


ANNO TRICESIMO & TRICESIMO PRIMO

# VICTORIÆ REGINÆ.

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## CAP. XCVI.

## An Act to facilitate the Recovery of certain Debts in the Sheriff Courts in *Scotland*.

[12th *August* 1867.]

WHEREAS an Act was passed in the First Year of the Reign of Her present Majesty, intituled *An Act for the more effectual Recovery of Small Debts in the Sheriff Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in* Scotland; and another Act was passed in the Session of Parliament held in the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, intituled *An Act to facilitate Procedure in the Sheriff Courts in* Scotland: 7 W. 4. & 1 Vict. c. 41. 16 & 17 Vict. c. 80.

And whereas it is expedient to make farther Provision to facilitate the Recovery of certain Debts in the Sheriff Courts in *Scotland*:

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:

**1.** This Act shall be cited for all Purposes as the "Debts Recovery (*Scotland*) Act, 1867." Short Title.



**2.** From

Causes between 12*l.* and 50*l.* which may be tried under this Act.

**2.** From and after the passing of this Act, it shall be lawful for any Sheriff in *Scotland*, within his Sheriffdom, to hear, try, and determine in a summary Way, as more particularly herein-after mentioned, all Actions of Debt that may competently be brought before him for House Maills, Men's Ordinaries, Servants Fees, Merchants Accounts, and other the like Debts, wherein the Debt shall exceed the Value of Twelve Pounds Sterling, exclusive of Expenses and Dues of Extract, but shall not exceed the Value of Fifty Pounds Sterling, exclusive as aforesaid: Provided always, that the Pursuer shall in all Cases be held to have passed from and abandoned any remaining Portion of any such Debt beyond the Sum actually concluded for in any such Action.

Proceedings to begin by Summons or Complaint, as in Sect. 3. of 7 W. 4. & 1 Vict. c. 41.

**3.** All such Actions which the Pursuers thereof shall choose to have heard and determined according to the summary Mode hereby provided shall proceed upon Summons or Complaint, agreeably to the Form and subject to all the Provisions contained in the Third Section of the first-recited Act and relative Schedules, except as herein provided: Provided always, that the Summons or Complaint shall not contain and shall not constitute a Warrant to cite Witnesses or Havers.

Parties may appear by Procurators.

**4.** In all Actions under this Act it shall be competent for the Parties or any of them to appear and plead personally, or by any Person *bonâ fide* employed by them in their usual Business, or by a Procurator of Court; and, except in Applications for Sequestration and Sale of a Tenant's Effects for Recovery of Rent, it shall be competent for Agents qualified to practise before the Court of Session to act as Procurators or Agents before the Sheriff Court of *Edinburgh* in any Cause exceeding the Value of Twenty-five Pounds, exclusive of Expenses and Dues of Extract raised under the Authority of this Act, so long as such Cause is not remitted to the ordinary Roll of such Sheriff Court.

Certain Sections of 7 W. 4. & 1 Vict. c. 41. incorporated with this Act.

**5.** The Provisions contained in the Third, Fifth, Sixth, Eighth, Ninth, Tenth, Twelfth, Eighteenth, Nineteenth, Twenty-first, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-eighth, Thirty-fourth, Thirty-fifth, and Thirty-sixth Sections of the first-recited Act and relative Schedules shall be held as incorporated in the present Act, except in so far as they may be inconsistent with any of the Provisions hereof: Provided always, that the foresaid Sections of the first-recited Act shall for the Purposes of this Act be read and construed as if they expressly related to Actions of the Nature and Value set forth in the Second Section of this Act, instead of to Actions of the Nature and Value

