The Word "Master" shall mean Master in Ordinary of the High Court of Chancery in *England:*

The Word "Lunatic" shall include Idiots and Persons of unsound Mind, and whether found such by Inquisition or not:

The Word "Guardian" shall mean Father or testamentary Guardian, or Guardian appointed by the Court of Chancery (not being a special Guardian appointed under the Provisions of this Act).

Commencement of Act.

XXXV. And be it enacted, That this Act shall commence and take effect from and after the First Day of *November* One thousand eight hundred and fifty.

Act may be amended, &c.

XXXVI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE referred to by the foregoing Act.

[*Date.*]

In the Matter of *A.B.* late of in the County of Banker [*or as the Case may be*], deceased.

Upon Motion this Day made unto this Court by Mr. of Counsel for *C.D.* of the Executor [*or* Administrator] of the above-named *A.B.* [*or* upon the humble Petition of *C.D.* of the Executor (*or* Administrator) of the said *A.B.*, this Day preferred unto the Right Honourable the Master of the Rolls for the Reasons therein contained], it is ordered, That it be referred to the Master of this Court in rotation to take an Account of the Debts and Liabilities affecting the Personal Estate of the said *A.B.*, and to compute Interest on such of the said Debts and Liabilities as carry Interest after the Rate of Interest the same respectively carry; and the said Master is to cause an Advertisement to be published in the London Gazette and such other public Papers as he shall think fit for the Persons claiming in respect of any such Debts or Liabilities to come in before the said Master, and prove their Debts and Claims, and he is to fix a peremptory Day for that Purpose; and such of the said Creditors as shall not come in and prove their Debts and Claims by the Time so to be limited are to be excluded the Benefit of this Order: And it is ordered, that the said Master do distinguish Debts from Liabilities, and Liabilities certain from Liabilities contingent: And it is ordered, that the Personal Estate of the said *A.B.* be applied in Payment and Satisfaction of such Debts and Liabilities of the said *A.B.* in a due Course of Administration; and for the better taking the said Accounts and Discovery of the Matters aforesaid the Parties are to produce before the said Master, upon Oath, all Deeds, Books, Papers, and Writings in their Custody or Power relating thereto, and are to be examined upon Interrogatories as the said Master shall direct; and any of the Parties are to be at liberty to apply to the Court as there shall be Occasion.

CAP. XXXVI.

An Act to facilitate Procedure in the Court of Session in *Scotland.*

[29th *July* 1850.]

'WHEREAS an Act was passed in the Fifty-fifth Year of the Reign of His Majesty
55 G. 3. c. 42. ' King *George* the Third, intituled *An Act to facilitate the Administration of Justice in* ' *that Part of the United Kingdom called* Scotland, *by the extending Trial by Jury to Civil* ' *Causes;* and another Act was passed in the Fifty-ninth Year of the Reign of His said
59 G. 3. c. 35. ' Majesty, intituled *An Act to amend an Act passed in the Fifty-fifth Year of the Reign of* ' *His present Majesty, intituled "An Act to facilitate the Administration of Justice in that*

' " *Part*

'"*Part of the United Kingdom called* Scotland, *by the extending Trial by Jury to Civil* '"*Causes;*" and another Act was passed in the Sixth Year of the Reign of His Majesty 'King *George* the Fourth, intituled *An Act for the better regulating of the Forms of Pro-* 6 G. 4. c. 120. 'cess in the Courts of Law in Scotland; and another Act was passed in the Session of Par- 'liament holden in the Eleventh Year of the Reign of His Majesty King *George* the Fourth 'and in the First Year of the Reign of His Majesty King *William* the Fourth, intituled '*An Act for uniting the Benefits of Jury Trial in Civil Cases with the ordinary Jurisdiction* 11 G. 4. & 'of the Court of Session, and for making certain other Alterations and Reductions in the* 1 W. 4. c. 69. '*Judicial Establishments of* Scotland; and another Act was passed in the Session of Parlia- 'ment holden in the First and Second Years of the Reign of Her present Majesty, intituled '*An Act to make certain Alterations in the Duties of the Lords Ordinary, and in the Esta-* 1 & 2 Vict. 'blishment of Clerks and Officers of the Court of Session and Court of Commissioners for* c. 118. '*Teinds in* Scotland, *and to reduce the Fees payable in those Courts:* And whereas it is 'expedient that the Provisions and Enactments of the said recited Acts should be in some 'respects altered and amended, and further Regulations established for expediting the Busi- 'ness of the Court of Session in *Scotland:*' Be it 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, That the Pursuer of any Summons before the Court of Session shall set forth in such Summons, in such Way and Manner as the Court, having regard to the Forms set forth in Schedule (A.) hereunto annexed, may from Time to Time prescribe by Act of Sederunt as applicable to the various Forms of Action now in use, the Name and Designation of such Pursuer, and the Name and Designation of the Defender, and the Conclusions of the Action, without any Statement whatever of the Grounds of Action; but the Allegations in Fact which form the Grounds of Action shall be set forth in an Articulate Condescendence, together with a Note of the Pursuer's Pleas in Law, which Condescendence and Pleas in Law shall be annexed to such Summons, and shall be held to constitute Part thereof; and the Defences to such Summons shall be in the Form of Articulate Answers to such Condescendence, and, where necessary, appended thereto a Statement of the Allegations in Fact on which the Defender founds in Defence, and also a Note of the Defender's Pleas in Law.

New Form of Summons and Defences.

II. And be it enacted, That where Defences are lodged, and unless the Record shall be closed upon the Summons and Defences, the Record shall be made by Revisal by the Pursuer of the Condescendence annexed to his Summons, and Revisal by the Defender of his Defences; and upon the Expiration of the original or prorogated Period, as the Case may be, for lodging a revised Condescendence, if no revised Condescendence shall be lodged, and upon the Expiration of the original or prorogated Period, as the Case may be, for lodging revised Defences, if a revised Condescendence shall be lodged, or sooner if the Parties shall consent thereto, the Clerk to the Process shall transmit the same to the Lord Ordinary, and the Lord Ordinary shall appoint a Time, being within Six Days from the Date of the Process being so transmitted to him, for Parties attending him at Chambers, by their Counsel, with a view to the Adjustment and closing of the Record; and the Lord Ordinary may at such Meeting, or at any adjourned Meeting which he may appoint, allow or require such Alterations and Amendments to be made on the Record as to him may seem proper, and may close the Record, or appoint a Day on or before which the Record shall be closed; and if the Record shall not be closed on or before the Day fixed by such Appointment or subsequent Prorogation, the Lord Ordinary shall pronounce an Interlocutor declaring it closed accordingly.

Record, how to be made up.

