

ANNO DECIMO

GEORGII IV. REGIS.

****

CAP. LV.

An Act for the more effectual Recovery of Small Debts, and for diminishing the Expences of Litigation in Causes of small Amount, in the Sheriff Courts in *Scotland*. [19th *June* 1829.]

WHEREAS an Act was made in the Sixth Year of the Reign of His present Majesty, intituled *An Act for the more easy Recovery of Small Debts in the Sheriff Courts in* Scotland, the Provisions of which have been found beneficial; but Experience has pointed out certain Alterations by which its Benefits will be extended and rendered more effectual, and it is expedient that such Alterations and the former Provisions should be consolidated in One Act: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said recited Act shall be and the same is hereby repealed from and after the First Day of *September* next, save and except as to such Causes as shall have been commenced under the Authority of the said recited Act before the said First Day of *September* next, and shall be then depending; all which Causes shall be carried to a Conclusion, according to the Rules prescribed by the said Act, notwithstanding this Act. 6 G. 4. c. 24.

Recited Act repealed, after 1st Sept. next, except as to Causes then commenced.

II. And be it enacted, That from and after the First Day of *September* next, it shall be lawful for any Sheriff in *Scotland*, within his

Sheriffs may hear and determine

Causes for Sums under 100*l.* Scots in a summary Way.

his County, to hear, try, and determine in a summary Way, as more particularly herein-after mentioned, all Civil Causes, and all Prosecutions for statutory Penalties, that may be competently brought before him, wherein the Debt, Demand, or Penalty concluded for shall not exceed the Value of One hundred Pounds *Scots*, exclusive of Expences and Fees of Extract: Provided always, that the Pursuer or Prosecutor shall in all Cases be held to have passed from and abandoned any remaining Portion of any Debt, Demand, or Penalty beyond the Sum actually concluded for in any such Cause or Prosecution.

Providing Forms of Proceedings.

III. And be it enacted, That all such Causes and Prosecutions, which the Pursuers or Prosecutors thereof shall choose to have heard and determined according to the summary Mode hereby provided, shall proceed, except as herein-after provided in regard to Forthcomings, upon Summons or Complaint, agreeably to the Form in Schedule (A.) subjoined to this Act, stating shortly the Origin of Debt or Ground of Action, and concluding against the Defender; which Summons or Complaint, being signed by the Sheriff Clerk, shall be a sufficient Warrant and Authority to any Sheriff's Officer for summoning the Defender to appear and answer at the next Sheriff Court after the Date of the Citation, not being sooner than upon the Sixth Day after such Citation, and also for summoning such Witnesses and Havers as either Party shall require; and a Copy of the said Summons or Complaint, with the Citation annexed, and also a Copy of the Account, if any, shall be served at the same Time by the Sheriff's Officer on the Defender personally, or at his Dwelling Place, in which last Case, if the Defender shall not appear, he shall be cited a Second Time personally, or at his Dwelling Place, upon the Words *de novo* being either subjoined to the original Summons, and signed by the Sheriff Clerk, or written in the Procedure Book kept by the Clerk, and signed by the Sheriff, to appear at the next Court after the Date of the said Citation, not being sooner than the Sixth Day after such Citation; and if the Defender has been cited for the first Time to a Diet of Court not sooner than Twelve free Days from the Date of the Citation, it shall be lawful for the Sheriff's Officer, in case the Defender shall not have been personally found at the First Citation, to cite him a Second Time, either personally or at his Dwelling Place, to the same Diet of Court, on the Authority of the original Warrant, and without previously returning an Execution of the First Citation, provided that such Second Citation shall not be given sooner than upon the Sixth Day after the Date of the First Citation, nor later than upon the Sixth Day before the Diet of Court to which the Defender is so cited for the Second Time; and the Officer summoning Parties, Witnesses, or Havers, shall in all Cases under this Act return an Execution of Citation signed by him, or shall appear and give Evidence on Oath of such Citation having been duly made, and all such Citations given by an Officer alone without Witnesses, and Executions thereof subscribed by such Officer, shall be good and effectual to all Intents and Purposes.

Arrestment of Goods of Defender.

IV. And be it enacted, That the Pursuer of any Civil Cause may obtain a Warrant, signed by the Sheriff Clerk of the County within

which the Defender resides, agreeably to the Form in Schedule (B.) subjoined to this Act, for Arrestment, on the Dependence of the Action, of any Money, Goods, or Effects to an Amount or Extent not exceeding the Value of One hundred Pounds *Scots*, owing or belonging to such Defender, in the Hands of any Third Party, and may at any Time before Decree is pronounced in the Cause, provided such Time does not exceed Sixty Days from the Date of such Warrant, use Arrestment thereon against such Money, Goods, and Effects owing or belonging to such Defender, either within the County in which such Warrant shall have been issued, or in any other County or Counties: Provided always, that before using such Warrant in any other County, it shall be presented to and indorsed by the Sheriff Clerk of such other County, who is hereby required to make such Indorsement on Payment of the Fee herein-after mentioned; and provided also, that any Arrestment laid on under the Authority of this Act shall, on the Expiry of Three Months from the Date thereof, cease and determine without the Necessity of a Decree or Warrant of loosing the same, unless such Arrestment shall be renewed by a Special Warrant or Order, duly intimated to the Arrestee, in which Case it shall subsist and be in force for the like Time and under the like Conditions as under the original Warrant, or unless an Action of Forthcoming, in manner herein-after provided, shall have been raised before the Expiry of the said Period of Three Months, in which Case the Arrestment shall subsist and be in force until the Termination of such Action of Forthcoming.