set

set forth in the said Sections of the first-recited Act, or in the Twenty-sixth Section of the second-recited Act, and farther that the Fifth Section of the said first-recited Act shall be read and construed as if it related expressly to the Recovery of Rents or Balances of Rents exceeding Twelve Pounds and not exceeding Fifty Pounds Sterling, and that the Tenth Section of the said Act shall be read and construed as if it related expressly to the Distribution of Funds or Subjects exceeding the Value of Twelve Pounds and not exceeding the Value of Fifty Pounds Sterling, and that the counter Claims or Claims in Actions of Multiple-poinding which may be made under the Authority of this Act shall be of the Nature and Value set forth in the Second Section hereof, and that wherever in the foresaid Sections of the said first-recited Act the Words "Ordinary Small Debt Court," or "Circuit Small Debt Court," or such like Words, are used, they shall for the Purposes of this Act be held to mean and include Ordinary Courts or Circuit Courts at which Causes tried under the Authority of this Act are or may be set down for Trial: Provided also, that if any Person shall make a Claim in any Action of Multiple-poinding raised under the Authority of this Act, or a counter Claim in any other Action raised under this Act, which Claim or counter Claim, as the Case may be, is not of the Nature and Value set forth in the Second Section hereof, the Sheriff shall, if he thinks fit, remit the Action to his ordinary Roll: Provided farther, that, notwithstanding the Terms of the Sixth Section of the first-recited Act, Arrestments laid on under the Authority of this Act shall not prescribe till the Expiry of Three Years, according to the Provisions of the Twenty-second Section of an Act passed in the First and Second Years of the Reign of Her present Majesty, intituled *An Act to amend the Law of* Scotland *in Matters relating to Personal Diligence, Arrestments, and Poindings.* 1 & 2 Vict. c. 114.

**6.** When the Defender who has been duly cited shall fail to appear he shall be held confessed, and the other Party shall obtain Decree against him; and in like Manner if the Pursuer shall fail to appear the Defender shall obtain Decree of Absolvitor, unless in either Case a sufficient Excuse for Delay shall be stated, on which Account it shall at all times be competent for the Sheriff to adjourn any Case to the next or any other Court Day, and to any Place at which he holds a Court for the Trial of Causes under this Act or any other Act, and to ordain the Parties then to attend: Provided always, that a Decree in Absence (Condemnator or Absolvitor) obtained under this Act shall be as nearly as may be in the same Form, and shall have the same Force and Effect, and be followed by the like Execution and Decrees in Absence, and their Effect.

and Diligence, as a Decree in Absence obtained under the first-recited Act.

Hearing in Cases of Decree in Absence.

**7.** The Provisions contained in the Sixteenth Section of the first-recited Act shall be held as incorporated in the present Act: Provided always, that it shall not be competent to insert in the Warrant for Hearing any Warrant to cite Witnesses and Havers: Provided also, that, notwithstanding the Terms of the said Sixteenth Section, it shall be competent for the Pursuer of any Action under the Authority of this Act, against whom Decree of Absolvitor has passed in Absence, to apply for and obtain a Warrant for Hearing at any Time within Three Calendar Months thereafter, in the same Manner and under the same Conditions as those provided in the said Sixteenth Section, and such Warrant for Hearing shall have the like Force and Effect as if obtained under the said Section.

If Case unsuitable for Summary Trial, Sheriff may remit to ordinary Roll;

**8.** Where both Parties shall appear at the Diet mentioned in the Summons and Complaint, or at any Adjournment thereof, or at the Diet for Hearing under the immediately preceding Section, the Sheriff shall inquire into the Nature of the Action and of the Defence thereto, and shall make a short Note of the Pleas of Parties (herein-after called the Note of Pleas), which shall form Part of the Process; and where it shall appear to the Sheriff that the Case is of such a Nature that it cannot, with due Regard to the Ends of Justice, be disposed of according to the Summary Procedure provided by this Act, he may remit the same to his ordinary Roll; and the Case, being so remitted, shall be proceeded with in the same Manner as Cases remitted under the first-recited Act from the Small Debt Roll to the ordinary Roll of the Sheriff Court are now proceeded with; and it shall not be competent to take any Objection that such Case so remitted was not of the Nature or Value set forth in the Second Section hereof; but if it shall not appear to be necessary for the Ends of Justice that the Case should be remitted to the ordinary Roll, the Sheriff shall fix a Time (which shall be as early as may be) and Place for proceeding to try and determine the same, and shall ordain the Parties then to attend, and shall grant Warrant to cite Witnesses and Havers (which Warrant shall be signed by the Sheriff Clerk and shall have the same Force and Effect as if it had been contained in the Summons and Complaint); and at said Time and Place, or at some adjourned Time and Place (which Adjournment the Sheriff shall only grant when the Ends of Justice require it), the Sheriff shall proceed to hear the Parties *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, if he should see Cause, may remit to Persons of Skill to report, or to any

otherwise shall hear Case and give Judgment.

