

1707. *December 6.* JOHN LANRICK *against* ROBERT GLASSIE.

No. 17.

Whether a suspension can stop the sale of corn after a pointing has been proceeded in to the length of apprise-ment?

John Lanrick of Torrory gave in a bill to the Lords, representing, that he had obtained a decret against Robert Glassie of Auchenhay for £.170 Scots, and thereupon had pointed his stacks of corn, and not only apprised them on the ground of the lands, but also carried a rip of the corn, as a part and symbol of the whole, to the market-cross of Dumfries, the head town of the shire, and legally apprised them over again there, and offered them back to any person upon payment; after the pointing thus completed by the messenger some hours, one compeared for the debtor, and produced a passed bill of suspension, and protested he might proceed no farther, to the threshing out or disposing of the corns, till the suspension were discussed, under the pain of spuilzie, and contempt of the Lords' authority; and though he judged himself sufficiently warranted in law to prosecute his consummated pointing, yet he paid so much deference to the Lords' signed suspension, that he had forborne till he had their allowance to proceed; therefore craved the Lords' direction therein. Some said, there being no process, this was to ask a query which the Lords were not bound to answer, they being only Judges upon oyer and terminer; but the plurality thought, since they could regulate such cases by acts of sederunt, they might very well direct him upon this occasion; but, previous thereto, they issued out a citation against Glassie, the debtor, to answer the complaint, with certification if he did not, they would consider the case; and generally they thought the suspension intimated after the pointing was completed could hinder him from disposing of the corns; but superseded to give answer till they saw whether he would appear or not.

*Fol. Dic. v. 2. p. 414. Fountainhall, v. 2. p. 400.*

1708. *February 3.*

ARNOT of Woodmill *against* The COMMISSIONERS of the EQUIVALENT.

No. 18.

The Commissioners of the Equivalent being charged at the instance of Arnot of Woodmill, as pretending right to a share in the African Company, they presented a bill of suspension upon multiple-distress by arresters; and executed a summons of multiple-pointing against all the competitors; and the charger having obtained a warrant to discuss summarily; the Lords found, That the Commissioners of the Equivalent were not obliged to debate until their summons of multiple-pointing came in by course of the roll; and that the charger having applied for, and obtained a warrant for a summary discussion, could not thereafter pass therefrom, so as to oblige the Commissioners to expedite their suspension in common form.

*Forbes, p. 234.*