For providing how Arrestments may be loosed.

V. And be it enacted, That when any Arrestment shall have been used on the Dependence of any Action, it shall be competent to the Defender to have such Arrestment loosed, on lodging with the Sheriff Clerk of the County in which such Arrestment shall have been used a Bond or Enactment of Caution, by One or more good and sufficient Cautioners, to the Satisfaction of such Sheriff Clerk, agreeably to the Form in Schedule (B.) subjoined to this Act, or on consigning in the Hands of such Sheriff Clerk the Amount of the Debt or Demand, and a reasonable Sum for Expences, or on producing to such Sheriff Clerk Evidence of the Defender having obtained Decree of Absolvitor in the Action, or of his having paid the Sums decerned for, or of his having consigned in the Hands of the Clerk of the Court in which the Action depended the Sums decerned for, or the Amount of the Debt or Demand, and a reasonable Sum for Expences, when no Decree has yet been pronounced; and a Certificate by the Sheriff Clerk of the County in which such Arrestment shall have been used, of a Bond or Enactment of Caution to the Extent of the Debt or Demand, and Expences, having been lodged with him, or of Consignation as above provided having been made in his Hands, shall be a sufficient Authority for obtaining a Warrant for loosing any other Arrestment used on the Dependence of the same Action, without any other Caution being found, or any other Consignation being made by the Defender.

Rendering Arrestments effectual.

VI. And be it enacted, That any Person entitled to pursue an Action of Forthcoming, where the Sum or Demand shall not exceed the Value of One hundred Pounds *Scots*, exclusive of Expences and

and Fees of Extract, who shall choose to have the same heard and determined according to the summary Mode provided by this Act, shall proceed by Summons or Complaint agreeably to the Form in Schedule (C.) subjoined to this Act, concluding for Payment of the Sum for which Arrestment has been used, or for Delivery of the Goods and Effects arrested, which Summons or Complaint, being signed by the Sheriff Clerk of the County in which the Arrestee resides, shall be a sufficient Warrant and Authority to any Sheriff's Officer for summoning the Arrestee and the Common Debtor to appear and answer at a Sheriff Court of the County in which the Arrestee resides, the same not being sooner than the Sixth Day after the Date of Citation, and also for summoning Witnesses and Havers for all Parties; and in the Event of the Common Debtor not residing and not being found within the County in which such Action of Forthcoming shall be brought, he may be cited in any other County on the said Warrant, the same being first presented to and indorsed by the Sheriff Clerk of such other County, who is hereby required to indorse the same on Payment of the Fee herein-after mentioned, to appear at a Sheriff Court in the County in which the Arrestee resides, the same not being sooner in such Case than on the Twelfth Day after the Date of Citation; Provided always, that the Arrestee and the Common Debtor shall be cited to appear on the same Court Day, and that a Copy of the said Summons or Complaint, with the Citation annexed thereto, shall be served by the Sheriff's Officer on every Defender personally, or at his Dwelling Place, all in the same Manner and under the like Conditions as to Citation as herein-before provided in other Causes and Prosecutions under Authority of this Act, but always allowing to a Party cited to appear in the Sheriff Court of a different County from that in which the Citation shall be given Double the Time required by this Act to be allowed to a Party cited to appear in the Sheriff Court of the County within which the Citation shall be given.

Compelling Attendance of Witnesses.

VII. And be it enacted, That every Officer of Court to whom any Warrant as aforesaid for citing Witnesses and Havers shall be entrusted, shall cite such Witnesses or Havers as any Party shall require; and all such Warrants shall have the same Force and Effect in any other County as in the County where they are originally issued, the same being first presented to and indorsed by the Sheriff Clerk of such other County, who is hereby required to indorse the same, on Payment of the Fee herein-after mentioned; and if any Witness or Haver, duly cited, shall fail to appear, it shall be competent to any Party for whom such Witness or Haver is summoned, to apply for a new Warrant to compel his Attendance at the next Court, or any subsequent Court to which the Case may be adjourned; which Warrant shall require him to attend to give Evidence, under a Penalty not exceeding Forty Shillings, unless a reasonable Excuse be offered and sustained; and every such Penalty shall be paid to the Party applying for the new Warrant as aforesaid, and shall be recovered in the same Manner as other Penalties under this Act, without Prejudice always to Letters of Second Diligence, for compelling Witnesses and Havers to attend as at present competent; and it shall be no Objection to any Witness that such Witness

Witness has appeared without Citation, or without having been regularly cited.

Hearing and Judgment.

VIII. And be it enacted, That when the Parties shall appear the Sheriff shall hear them *viva voce*, and examine Witnesses or Havers upon Oath, and may also examine the Parties, and may put them or any of them upon Oath, and may pronounce Judgment; and the Decree stating the Amount of the Expences, if any, found due to any Party, (which may include personal Charges, if the Sheriff think fit,) and containing Warrant for Arrestment, and for Poinding and Imprisonment, shall be annexed to the Summons or Complaint, and on the same Paper with it, agreeably to the Form in Schedule (A.) subjoined to this Act; which Decree and Warrant, being signed by the Clerk, shall be a sufficient Authority for instant Arrestment, and also for Poinding and Sale, and Imprisonment, Six free Days from the Date of the Decree, if the Party against whom it shall have been given was personally present when it was pronounced, but if he was not so present, Poinding and Sale, and Imprisonment, shall only proceed after a Charge of Six free Days, by serving a Copy of the Complaint and Decree on the Party personally or at his Dwelling Place; and if any Decree shall not be enforced by Poinding or Imprisonment within a Year from the Date thereof, or from a Charge for Payment given thereon, such Decree shall not be enforced without a new Charge duly given as aforesaid.

