CHAP. 42.

An Act to amend the Process of Citation in Scotland. A.D. 1871.

[13th July 1871.]

WHEREAS by an Act of the Scottish Parliament, passed in the reign of King James V., anno 1540, c. 75., entitled "The "ordour of summounding of all persones in civill actiones," the affixing of "copies of letters or precepts" to the gate or door of a house, after the officer has given six knocks and failed to get entrance thereto, was made a lawful and sufficient citation:

And whereas great evils have arisen through the practice of that mode of citation, and it is expedient that it be restricted, and also that the present process of citation be in some other respects amended:

Be it therefore enacted by the Queen'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, as follows:

Short title.

1. The short title of this Act shall be "The Citation Amendment (Scotland) Act."

Abolition of lock-hole citation, and where defender has removed.

2. No summons, complaint, or decree and warrant or other order or writ following upon such summons or complaint issued by any small debt court in Scotland, shall be legally or validly served,—

(1.) By being affixed to the gate or door of any house or premises, or,

(2.) Where the defender has removed from such house or premises, by being left in the hands of an inmate thereof,

save as herein-after excepted.

In certain cases substituting registered letter by post.

3. Where an officer of any small debt court is satisfied that the defender named in any summons, complaint, decree and warrant or other order of such small debt court or writ following upon such summons or complaint, is refusing access or concealing himself to avoid citation or service, or has within a period of forty days removed from the house or premises occupied by him, his place of

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dwelling for the time not being known, it shall be lawful for such officer, after he has affixed to the gate or door of such house or premises, or left in the hands of an inmate there, the said summons, complaint, decree and warrant or other order or writ, to send to the address which after diligent inquiry he may deem most likely to find the defender, or to his last known address, a registered letter by post containing a copy of such summons, complaint, decree and warrant or other order or writ; and the affixing or leaving of such summons, complaint, decree and warrant or other order or writ, and the posting of such intimation, shall constitute a legal and valid citation or service: Provided always, that the execution to be returned by such officer shall state that he endeavoured to effect service at the defender's last known dwelling-place, and the circumstances that prevented it, and shall be accompanied by the Post Office receipt for the registration.

Witnesses unnecessary.

4. In all cases before the small debt courts and proceedings therein, it shall not, except in cases of poinding, sequestrating, or charging, be necessary for any officer to be accompanied by any witness or concurrent.

Interpretation of defender.

5. The word defender shall mean and include the person or persons named in and called upon to answer any summons, complaint, decree, and warrant or other order or writ or proceeding in the small debt courts.

Application of Act.

6. Nothing in this Act shall apply to the proceedings of any other courts than the small debt courts of the sheriffs and justices of the peace.

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