

requiring a charge once given to be renewed. It is at the same time true, that after year and day the party cannot be denounced without intimation, because of the heavy consequences of a denunciation. *Vide* Spotiswood, tit. HORN-ING.

No 48.

*Kilkerran, (POINDING.) No 2. p. 404.*

1750. February 9.

A. against B.

ON the verbal report of Lord Tinwald Justice-Clerk, it was found, That the apprisers on the ground, and at the cross, ought to be different persons; and therefore, where the same persons, who had appraised sheep and cows upon the ground, were carried along to be, and were the apprisers at the cross, the poinding was found void, but not so as to infer spuilzie or other penal consequences, but only to make the poinder liable for the highest value the goods could be proved to have been worth. See No 51. *infra*.

No 49.

*Kilkerran, (POINDING.) No 1. p. 404.*

1751. January 4.

ALEXANDER STEWART, against JOHN STEWART.

ALEXANDER STEWART in Mill of Drummachan, gave in a complaint against John Stewart in Dalreoch, for poinding his cattle upon a bill after a sist on a bill of suspension presented by him.

No 50.

*Answered,* The sist was expired.

*Replied,* Answers had been given in to the bill of suspension, whereby a dependence was created; and it was unlawful to poind.

THE LORDS found the proceeding to diligence by poinding, while the bill of suspension with the answers given in thereto depended before the Lord Ordinary to be advised, was irregular.

Act. Miller.

Alt. Wedderburn.

*D. Falconer, v. 2. No 175. p. 210.*

1751. December 6.

GEDDES of Rachan against JAMES MITCHELL.

IN a poinding of a parcel of sheep belonging to James Geddes of Rachan, at the instance of James Mitchell tenant in Castlehill, the same apprisers who had valued them on the ground before carrying away, were employed again to apprise them at Peebles, the head burgh of the shire; after making enquiry and search for the sworn appretiators, and burley men of the town, who could not be found, nor any others proper for that purpose, as the execution bore.

No 51.

A poinding null, where the apprisers at the crop were the same with those on the ground.