Arrestment.

Procurators, &c. not to appear or plead, nor Pleadings, &c. entered, without Leave of Court.

IX. And be it enacted, That no Procurators, Solicitors, nor any Persons practising the Law, shall be allowed to appear or plead for any Party without Leave of the Court; nor shall any of the Pleadings, Arguments, Minutes, or Evidence be reduced to Writing, or be entered upon any Record, unless with Leave of the Court first had and obtained, in consequence of any Difficulty in point of Law, or special Circumstances of any particular Case: Provided always, that when the Sheriff shall order any Pleadings, Arguments, Minutes, or Evidence to be reduced to Writing, every Case in which such Order shall be made shall thenceforth be conducted according to the ordinary Forms and Proceedings in Civil Causes and in Prosecutions for statutory Penalties, and shall be disposed of in all respects as if this Act had not been passed.

Parties not appearing or making sufficient Excuse, to be held confessed.

X. And be it enacted, That any Defender who has been duly cited personally, or by Two Citations at his Dwelling Place, failing to appear personally or by One of his Family, or by such Person as the Sheriff shall allow, shall be held confessed, and the other Party shall obtain Decree against him; and in like Manner, if the Pursuer or Prosecutor shall fail to appear personally, the Defender shall obtain Decree of Absolvitor, unless in either Case a sufficient Excuse for Delay shall be stated; on which Account, or on account of the Absence of Witnesses, or any other good Reason, it shall at all Times be competent for the Sheriff to adjourn any Case to the next or any other Court Day, and to ordain the Parties and Witnesses then to attend.

Re-hearing in Cases of Decree in Absence.

XI. And be it enacted, That where a Decree has been pronounced in Absence of a Defender, it shall be competent for him, upon consigning the Sum decerned for in the Hands of the Clerk, at any Time before the Days of the Charge shall elapse, to obtain from the Clerk a Warrant, signed by him, sisting Execution till the next Court Day, or to any subsequent Court Day to which the same may be adjourned, and containing Authority for citing the other Party, and Witnesses and Havers for both Parties; and the Clerk shall be bound to certify to the Sheriff on the next Court Day every such Application for Re-hearing and Sist granted; and such Warrant being duly served upon the other Party personally, or by Two Citations at his Dwelling Place, in the Manner provided in other Cases by this Act, shall be an Authority for re-hearing the Cause; and in like Manner, where Absolvitor has passed in Absence of the Pursuer or Prosecutor, it shall be competent for him, at any Time within One Calendar Month thereafter, upon consigning in the Hands of the Clerk the Sum awarded by the Sheriff in his Decree of Absolvitor as the Expences for the Defender and his Witnesses, to obtain a Warrant, signed by the Clerk, for citing the Defender and Witnesses for both Parties, which Warrant, being duly served upon the Defender personally, or by Two Citations at his Dwelling Place, in the Manner provided in other Cases by this Act, shall be an Authority for re-hearing the Cause, as hereby provided in the Case of a Re-hearing at the Instance of the Defender; the said Sum of Expences, awarded by the Sheriff and consigned as aforesaid, being in every Case paid over to the Defender, unless the contrary shall be specially ordered by the Court; and all such Warrants for Re-hearing shall be in force, and may be served by an Officer of the County where they are issued, in any other County, without Indorsation, or other Authority than this Act.

Books of Causes, &c. to be kept.

XII. And be it enacted, That the Sheriff Clerk shall keep a Book, wherein shall be entered all Causes conducted under the Authority of this Act, setting forth the Names and Designations of the Parties, and whether present or absent at the Calling of the Cause, the Nature and Amount of the Claim, and Date of giving it in, the Mode of Citation, the several Deliverances or Interlocutors, and the final Decree, with the Date thereof; which Book shall be signed each Court Day by the Sheriff, and the said Entries by the Clerk shall be according to the Form in Schedule (D.) subjoined to this Act, or with such Addition as the Sheriff shall appoint; and the Sheriff Clerk shall also keep a Book or Books, containing a Register or Registers of all Indorsations of Decrees and Warrants issued in other Counties, and of all Warrants for Arrestment on the Dependence, and of all Loosings of Arrestment, and of all Reports of Poindings, and Sales of Goods and Effects arrested, which Registers shall be open and patent, at Office Hours, to all concerned, on Payment of the Fee herein-after mentioned.

Power to direct Payment by Instalments.

XIII. And be it enacted, That the Sheriff may, if he think proper, direct the Sum or Sums found due, to be paid by Instalments weekly, monthly, or quarterly, according to the Circumstances of

the Party found liable, and under such Conditions or Qualifications as he shall think fit to annex.

Decrees may be enforced in any other County.

XIV. And be it enacted, That any Decree obtained under this Act may be enforced against the Person or Effects of any Party in any other County, as well as in the County where the Decree is issued: Provided always, that such Decree, or an Extract thereof, shall be first produced to and indorsed by the Sheriff Clerk of such other County, who is hereby required to make such Indorsement, on Payment of the Fee herein-after mentioned.

Appraisement and Sale of Effects.

