bition, with the answers, having been laid over till after the Christmas vacation, was never more heard of.

The same point occurred 27th February 1778, in the complaint,

JOHN GRANT, Writer in Edinburgh, *against* ROBERT DONALDSON, Writer to the Signet, Factor *loco tutoris* for George Wilson.

The Lords did not think they had power to recal an inhibition on a dependance merely upon caution, as it neither appeared emulous nor nimious, nor malicious.

INHIBITION OF TEINDS.

1773. *July* 31. SINCLAIR of FRESWICK *against* SIR JOHN SINCLAIR of MEY.

IN a question between Sir John Sinclair of Mey and Sinclair of Freswick, decided 2d March 1773; the Lords, after mature deliberation, and a full examination of former precedents, determined this general point, "That the effect of an inhibition of teinds is not restricted to one year, but extends to subsequent years." There were special circumstances in this case; but the interlocutor was so worded as to meet the general point, and at the same time to leave room for the parties, in the application of the interlocutor, to dispute the effect of these specialties.

1775. *March* 4. MAGISTRATES of FORFAR *against* CARNEGY.

AN inhibition of teinds may be passed from and derelinquished by not being insisted in for a tract of years, and by the acquiescence of both parties in a mode of possession contrary to what was intended by the inhibition. The Magistrates and Council of Forfar acquired right to the teinds of Lower, belonging to Mr Carnegy, who possessed the same under a very long tack from Fletcher of Restennet, the former proprietor of the teinds. It was alleged that this tack was expired, and that tacit relocation was interrupted by an inhibition in common form, executed by the Magistrates against Mr Carnegy, then a minor, *anno* 1740. ANSWERED,—That, as nothing ever followed, or was done upon this inhibition till July 1774, when a summons was raised, it must be understood to be relinquished,—more especially as, since that time, Mr Carnegy continued to possess his teinds as formerly, paying the former tack-duty, which stands allocated to the minister.

Lord Auchinleck, Ordinary, by interlocutor, 4th March 1775, allowed the pursuers to prove, *prout de jure*, the rental of Mr Carnegy's lands for the

1740, when the inhibition was used, and also for each year since. But the Lords, on a reclaiming petition and answers, " Found that the inhibition was derelinquished, and could have no effect,—and remitted to the Ordinary to proceed accordingly.

1763. The EARL of HADDINGTON *against* The EARL of HOME.

THE Earl of Haddington, as titular of the teinds of the parish of Coldsfield, in July 1753 executed an inhibition against the Heritors of the parish in common form.—The Earl of Home, as proprietor of Old Hirsle, was one of them. He possessed in virtue of a tack unknown to Lord Haddington ; so it was alleged that no inhibition could affect a tack of which the inhibitor was ignorant. Nothing was done till 1763, when Lord Haddington brought an action for the teinds, not by way of spuilyie, referring to the inhibition, but by way of petitory action *simpliciter*. The Lords, on a complex view of the case, found that the inhibition was not sufficient to subject the Earl of Home to the full teinds. Lord Home had a *quasi* title to the teinds in the rights of his estate.

1763. *December* 7. M'MORRAN *against* EARL of SELKIRK.

IN a case between M'Morran of Glaspine and the Earl of Selkirk, decided 7th December 1763, the Lords found that a citation on a summons did interrupt tacit relocation in teinds equally with an inhibition ; but, on a reclaiming petition, they altered, and found *not*. See Ersk., p. 358.

1765. The EARL of LAUDERDALE *against* INGLIS of REDHALL.

AN inhibition of teinds does not interrupt the acquiring a right to them by the positive prescription. The contrary had been found, *25th January* 1678, *Duke of Lauderdale*.

INSURANCE.

IN insurance of ships, a wilful deviation from the voyage, with the knowledge and consent of the insured, but without the knowledge or consent of the insurer, will evacuate the insurance. But the question is, Will this be the case where neither the insured nor insurer do consent to, nor know, of the deviation.