III. Provided always, and be it enacted, That where the Pursuer is willing to close the Record upon the Summons and Defences without any Revisal, a Consent to that Effect may be endorsed on the Defences, and signed by Counsel; and it shall then be the Duty of the Clerk to the Process to transmit the Process forthwith to the Lord Ordinary, with a view to the Adjustment and closing of the Record as aforesaid; and the Case shall thenceforward be proceeded with in the same Way and Manner, and the same Regulations and Provisions shall thereupon apply, as in the other Cases of Transmission to the Lord Ordinary, with a view to the Adjustment and closing of the Record, herein-before mentioned: Provided always, that it shall in such Case be competent to the Lord Ordinary, upon the

Where Pursuer willing, Record may be closed on Summons and Defences.

Motion of the Defender, and by an Interlocutor to be pronounced by the Lord Ordinary, either in Court or at Chambers, to make such Order for or with a view to Revisal as he may deem fit.

Prorogations, how to be granted.

IV. And be it enacted, That the Periods appointed for lodging any Paper, or for transmitting any Process to a Lord Ordinary, or for closing a Record, may always be prorogated by written Consent of Parties; and the Periods appointed for lodging any Paper, or for closing a Record, may always be once prorogated by the Lord Ordinary, without such Consent, on special Cause shown; and such Prorogations may be granted, of Consent as aforesaid, either before or after the Lapse of such Periods; and in every Interlocutor of a Lord Ordinary prorogating, on special Cause shown, the Time for lodging any Paper or for closing a Record, the Nature of such Cause shall be set forth, and a definite Time shall be therein fixed within which the Paper is to be lodged, or the Record closed; and it shall not be competent to the Lord Ordinary to grant such Prorogation, even upon Cause shown, oftener than once, unless such Cause shall have been allowed by the Inner House on the Report of the Lord Ordinary.

Record to be closed by Interlocutor, and no Authentication by Counsel to be necessary.

V. And be it enacted, That it shall not be necessary, in order to the closing of a Record in any Process before the Court of Session, that the Record be authenticated by Counsel as adjusted or closed, whether by Minute of Assent or otherwise, but such Record shall be closed by Interlocutor of the Lord Ordinary before whom the Process depends; and such Interlocutor shall be subject to Review of the Inner House; and the Interlocutor of the Inner House to be pronounced on such Review shall not in any Case be subject to Appeal as an Interlocutory Judgment.

Lord Ordinary may appoint closed Record to be printed.

VI. And be it enacted, That it shall not be necessary to print any Part of the Process before the closing of the Record; but when the Record is closed, if it shall appear to the Lord Ordinary to be expedient that the same should be printed while the Cause is in dependence in the Outer House, the Lord Ordinary may appoint such Number of Copies thereof as he may deem proper to be printed by the Pursuer at the mutual Expense of the Parties; and on such Appointment being made the Pursuer shall print such Copies accordingly, and upon Payment by the Defender of One Half of the whole Expense of such Printing, shall furnish to him One Half of such Copies.

Dilatory Defences in Reductions, how to be disposed of.

VII. And be it enacted, That where in a Process of Reduction the Defender is to object to the Title of the Pursuer, or to plead on an exclusive Title, or to state any other Objection against satisfying the Production, he shall in the first instance lodge Defences confined to these Points, and the Form of such Defences, and the Procedure thereon, shall be the same as in the Case of peremptory Defences in an ordinary Action; and if the Defences so lodged shall be repelled, the Defender, after the Production has been satisfied, shall give in Defences applicable to the Grounds of Reduction and upon the Merits of the Reduction, and a Record may be made up thereafter as in any ordinary Action.

Production may be satisfied on Box Day.

VIII. And be it enacted, That in a Process of Reduction the Production may be satisfied either during Session or on any Box Day in Vacation or Recess.

Record to be made up in Advocations and Suspensions, after Answers are lodged, similarly to other Actions;

IX. And be it enacted, That where Answers are lodged by a Respondent in any Process of Suspension or Advocation, the Record shall thereafter be made up therein in the same Way and Manner in all respects as is directed by this Act in regard to any ordinary Action in which Defences have been lodged; and the Pursuer of such Process of Advocation or Suspension and the Respondent therein shall have severally the same Rights and Privileges as the Pursuer and Defender in such ordinary Action respectively; and the whole Provisions and Enactments of this Act in regard to the making up of the Record in such ordinary Actions shall apply, as far as may be, to such Processes of Advocation and Suspension.

and in Processes of Competition, &c. as may be fixed by the Court of

X. And be it enacted, That the Procedure with respect to the making up of the Record in Processes of Competition, or other Processes to which the Provisions of this Act with respect to the making up of the Record may not be applicable, shall be conducted as at present, until regulated by the Court of Session; but the Procedure in such Actions shall be

be regulated by the said Court by Act of Sederunt, as soon as conveniently may be after the Date at which this Act shall take effect, in such Way and Manner as to assimilate in so far as convenient the Procedure in such Actions with respect to the making up of the Record to the Procedure by this Act provided. Session by Act of Sederunt.

XI. And be it enacted, That it shall not be competent to reclaim against any Interlocutor of the Lord Ordinary, at any Time after the Expiration of Ten Days from the Date of signing such Interlocutor, with the Exception only of Reclaiming Notes against Interlocutors disposing in whole or in part of the Merits of the Cause, and against Decrees in Absence, which Reclaiming Notes shall continue to be competent in like Manner as at the passing of this Act. Reclaiming Days limited to Ten, except for Judgments on the Merits, and Decrees in Absence.

XII. And be it enacted, That it shall not be competent to reclaim against any Interlocutor of a Lord Ordinary, not being an Interlocutor disposing of a dilatory Defence, or an Interlocutor sisting Process, or an Interlocutor disposing in whole or in part of the Merits of the Cause, pronounced before the closing of the Record: Provided always, that any Interlocutor pronounced before the closing of the Record may be reclaimed against, with the Leave of the Lord Ordinary, at any Time within Ten Days from the Date of pronouncing the same, or without the Leave of the Lord Ordinary, at any Time within Ten Days from the Date of signing the Interlocutor closing the Record. Reclaiming Notes during the making up of the Record prohibited, except with Leave of the Lord Ordinary.

XIII. And be it enacted, That no Reclaiming Note to the Inner House, and no Petition of Appeal to the House of Lords, in any Process before the Court of Session, shall be held to remove such Process from before the Lord Ordinary or the Court, as the Case may be, as regards any Point or Points not necessarily dependent on the Interlocutor so submitted to Review, but such Process shall, for all Purposes, and to all Effects not necessarily dependent on such Interlocutor, remain before the Lord Ordinary or the Court, as the Case may be, and shall be proceeded in by the Lord Ordinary or the Court notwithstanding such Reclaiming Note or Appeal, if it appear to the Lord Ordinary or the Court to be expedient and proper. Process may proceed, notwithstanding Reclaiming Note or Appeal.