XV. And be it enacted, That the Poinding and Sale shall be carried into effect by the Officer in a summary Way, by getting the Effects poinded duly appraised by Two Persons, who may also be Witnesses to the Poinding, and leaving an Inventory or List thereof for the Party whose Effects are poinded, and carrying such Effects either to the nearest Market Town or to the nearest Village, and selling the same to the highest Bidder by public Roup, between the Hours of Eleven Forenoon and Three Afternoon, at the Cross or such most public Place, on previous Notice of at least Two Hours by the Crier, but reserving to the Sheriff, by such General Regulation or Special Order in any particular Case, as he shall think fit, to appoint a different Hour or Place for the Sale, or a longer or different Kind of Notice to be given of the Time of selling; and the Overplus of the Price, if there shall be any, after Payment of the Sums decerned for, and the Expences, if Expences are awarded, including what is allowed by this Act for Poinding and Sale, shall be returned to the Owner; or if the Effects are not sold, the same shall be delivered over at the appraised Value to the Creditor, to the Amount of the Sum decerned for, and Expences, if awarded, and the Allowances for Poinding and Sale; and a Report of the Poinding and Sale and Proceeds, or of the Delivery of the Effects, shall in every Case be made by the Officer to the Sheriff Clerk within Eight Days thereafter, agreeably to the Form in Schedule (D.) subjoined to this Act; and where the Sheriff shall order a Sale of Goods or Effects arrested, the same Course of Proceeding shall be adopted as is above directed in the Case of Poinding and Sale; and no Officer to whom the Enforcement of Decrees or Warrants in Cases falling under this Act may be committed, shall be liable to any Penalty, Fine, or Punishment for selling Goods or Effects, under Authority of such Decrees or Warrants, by public Auction, although such Officer may not be licensed as an Auctioneer; any thing in any Act or Acts to the contrary notwithstanding.

Actions for Damages by Riot under 3 G. 4. c. 33., and for Recovery of Assessments, authorized by 9 G. 4. c. 39., may be determined by this Act.

XVI. And be it enacted, That all Actions of Damages for Compensation for Loss or Injury by the Act or Acts of any unlawful, riotous, or tumultuous Assembly in *Scotland*, or of any Person engaged in, or making Part thereof, authorized to be brought by an Act passed in the Third Year of His present Majesty's Reign, where the Sum concluded for does not exceed One hundred Pounds *Scots*; as also all Actions for Recovery of Assessments by virtue of an Act passed in the Ninth Year of His present Majesty's Reign, intituled *An Act for the Preservation of the Salmon Fisheries in* Scotland, may be heard and

and determined in the summary Way provided by this Act, and this notwithstanding the Amount of such Assessments shall exceed One hundred Pounds *Scots*.

Holding Courts at other than usual Places.

XVII. And be it enacted, That at all Times when the Sheriff of any Shire shall judge it expedient to hold Courts for the Purposes of this Act, whether in Time of Session or of Vacation, at any other than the usual Place or Places for holding the same, or shall be directed so to do by His Majesty's Warrant, as provided in other Cases by Act of Parliament, the Sheriff Clerk is hereby required to attend at such Times and Places, and to find the necessary Accommodation for holding such Courts all on his own Charges and Expences, in respect of the Fees allowed by this Act.

20 G. 2. c. 43.

Decree not subject to Appeal, except as herein provided.

XVIII. And be it enacted, That no Decree given by any Sheriff in any Cause or Prosecution raised under the Authority of this Act, where the Sheriff shall not have ordered any Pleadings, Arguments, Minutes, or Evidence to be reduced to Writing, shall be subject to Advocation, Suspension, or Appeal, or any other Form of Review or Stay of Execution, other than herein-before provided, either on the Merits or on account of any Omission in the Proceedings, or of any Irregularity or Informality, or on any Ground or Reason whatever, excepting only an Appeal on the Ground of Corruption or Malice and Oppression on the Part of the Sheriff, to the next Circuit Court of Justiciary, or where there are no Circuit Courts, to the High Court of Justiciary at *Edinburgh*, in the Manner and by and under the Rules, Limitations, Conditions and Restrictions contained in an Act passed in the Twentieth Year of the Reign of King *George* the Second, for taking away and abolishing the Heritable Jurisdictions in *Scotland*.

20 G. 2. c. 43.

Fees to be taken.

XIX. And be it enacted, That the following and no other or higher Fees shall be allowed to be taken for any Matters done in any Cause or Prosecution raised under the Authority of this Act:

CLERKS FEES:

Summons, One Shilling.
Each Copy for Service, Sixpence.
Entering in Procedure Book, Sixpence.
Warrant to cite *de novo*, and re-entering, Sixpence.
Warrant to arrest on Dependence, and entering in Book, One Shilling.
Loosing Arrestment, One Shilling.
Bond of Caution, One Shilling and Sixpence.
Second Diligence for compelling Witnesses or Havers to attend, One Shilling.
For every Oath of Witness, Four-pence.
For every Oath of Party, One Shilling.
Decree, Sixpence.
Re-hearing, One Shilling and Sixpence.
Indorsation of Decree or Warrant, and entering in Book, One Shilling.

Receiving

Receiving Report of Poinding and Sale, and entering in Book, One Shilling and Sixpence.
Inspection of Book or Books of Indorsations and Reports, Sixpence.

OFFICERS FEES, INCLUDING ASSISTANTS:

First Citation of a Party, and Execution, if Citation given personally, One Shilling.
Ditto, ditto, if Citation not given personally, Sixpence.
Second ditto, ditto, personally or not, Sixpence.
Citation of a Witness or Haver, Sixpence.
Charging on Decree and returning Execution of Charge, One Shilling.
Arrestment and returning Execution thereof, Sixpence.
Intimation of loosing Arrestment and Execution thereof, Sixpence.
Poinding and Inventory, Two Shillings and Sixpence.
Sale and Report, Two Shillings and Sixpence.
Enforcing Warrant of Imprisonment, Three Shillings.
Officer's travelling Expences, for each complete Mile from the Court House or the Residence of the Officer employed, the Distance travelled in returning after Execution of the Duty not to be reckoned, Five-pence.
Assistants, each, *per* Mile, in the same Manner, Four-pence.

