

## INHIBITION.

1776. July 6. CRAIG *against* ANDERSON.

AN inhibition being raised and executed during the vacation ; the persons inhibited, conceiving it to be done maliciously, and without necessity, applied to the Ordinary of the Bills to have it suspended, and prevented from being put on record. The Lord Kennet, Ordinary, gave a sist upon the bill, and afterwards he reported it to the Lords.

The Lords were of opinion that the suspension was incompetent ; and the Ordinary pronounced this interlocutor :—" The Lord Ordinary, after advising with the Lords, refuses the bill as incompetent, leaving the complainers to apply to the Court as accords." *Craig, &c. Trustees for the Creditors of Heathy, against Anderson, 22d June 1776.*

They afterwards did apply to the Court to have the inhibition recalled. But, in respect that it had been only executed against one of the trustees personally, and that the forty days for recording it was long elapsed, so that it had fallen to the ground and could have no effect ; the Lords found it unnecessary to enter into the merits, and dismissed the petition, 6th July 1776.

1776. July 12. MURRAY *against* GRANT and MORRISON.

AN inhibition, so soon as executed against the party in common form, and against the lieges edictally, is effectual against third parties, even before registration. So held in the hearing 12th July 1776, *Murray against Grant and Morrison.*

HERON of BARGOLY *against* HERON of HERON.

THE Lords are in use to recal an inhibition *causa cognita*, if it appear to be nimious, emulous, or malicious, and especially if it proceeds on a dependance or other claim not liquid. But, where none of these things concur, they refuse to compel private parties to part with any security which the law gives them. Accordingly, in the case of Heron of Bargoly *contra* Heron of Heron, they refused to recal Bargoly's inhibition against Heron, although Heron offered to find caution for the debt.

And they were inclined to follow the same course in a question,

1775. December 23. EARL of DUMFRIES *against* ANDERSON and DAVIDSON,

Although the Earl offered caution. But the petition for recalling the inhi-

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* CARNEGIE.

AN inhibition of teinds may be passed from and derelinqished 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 Carnegie, 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 Carnegie, 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 Carnegie 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 Carnegie's lands for the