

cessors of the office, and was not otherwise inherent in the person of the receiver being become a private person; and therefore the Lords yet assigned a competent day to the suspender, to produce the present Thesaurer's declaration, anent the said back-bond and escheat, that thereafter the Lords might consider thereof, and discuss the reason of suspension, and verification thereof.

Act. Craig.

Clerk, Gibson.

Durie, p. 642.

No. 37.

SECT. VI.

Expenses in a Suspension.—A Party becomes personally liable by suspending, though not formerly.

1632. November 28.

ROBERTSON against GREIG.

No. 38.

Greig pursues before the Sheriff of Perth, one Robertson, for the mails and duties of a room alleged pertaining to the said Greig in life-rent, whereupon the said Greig obtained decret *in foro contradictorio*. Robertson suspends, alleging, that this decret was wrongously given out against him, because his father was heritably infest in the said land, to the which infestment the said pursuer had consented. It was answered, Ought to be repelled in respect of the decret given *in foro contradictorio*, where this defence was competent and omitted. It was replied, That if any procurator compeared before the Sheriff, he had no warrant of the party, by reason the suspender's right was so clear, and nothing would be alleged in the contrary, and that the parties were poor folks. The Lords would not put the suspenders to a reduction, but suspended the letters simply, and ordained to give to the charger 100 merks of expenses, and to give action against the procurator, if he compeared, but a warran. This was thought hard and against form.

*Auchinleck MS. p. 228.*

1634. November 14.

M'NAUGHTON against M'NAUGHTON.

No. 39.

A decret of poinding the ground being suspended by the heritor, a singular successor not personally liable, and the suspension discussed in the charger's favours; the Lords found, That the suspender was personally liable to pay all.