any Person competent to take and report in Writing, the Evidence of Witnesses or Havers, or the Oath of any Party who may be unable to attend, upon special Cause shown, and such Cause shall in all Cases be entered in the Book of Causes kept by the Sheriff Clerk herein-after mentioned, due Notice of the Examination being given to both Parties, and thereupon the Sheriff may pronounce Judgment, and the Judgment shall, unless appealed from as after mentioned, be as nearly as may be in the same Form, and shall have the same Force and Effect, and be followed by the like Execution and Diligence, as a Decree obtained under the Thirteenth Section of the first-recited Act.

If required, Sheriff shall take Note of Evidence, and pronounce Findings in Law and Fact.

**9.** Unless required by either Party, it shall not be necessary for the Sheriff to take any Note of the Evidence or of the Facts admitted by the Parties, but upon such Requisition, which shall only be competently made before any Parole Evidence has been led, and not afterwards, he shall take a Note of the Evidence and of the Facts admitted (herein-after called the Note of Evidence), setting forth the Witnesses examined and the Testimony given by each, and the Documents adduced, and any Evidence, whether oral or written, tendered and rejected, with the Ground of such Rejection, and a Note of any Objections taken to the Admission of Evidence, whether oral or written, allowed to be received, which Note of the Evidence shall be forthwith lodged in Process; and the Sheriff Clerk shall mark the Documents admitted in Evidence, and also separately any Documents tendered and rejected; and the Diet of Proof shall not be adjourned unless on special Cause shown, which shall be set forth in the Note of Evidence at the Time of making the Adjournment: Provided always, that the Sheriff shall either take such Note with his own Hand, or may dictate it to a Clerk, or, on the Motion of either of the Parties and in the meantime at the Expense of the Party or Parties so moving (said Expenses to be ultimately disposed of as Expenses in the Cause), to a Writer skilled in Shorthand Writing, to whom the Oath De fideli administratione officii shall be administered; and the said Shorthand Writer shall afterwards write out in full the Note of Evidence so taken by him, and the Sheriff shall certify the same as correct, and the Evidence of such Witness shall be read over to him and shall be signed by him except where it shall have been taken in Shorthand; and where the Evidence has been recorded as above provided for, the Sheriff shall pronounce and sign and date an Interlocutor, setting forth the separate Findings in Law and in Fact upon which he has proceeded in giving Judgment; and such Interlocutor shall form Part of the Process, and if not appealed from, as herein-after provided, shall be final and conclusive, and not

subject to Review by any Court whatever; and the Judgment of the Sheriff shall at the Expiry of the Time allowed for Appeal herein-after mentioned, and if not appealed from during the same, be extracted, as nearly as may be, in the Mode provided in the Thirteenth Section and relative Schedule of the first-recited Act, and shall have the same Force and Effect, and be followed by the like Execution and Diligence, as a Decree obtained under the last-mentioned Section of the said first-recited Act.

Appeal competent only when Note of Evidence taken.

**10.** Where neither Party has, in the Manner above provided, required the Sheriff to take a Note of the Evidence, it shall not be competent to appeal against the Judgment which he shall pronounce, in so far as the Findings in Fact pronounced by him are concerned, and the said Findings shall be final and conclusive, and not subject to Review by any Court whatever: Provided also, that it shall not in any Case be competent to appeal until Judgment has been pronounced by the Sheriff finally disposing of the Cause, but an Appeal when taken shall have the Effect of submitting to Review all the previous Proceedings and Interlocutors.

Appeal where Case heard by Sheriff Substitute.