XIV. And be it enacted, That it shall not be competent to the Lord Ordinary to direct Cases or Minutes of Debate or other written Argument to be prepared by the Parties, whether for the Use of himself or of the Inner House; but it shall be competent for the Lord Ordinary at any Time after hearing Parties on a closed Record to take such Cause to report to the Inner House without Cases or Minutes of Debate. Lords Ordinary not to order written Argument.

XV. And be it enacted, That all Summonses in Consistorial or other Causes which are at the passing of this Act required to be signed by a Clerk of the Court of Session may be signed either by such Clerk or by a Writer to Her Majesty's Signet; and the Signature of such Writer to Her Majesty's Signet shall be in all respects equivalent to the Signature of such Clerk. Summonses now signed by Clerk of Session may be signed by a Writer to the Signet.

XVI. And be it enacted and declared, That all the Provisions of the said recited Act passed in the Session of Parliament holden in the Eleventh Year of the Reign of His Majesty King *George* the Fourth and the First Year of the Reign of His Majesty King *William* the Fourth, and of this Act, applicable to Actions of Declarator of Marriage and of Nullity of Marriage, and to Actions of Declarator of Legitimacy and of Bastardy, and to Actions of Divorce, and to Actions of Separation *à mensâ et thoro*, are and shall be applicable to Actions of Adherence, and all other Consistorial Actions, though not specially mentioned in the said recited Act. Actions of Adherence, &c. to be instituted in the Court of Session.

XVII. And be it enacted, That no Member of the College of Justice shall, in respect of any Privilege as such, be entitled to institute any Action or Proceeding, either original or by way of Review, before the Court of Session which could not have been instituted by him before such Court if he had not been a Member of the College of Justice. Members of College of Justice not to institute Actions not otherwise competent.

XVIII. And be it enacted, That it shall not be necessary that any Summons before the Court of Session shall proceed upon a Bill; and no Summons passing the Signet shall bear any Date but the Date of signeting, which shall be held to be the Date of the Summons. Summonses not to proceed on Bills or to bear Dates, except of signeting.

XIX. And

Regulations as to Multiplepoindings.

XIX. And be it enacted, That in Summonses of Multiplepoinding it shall be the Duty of the Party raising such Action to state specifically in the Body of the Summons who is the real Raiser of the Action; and it shall be competent for any Number of Parties whose Claims in such Action depend upon the same Ground to state such Claims in the same Paper.

Short Forms of Execution provided.

XX. And be it enacted, That every Execution of a Summons, and every Execution of Intimation of a Note of Suspension, or of Suspension and Interdict, or of Suspension and Liberation, or of Advocation, shall be written at the End of the Summons itself, or at the End of the usual certified Copy of such Note of Suspension, or of Suspension and Interdict, or of Suspension and Liberation, or of Advocation, and, where necessary, on continuous Sheets, but not on a separate Paper; and such Execution shall be in the Form, or as nearly as may be in the Form, of Schedule (B.) hereunto annexed, which Form shall be equally valid and effectual in all respects as the longer Form of Execution at present in use.

Induciæ of Summonses and other Writs passing the Signet shortened.

XXI. And be it enacted, That all Summonses before the Court of Session may proceed on Fourteen Days Warning where the Defender is within *Scotland*, unless in *Orkney* or *Shetland*, and Twenty-one Days Warning where he is in *Orkney* or *Shetland* or furth of *Scotland*, in place of the longer Induciæ required by the present Practice; and such shorter Induciæ shall also be competent and sufficient in respect to all other Letters passing Her Majesty's Signet bearing a Citation, Charge, Publication, or Service against Persons within or furth of *Scotland* respectively, and in respect to all Edictal Charges upon Decrees and registered Protests: Provided always, that in all Cases where any shorter Induciæ than the Induciæ above mentioned are at present sufficient, such shorter Induciæ shall continue to be sufficient after the passing of this Act.

Edictal Citations regulated.

XXII. And be it enacted, That the subsisting Forms of Edictal Citation, Charge, Publication, Citation, and Service at the Market Cross of *Edinburgh*, and Pier, and Shore of *Leith*, in Processes of Ranking and Sale, and in all other Processes and Proceedings whatsoever, and also the subsisting Forms of Edictal Citations of the Minor's next of Kin at the Market Cross of the County Town or Head Burgh of the Shire where the Minor has his Lands and Goods, and of Citation of the Tutors and Curators of Minors at the Market Cross of the County Town or Head Burgh of the Shire of the Minor's Residence, shall cease and be discontinued; and in lieu thereof all such Edictal Citations, Charges, Publications, Citations, and Services shall be done and performed by Delivery of a Copy thereof at the Office of the Keeper of Edictal Citations according to the Mode established by the said recited Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth in regard to Persons furth of *Scotland*, and by an Act of Sederunt of the Court of Session dated the Twenty-fourth Day of *December* One thousand eight hundred and thirty-eight.

Protestations for not calling and enrolling regulated.

XXIII. And be it enacted, That where Protestation shall be put up in the Minute Book of the Court of Session in reference to any Summons, Suspension, or Advocation, and Warrant is issued for Extract thereof, if it be a Protestation for not calling, such Extract shall contain a Decerniture for Three Pounds Three Shillings of Protestation Money, as Expenses, in lieu of such Sum of Protestation Money as would in that Case be inserted in the Extract according to the present Practice; and if the Protestation be for not enrolling, but after the Calling and Return of the Summons or other initial Writ, with or without Defences or Answers, as the Case may require, the Defender or Respondent shall be entitled to his just Expenses as between Party and Party; and the Auditor of Court shall tax the Account of these Expenses accordingly, as in the Case of a Decree in Absence, on Production to him of the Protestation as given out for Extract, or of a Certificate by the Keeper of the Minute Book that the same has been given out for Extract; and the Account so taxed shall be a sufficient Warrant to the Extractor to insert the taxed Amount as the just Expenses, together with the Expense of Extract, in the Extract Protestation, in lieu of the Sum at present inserted as Expenses in such Extract: Provided always, that a Pursuer may be reponed against a Protestation for not calling at any Time not later than Ten Days after the same has been given out for Extract, whether Extract shall have issued or not, by lodging

lodging with the Clerk, in order to calling, his Summons or other Writ, with the relative Documents, accompanied by the Receipt of the Agent for the Defender for the said Sum of Three Pounds Three Shillings of Protestation Money, or consigning the Money itself in the Hands of the Clerk, for the Use of the Agent for the Defender, and payable to him on Demand; and that a Pursuer may also be reponed, within the like Period, against a Protestation for not enrolling and insisting, by enrolling his Summons or other Writ in the Outer House Roll, and forthwith lodging that Writ, with the Enrolling Clerk's Certificate of Enrolment annexed, in the Hands of the Clerk, as thenceforward a depending Process, accompanied by the Receipt of the Agent for the Defender for the taxed Amount of the Protestation Money and Expense of Extract, or, in lieu thereof, consigning the Money itself in the Hands of the Clerk for the Use of such Agent, and payable to him on Demand: Provided also, that whenever a Summons or other Writ shall have been duly enrolled by the Pursuer in the Outer House Roll, whether Protestation shall have been put up or not, the same shall thenceforth become to all Intents and Purposes a depending Process, under Control of the Lord Ordinary and of the Court, until finally disposed of by Interlocutor.

