

1631. *February 15.* TACKSMEN to the BISHOP of the ISLES *against* BROWN.

Bryce Semple and John Shaw being tacksmen to the Bishop of the Isles of the teinds of all fishes taken and slain within the isles of Scotland, and having, upon their decret of letters conform thereto, charged George Brown, in Edinburgh, to make payment to them of the teinds of certain quantities of fishes slain in the Isles, which were received and intromitted with by the said George; who suspending, that he was not subject to pay the said teinds; he having bought the same from the takers thereof, so that they who took and slew the same ought to be convened for the teind thereof, and not he who bought, as said is; and it being answered by the charger, that the receivers and intromitters with the said herring and fishes, whether they slew them or not, have been in use to pay teind therefor, to whatever sea-port they were transported, and that past memory of man;—this answer upon the custom of payment made by the buyers and intromitters was sustained and found relevant.

*Act. Mowat.*

*Clerk, Gibson.*

*Fol. Dic. v. 2. p. 437. Duris, p. 569.*

No. 17.

Tacksmen of teind fish pursued the merchant who bought them for the teind. Their exception, that the takers only were liable, was repelled, and custom of payment by buyers and intromitters sustained.

1633. *February 20.* COLLEGE of GLASGOW *against* STUART.

The College of Glasgow having right to the teinds of the parish of Govan, and having recovered decret conform, *in anno 1585*, raised letters, and charged Mr. Patrick Stuart for the rental bolls of the lands of Bashagrie, for the years 1629, 1630, and 1631. He suspended, upon this reason, That he could not be subject in payment of the rental bolls, because, thirty or forty years bygone, he was never in use of payment thereof, but only of a certain silver duty, sometimes more, sometimes less, according as the teinds were thought worth, by estimation of men that valued them. Answered, He offered to prove, that the College obtained sundry and divers decreets against the heritors and tenants of the same room for payment of the same rental bolls charged for; and so the same teind bolls being a constant rent and duty pertaining to the College once, and established in their persons, by divers decreets, a part of the patrimony thereof, whatever duty hath been received since by the masters of the teinds thereof, could not prejudice the body of the College of their patrimony for years to come, so established by sentences, but they may still, at their pleasure, have recourse to the bolls once paid. Answered, The chargers having once passed from the payment of the bolls, cannot, after so long a desuetude, have recourse to them, especially where the suspender is content to give that which is naturally due, viz. the teind sheaves. The Lords repelled the allegiance, in respect of the reply, without prejudice to the suspender, in time coming, to make offer of the teind sheaves to the chargers.

*Spottiswood, p. 335.*

No. 18.

In what manner payable.