**11.** Subject to the Provisions contained in the immediately preceding Section, where the Case has been heard and the Judgment has been given by the Sheriff Substitute, it shall be competent for either Party to appeal against such Judgment to the Sheriff; and the Party who proposes to appeal against the same shall, within Eight Days, or in Cases depending before the Sheriff of *Orkney* and *Shetland* within Sixteen Days, from the Date of the Interlocutor before mentioned, engross and sign, by himself or by his Procurator, under the said Interlocutor, the Words, "I appeal against the Judgment of the Sheriff Substitute" (failing which the Judgment of the Sheriff Substitute shall be, as herein-before provided, final and conclusive, and not subject to Review by any Court whatever); and it shall be competent for the Appellant to subjoin to his Appeal at the Time of engrossing it a Note of the legal Authorities upon which he founds; and the Sheriff Clerk shall forthwith transmit to the Sheriff the Summons or Complaint, the Interlocutor of the Sheriff Substitute, the Note of Pleas, and the Note of Evidence, with the Productions made, if any, and the Sheriff shall without Delay consider the Appeal, and shall affirm or alter the Judgment of the Sheriff Substitute, and shall without Delay pronounce such Judgment as may be right, and shall set forth in an Interlocutor (which he shall transmit along with the Process to the Sheriff Clerk) the Terms of his Judgment; and if he shall have altered that of the Sheriff Substitute, he shall set forth the Findings in Fact and Law upon which he proceeded in giving Judgment: Provided

Provided always, that, if it shall seem proper, the Sheriff may order the Case to be reheard, and the Evidence in the Cause taken of new or additional Evidence therein to be taken, either before himself or before the Sheriff Substitute, or before a Commissioner if otherwise competent, with such Instructions as he shall deem right; and the Judgment of the Sheriff shall at the Expiry of the Period allowed for Appeal herein-after mentioned, and if not appealed from during the same, be extracted as nearly as may be in the same Mode, and shall have the same Force and Effect, and be followed by the like Execution and Diligence, as a Decree obtained under the Thirteenth Section of the first-recited Act and relative Schedule.

Appeal where Case heard by Sheriff Depute in first instance.

**12.** Subject to the Provisions contained in the Tenth Section hereof, and where the Cause exceeds the Value of Twenty-five Pounds Sterling, where the Case has been heard and the Judgment pronounced by the Sheriff (and not by the Sheriff Substitute) in the first instance, it shall be competent for either Party to appeal against such Judgment to either of the Divisions of the Court of Session, and the Party who proposes to appeal against such Judgment shall, within Eight Days, or in Cases depending before the Sheriff of *Orkney* and *Shetland* within Sixteen Days, from the Date of the Sheriff's Interlocutor before mentioned, engross and sign, by himself or by his Procurator, under the said Interlocutor, the Words, "I appeal against the Judgment of the Sheriff to the Division of the Court of Session" (failing which the Judgment of the Sheriff shall, as herein-before provided, be final and conclusive, and not subject to Review by any Court whatever); and the Sheriff Clerk shall forthwith transmit to One of the Principal Clerks of the Division to which the Appeal is taken (or to One of the Principal Clerks of the First Division if the Division is not named in the Appeal) the whole Process; and the Division shall, when the Cause is brought before them as herein-after provided, hear the Appeal without any written Pleadings, and shall affirm or alter the Judgment of the Sheriff, and shall remit to him, or to the Sheriff Substitute, to decern accordingly, or to pronounce such other Judgment as shall seem just; and such Decree shall be extracted, as nearly as may be, in the same Mode, and shall have the same Force and Effect, and be followed by the like Execution and Diligence, as a Decree obtained under the Thirteenth Section of the first-recited Act: Provided always, that, if it shall seem proper, the Division may order the Case to be reheard, and the Evidence taken of new or additional Evidence to be taken by the Sheriff or Sheriff Substitute, with such Directions as shall seem right; and the Decree pronounced by the Sheriff or Sheriff Substitute upon such Rehearing shall

shall be treated in all respects as if it had been pronounced by the Sheriff or Sheriff Substitute in the first instance: Provided also, that any Judgment or Order pronounced by the Division shall be final and conclusive, and not subject to Review by any Court.

Appeal where Case heard by Sheriff on Appeal from the Sheriff Substitute.