Granting Judicial Bonds in Maritime Causes abolished.

XXIV. And be it enacted, That the granting of Bonds De damnis et impensis by the Pursuer, and of Bonds De judicio sisti et judicatum solvi by the Defender, in Maritime Causes, before the Court of Session, shall be and the same is hereby abolished, reserving the Operation and Effect of all such Bonds bearing Date prior to the Date at which this Act shall take effect.

Copy of an Interlocutor granting Commission or Diligence to be equivalent to a formal Extract.

XXV. And be it enacted, That it shall not be necessary to obtain a formal Extract of any Commission or Diligence granted or to be granted by a Lord Ordinary or the Court in any Process or Proceeding before the Court of Session, but a Copy of the Interlocutor granting such Commission and Diligence, or one or other of them, certified by the Clerk to such Process or Proceeding, or by his Assistant, shall have the same Force, Operation, and Effect as such formal Extract according to the present Practice.

Witnesses abroad may be examined in Consistorial Causes by Commission.

XXVI. And be it enacted, That where in Consistorial Causes either Party desires to examine Witnesses furth of the Kingdom, the Depositions of such Witnesses may be taken under a Commission to be issued by the Lord Ordinary or the Court to any Commissioner whom they may appoint, in the same Manner as in any Proof upon Commission in an ordinary Action.

Diligences may be reported on Box Days.

XXVII. And be it enacted, That in all Cases it shall be competent to appoint a Diligence to be reported on any Box Day in Vacation or Recess.

Interim Decrees to be extractible without special Allowance.

XXVIII. And be it enacted, That every Act and Warrant and Decree granted or to be granted during the Dependence of a Process before the Court of Session, and which according to the present Practice might be extracted *ad interim*, if special Allowance to that Effect were granted by the Lord Ordinary or the Court, shall be extractible *ad interim* without the Necessity of such special Allowance, unless the Lord Ordinary or the Court shall otherwise direct.

Decree for Expenses to include Extract.

XXIX. And be it enacted, That every Decree for Expenses pronounced after the passing of this Act shall be held to include a Decree for the Expense of extracting the same.

Actions may be wakened without a Summons.

XXX. And be it enacted, That where according to present Practice a Cause would require to be wakened in order to its being proceeded with, it shall be competent for either of the Parties to enrol such Cause before the Lord Ordinary in common Form in order to an Interlocutor of Wakening, and the Lord Ordinary may thereupon direct Ten Days Intimation of such Motion to be made to the known Agent of the other Party in the Cause, or to such Party himself, and also in the Minute Book of the Court of Session; and on the Expiration of Ten Days from the Date of such Intimations being made respectively, and on a Certificate being lodged in Process under the Hand of the Agent of the Party applying for such Wakening, certifying that he has duly intimated such Interlocutor in Terms thereof to the opposite Party or to his known Agent, either by Delivery to such Party or his Agent personally, or by Transmission through the Post to the known Address of such Party or Agent, of a full Copy of such Interlocutor, it shall be competent to the Lord Ordinary to hold

hold the Cause as wakened, and the same may thereafter be proceeded with as wakened accordingly.

Transference to include Wakening.

XXXI. And be it enacted, That where any Action shall be transferred against any Party or Parties, such Transference shall include a Wakening against such Party or Parties.

In Advocations and Suspensions, if Record closed and Proof concluded in Inferior Court, Case may be taken at once to the Inner House without a Judgment of the Lord Ordinary.

XXXII. And be it enacted, That in all Cases of Advocation or Suspension which shall come to depend before the Court of Session, where a Record has been made up and closed and a Proof led and concluded before the Inferior Judge, the Lord Ordinary before whom such Advocation or Suspension is enrolled shall at the first Calling of the Cause, if a Motion to that Effect be made by either of the Parties, appoint such Record and Proof, with any other Papers which may be deemed to be necessary, to be printed and boxed for the Judges of the Inner House, and shall report the Cause to the Inner House, who shall thereupon proceed to dispose of it in the same Way and Manner as if it had been reported by the Lord Ordinary upon a closed Record prepared in the Court of Session; and the Party by whom such Motion is made shall defray in the first instance the Expense of such Printing.

Who to fix Lord Ordinary and Division in Advocations and Suspensions.

XXXIII. And be it enacted, That in every Process of Suspension of any Charge or threatened Charge, and in every Process of Suspension of a Decree, and in every Process of Interdict where Interdict has been granted in the Bill Chamber, and is unrecalled, it shall be lawful for the Respondent in such Process, so soon as the Note of Suspension, or Note of Suspension and Interdict, is passed, and at any Time not later than the Twelfth Day from the Date of the Interlocutor passing the same, or in the Case of a Suspension of a Decree not later than the Twelfth Day from the Date of the Service of the Note of Suspension and Interlocutor passing the same upon the Respondent, to fix the Lord Ordinary and Division of the Court of Session to which such Process shall belong, and that by Indorsation of the Names of such Lord Ordinary and Division on such passed Note of Suspension, or of Suspension and Interdict, signed by such Respondent, or his Counsel or Agent in such Process, unless where such Note of Suspension, or Note of Suspension and Interdict, has been passed on Review by or on advising with either Division of the Court, in which Case the Process shall be fixed throughout with that Division of the Court as at present; and in every Process of Advocation it shall be lawful for the Pursuer or Petitioner in the Inferior Court (except in the Case of counter conjoined Processes, or of Competitions or Advocations of Brieves) at any Time not later than the Twelfth Day from the Date of the Intimation of the Note of Advocation, and Notice of its Receipt by a Clerk of the Court of Session, to the Respondent, or not later than the Twelfth Day from the Date of the passing of the Note of Advocation, to fix the Lord Ordinary and Division of the Court to which such Process shall belong, and that by Indorsation on such Note of Advocation as aforesaid; and such passed Notes of Suspension, and of Suspension and Interdict, and of Advocation, shall, during the Period above mentioned, be always in the Custody of the Clerks of the Bills, or of the Clerk to the Process, who shall not be entitled to lend up the same to the Parties or either of them, or to part with the Custody thereof, until such Period has elapsed: Provided always, that, except in the Cases herein-before specially provided for, the Right to fix the Lord Ordinary and Division of the Court to which any Process of Suspension, or Suspension and Interdict, or Advocation, shall belong, shall remain as at the Date of the passing of this Act.

