

No. 30. 1632. *November 1.* KNEILLAND *against* DUKE of LENOX.

In suspension where the suspender has intented reduction of the decret, and the reasons of suspension and reduction were the same, the Lords sometimes would discuss the reasons at one time, sometimes would find the letters orderly proceeded, and suspend the execution for a certain space, while the suspender in the meantime might pursue his reduction; but finding thereby that the parties were delayed, the suspender insisting in the reduction, and thereupon craving a further time to discuss the reduction, they have resolved to find the letters orderly proceeded in the suspension, and to ordain the charger to find caution for such space as the Lords think meet for discussing of the reduction; that if the suspender prevail in the reduction, the charger shall refund the sum contained *cum omni causa*.

*Auchinleck MS. p. 227.*

No. 31. 1632. *November 28.* KIRKTON *against* HOME.

It is the ordinary custom in suspensions, where the suspender compears, and the charger absents himself, to suspend the letters ay and while they be produced, and no further; yet where the party suspends upon a reason which he verifies by writ in absence of the charger, the Lords have suspended the charge *simpliciter*, because of the instant verification.

*Spottiswood, p. 325.*

1636. *March 9.* STIRLING *against* HAMILTON.

No. 32.  
A reason of suspension, that the charger poinded goods in satisfaction of his decree, cannot be proved otherwise than by writ or oath of party, for reasons of suspension must be instantly ve-

Stirling of Law charging one Hamilton for payment of £.16 contained in a decret, obtained before the Bailies of the regality of Glasgow, for the price of some corns destroyed by the defender, and eaten by his goods; and he suspending upon this reason, that the charger had poinded a cow from the suspender, for satisfaction of the same cause, contained in this sentence; which being controverted how the same should be proved, by writ, oath of party, or witnesses; the suspender alleged, it was proveable by witnesses, being a mean matter of so small importance, and for such a cause, viz. for alleged eating of corns, which, as it was proved and constituted by witnesses, so might the liberation thereof also be proved by witnesses. The Lords not the less found that reason, bearing the poinding of a cow, ought to be proved by writ, or oath of party, and not by witnesses, seeing there was once a sentence obtained therefore; and this was in a suspension also, which ought not