

MULTIPLE-POINDING.

1624. July 2.

WATSON *against* LORD KINCLEVIN.

IN a double poinding, raised by certain tenants against one Watson a minister on the one part, and the Lord Kinclavin on the other, the Lord Kinclavin being out of the country the time of the citation, and not summoned upon threescore days, and therefore, it being *alleged*, that no process could be given against him, upon that summons; the LORDS took this order, that in all the like cases of double poinding, and suspensions, where any of the parties therein are not in the country, and are not summoned upon threescore days, and so are not ready, but refuse to dispute upon their rights, that they will sustain the process, and discuss the rights of the parties compearing; with this provision, that the party who shall be decerned to be answered and obeyed, shall be bound, and find soverty to that effect, if need be, to refund what he shall recover by that sentence, to the party out of the country, if it shall be found that he has better right to that which is controverted, than the party who then in his absence is decerned to be answered.

No 1.
If parties called in a multiple-poinding were out of the country, the cause went on notwithstanding, but the party obtaining preference, was required to find caution to repeat.

Clerk, Hay.

Fol. Dic. v. 1. p. 593. Durie, p. 135.

1630. January 14.

BRUCE *against* WARDLAW.

IN a double poinding, the tenants suspenders having passed, by a warrant subscribed by them, from that double poinding; and thereafter giving warrant to insist therein, and at last passing therefrom, the LORDS found, nevertheless, that they would sustain process in the cause betwixt the two parties anent their rights, seeing they had both compeared and produced, and seen others rights; after which, albeit the suspenders in a double poinding should not insist, but pass from their instance, yet the parties ought to be discussed; and if

No 2.