CRIER'S FEE.

For calling each Cause, One Penny.

And the said Fees shall be subject to Modification in Causes of very small Amount, or where the Complaint is directed against Two or more Defenders.

Table of Fees to be printed and hung up.

XX. And be it enacted, That an exact Copy of the immediately preceding Section of this Act shall be printed on each Summons or Complaint, and on each Service Copy thereof; and shall also be at all Times hung up in every Sheriff Clerk's Office, and in every Sheriff Court Place, during the holding of any Sheriff's Small Debt Court; and any Sheriff Clerk, from whose Office any Summons or Service Copy thereof shall be issued, not having such Copy of the said Section printed thereon, or at any Time omitting to have such Copy hung up in his Office, or in the Sheriff Court Place as aforesaid, shall be liable in a Penalty not exceeding Forty Shillings, to be recovered at the Instance of any Person who shall prosecute for the same, and to be disposed of as the Sheriff shall direct.

Officers neglecting Duty, to be fined.

XXI. And be it enacted, That in all or any of the Cases above mentioned, where any Decree or Warrant shall have been indorsed as aforesaid, the Sheriff's Officers of the County where such Decree or Warrant has been originally issued, as well as of any County wherein the same is indorsed, are hereby authorized and required to obey and enforce such Decree or Warrant within such other County; and any Sheriff's Officer failing to report any Poinding and Sale as above directed, or violating or neglecting any other Duty entrusted

to him under this Act, or wilfully acting contrary to any Provision thereof, shall be liable in a Penalty not exceeding Forty Shillings, to be recovered at the Instance of any Person aggrieved thereby, and to be disposed of as the Sheriff shall direct, reserving always all further Claim of Damages otherwise competent against any such Officer, and without Prejudice to the Sheriff's lawful Authority to remove and punish all Officers of his Court for Misbehaviour or Malversation in Office.

Privileged Persons not exempt.

XXII. And be it enacted, That no Person shall be exempt from the Jurisdiction of the Sheriff, in any Cause or Prosecution raised under the Authority of this Act, on account of Privilege, as being a Member of the College of Justice.

Expences to be taxed.

XXIII. And be it enacted, That in all Causes and Prosecutions wherein the Debt, Demand, or Penalty shall not exceed the Value of One hundred Pounds *Scots*, exclusive of Expences and Fees of Extract, which shall in future be brought or carried on before any Sheriff Court not according to the summary Form herein provided, it shall be lawful for any Sheriff, notwithstanding, to allow no other or higher Fees to be taken than those above mentioned.

Explanation of Words.

XXIV. And be it enacted, That in all Cases in this or any Act passed or to be passed affecting *Scotland*, where any of the Terms Sheriff, Sheriff Clerk, Shire, Sheriffdom, or County, shall be used, the same shall be deemed and taken to apply to any Stewart, or Stewart Clerk, or Stewartry in *Scotland*.

SCHE-

SCHEDULE (A.)

No. 1.

SUMMONS or COMPLAINT in a CIVIL CAUSE.

A. B. Sheriff of the Shire of to Officers of Court, jointly and severally.

WHEREAS it is humbly complained to me by *C. D.* [*design him*], that *E. F.* [*design him*] Defender is owing the Complainer the Sum of [*here insert the Origin of Debt or Ground of Action*], which the said Defender refuses or delays to pay; and therefore the said Defender ought to be decerned and ordained to make Payment thereof to the Complainer, with Expences: Herefore it is my Will, that on Sight hereof ye lawfully summon the said Defender to compear before me or my Substitute in the Court House at upon the Day of at of the Clock, to answer at the Complainer's Instance in the said Matter, with Certification, in case of Failure, of being held as confessed; requiring you also to deliver to the Defender a Copy of any Account pursued for, and that ye cite Witnesses and Havers for both Parties to compear at the said Place and Date, to give Evidence in the said Matter. Given under the Hand of the Clerk of Court at the Day of

J. P. Sheriff Clerk.

No. 2.

CITATION for DEFENDER.

E. F. Defender above designed, You are hereby summoned to appear and answer before the Sheriff, in the Matter, and at the Time and Place, and under the Certification set forth in the above Copy of the Summons or Complaint against you.

This Notice* served upon the Day of by me,

J. T. Sheriff Officer.

* If there is an Account, the Officer must serve a Copy of it along with the Copy of the Summons or Complaint, and add here, "with a Copy of the Account."

No. 3.

EXECUTION of CITATION of DEFENDER.

UPON the Day of Eighteen hundred and I duly summoned the above-designed *E. F.* Defender, to appear and answer before the Sheriff, in the Matter, and at the Time and Place, and under the Certification above set forth.

This

This I did by leaving a full Copy of the above Summons or Complaint, with a Citation thereto annexed,* for the said Defender [*in his Hands personally or otherwise, as the Case may be*].

J. T. Sheriff Officer.

* If there is an Account, the Officer must serve a Copy of it along with the Copy of the Summons or Complaint; and that being done, add here the Words, "and a Copy "of the Account."

No. 4.

CITATION for WITNESSES.