Advocations on Juratory Caution not to be proceeded with where there is no probabilis Causa.

XXXIV. And be it enacted, That where any Note of Advocation shall be presented on Juratory Caution it shall be incumbent on the Advocator to make immediate Application to the Lawyers for the Poor, for a Report that he has a *probabilis Causa litigandi*, and if the Advocator shall fail to make such Application, or if the Lawyers for the Poor shall upon such Application report their Opinion that no *probabilis Causa* has been established, the Advocation shall be dismissed with Expenses, unless full Caution be forthwith offered and found in common Form.

Provision as to one Division of the Court consulting the other.

XXXV. And be it enacted, That it shall be competent to the Judges of either Division of the Court in any Cause in which they shall be equally divided in Opinion to direct such Cause to be judged by the Inner House Judges of both Divisions, and to appoint such Cause to be heard by such Inner House Judges, either on any Sederunt Day during Session, or at any

any Time during the Sittings of the Lords Ordinary, either before or after the Sittings of the Two Divisions of the Court for the Winter Session; and such Cause shall thereupon be so heard and judged by the Judges of the Division of the Court before which the same depends, with the Addition of Three Judges of the other Division of the Court; and the Judgment shall in all Causes be pronounced according to the Opinion of the Majority of the Judges present, and the Interlocutor shall bear to be the Judgment of the Division before which the Cause depends, after consulting with the other Division of the Court; but the Lord Justice General shall always be the presiding Judge whenever his Lordship sits as a Member of the Court.

Procedure in Jury Causes to be the same, so far as is applicable, as in other Court of Session Causes.

XXXVI. And be it enacted, That in all Causes appropriated for Trial by Jury, or in the course of Preparation for Trial by Jury, before the Court of Session, the Procedure, both before and after the closing of the Record, shall be in all respects the same, so far as applicable, as in other Court of Session Causes for the Time being, except in so far as it may be otherwise provided by this Act, or by any Act of Sederunt to be passed by the said Court under the Powers by this Act conferred.

Offices of Issue Clerk and Jury Clerk abolished.

XXXVII. And be it enacted, That the Offices of Issue Clerk and Jury Clerk be and the same are hereby abolished; and in future all the Duties hitherto performed by an Issue Clerk or Jury Clerk, or by any Person acting as an Issue Clerk or Jury Clerk, and still remaining to be performed, after the Date at which this Act shall take effect may be performed by any Clerk of Session, either in the Inner or Outer House; and each Clerk of Session shall, so far as relates to all the Causes appropriated or in the Course of Preparation for Trial by Jury in or connected with his own Office, or depending before the Lord Ordinary or Division of the Court to which he is attached, be charged with all the Duties hitherto performed by an Issue Clerk or Jury Clerk, or by any Person acting as an Issue Clerk or Jury Clerk, and remaining to be performed as aforesaid.

Procedure for the Adjustment of Issues.

XXXVIII. And be it enacted, That where in the course of any Cause before the Court of Session Matter of Fact is to be determined, and an Issue is to be adjusted with reference thereto, it shall be the Duty of the Pursuer to prepare and lodge in Process the Issue he proposes, and it shall be the Duty of the Defender to prepare and lodge in Process any counter Issue required by the Nature of his Defence; and the Lord Ordinary before whom such Cause depends, after causing Issues to be prepared and lodged as aforesaid, shall forthwith appoint Parties to attend him at Chambers, or shall order the Case to the Roll, for the Adjustment of an Issue or Issues for the Trial of such Cause, or of such Matter of Fact arising therein as is to be determined by Jury Trial; and if such Issue or Issues be not adjusted and settled with the Consent of Parties at the Meeting or Enrolment so fixed, or at a second such Meeting or Enrolment for the same Purpose, if such second Meeting or Enrolment shall be appointed by the Lord Ordinary, the Lord Ordinary shall immediately report the Matter to the Inner House, by whom such Issue or Issues shall, upon such Report, be adjusted and settled.

Engrossment of Issues abolished.

XXXIX. And be it enacted, That it shall not be necessary to engross any Issue or Issues with a view to Trial by Jury, but such Issue or Issues, when adjusted and settled as aforesaid by the Lord Ordinary or the Court, shall at the same Time be approved by Interlocutor to that Effect, and shall be signed and authenticated by the Judge as relative thereto, which Proceeding shall be equivalent to Engrossment as at present practised.

On Issues being approved of, Time and Place of Trial to be fixed.

XL. And be it enacted, That where an Issue or Issues is or are approved as aforesaid it shall be competent to the Lord Ordinary in the Cause, on the Motion of either of the Parties, to appoint a Time and Place for the Trial of such Issue or Issues, such Time being as soon after the Date of such Approval as with reference to the proper Trial of such Issue or Issues conveniently may be, and, except upon special Cause shown, not later than Three Weeks from the Date of such Motion; and such Trial shall proceed at the Time and Place so appointed, unless at the Time of such Appointment one or other of the Parties shall intimate to the Lord Ordinary that he objects thereto, in which Case the Lord Ordinary shall report the Matter to the Court, by whom it shall be fixed when and where the Trial shall proceed.

Lord Ordinary in the Cause to preside at Trial during Session.

XLI. And be it enacted, That, unless where some different Arrangement shall be made by the Court, upon Motion to that Effect, the Lord Ordinary before whom the Cause depends shall preside at the Trial of such Issue or Issues in all Cases where such Trial shall take place during the Sitting of the Court.

Lord Ordinary, &c. to have Power to summon Jury, and to appoint Cause to be tried by a Special Jury.

XLII. And be it enacted, That all the Powers and Duties in regard to the summoning of Juries for the Trial of Issues in Civil Causes at present exercised or performed by the Court of Session, or by any Division of the said Court, or by any Clerk or Clerks in Jury Causes, may be competently exercised and performed by any Lord Ordinary, or by any Clerk of Session officiating either in the Outer or Inner House; and it shall be lawful for any Lord Ordinary, in any Cause depending before the Court of Session, on the Application of either of the Parties, to appoint any Issue or Issues in such Cause to be tried by a Special Jury.

Certified Copy of Interlocutor fixing Trial, Warrant for citing Witnesses.

XLIII. And be it enacted, That a Copy of the Interlocutor fixing the Trial, certified by the Clerk to the Process or by his Assistant, shall be a sufficient Warrant to any Messenger at Arms to cite Witnesses and Havers to the said Trial, either for the Pursuer or Defender.

Counsel for each Party to be heard after Evidence closed.

