

ANNO SEXTO

GEORGII IV. REGIS.

CAP. XLVIII.

An Act to alter and amend an Act passed in the Thirty-ninth and Fortieth Year of King *George* the Third, for the Recovery of Small Debts in *Scotland*. [22d *June* 1825.]

WHEREAS the Regulations introduced by the Act made in the Thirty-ninth and Fortieth Years of His late Majesty, intituled *An Act for the more easy and expeditious Recovery of Small Debts, and determining small Causes, in that Part of* Great Britain *called* Scotland, have been found useful and beneficial to the Public; and it is expedient that the said Act should be altered and amended, and that certain other and further Regulations which Experience has suggested for the Improvement thereof should be introduced: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the First Day of *January* next the said last-mentioned Act shall be and the same is hereby repealed, except as to such Causes and Complaints as may be brought under the Authority of the said last-mentioned Act before the said First Day of *January* next, and then depending; all which Causes and Complaints which shall

39 & 40 G. 3. c. 46.

From Jan. next, recited Act, except as to Causes and Complaints depending

be carried on to a Conclusion, repealed.

Complaints shall be carried on to a Conclusion, according to the Rules prescribed by the said last-mentioned Act, notwithstanding this Act.

Justices to hear and determine Causes on Plaints not exceeding 5*l*.

II. And be it enacted, That from and after the First Day of *January* next (which is hereby declared to be the Commencement of this Act), it shall be lawful and competent for any Two or more of His Majesty's Justices of the Peace, in that Part of *Great Britain* called *Scotland*, within their respective Counties or Stewartries, to hear, try, and determine, as shall appear to them agreeable to Equity and good Conscience, all Causes and Complaints brought before them concerning the Recovery of Debts, or the making effectual any Demand, and that in a summary Way, as more particularly herein-after mentioned: Provided always, that the Debt or Demand shall not exceed the Value of Five Pounds Sterling, exclusive of Expences.

Causes to proceed as in Schedule (A.) described.

III. And be it enacted, That all such Causes shall proceed upon Complaint agreeable to the Form in Schedule (A.) subjoined to the present Act, stating shortly the Origin of Debt or ground of Action, and concluding against the Defender; and the Clerk of the Peace, or any Deputy by him appointed, or, in case he shall fail to appoint One, the Clerk to be appointed within the District, as herein-after provided, shall adject to the said Complaint, and on the same Paper, a Warrant signed by him, agreeable to the Form in Schedule (A.) subjoined to the present Act; which Warrant shall contain an Authority to any Constable or Peace Officer for summoning the Defender to appear and answer at the next Meeting of the Justices of the Peace in the District of the County or Stewartry where the Defender resides, or where the Meetings of the Courts are held Weekly, then in the Option of the Pursuer, at the Second or Third Diet of Court from the Date of the Warrant, the said Diet of Court not being sooner, in either Case, than upon the Sixth Day after the Date of the Citation, and also for summoning Witnesses, at the Instance of either Party, to the same Day and Place: Provided always, that a Copy of the said Complaint and Warrant, with the Citation annexed, agreeable to the said Schedule (A.) subjoined to this Act, and also a Copy of the Account, Document of Debt, or State of the Demand, shall be delivered by a Constable or Peace Officer to the Defender personally, or left at his Dwelling Place; in which latter Case, if the Defender shall not appear at the Diet of Court to which he has been cited, he shall be cited a Second Time personally, or at his Dwelling House or Place of Abode, upon the Words *de novo* being either subjoined to the original Complaint, and signed by any One Justice of the Peace, or written in the Procedure Book kept by the Clerk, and signed by the Justices or the Preses, to appear either at the next stated Meeting, or at a Meeting to be held by Adjournment for that Purpose, and fixed by the Justices at the First Diet, but which Second Meeting shall not be sooner than Three Days from the Date of the First, with Certification that if he shall fail to appear at the Diet of Court to which he is summoned by this Second Citation, he will be held as confessing the Debt or Justice of the Demand: Provided, that if the Defender has been cited for the first Time to a Diet of Court, not sooner than Twelve

Warrant to issue.

Copy of Complaint and Warrant, Citation, and Amount of Debt, to be delivered to the Defender.