M. N. [*design him*] You are hereby summoned to appear before the Sheriff of the Shire of or his Substitute, in the Court House at upon the Day of Eighteen hundred and at of the Clock, to bear Witness for the [Pursuer *or* Defender, *as the Case may be*] in the Summons or Complaint, at the Instance of *C. D.* [*design him*] against *E. F.* [*design him*].

This Notice, served on the Day of by me,

J. T. Sheriff Officer.

No. 5.

EXECUTION of CITATION of WITNESSES.

UPON the Day of Eighteen hundred and I duly summoned *M. N.* &c. [*design them*] to appear before the Sheriff of the Shire of or his Substitute, in the Court House at upon the Day of Eighteen hundred and at of the Clock, to bear Witness for the in the Summons or Complaint at the Instance of *C. D.* [*design him*] against *E. F.* [*design him*]. This I did by delivering a just Copy of Citation, signed by me, to the said *M. N.* [*personally or otherwise, as the Case may be*].

J. T. Sheriff Officer.

No. 6.

DECREE for PURSUER in a CIVIL CAUSE.

AT the Day of One thousand eight hundred and the Sheriff of the Shire of finds the within-designed Defender liable to the also within-designed Pursuer in the Sum of with of Expences, and decerns and ordains instant Execution by Arrestment, and also Execution to pass hereon by Poinding and Sale and Imprisonment, after free Days.

J. P. Sheriff Clerk.

No. 7.

SUMMONS or COMPLAINT for STATUTORY PENALTY.

A. B. Sheriff of the Shire of to Officers of Court jointly and severally.

WHEREAS it is humbly complained to me by *C. D.* Procurator Fiscal of Court, [*or, where a private Party only,*] *G. H.* [*or, where a private Party prosecutes with Concurrence of the Procurator Fiscal,*] *G. H.* with Concurrence of *C. D.* Procurator Fiscal of Court, that *E. F.* Defender has incurred the Penalty of imposed by the Act of Parliament [*mention the Act,*] the said Defender having [*state the Offence, specifying Time and Place*]: Therefore the said Defender ought to be decerned and ordained to make Payment of the said Penalty, with Expences, [*state to whom and in what Proportions payable*]: Herefore it is my Will, that on Sight hereof ye lawfully summon the said Defender to compear before me or my Substitute, in the Court House at upon the Day of at of the Clock, to answer at the Complainer's Instance in the said Matter, with Certification, in case of Failure, of being held as confessed; and that ye cite Witnesses and Havers for both Parties to compear at the same Place and Date, to give Evidence in the said Matter. Given under the Hand of the Clerk of Court, at the Day of

J. P. Sheriff Clerk.

Concurs *C. D.* Procurator Fiscal.

[*For Citation for Defender, and Execution thereof, and Citation for Witnesses, and Execution thereof, see Nos. 2, 3, 4, and 5 respectively.*]

No. 8.

DECREE for PROSECUTOR IN PROSECUTION for PENALTY.

AT the Day of One thousand eight hundred and the Sheriff of the Shire of finds that the within-designed *E. F.* Defender has incurred the Penalty of as libelled, payable to [*if there is a Power to mitigate, and a Mitigation, add,* "which is hereby mitigated to the Sum of "]; and also finds the said Defender liable in of Expences to the Complainer, and decerns and ordains instant Execution by Arrestment, and also Execution by Poinding and Sale and Imprisonment, after free Days.

J. P. Sheriff Clerk.

No. 9.

DECREE of ABSOLVITOR, with EXPENCES.

[*The following will answer either for Civil Causes or Prosecutions for Penalties.*]

AT the Day of One thousand eight hundred and the Sheriff of the Shire of assoilzies the within-designed *E. F.* Defender from the within Complaint, and finds the within-designed *C. D.* Pursuer liable to him in the Sum of of Expences, the Expence of extracting the Decree included; and decerns and ordains instant Execution by Arrestment, and also Execution to pass hereon by Poinding and Sale and Imprisonment, after free Days.

J. P. Sheriff Clerk.

No. 10.

CHARGE on DECREE.

E. F. above designed, You are hereby charged to implement the Decree, of which, and of the Complaint whereon the same proceeded, the above is a Copy, within Six Days from this Date, under Pain of Poinding and Sale and Imprisonment, without further Notice. This Charge given by me, on the Day of before these Witnesses *O. P.* and *Q. R.* [*design them*].

J. T. Sheriff Officer.

No. 11.

EXECUTION of CHARGE.

[*To be on the same Paper with the Complaint and Decree.*]

ON the Day of Eighteen hundred and I duly charged *E. F.* above designed to implement the above Decree within the Time and under the Pains therein expressed. This I did by delivering a just Copy of the foregoing Complaint and Decree, and a Charge thereto annexed, subscribed by me, to the said *E. F.* [*personally, or as the Case may be,*] before these Witnesses, *O. P.* and *Q. R.* [*design them*] hereto with me subscribing.

J. T. Sheriff Officer.

O. P. Witness.
Q. R. Witness.

SCHEDULE (B.)

WARRANT for ARRESTMENT on the DEPENDENCE of an ACTION.

