

No 19.

1629. July 28. TENANT *against* LAIRD of DRUMKILBO.

Cows that are yoked in the plough may not be poinded, where other gear may be had.

Auchinleck, MS. p. 160.

No 20.

1629. November 24. DOWNIE *against* BROWN.

POINDING for a fine, upon a delict tried by an assize, sustained upon a baron-bailie's decree, though it wanted a precept of poinding, and though no charge was given.

Fol. Dic. v. 2. p. 92. Durie.

* * * This case is No 12. p. 6837. *voce* INDUCIÆ LEGALES.

1630. December 1. GIBSON *against* L. CORSBIE.

No 21.

Poinding of a work horse, in time of labouring, there being sufficiency of other poindable goods, is spuilzie.

IN a spuilzie of a horse, action was sustained, albeit the defender excepted against the same upon a lawful poinding, conform to a sentence; seeing it was *replied*, That the horse was a plough horse, and there were other goods poindable pertaining to this pursuer, more than would satisfy the debt; which reply was sustained: And the LORDS found it not necessary, that the pursuer should be astricted to say, that the horse was poinded at the very time when he was labouring in the plough; but that it was sufficient to reply and prove, that the fact was done in the ordinary season of ploughing, which was libelled to be in February, and which was sustained in that part, and that he was in use, diverse days immediately preceding the taking away of the horse, and continually all that season in labouring time, to work in the plough; neither was it found necessary, that the pursuer should be astricted to libel or reply, that he show to the persons who came to point at that time, the other goods which he had then poindable; but found it sufficient to reply, that he had goods then poindable, as said is. But the LORDS reserved the modification to themselves.

Act. Hart.

Alt. Craig.

Clerk, Gibson.

Fol. Dic. v. 2. p. 94. Durie, p. 544.