

in anno 1618. The father charges the son by the former letters to fulfill the said decret 1617, and denounces him to the horn; whereupon John Hay, superior to the said young Laird, pursues for a declarator of his life-rent. It was alleged for Aikman, that this horning was null, in respect the letters, and hail contents of the decret-arbitral, which were the ground of the charge, were suspended *in anno* 1616; and the suspension intimated to the parties before denunciation, so no posterior charge given upon the letters which were suspended could be a ground to denounce him. It was replied, that the obedience given to the first charge by the son is a passing from the suspension; and he might very well charge for the subsequent years, without discussing the suspension. The Lords found the exception relevant.

No. 8.

Auchinleck MS. p. 87. & 228.

1632. November 18. TURNBUL *against* _____.

In a suspension, where the suspender called the charger to produce his charges, and to hear and see the same suspended *simpliciter*, the charger produces not, but is content that, according to the custom, the letters be suspended ay and while they be produced. The suspender alleged, that seeing he satisfied the production himself, and verifies the reason of his reduction instantly, he ought to have the letters suspended *simpliciter*; which the Lords sustained, and ordained this cause to be observed hereafter.

No. 9.

Auchinleck MS. p. 228.

1634. July 24. BRUNTFIELD *against* TROTTERS.

Eupham Bruntfeld pursues Trotters for contravention, the deed whereof was the taking away of her oxen out of her wains, in harvest 1633, casting down the corns, and taking away her kine; against which the defenders excepting, that they poinded the same lawfully, conform to a decret for poinding of the ground for an annual-rent of £.100, owing for the space of six or seven years by-past, preceding the year 1633; the pursuer replied, that the decret was suspended before the poinding; to which it was duplied, that the suspension was only in a double-poinding, raised by the tenants of the lands out of which the annual-rents should have been paid, complaining that they were distressed in the said lands by the annual-renter, on the one part, and by the pursuer, claiming right by wadset to the duties of the lands, on the other part, for the crop 1633; which double-poinding being only raised for that year, and no other year, and they suspending both the parties' rights, and charges, and decret, only for that one year, the same could not extend to any of the preceding years contained in the sentence, which were not questioned by that suspension and double-poinding. The Lords repelled the exception and duply on the poinding, in respect of the said preceding double-

No. 10.
Creditors pursuing tenants for payment of a particular year's rent, and being suspended on a multiple-poinding, cannot lawfully poind for any other year's rent, till the suspension be discussed.

No. 10. pointing and suspension, which, albeit it extended only *specificè* to the crop 1633, for the which no pointing was executed, yet the Lords found, that, during the dependence, and before the discussing thereof, the party could not misknow by pointing for any year whatsoever contained in the decret, seeing both the parties were summoned in the double-pointing to bring with them their rights and decreets, as also this decret for the annual-rent, and to see and hear the same suspended; and so the decret being called for to be suspended, he could execute the same for no year: Neither was it respected, that the defender alleged, that the same was suspended for the year 1633, and none other preceding; for it was elusory to think that the tenants would crave to have their goods and gear safe from pointing that year, and not to think that they desired to have the like for all years preceding, which the Lords found to be the just effect of the suspension; but the Lords reserved consideration and modification of the contravention to themselves at the advising of the cause, after probation was concluded.

Act. Craig.

Alt. Trotter.

Clerk, Gibson.

Fol. Dic. v. 2. p. 414. Durie, p. 733.

1642. January 25. STIRLING against AIKENHEAD.

No. 11.

Major Stirling having arrested, in Mr. James Aikenhead's hands, certain silver plate pertaining to Colonel Cunninghame, for satisfying of 300 merks, addebted by the said Colonel to Andrew Stirling of Law, brother to the Major, and which he was obliged to pay to his said brother, in name of the said Major; whereupon the said Mr. James being pursued to make the arrested goods forth-coming; it was alleged by Mr. James, that the principal bond was suspended by the Colonel, so that, till that suspension were discussed, no process could be granted upon this pursuit, seeing this pursuit is but a part of the execution of that bond, which is suspended. The Lords repelled this exception, seeing the principal party was called in this process, who might propone, by way of exception, any reasons contained in that suspension, which might elide the principal debt.

Fol. Dic. v. 2. p. 414. Durie, p. 888.

1672. January 25. MR. ALEXANDER BIRNIE against ———.

No. 12.

A suspension of a decree, *in foro* being passed, without reporting it to the Lords, was found null.

Mr. Alexander Birnie having obtained decret against ———, *in foro*, he obtained suspension by one of the Lords; which when it came to be discussed, the charger alleged, that the suspension was null, being passed contrary to the Act of Regulation, which appoints decreets *in foro* not to be suspended, but *in præsentia*, or by three Lords in the Vacation. It was answered, That this suspension being passed, it behoved to stand till it were discussed; 2do, That the Lords, upon