In default of Appearance, Second Citation, &c.

free Days from the Date of the Citation, it shall be lawful for the Constable or Peace Officer, in case the Defender shall not have been personally found at the Time of the First Citation, to cite him a Second Time, either personally or at his Dwelling Place, to the same Diet of Court, on the Authority of the original Warrant, and without previously reporting an Execution of the First Citation of the Court, but always under this Condition and Limitation, that such Second Citation shall not be given sooner than upon the Sixth Day after the Date of the First Citation, nor later than upon the Sixth before the Diet of Court to which the Defender is so cited for the Second Time; and in case the Defender shall not appear at the Diet to which he is so cited for the Second Time upon the same Warrant, he shall be held as confessed in the same Manner as if he had been cited personally, or cited at his Dwelling Place upon a Warrant *de novo*; and the Constable or Peace Officer shall in all Cases return an Execution of Citation signed by him, or shall appear and give Evidence upon Oath of his having duly cited the Defender in manner aforesaid.

Constable, &c. to cite Witnesses, and to lodge a Copy of Citation in Clerk's Hands.

Penalty on Witnesses not attending.

IV. And be it enacted, That where a Constable or other Peace Officer shall be required by any Party, whether Pursuer or Defender, to cite any Persons as Witnesses, he shall be obliged to lodge a written Execution of every such Citation in the Clerk's Hands, at or before the Diet of Court to which the Defender has been summoned, or otherwise to verify in Court the Execution of Citation, as the Justices may see fit; and if the Witnesses cited, either upon the one Part or the other, do not appear at the Time and Place to which they are cited, it shall be competent to the Party or Parties to apply for a new Warrant to compel their Attendance at the next stated or adjourned Meeting, which Warrant may require them to attend in order to give Evidence, under a Penalty not exceeding Twenty Shillings Sterling, to be awarded by the Justices of the Peace in case of their not appearing, unless a reasonable Excuse be offered and sustained, which Penalty shall be payable to the Party at whose Instance the Witness was cited, and may be recovered by him in the same Form and Manner as herein directed with regard to other small Debts; or in the Option of the Justices, the Witness so failing to appear after a Second Citation, and not sending a reasonable Excuse which shall be sustained by the Justices, may be imprisoned for a certain Time in the County Prison, not exceeding Ten Days: Provided, that the aforesaid Penalty shall not be awarded or recoverable, or the Witness be liable to the said Imprisonment, unless the Second Citation shall have been given not later than the Sixth Day before the Diet of Court to which he has been cited.

When Parties appear, Justices to hear them vivâ voce.

Practitioners of the Law not allowed to plead.

V. And be it enacted, That when the Parties shall appear, the said Justices shall hear them *vivâ voce*, and examine Witnesses upon Oath, and also the Parties by Declaration or upon Oath: Provided always, that no Procurator, Solicitor, or any Person practising the Law, shall be allowed to appear or plead for them, either *vivâ voce*, or by Writing, nor shall any of the Pleadings, Arguments, Minutes, or Evidence be taken down in Writing, or entered on any Record.

VI. And

Defender not appearing, to be held as confessing the Debt.

VI. And be it enacted, That if a Defender who has been duly cited, whether personally, or by Two Citations left at his Dwelling House or Place of Abode, shall not appear in Court, either by himself, or by One of his Family, or other Person, not being in any Case a legal Practitioner or Officer of Court, whom the Justices shall see reason in the Circumstances of the Case to hear on his Behalf in the Matter of the Complaint, he shall be held as confessing the Debt or Justice of the Demand, unless he shall by One of his Family send an Excuse which shall satisfy the Justices that a Delay ought to be granted; in which latter Case, or if the Absence of Witnesses, or any other good Reason assigned, shall move the Justices to adjourn the Cause to the next stated Meeting, or other Day to be specially appointed, it shall be competent for them to make such Adjournment, and the Parties and Witnesses shall be ordered then to attend.

Justices may adjourn the Cause.

Pursuer may be heard by One of his Family.

VII. Provided farther, and be it enacted, That it shall be competent for the Justices, if they shall see reason in the Circumstances of the Case for so doing, to allow a Pursuer or Defender to be heard in the Matter of his Complaint or Defence by One of his Family; or if the Pursuer shall not be resident nearer than Twenty Miles from the Place where the Court is held, it shall be competent for the Justices, if they shall see fit, to hear him by a Person holding a written Mandate or Authority from him for that Purpose, the said Mandatory not being a Procurator, Solicitor, or Person practising the Law.

Where Decree pronounced in Absence of Defender, he may obtain Warrant sisting Execution.

