

On the 8th August 1787, "The Lords, in respect that, by the deed 1777, Munro of Newmore was habilely denuded, sustained the reasons of reduction of the debts contracted posterior to the date of that deed."

Act. Adam Rolland, &c. *Alt.* R. Blair, &c.
Reporter, Henderland.

1787. August 9. RICHARD HOTCHKIS *against* JAMES EYRE.

POINDING.

Act 20th Geo. II. c. 48. A poinding, commenced within the head burgh of a shire, must be completed at the market-cross of the burgh.

[*Fac. Coll. IX. 533; Dict. 10,542.*]

HAILES. Messengers ought to be kept within the exact line of their duty, from which, in our days, they have a strange propensity to depart. The pretence for terminating, at the market-cross of the Canongate, a poinding begun in Edinburgh, is, that the new bridge was not accessible at the time for carts. But, *1st*, How does it appear that poinded goods must be carried in *carts* to the market-cross? *2dly*, Can we suppose that the magistrates of Edinburgh would have refused, on application made to them, a temporary passage for the carts? *3dly*, If the passage by the North Bridge was inaccessible, why did not the carts go by Leith Wynd? And, if that passage should be found inconvenient, why not by New Street? It is a jest to say that that could not be, because New Street is private property; because, for the time, it is used by the public, and Leith stages go that way every day. *Here* the messenger made the apprisement in an obscure place as a market-cross, while it might have happened, and, it is said, did happen, that the friends of the debtor were attending at the market-cross of Edinburgh to redeem or purchase the goods.

PRESIDENT. The statute, 20th Geo. II., for the general conveniency of the subject, allowed some latitude to messengers; and this messenger does not seem to have gone beyond those powers.

ESK GROVE. I admit that messengers have a latitude by the jurisdiction act; but I do not see that they have any power to begin a poinding in *one* territory and complete it in *another*.

On the 9th August 1787, "The Lords, in respect that the poinding was commenced within the royal burgh of Edinburgh, found that it ought to have been completed within the same burgh, and remitted to the Ordinary to proceed accordingly;" varying the interlocutor of Lord Swinton.

For Eyre,—Alexander Fraser Tytler. *Alt.* H. Erskine.