A. B. Sheriff of the Shire of to Officers of Court, jointly and severally.

WHEREAS it is humbly shown to me by *C. D.* [*design him*] Complainer, that he has raised an Action before me against *E. F.* [*design him*], concluding that the said Defender ought to be decerned and ordained to make Payment to the said Complainer of [*here state the Conclusions of the Summons or Complaint*] conform to Summons or Complaint given under the Hand of the Clerk of Court at on the Day of ; and that the said Defender, to the Prejudice of the Complainer, intends to uplift and dispose of all Sums of Money, Goods, and Effects owing or belonging to the said Defender: Herefore it is my Will, that on Sight hereof ye lawfully fence and arrest all Sums of Money, Goods, and Effects whatsoever owing or belonging to the said Defender, wherever or in whose Hands soever the same can be found, to an Amount or Extent not exceeding the Value of One hundred Pounds Scots, in the Hands of any Arrestee, all to remain under sure Fence and Arrestment at the Complainer's Instance, until due Consignation be made, or until sufficient Caution be found as accords of Law. Given under the Hand of the Clerk of Court at the Day of

J. P. Sheriff Clerk.

ARRESTMENT on the DEPENDENCE of an ACTION.

BY virtue of a Warrant of the Sheriff of the Shire of given under the Hand of the Clerk of Court at on the Day of for Arrestment on the Dependence of an Action raised before the said Sheriff, at the Instance of *C. D.* [*design him*] Complainer, against *E. F.* [*design him*] Defender, I hereby fence and arrest in the Hands of you *K. L.* [*design him*] all Sums of Money owing by you to the said Defender, or to any other Person, for his Use and Behoof, and all Goods and Effects in your Custody belonging to the said Defender, and that to an Amount or Extent not exceeding the Value of One hundred Pounds Scots, all to remain under sure Fence and Arrestment at the Complainer's Instance, until due Consignation be made, or until sufficient Caution be found as accords of Law. This I do on the Day of before these Witnesses, *O. P.* and *Q. R.* [*design them*].

J. T. Sheriff Officer.

EXECUTION of ARRESTMENT on the DEPENDENCE of an ACTION.

[*To be on the same Paper with the Warrant of Arrestment.*]

UPON the Day of Eighteen hundred and betwixt the Hours of and by virtue of the foregoing Warrant, I lawfully fenced and arrested in the Hands of *K. L.* [*design him*] all Sums of Money owing by him to the foresaid *E.F.* Defender, or to any other Person, for his Use and Behoof, and all Goods and Effects in the Custody of the said Arrestee, belonging to the said Defender, and that to an Amount or Extent not exceeding the Value of One hundred Pounds Scots, all to remain under sure Fence and Arrestment at the foresaid Complainer's Instance, until due Consignation be made, or until sufficient Caution be found as accords of Law. This I did by delivering a just Copy of Arrestment, subscribed by me, to the said Arrestee personally, [*or as the Case may be,*] before these Witnesses, *O. P.* and *Q. R.* [*design them*] hereto with me subscribing.

J. T. Sheriff Officer.

O. P. Witness.
Q. R. Witness.

BOND or ENACTMENT of CAUTION for LOOSING ARRESTMENT.

AT on the Day of Eighteen hundred and compeared *G. H.* [*design him*], who hereby judicially binds himself, his Heirs, Executors, and Successors, as Cautioners acted in the Sheriff Court Books of the Shire of for *E. F.* [*design him*] Common Debtor, against whom Arrestment was used at the Instance of *C. D.* [*design him*], in the Hands of *K. L.* [*design him*], on the Day of in virtue of [*describe the Warrant*], dated the Day of that the Sums of Money, Goods, and Effects owing or belonging to the said Common Debtor, arrested as aforesaid, shall be made forthcoming as accords of Law.

G. H.

WARRANT for LOOSING ARRESTMENT used on the DEPENDENCE of an ACTION.

WHEREAS Arrestment was used on the Dependence of an Action, at the Instance of *C. D.* [*design him*] against *E. F.* [*design him*], in the Hands of *K. L.* [*design him*], on the Day of by virtue of a Warrant of the Sheriff of the Shire of given under the Hand of the Clerk of Court at the Day of And whereas the said *E. F.* has now made sufficient Consignation in the Hands of the Sheriff Clerk of [*or, if Caution has been found, say*] has found sufficient Caution acted in the Sheriff Court Books of by *G. H.* [*design him*] his Cautioner, [*here state the Nature of the Caution,*] in order to the loosing of the said Arrestment. Warrant for loosing the said Arrestment is hereby granted accordingly. Given under the Hand of the Clerk of Court at the Day of

J. P. Sheriff Clerk.

INTIMATION of LOOSING ARRESTMENT.

[*To be on the same Paper with a Copy of the foregoing Warrant.*]

K. L. [*design him*]. Take Notice, that by virtue of the Warrant whereof the above is a Copy, the Arrestment on the Dependence of the Action above mentioned, used in your Hands at the Instance of the foresaid *C. D.* against the foresaid *E. F.*, is loosed and taken off. This Notice served on the Day of by me,

J. T. Sheriff Officer.

EXECUTION of INTIMATION of LOOSING ARRESTMENT.

[*To be on the same Paper with the original Warrant for loosing the Arrestment.*]

UPON the Day of Eighteen hundred and I duly intimated the above Warrant to *K. L.* [*design him*] Arrestee. This I did by leaving a full Copy thereof, and Intimation thereon, subscribed by me, for him [*in his Hands personally, or as the Case may be*].

J. T. Sheriff Officer.

SCHEDULE (C.)

SUMMONS or COMPLAINT in CASES of FORTHCOMING.

