

No. 6. 1530. *January 15.* BRUCE *against* WARDLAW.

In a suspension of double-pounding raised by persons subject in payment to the party found to have best right, if the said suspension be called, and the process seen, the suspenders may not pass from the suspension, or discharge the party to compare for them, till the matter be discussed betwixt the parties called.

Auchinleck MS. p. 226.

* * Durie's report of this case is No. 2. p. 9127. *voce* MULTIPLE-POINDING.

No. 7. 1630. *January 21.* STRACHAN *against* CRAIGIEWAR.

A charge for fulfilling the hail heads of a contract being suspended, the charger declaring, that the charge is only for the fulfilling of a head or clause in the contract, and the letters being found simply suspended for that clause, the charge must be used of new, and that the charger cannot be heard to make a new declaration of the first charge for fulfilling of another clause contained in the contract.

Auchinleck MS. p. 227.

No. 8. 1630. *February 19.* HAY of TOURLANDS *against* LAIRD of AUCHNOMUS.
Effect of sus-
pension.

The Laird of Auchnomus being denounced to the horn, at his goodsire's instance, for not fulfilling of a decreet-arbitral decerning his oye to content and pay to him a chalder of victual of the crop 1615 and in time coming during his life-time, he suspends. The suspension lies undiscussed, because the oye makes payment of the victual for that year. Thereafter, the goodsire charges the oye for the crop 1616, and denounces him to the horn, and this horning is produced by James Hay of Tourlands against Auchnomus, to debar him *ab agendo* in an action pursued by Tourlands against Auchnomus. It is alleged, that this horning produced is null, because the same being for not fulfilling of the decreet-arbitral, and once suspended, could never be executed against him till the first suspension were discussed; which reason the Lords found relevant to make the alleged rebel stand in judgment, without prejudice to the user of the horning to pursue, or any other thing following thereupon.

1633. *February 8.*—The Laird of Auchnomus being charged by his father for fulfilling of a decreet-arbitral, *in anno* 1616, and specially for payment of certain duties which, by the said decreet-arbitral, he was ordained to pay to his father, during his life-time, yearly, the son suspends, which lies over to be discussed; but, in the mean time, the son makes payment to the father for the year 1616,

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.