XLIV. And be it enacted, That in every Trial of Issues in a Cause before the Court of Session, and subject to such Regulations in regard to opening the Case on the Part of the Pursuer and Defender as the Court may establish, One Counsel for the Pursuer and One Counsel for the Defender shall be heard, in their Order, after the whole Evidence in the Cause is closed.

Restriction of Bills of Exceptions.

XLV. And be it enacted, That a Bill of Exceptions shall not be allowed in any Cause before the Court of Session, upon the Ground of the undue Admission of Evidence, if in the Opinion of the Court the Exclusion of such Evidence could not have led to a different Verdict than that actually pronounced; and it shall not be imperative on the Court to sustain a Bill of Exceptions, on the Ground of the undue Rejection of documentary Evidence, when it shall appear from the Documents themselves that they ought not to have affected the Result at which the Jury by their Verdict have arrived.

Lord Ordinary may try Issues of Consent without a Jury.

XLVI. And be it enacted, That if the Parties in any Cause before the Court of Session in which an Issue has been adjusted shall consent to the Lord Ordinary before whom such Cause depends trying such Issue without a Jury, such Lord Ordinary shall, unless the Court, on the Report of such Lord Ordinary, shall deem it inexpedient and improper, try such Issue without a Jury accordingly; and whenever any Issue shall be tried by a Lord Ordinary without a Jury, such Lord Ordinary shall take Notes of the Evidence, and shall hear Counsel thereon, and otherwise the Proceedings shall be conducted continuously and as nearly as may be as in an ordinary Jury Trial; and within Eight Days after the Proceedings at the Trial are concluded such Lord Ordinary shall pronounce an Interlocutor, in which he shall state specifically what he finds in Point of Fact; and it shall be competent to either Party, by written Note, within Eight Days from its Date, to bring such Interlocutor of the Lord Ordinary under Review of the Lord Ordinary upon his own Notes of Evidence, who shall forthwith hear Parties thereon; and it shall be competent to the Lord Ordinary, upon such Review, and within Eight Days after hearing Parties, either to correct his Interlocutor as regards such Findings in Fact or to order a new Trial, as he may think fit: Provided always, that if either of such Periods of Eight Days extends into Vacation or Recess, such Period shall not be held to elapse till the Fourth Day after the next Meeting of the Lords Ordinary or the Court thereafter.

Lord Ordinary's Findings in Fact shall be final unless reclaimed against.

XLVII. And be it enacted, That unless it shall appear that such Findings in Point of Fact by such Lord Ordinary proceeded on some erroneous View of the Law, as to Competency of Evidence or otherwise, such Findings in Fact shall be final; but it shall be competent to either of the Parties to raise, on a Reclaiming Note to the Inner House, any Question of Law which may be relevantly raised upon the Evidence as appearing in the Notes of such Lord Ordinary taken as aforesaid; and no Objection to any Finding in Point of Law by such Lord Ordinary during the Proceedings at the Trial shall be competent unless such Objection was stated, and noted by the Lord Ordinary at the Time of such Finding;

Finding; and the Notes of the Lord Ordinary shall be referred to for no other Purpose than to decide such Questions of Law: Provided always, that any Appeal which may be entered to the House of Lords against any Interlocutor which may be pronounced by the Inner House on any such Question of Law shall be subject to the same Regulations and entitled to the same Privileges in all respects as Appeals against Interlocutors or Judgments upon Bills of Exceptions are at present subject and entitled to.

Proviso as to Appeals on Questions of Law.

XLVIII. 'And whereas Cases may arise in which it is desirable that Questions of Fact 'should be investigated without Trial by Jury or Proof on Commission:' Be it enacted, That in any Cause before the Court of Session it shall be competent to the Lord Ordinary before whom such Cause depends, without adjusting any Issue or Issues, to pronounce an Interlocutor, stating distinctly any such Question or Questions to which the Parties are to address their Proof, and appointing such Question or Questions for Trial by himself, without a Jury; and the Proof to be adduced by the Parties shall in such Case be limited to the Points so stated, and shall proceed at such Time and Place as shall be appointed, unless on Review of such Interlocutor it shall appear to the Court that such Course of Procedure is not in the Circumstances of the Case expedient, or the Interlocutor be otherwise altered by the Court; and the Lord Ordinary shall find on each such Question separately, and his Findings on such Questions shall be final, subject always to such Review, Correction, and Objections as would have been competent thereagainst under this Act if the Cause had been tried by such Lord Ordinary on Issues.

Lord Ordinary may try special Facts without a Jury.

XLIX. And be it enacted, That in any Cause before the Court of Session, not falling within the Causes specially enumerated in the said recited Act passed in the Sixth Year of the Reign of His Majesty King *George* the Fourth as appropriate to be tried by Jury, it shall be competent to the Lord Ordinary before whom such Cause depends, with the Consent of both Parties or upon the Motion of One Party, with the Leave of the Inner House obtained upon the Report of the Lord Ordinary, or to the Court when the Cause comes in to the Inner House, to appoint the Evidence in such Case, or any Portion of such Evidence, to be taken by Commission: Provided always, that it shall be competent for the Court to allow Proof on Commission in any of such enumerated Causes where the Action is not an Action for Libel or for Nuisance, or properly and in Substance an Action of Damages.

Lord Ordinary may take the Evidence by Commission, except in the enumerated Causes.

L. 'And whereas it is expedient to extend the Benefits of Arbitration:' Be it enacted, That if the Parties in any Cause before the Court of Session in which an Issue is to be tried shall consent to refer the same to any One Arbiter, or to any Three, Five, or Seven Arbiters, it shall be lawful for the Court or the Lord Ordinary, and the Court or Lord Ordinary is hereby required to allow such Arbiter or Arbiters to be sworn and to sit as a Jury to try such Issue; and such Arbiter or Arbiters, or the major Part of their Number in the event of Difference of Opinion, shall have all the Powers of a unanimous Jury; and the Proceedings of such Trial shall be conducted, as far as may be, as in any ordinary Case of Trial by Jury, either Party being entitled to take Exceptions, and to move for new Trial, as in any ordinary Case: Provided always, that it shall not be competent to either Party to object to the Verdict, or to move for new Trial, in respect of the Verdict being against Evidence, or on any other Ground implying Miscarriage on the Part of the Jury alone: Provided also, that the Court, in the event of granting a new Trial, shall direct the new Trial to proceed before the same Arbiter or Arbiters, if able to try the Cause, and the new Trial shall in that Case proceed before the same Arbiter or Arbiters accordingly.

Parties may choose their own Jury.

LI. And be it enacted, That where by the Provisions of this Act anything may be done upon Report of a Lord Ordinary to one or other of the Divisions of the Court, the same may be done summarily by a simple verbal Report, to be made by such Lord Ordinary to such Division.

Reports by Lords Ordinary to be verbal.

