

No. 27. year, which did put them *in mala fide*. It was answered, that there having nothing followed upon the charge, but the charger being silent for fifteen years, the tenants *favore rusticitatis* cannot be thought to continue *in mala fide* all that time, to infer double payment, else it might continue for forty years. It was answered, once *in mala fide*, ay *in mala fide*, and that these tenants did still remember and suspect the pursuer's right, appears, because they took discharges, bearing warrandice of the same

The Lords ordained the defenders to produce their discharges, that the warrandice might appear, being loth to decern the tenants in double payment, if the charger could have access to the other Minister, or his representatives.

It was alleged for the present incumbent of Innerkeithing, that in a former double pointing, raised by the tenants, he was preferred to the crop 1665, and in time coming. It was answered, that the said decret was in absence of Mr. Hugh Gray; and that it was null without probation, for there was nothing produced for the Minister of Innerkeithing, but his presentation and collation, which were but merely general, and nothing produced to instruct, that their teinds were of his parish, or within his benefice. It was answered, that he was secured by the act of Parliament anent decreets of double pointing.

The Lords found that what the Minister of Innerkeithing, had uplifted, by virtue of that preference, the act of Parliament would secure him thereanent, but found he had no right as to the future.

*Stair, v. 1. p. 462,*

1667. November 26. DALZIEL against —————.

No. 28.  
Extent of the  
Minister's  
right in con-  
sequence of  
his presenta-  
tion.

The Minister of Prestonhaugh, Mr. John Dalziel, pursued for the teinds of Lanton, upon his presentation to the said kirk and teinds, parsonage and vicarage. It was alleged, No process, unless he were presented to be prebendary, seeing the said kirk is a member of the collegiate kirk of Dunbar, and cannot be made appear to be dissolved, and erected in a several rectory.

The Lords found, That being presented to be Minister at the said kirk, and to the teinds, which are the patrimony of the prebendary, it is equivalent as if he were presented prebendary; and when there is a presentation to a kirk, which is a parsonage, and to the teinds, the Minister will have right, though he be not presented to be rector or parson.

*Dirleton, No. 112. p. 47.*

1669. February 24.

The EARL of KINCARDIN against The LAIRD of ROSYTH.

No. 29.  
Right of  
teinds not af-  
fected by a  
decreet of Par-

The Earl of Kincardin pursues the Laird of Rosyth for the teinds of his lands, to which the pursuer has right. The defender alleged, That he had obtained a decret of the High Commission for Plantations against the Earl, whereby they