**13.** Where the Case has been heard by the Sheriff on Appeal, and Judgment pronounced by him as above provided for, it shall be the Duty of the Sheriff Clerk, immediately on receiving the Sheriff's Interlocutor, to transmit a Copy thereof through the Post Office to the Parties or their Procurators; and within Eight Days, or within the Sheriffdom of *Orkney* and *Shetland* within Sixteen Days, after the Date of such Transmission it shall be competent for either of the Parties to appeal against his (the Sheriff's) Judgment in the same Manner, and to the same Effect, and under the same Limitations as provided for in the immediately preceding Section with regard to Appeals from Judgments of the Sheriff in the first instance.

As to printing of Papers on Appeal to Court of Session.

**14.** When a Process shall be transmitted by the Sheriff Clerk to One of the Principal Clerks of either Division in the Court of Session as herein-before provided, the Clerk to whom the Process is so transmitted shall engross under the Appeal a Certificate setting forth the Date when he received the Process; and the Party insisting in the Appeal shall within Ten Days of such Date, if the Court be then sitting, or on or before the Third Sederunt Day in the next ensuing Session if the Process shall be received as aforesaid during Vacation or Recess, apply by written Note to the Lord President of the Division to which the Appeal has been taken, the presenting of which Note he shall at the same Time intimate by Letter to the Respondent or his known Agent, craving his Lordship to move the Court to order the said Appeal to the Summar Roll; and it shall be competent for such Division, before hearing such Appeal, to order the Appellant to print and box such Papers as shall be necessary, and to furnish such printed Copies thereof to the Respondent as they shall direct; and the Expense of such Printing shall, in the first instance, be borne by the Appellant, but shall afterwards be treated as Part of the general Expenses of the Appeal: Provided always, that if the Appellant shall fail to bring his Appeal before the Division, by Note as aforesaid, he shall be held to have fallen from the same, and the Process shall forthwith be re-transmitted to the Sheriff Clerk, and the Judgment complained of shall thereupon become final, and shall be treated in all respects in like Manner as if no Appeal had been taken against the same.

**15.** The

Book of Causes, &c. to be kept.

**15.** 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 of the Sheriff (except those Interlocutors setting forth at Length the separate Findings in Law and in Fact upon which any Judgment of the Sheriff shall have proceeded, of which Interlocutors the Dates only shall be entered in the Book of Causes), the Dates of Appeal, if any, 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 Schedule (A.) annexed to this Act, or with such Additions as the Sheriff shall appoint; and the Sheriff Clerk shall also keep a Book in which he shall enter, in the Form of Schedule (B.) annexed to this Act, every Cause transmitted to the Sheriff or Sheriff Substitute in order to be advised, specifying the Sheriff to whom the same has been transmitted, the Date of such Transmission, the Date of the Cause being returned advised by the Sheriff or Sheriff Substitute, the Date of intimating the Sheriff's Judgment to the Parties, the Date of transmitting the Cause or Appeal to the Court of Session, the Date of the Cause being returned advised by the Court of Session or being returned in consequence of the Appeal having fallen for want of being insisted in, and any Remarks which the Sheriff may have ordered to be entered in such Book relative to any such Cause; and the Sheriff Clerk shall further keep a Book or Books containing a Register or Registers of all Indorsations of Decrees and Warrants issued in other Counties, and of all Sequestrations and of all Reports of all Poindings and Sales of Goods and Effects under Sequestrations or Poindings, which Registers shall be open and patent at Office Hours to all concerned, without Fee; and the Sheriff Clerk shall make up a Roll of the Causes to be tried on each Court Day under this Act, separate from the Roll of Causes to be tried under the said recited Acts, and shall cause a Copy thereof to be exhibited to the Public on a Patent Part of the Court House at least One Hour before the Time of Meeting of such Court, and which shall continue there during the Time the Court shall be sitting; and the Sheriff Clerk, or an Officer of Court, shall audibly call the Causes in such Roll in their Order.

Appraisement and Sale of poinded and sequestrated Effects.