LII. And be it enacted, That it shall be lawful for any Clerk or Officer of the Court of Session or other Court, entitled to Compensation for Loss to be suffered through the Operation or Effect of this Act, to make Application to the Commissioners of Her Majesty's

Compensation.

Treasury for Compensation, giving at the same Time Notice of such Application to Her Majesty's Advocate for *Scotland*; and it shall be lawful for the said Commissioners of the Treasury to investigate such Claim, and call for such Evidence in relation thereto as they may think necessary; and upon such Claim being established to their Satisfaction the said Commissioners are hereby authorized and empowered, out of such Monies as Parliament shall hereafter provide, to award to such Person such Compensation as they shall, under all the Circumstances of the Case, and having reference to the Nature of the Appointment and the Duration of the Service, think him entitled to, either by the Payment of a gross Sum or by way of Annuity, as they shall think proper: Provided always, that a Copy of every such Award for Compensation shall be laid before both Houses of Parliament within Thirty Days from the Day on which the same shall be granted, if Parliament shall be then sitting, and if not, then within Thirty Days after the then next Sitting of Parliament; and no such Award shall be final and conclusive until Two Calendar Months after the same shall have been so laid before Parliament: Provided also, that it shall be a Condition of every such Grant that the Compensation so granted, in the event of the Appointment thereafter of any of the said Persons to any Office of Profit or Emolument under the Crown, shall abate or wholly cease during the Period in which such Person shall hold such Office, so as that the Compensation and Emolument thereof, taken together, shall not exceed the Emoluments of the Office in respect of which the Compensation has been granted.

Interpretation of Terms.

LIII. And be it enacted, That in construing this Act the Expression "Clerk of Session" shall include Principal Clerk of Session, Depute Clerk of Session, and Assistant Clerk of Session, both in the Inner and Outer House; the Word "Pursuer" shall include Complainer, and the Word "Defender" shall include Respondent.

Court of Session may make Regulations by Acts of Sederunt.

LIV. And be it enacted, That the Court of Session shall be and the said Court is hereby empowered, from Time to Time, from and after the passing of this Act, to make such Regulations, by Act or Acts of Sederunt, as the said Court may deem meet for carrying into effect the Purposes of this Act, and also to make Regulations substituting such Services or Notices as the Court may deem meet in lieu of Actions of Transference as at present in use, and also to make Regulations for allowing Summonses and Notes of Advocation and of Suspension, and of Suspension and Interdict, and of Suspension and Liberation, to be called at any Box Day in Vacation or Recess, and making Defences returnable at such Box Days, or on the Meeting of the Lords Ordinary, or of the Court after Vacation or Recess; and the said Court may meet for the above Purposes during Vacation as well as during Session, and may alter and amend such Regulations from Time to Time: Provided always, that within Fourteen Days from the Commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament Copies of all Acts of Sederunt made and passed under the Powers hereby given.

Commencement of Act.

LV. And be it enacted, That, excepting in so far as regards the Power herein-before given to the Court of Session to pass Acts of Sederunt, this Act shall take effect from and after the First Day of *November* One thousand eight hundred and fifty: Provided always, that it shall be competent to the said Court, from and after the passing of this Act, to make any Order in any existing Cause, to take effect at and from the said First Day of *November* One thousand eight hundred and fifty.

Recited Acts, &c. repealed when at variance with this Act.

LVI. And be it enacted, That the said recited Acts, and all Laws, Statutes, Acts of Sederunt, and Usages, shall be and the same are hereby repealed, in so far only as they may be in any respect inconsistent or at variance with the Provisions of this Act.

Act may be amended, &c.

LVII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

SCHE-

SCHEDULES to which this Act refers.

SCHEDULE (A.)

No. 1.

FORM of an ordinary PETITORY SUMMONS.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith: To Messengers at Arms, Our Sheriffs in that Part, conjunctly and severally, specially constituted, greeting: Whereas it is humbly meant and shown to Us by Our Lovite *A.* [*insert Name and Designation*], Pursuer, against *B.* [*insert Name and Designation*], Defender, in Terms of the Condescendence and Note of Pleas in Law hereunto annexed: Therefore the Defender ought and should be decerned and ordained, by Decree of the Lords of Our Council and Session, to make Payment to the Pursuer of the Sum of Sterling, [*where any liquid Document of Debt is libelled on, whether Bond, Bill, or other Document, as the Case may be, set it forth here, as shortly as possible, describing it merely by its Date, and the Names of the Parties by and to whom granted,*] with the legal Interest thereof from the Day of until Payment, together with the Sum of Sterling, or such other Sum as Our said Lords shall modify as the Expenses of the Process to follow hereon, conform to the Laws and daily Practice of Scotland used and observed in the like Cases, as is alleged: Our Will is Herefore, *&c.* [*insert the Will in common Form, down to the Words,* "Given under our Signet at Edinburgh," *inclusive*].

[*To be signed on each Page by a Writer to the Signet, and signeted in common Form.*]

CONDESCENDENCE.

[*State articulately the Allegations in Fact which form the Ground of Action.*]

NOTE OF PLEAS IN LAW.

[*State them articulately.*]

In respect whereof, *&c.*

[*To be signed on each Page by the same Writer to the Signet who signs the above.*]

No. 2.

FORM of a SUMMONS of COUNT and RECKONING and PAYMENT.

VICTORIA, *&c.* [*as before*]: Whereas, *&c.* [*as before*]: Therefore the Defender ought and should be decerned and ordained, by Decree of the Lords of our Council and Session, to exhibit and produce before Our said Lords a full and particular Account of his whole Intromissions as Factor for the Pursuer, [*or otherwise, as the Case may be,*] whereby the true Balance due by him to the Pursuer may appear and be ascertained by Our said Lords: And the Defender ought and should be decerned and ordained, by Decree foresaid, to make Payment to the Pursuer of the Sum of Sterling, or of such other Sum as shall appear and be ascertained by Our said Lords to be due by the Defender as the Balance of his said Intromissions, with the legal Interest thereof from the Day of until Payment; or, in the event of the Defender failing to produce an Account as aforesaid, he ought and should be decerned and ordained, by Decree foresaid, to make Payment to the Pursuer of the Sum of Sterling, which shall in that Case be held to be the Balance of his said Intromissions, with the legal Interest thereof from the said Day of until Payment; and whether the said Account is produced or not, the Defender ought and should be decerned and ordained, by Decree foresaid, to make Payment to the Pursuer of the Sum of Sterling, *&c.* [*insert Conclusion for Expenses, as before*]: Our Will is Herefore, *&c.* [*insert the Will in common Form, as before*].

[*To be signed and signeted as before.*]

No. 3.

No. 3.

FORM of a SUMMONS of DECLARATOR of TRUST.