Matter in question may be reheard.

VIII. And be it enacted, That where a Decree has been pronounced in Absence of the Defender, it shall be competent for him, upon consigning the Sum decerned for in the Hands of the Clerk, at any Time before the Days of the Charge elapse, to obtain from the Clerk a Warrant signed by him, sisting Execution till the next Court Day, and containing an Authority to cite the Pursuer and Witnesses for both Parties; and the Clerk shall be bound to certify to the Justices at their said next Meeting the Application for rehearing and the Sist granted, which Warrant so issued being served by a Constable or other Peace Officer upon the Pursuer, either personally or by Two Citations left at his Dwelling House or Place of Abode, in the Manner provided in other Cases by this Act, shall be an Authority for having the Matter reheard at the next Court Day (provided that the same shall not be sooner than the Sixth Day from the Date of the Personal Citation given to the Pursuer, or of the Second Citation left at his Dwelling House or Place of Abode; or if the Meeting of the Court shall be sooner than the Sixth Day from the Date of such Citation, then at the Court Day next following): And provided always, that it shall be competent for the Justices to continue the Sist granted in such Cases from the First Meeting of the Court after the Application for a Rehearing has been made, to such Time as may be necessary for the Appearance of the Parties in order to be reheard; and in like Manner, where Absolvitor has passed in Absence of the Pursuer, it shall be competent for him, at any Time within One Calendar Month thereafter, upon consigning Two Shillings and Sixpence in the Hands of the Clerk, to obtain a Warrant, signed by the Clerk, for citing the Defender and Witnesses for both Parties, which Warrant, being served by a Constable or other Peace Officer upon the Defender,

Defender, either personally or by Two Citations left at his Dwelling Place, in the Manner provided in other Cases by this Act, shall be an Authority for having the Matter reheard at the next Court Day, or Court Day following, as hereby provided in the Case of a Rehearing at the Instance of the Defender; the Two Shillings and Sixpence so deposited by the Pursuer being in every Case previously paid over to the Defender.

Punishing Constable for returning a false Execution.

IX. And be it enacted, That in case it shall be proved to the Satisfaction of the Justices that the Non-attendance of Parties or Witnesses has been occasioned by any Failure of Duty on the Part of the Constable or Peace Officer, it shall be in the Power of the said Justices to punish him by a Fine to the Poor, or by Imprisonment, the Fine not exceeding Twenty Shillings Sterling, or the Imprisonment not exceeding Ten Days, reserving to the Party injured any Claim and Recourse competent to him by Law against the said Constable or other Officer for Damage which he may have sustained by such Neglect or Violation of Duty as aforesaid.

Clerk or Depute Clerk to enter Names and Designations of Parties, &c. in a Book, according to the Form in Schedule (B.)

X. And be it enacted, That the Clerk or Depute Clerk shall keep a Book, wherein shall be entered the Names and Designations of the Parties, and whether present in Court 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 Interlocutory Orders of the Justices, and the Final Judgment or Decree, with the Date thereof, which last shall be signed by the Justices present, or by their Preses if more than Two are present, the said Entries by the Clerk being agreeable to the Tenor of the Schedule or Form marked (B.) annexed to the present Act, or with such Addition to the said Entries, as the Justices of the Peace in the several Counties shall authorize and appoint, for the better and more regular Dispatch of the Proceedings before them; and a Copy of the said Decree, containing Warrant for arresting or poinding the Effects of the Defender, or for committing his Person to Prison, together with a particular Note or Statement of the Expences, in those Cases where Expences have been awarded, as the same may have been incurred and are authorized by this Act, shall by the Clerk be annexed to the Complaint, and on the same Paper with it the said Copy of Decree and Warrant, being conformable to the Schedule marked (A.) annexed to the present Act; which Copy of Decree and Warrant, being signed by the Clerk or his Deputy, and delivered to the Party in whose Favour the same is granted, shall be a Warrant for Execution, after the Expiration of Ten free Days from the Date of pronouncing the Decree, if the Party against whom it shall have been given was personally present in Court when it was pronounced, or had appeared by One of his Family admitted to attend for him, or if he was not so present, Execution shall only proceed after a Charge of Ten free Days, to be given by the Constable or Peace Officer, either by delivering a Copy of the Decree or Judgment to the Party personally, or leaving the same at his Dwelling House or Place of Abode, to which Charge the Constable or Officer shall make Oath, if required.