A. B. Sheriff of the Shire of to Officers of Court jointly and severally.

WHEREAS it is humbly complained to me by *C. D.*, upon and against *K. L.* Arrestee and *F. F.* Common Debtor, that the said Common Debtor is owing the Complainer the Sum of contained in [*describe shortly the Decreet, or Bill, or Bond, et cetera, by which the Debt is constituted*]; and that the Complainer, on the Day of Years, in virtue of a Warrant by dated the Day of arrested in the Hands of the said Arrestee [*here insert the Terms of the Arrestment used*], which the said Arrestee now refuses or delays to make forthcoming: Therefore the said Arrestee, and the said Common Debtor for his Interest, ought to be decerned and ordained to make forthcoming, pay, and deliver to the Complainer the Money, Goods, and Effects arrested as aforesaid, or so much thereof as will satisfy and pay the said Sum of owing to the Complainer as aforesaid: Herefore it is my Will, that on Sight hereof ye lawfully summon the said Arrestee, and the said Common Debtor for his Interest, to compear before me or my Substitute in the Court House at upon the Day of Years, at of the Clock, to answer at the Complainer's Instance in the said Matter, with Certification, in case

of Failure, of being held as confessed; and that ye cite Witnesses and Havers for both Parties to compear at the said Place and Date, to give Evidence in the said Matter. Given under the Hand of the Clerk of Court at the Day of Years.

J. P. Sheriff Clerk.

[*The Citations and Executions and Decree for the Defender, with Expences, may be the same as in Schedule* (*A.*)]

DECREE for the PURSUER in CASES of FORTHCOMING.

AT the Day of One thousand eight hundred and the Sheriff for the Shire of decerns and ordains the within-designed Defender, to make forthcoming, pay, and deliver to the also within-designed Pursuer [*if the Arrestee has Money arrested in his Hands, the rest of the Judgment will be the same as in ordinary Cases; if there are Goods and Effects to be made forthcoming, the rest of the Judgment will be as follows:*] the arrested Goods and Effects following; *videlicet*, and grants Warrant to sell the same, or as much thereof as will satisfy the Sum of and of Expences of Process, and the Expence of Sale; and failing the said Defender making forthcoming and delivering the said Goods and Effects within then to make Payment to the said Pursuer of the said Sum of for Recovery of which Sums, the said Period being elapsed without Forthcoming and Delivery of the said Goods and Effects, ordains instant Execution by Arrestment, and also Execution to pass hereon by Poinding and Sale, and Imprisonment, after free Days.

J. P. Sheriff Clerk.

SCHEDULE (D.)

REPORT of POINDING and SALE.

Report of the Poinding and Sale at the Instance of *C. D.* [*design him*] against *E. F.* [*design him*].

Lots.	Effects.	Appraised at	Sold at
		£ s. d.	£ s. d.
1.	An Eight-day Clock - - -	4 0 0	4 10 0
2.	Six Chairs, at 6/ - - - -	1 16 0	1 18 0
3.	One Table - - - -	0 8 0	0 8 0
4.	One Chest of Drawers - - -	1 12 0	1 12 0
		7 16 0	8 8 0

UPON the Day of Eighteen hundred and between the Hours of and by virtue of a Decree of the Sheriff of given under the Hand of the Clerk of Court at on the Day of at the Instance of *C. D.* above designed, against *E. F.* above designed, for Payment of the Sums of I passed with the Witnesses and Appraisers after named and designed to and then and there, after demanding Payment of the Sums contained in said Decree past due, and Payment not being made, I poinded the Effects above enumerated belonging to the said Debtor; and after making an Inventory or List thereof, and getting the same duly appraised, on Oath, at the several Values respectively above specified in the first Column, and amounting in all to [*here insert the Amount in Words*], and leaving a Copy of such Inventory or List and Appraisement with the said Debtor personally, [*or as the Case may be,*] I carried the said Effects to the of and there, betwixt the Hours of and and after public Notice of at least Hours I sold the said Effects by Public Roup, to the highest Bidder, at the Prices above specified in the Second Column, for each Lot respectively*, and amounting in all to [*here insert the Amount in Words*]. These Things were so done before and with *O. P.* and *Q. R.* [*design them*] Witnesses and Appraisers, in the Premises hereto with me subscribing.

J. T. Sheriff Officer.

O. P. Witness and Appraiser.
Q. R. Witness and Appraiser.

Reported to the Sheriff Clerk of the Shire of at the Day of by me,

J. T. Sheriff Officer.

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* If the Effects are not sold, the Tenor of the Report must be altered according to the State of the Fact; for Instance, ["I exposed the said Goods and Effects to public "Sale, but no Person having offered the appraised Value, therefore I declared the same "to belong to the said *C. D.* at the said respective appraised Values, in Payment to that "Amount of the Sums in said Decree."] In case the Goods poinded, or Part of them, shall sell for more than the Sums in the Decree, and Expences of Poinding and Sale, say, ["I sold Part of the said Effects, viz. Lots 1, 2, and 3, by public Roup to the highest "Bidder, at the Prices above specified in the Second Column for each of said Lots "respectively, and amounting in all to [*here insert the Amount in Words*], and I returned "to the said Debtor the Sum of being the Overplus of the Price, "after Payment of the Sums decerned for past due, and the Sum of "being the Expences of Poinding and Sale, conform to the Act of Parliament; "and I also returned to the said Debtor the Effects specified in the other Lots above "enumerated."]

SCHEDULE (E.)

No.	Dates of Complaints.	Pursuers.	Defenders.	Sums.	How due.	How cited.	By what Officer.	Interlocutors and Decrees.

N. B.—After the Name of each Pursuer and Defender let the Letter P. or A. be added, in order to mark whether the Party was present or absent when the Cause was called; let Expences be also entered under the Head of "Interlocutors."

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1829.