**16.** The Twentieth Section of the first-recited Act and relative Schedule shall be held as incorporated in the present Act: Provided always, that the Words "Poinding and Sale" in said Section

Section and relative Schedule shall, for the Purposes of this Act, be read and construed to include Poindings on which no Sale has followed, as well as Poindings which have been followed by Sale of the poinded Goods and Effects.

Decrees, &c. not subject to Review, except as hereby provided.

**17.** No Interlocutor, Judgment, Order, or Decree pronounced under the Authority of this Act shall be subject to Reduction, Advocation, Suspension, or Appeal, or any other Form of Review or Stay of Diligence, except as herein provided, on any Ground whatever.

Fees to be taken.

**18.** The following and no other or higher Fees or Dues of Consignation shall be allowed to be taken for any Matters done in any Cause raised under the Authority of this Act (except the Fees of Shorthand Writers or of Witnesses, or of Reporters or Commissioners appointed by the Sheriff under the Eighth Section hereof, which the Sheriff is hereby empowered to fix and decern for as he shall think just, and except also the Expenses incurred in any Appeal to the Court of Session, which shall be taxed and decerned for in common Form):

*Sheriff Clerk's Fees.*

Summons, including Precept of Arrestment, Two Shillings:
Each Copy for Service, Sixpence:
Entering in Procedure Book, Sixpence:
Warrant to cite Witnesses and Havers, One Shilling:
Certificate loosing Arrestment, One Shilling:
Bond of Caution, One Shilling and Sixpence:
Second Diligence against Witnesses and Havers, One Shilling:
Decree, including Extract, if demanded, One Shilling:
Hearing after Decree in Absence, One Shilling and Sixpence:
Indorsation of Decree or Warrant, and entering in Book, One Shilling:
Receiving Report of Sequestration or Poinding, and entering in Book, One Shilling:
Receiving Report of Sale under Sequestration or Poinding, and entering in Book, One Shilling and Sixpence:
Transmitting Process on Appeal to Sheriff, Sixpence:
Intimating Judgment of Sheriff to each Pursuer or Defender, Sixpence:
Transmitting Process on Appeal to the Court of Session, Sixpence.

*Officers*

*Officers Fees, including Assistants or Witnesses.*

Citation of a Party, or Intimation of counter Claim and Execution, One Shilling and Sixpence:

Citation of a Witness or Haver, and Execution, Ninepence:

Charging on Decree, and returning Execution of Charge, One Shilling and Sixpence:

Arrestment, and returning Execution thereof, One Shilling and Sixpence:

Intimation of loosing Arrestment, and Execution thereof, One Shilling and Sixpence:

Poinding, Inventory, and Report, including Fee to Appraisers serving Copy and Execution, Ten Shillings:

Sale and Report, Ten Shillings:

Officer's Travelling Expenses, for each complete Mile from the Cross or Tron, or other usual Place of Measurement in the Town or Place where the Court is held, where there is any such, or, if there be none such, then from the Court House of such Town or Place to the Place of Execution or Service, the Distance travelled in returning after Execution of the Duty not to be reckoned, Eightpence:

Assistants, each, *per* Mile, in the same Manner, Fourpence.

*Crier's Fee.*

For calling each Cause, One Penny, payable when Summons issued.

*Procurators Fees, applicable either to Pursuer's or Defender's Procurator.*

I.—Conduct of Cause.

1. On Decree in Absence (Absolvitor or Condemnator), and procuring Extract thereof:
   - (1.) Where the Sum concluded for (exclusive of Expenses and Dues of Extract) does not exceed Twenty-five Pounds,—Seven Shillings and Sixpence:
   - (2.) Where the Sum concluded for (exclusive of Expenses and Dues of Extract) exceeds Twenty-five Pounds,—Ten Shillings:
2. On Decree or Judgment in a contested Cause (whether the same shall have been appealed to the Sheriff or not), and procuring Extract thereof:
   - (1.) Where the Sum concluded for (exclusive of Expenses and Dues of Extract) exceeds Twelve Pounds and does not exceed Twenty Pounds,—Thirty Shillings:
   - (2.) Where the Sum concluded for (exclusive as aforesaid) exceeds Twenty Pounds and does not exceed Thirty Pounds,—Forty Shillings:

(3.) Where

(3.) Where the Sum concluded for (exclusive as aforesaid) exceeds Thirty Pounds and does not exceed Forty Pounds,—Sixty Shillings:

(4.) Where the Sum concluded for (exclusive as aforesaid) exceeds Forty Pounds and does not exceed Fifty Pounds,—Eighty Shillings:

3. For Decree in Absence or in Foro in an Action of Forthcoming, Sequestration, or Multiplepoinding, same as in an ordinary Action.