VICTORIA, *&c.* [*as before*]: Whereas, *&c.* [*as before*]: Therefore it ought and should be found and declared, by Decree of the Lords of Our Council and Session, that a Disposition dated whereby, for the Causes therein specified, the Pursuer sold, alienated, and disponed to the Defender, and his Heirs and Assignees whomsoever, heritably and irredeemably, all and whole the Lands of was a Trust in the Person of the Defender, for the Use and Behoof of the Pursuer, and his Heirs or Assignees: And the Defender ought and should be decerned and ordained, by Decree foresaid, to denude of the said Lands, and to convey the same, with the Writs and Evidents thereof, to the Pursuer, and his Heirs and Assignees, with Warrandice from the Defender's own Facts and Deeds [*insert Conclusion for Expenses and Will, as before*].

[*To be signed and signeted as before.*]

No. 4.

FORM of a SUMMONS of REDUCTION.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To
Messengers at Arms, Our Sheriffs in that Part, conjunctly and severally, specially constituted, greeting: Our Will is, *&c.* [*take in Will of Summons in common Form, down to the Statement of the Reasons; then say*] for the Reasons and Causes set forth in the Condescendence and Note of Pleas hereunto annexed: Therefore, and for other Reasons to be proposed at discussing hereof, the said last Will and Testament [*or other Document sought to be reduced, as the Case may be*], with all that has followed or may follow on the same, ought and should be reduced, retreated, rescinded, cassed, annulled, decerned, and declared by Decree of Our said Lords, to have been from the Beginning, to be now and in all Time coming, null and void, and of no Avail, Force, Strength, or Effect, in Judgment or outwith the same in Time coming, and the Pursuer reponed and restored thereagainst in integrum: And the Defender ought and should be decerned and ordained, by Decree foresaid, to make Payment to the Pursuer of the Sum of Sterling [*insert Conclusion for Expenses, as before*], or else to allege a reasonable Cause in the contrary: With Certification to the Defender, if he fail, Our said Lords will proceed in the said Matter, and reduce, decern, and declare in manner foresaid: According to Justice, *&c.* [*according to usual Form, as before*].

[*To be signed and signeted as before.*]

No. 5.

FORM of a SUMMONS of MULTIPLEPOINDING.

VICTORIA, *&c.* [*as before*]: Whereas it is humbly meant and shown to us by Our Lovite *A.* [*insert Name and Designation*], Pursuer, against *B.* [*insert Name and Designation*], common Debtor, and *C.*, *D.*, and *E.* [*insert Names and Designations of each in order, and state who is the real Raiser*], Creditors or pretended Creditors of the said *B.*, all Defenders, in Terms of the Condescendence and Note of Pleas in Law hereunto annexed: Therefore it ought and should be found and declared, by Decree of the Lords of Our Council and Session, that the Pursuer is only liable in once and single Payment of the Principal Sum of Sterling contained in a Bond dated granted by him to the said *B.*, his Heirs, Executors, or Assignees, and Interest thereon from the Day of until Payment, or until Consignation in this Process, and that to the Person or Persons who may have just Right thereto; for determining which the said several Persons, Creditors or pretended Creditors foresaid, and the said *B.*, common Debtor, for his Interest, and all others pretending Right thereto, ought to produce their respective Grounds of Debt and Diligences thereon or other Interest in the said Sum, and dispute their Preferences thereto: And the Pursuer should be found entitled to retain the Expenses of this

Process

Process as the same shall be ascertained in the course thereof, and decerned and ordained to make Payment of what Sum shall remain in his Hands after such Retention to such of the Defenders or others as may be found to have best Right thereto: And the Defenders who shall be found to have no Right to the Sums in medio, and all others, ought and should be decerned and ordained, by Decree foresaid, to desist and cease from further troubling the Pursuer with respect to the Premises in Time coming, conform to the Laws and daily Practice of Scotland used and observed in the like Cases, as is alleged. Our Will is Herefore, &c. [*insert the Will in common Form, as before*].

[*To be signed and signeted as before.*]

SCHEDULE (B.)

THIS Summons, [*or* Note of Suspension, *or* Note of Suspension and Interdict, *or* Note of Suspension and Liberation, *or* Note of Advocation,] executed [*or* intimated] by me [*insert Name*], Messenger at Arms, against [*or* to] [*insert Name or Names*], Defender [*or* Defenders, *or* Respondent *or* Respondents] [*state whether personally or otherwise*], in Presence of [*insert Name and Designation of Witness*], this Day of Eighteen hundred and Years.

[*Signature of Messenger.*]

C.D., Witness.

CAP. XXXVII.

An Act for the further Extension of Summary Jurisdiction in Cases of Larceny.

[29th *July* 1850.]

'WHEREAS by an Act passed in the Eleventh Year of the Reign of Her Majesty, intituled *An Act for the more speedy Trial and Punishment of Juvenile Offenders*, it is enacted, that every Person who should subsequently to the passing of that Act be charged with having committed or having attempted to commit, or with having been an Aider, Abettor, Counsellor, or Procurer in the Commission of any Offence which then was or thereafter should or might be by Law deemed or declared to be Simple Larceny, or punishable as Simple Larceny, and whose Age at the Period of the Commission or attempted Commission of such Offence should not, in the Opinion of the Justices before whom he or she should be brought or appear as therein-after mentioned, exceed the Age of Fourteen Years, should, upon Conviction thereof upon his own Confession or upon Proof before any Two or more Justices of the Peace for any County, Riding, Division, Borough, Liberty, or Place, in Petty Sessions assembled at the usual Place and in open Court, be punished as therein mentioned: And whereas by an Act passed in the Twelfth Year of the Reign of Her Majesty, intituled *An Act for the more speedy Trial and Punishment of Juvenile Offenders in* Ireland, it is enacted that every Person who should subsequently to the passing of that Act be charged with having committed or having attempted to commit, or with having been an Aider, Abettor, Counsellor, or Procurer in the Commission of any Offence in *Ireland* which then was or thereafter should or might be by Law deemed or declared to be Simple Larceny or punishable as Simple Larceny, and whose Age at the Period of the Commission or attempted Commission of such Offence should not, in the Opinion of the Justices before whom he or she should be brought or appear as therein-after mentioned, exceed the Age of Fourteen Years, should, upon Conviction thereof upon his own Confession or upon Proof before any Two or more Justices of the Peace for any County, Riding, Division, Borough, Liberty, or Place, in Petty Sessions assembled at the usual Place and in open Court, be punished as therein mentioned: And whereas the Expense and Delay sustained in the Prosecution of Persons guilty of petty Thefts tend to the Increase of such Offences; and it is expedient that the Provisions of the said Acts should be extended as herein-after provided:' Be it enacted therefore 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,

10 & 11 Vict. c. 82.

11 & 12 Vict. c. 59.