

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