The above Fees shall be exclusive of Postages and actual Outlays, but shall include the whole Sums exigible, whether as between Party and Party or between Client and Agent, for taking Instructions to prosecute or defend the Action, instructing Officers to cite Parties or Witnesses, or to arrest on the Dependence, revising Summons and Citations and Executions, precognoscing Witnesses, attending Proofs and Debates, writing and signing Appeals, Correspondence, and generally doing everything requisite for commencing and carrying on the Action or the Defence, until final Judgment or Decree in the Sheriff Court.

II.—Execution of Diligence.

1. Where Poinding or Imprisonment has followed on the Decree, or where a Sale has followed on a Decree of Sequestration, including instructing Officer to arrest, charge, poind, sell, or imprison, revising his Executions and Reports, Correspondence, receiving Payment of Sums in Decree, and handing same over to Creditor:

(1.) Where the Amount decerned for (exclusive of Expenses and Dues of Extract) does not exceed Twenty-five Pounds, Three *per Centum* on the Amount decerned for; but no Fee to be less than Nine Shillings:

(2.) Where the Amount decerned for (exclusive of Expenses and Dues of Extract) exceeds Twenty-five Pounds, Two *per Centum* on the Amount decerned for; but no Fee to be less than Fifteen Shillings:

2. Where neither Poinding nor Sale nor Imprisonment has followed, One Half of the above, both with respect to the maximum and minimum Fees: Provided always, that where any Cause shall have been conducted, under the Fourth Section hereof, partly by a Solicitor at Law and partly by a Writer to the Signet or Solicitor before the Supreme Courts, the Sheriff shall determine what Portion of said Fees shall be payable to each of the Agents or Procurators who shall

shall have been so engaged in the Cause, and the Sheriff's Determination shall be final.

Table of Fees to be printed and hung up.

**19.** An exact Copy of the immediately preceding Section of this Act shall be at all Times hung up in every Sheriff Clerk's Office and in every Sheriff Court Place during the holding of any Court for the Trial of Causes under the Authority of this Act; and any Sheriff Clerk at any Time omitting to have such Copy hung up in his Office or in the Sheriff Court Place as aforesaid, or not causing the Roll of Causes each Court Day to be publicly exhibited, or not causing the Number and Names of the Parties in such Roll to be called in their Order as aforesaid, except with Leave of the Sheriff, upon Cause shown in open Court, 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: Provided always, that the Sheriff Clerk shall be bound to account for the Fees drawn by him under the Authority of this Act in the same Manner as he is now by Law bound to account for the Fees drawn by him under the Authority of the first-recited Act, but no farther or otherwise.

Court of Session to revise Table of Fees.

**20.** The Court of Session in *Scotland* shall be and is hereby authorized and empowered, after due Inquiry, by Act or by Acts of Sederunt, from Time to Time to make such Alterations by way of Increase or Decrease as to said Court shall seem needful on the Fees and Dues hereby authorized to be taken, or to frame a new Table or Tables of Fees and Dues that shall be allowed to be taken for Matters done in contested Causes raised under the Authority of this Act, in place of the Fees and Dues herein-before specified; and when any such Alterations or any such new Table shall be made, all the Provisions herein contained relative to the Fees specified in Section Eighteen hereof shall be applicable to such altered Fees or Dues, or such new Table of Fees and Dues; and the said Court shall have like Powers to regulate the Fees payable in Appeals under this Act in the Court of Session.

Interpretation of Terms.

