lord Gairlies obtained a decret against Gordon for some rentalld teind-bolls. Gordon suspended, because the Lord Gairlies' officer charged him for taxation, and obtained payment from him, and converted the same to the Lord Gairlies' behoof, of his knowledge and allowance. The Lords, considering that the decret was not for spuizie, but only for rentalld bolls, found, That the payment of taxation could not take away the Lord Gairlies' decret, but ordained the sum paid to be allowed *pro tanto* in payment of the sums decerned.

*Haddington MS. No. 2627.*

\* \* \* Durie reports this case :

The L. Gairlies having obtained a decret against one Gordon, decerning to render unto him certain rentalld teind-bolls, intromitted with by the defender after inhibition, which interrupted the payment of the old duty used to be paid therefor by the defender ; which being desired to be reduced by Gordon, upon this reason, viz. that the L. Gairlies had received payment of the King's taxation imposed upon the same teinds for this same year of the which he had obtained decret, whereby the pursuer had prejudged the inhibition served for that year, so that the defender could never be pursued for any greater duty for the teinds of that year, neither in rentalld bolls, or otherwise, but only for the old duty accustomed to be paid by the defender for the teinds the years preceding the years controverted ; in the which duty the sum paid for the taxation ought to be allowed in the first end thereof *pro tanto* ; which reason the Lords found nowise relevant, but assoilzied therefrom, in respect the decret was not given for spoliation of the teinds, but only for payment of the rentalld bolls, which they found not to be of the nature of a spuizie, and allowed only the payment of the taxation in the first end of the rentalld bolls decerned.

Act. *Neilson.*

Alt. *Belshes.*

Clerk, *Gibson.*

*Durie, p. 24.*