**21.** In all Cases in this Act, or in the Schedules hereto annexed, the Word "Sheriff" shall be held to include Sheriff Depute and Steward Depute and Sheriff Substitute and Steward Substitute; the Words "Sheriff Substitute" to include Steward Substitute; the Words "Sheriff Court" to include and apply to the Court of the Sheriff or Steward or their Substitutes; the Words "Sheriff Clerk" to include Steward Clerk and Depute Sheriff Clerk and Depute Steward Clerk; the Word "Shire" or "County" to include

Stewartry; the Word "Sheriffdom" to include and be included in the Words "Shire, County, or Stewartry;" the Word "Person" to extend to a Partnership, Body Politic, Corporate, or Collegiate, as well as an Individual; the Word "Procurator" to include a Writer to the Signet or Solicitor before the Supreme Courts entitled to act as Agent under the Provisions of the Fourth Section of this Act: Provided always, that those Words and Expressions occurring in this Clause to which more than One Meaning is attached shall not have the different Meanings given to them by this Clause in those Cases in which there is anything in the Subject or Context repugnant to such Construction.

Act not to affect recited Acts.

**22.** Nothing contained in this Act shall in any way affect the Provisions of the recited Acts or either of them in regard to any Proceedings which before the passing of this Act might competently take place under them.

As to Payment of Stamp Duty upon Indentures of Apprenticeship to Procurators.

**23.** Whereas by Section Thirty-four of an Act passed in the Twenty-fourth and Twenty-fifth Years of Her Majesty's Reign, Chapter Ninety-one, it is provided that no Deed or Instrument liable to Stamp Duty shall be registered unless the same is duly stamped: And whereas by Section Nine of an Act passed in the Twenty-eighth and Twenty-ninth Years of Her Majesty's Reign, Chapter Eighty-five, it is provided that every Indenture entered into after the passing of the said Act with the Intention of qualifying an Apprentice for Admission as a Procurator as therein mentioned shall be recorded in the Register of Probative Writs of the County where the same shall have been entered into within Six Months from the Date fixed for the Commencement of the Term of Apprenticeship: And whereas such an Indenture as is referred to in the last-mentioned Act is liable to a Stamp Duty of Thirty Pounds, and it is considered that the Payment of so large a Sum at the Time of the Commencement of the Apprenticeship operates harshly and prejudicially: Be it enacted, That the Sum of Two Shillings and Sixpence, in part of the said Stamp Duty of Thirty Pounds, shall be paid upon the Execution of any such Indenture of Apprenticeship, and that the same Indenture, if bearing a Stamp Duty of Two Shillings and Sixpence, shall be deemed to be duly stamped for the Purpose of the recording thereof in the proper Register of Probative Writs, and also for the Purpose of enforcing all the Obligations therein contained, and that the Sum of Twenty-nine Pounds Seventeen Shillings and Sixpence, being the Residue of the said Stamp Duty of Thirty Pounds, shall be paid upon the Admission of the Apprentice as a Procurator in addition to the Stamp Duty payable in respect of such Admission.

SCHEDULE (A.)

| No. | Date of Complaint. | Pursuers. | Defenders. | Nature and Amount. | How cited. | By what Officer. | Interlocutors. | Date of Appeal. | Final Decree. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

## SCHEDULE (B.)

TRANSMISSION BOOK TO BE KEPT BY SHERIFF CLERKS.

| Names of Cause. [As A. *versus* B.] | Date of Transmission to Sheriff Substitute. | If Proof led, state whether before Sheriff, or Substitute, or Commissioner, and its Duration. | Date of Case being returned advised. | Date of Transmission to Sheriff. | Date of Case being returned advised. | Date of Intimation of Sheriff's Judgment. | Date of Transmission to Court of Session. | Date of Case being returned from Court of Session advised or Appeal fallen from. | Remarks.* |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

* *Note.*—Where Cases have been longer than Six Days unadvised after Transmission to the Sheriff, the Reason to be stated in this Column.
Also the Names of any Commissioners to whom Remits have been made to take Proofs.
Also whether Proof taken by Sheriff's or Commissioner's own Hand, or by being dictated to a Clerk or a Shorthand Writer.

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