Decree and Warrant, &c. to be made out conformable to Schedule (A.)

Justices may award Sums found due to be paid by Instalments.

XI. And be it enacted, That the said Justices may, if they think proper, direct the Sum or Sums found due to be paid by Instalments, Weekly or Monthly, according to the Circumstances of the Parties found liable, and under such Conditions or Qualifications as they shall think fit to annex.

Execution of Poinding by Constable to be summary.

XII. And be it enacted, That the Execution of the Poinding by the Constable shall be summary, by carrying the Effects pointed to the nearest Market Town or Kirk Town or Village within the Parish, and after getting the same duly appraised, in the Manner to be regulated by an Order of the Justices for each County, at their Quarter Sessions, selling them between the Hours of Eleven and One of the Clock at the Cross or most public Place, after One Hour's Notice given by a Crier, by public Roup, to the highest Bidder, but reserving to the Justices, at their Quarter Sessions, if they shall see fit, to appoint a different Hour for the Sale, not being earlier than that above mentioned, or a longer Notice to be given of the Time of selling, and the Overplus of the Price, if there shall be any after Payment of the Sums decerned for, and the Expences, if Expences are awarded, including what is allowed by this Act for the Poinding and Sale, shall be returned to the Owner, or if the Effects are not sold, the same shall be delivered over at the appraised Value to the Creditor, to the Amount of the Debt and Expences, if Expences are awarded, including the Allowance for poinding: Provided always, that in case the Place of Sale is not a Market Town, but only a Kirk Town or Village, the Place and Time of Sale shall be advertised Two Days at least before the Day of Sale, at the Door of the Parish Church, on *Sunday* after the Forenoon Service.

In case of Execution by Poinding or Imprisonment, Constable to make a Return to the Clerk.

XIII. And be it enacted, That in all case of Execution, by Poinding or Imprisonment, the Constable or other Officer to whom the Execution is committed shall on or before the next Court Day thereafter make a Return or Report to the Clerk of Court, either in Writing or verbally, as may be required by the Justices, of the Date and Manner of the Execution, the Number of Assistants employed, and the Sum or Amount, if any, recovered since the Date of the Decree; and in case of a Poinding, shall farther state the Value at which the Goods were appraised, the Place and Times of Sale, the Charges paid for Conveyance of Goods and for Warehouse Room where these Charges were incurred, and the Price for which the Goods were sold in Cases where a Sale was made; or if the Execution was by Imprisonment, he shall in his said Report state the Gaol in which the Debtor was incarcerated, which Particulars respectively, so reported by the Constable or Officer, shall be entered by the Clerk either in the Procedure Book or other Books to be kept for that Purpose, and be laid before the Justices at their Meeting next after the said Report shall have been made, and shall also be exhibited by him to any Person desiring Inspection of the same, for such Fee as shall be allowed by Order of the Justices, not exceeding Sixpence for each Time of Inspection.

XIV. And

XIV. And be it further enacted, That the Decree given by the said Justices in any Case competent to them by this Act shall not be subject to Advocation, nor to any Suspension, Appeal, or other Stay of Execution, excepting only in the Case of Consignation, as hereinbefore provided for the Purpose of a Re-hearing before the Justices, nor shall be set aside or altered in an Action of Reduction before the Court of Session, on any other Ground except that of Malice and Oppression on the Part of the Justices, nor shall any such Action of Reduction be at all competent after the Expiration of One Year from the Date of the Decree of the Justices.

Decree of Justices not subject to Advocation.

XV. And be it enacted, That in case of a Reduction being brought within that Time, on the alleged Ground of Malice and Oppression, the Pursuer shall, before the Summons of Reduction is called, be obliged to find sufficient Caution in the Hands of the Clerk of Court, for Payment of such Expences as may be awarded against him.

In case of a Reduction being brought, Pursuer to find sufficient Caution.

XVI. And be it enacted, That notwithstanding the Provision of this Act, which requires all Causes and Complaints under the same to be heard, tried, and determined by Two or more Justices of the Peace, nevertheless, in case no more than One Justice shall be present at the Time and Place appointed for a District Meeting, it shall be lawful and competent for the said Justice, being then and there present, to hold a Court for the Purpose of calling the Roll of Causes, of pronouncing Decrees in Absence, receiving Returns of the Executions of Citations, and granting Warrants for Citation *de novo*, but for no other Purposes; which Decrees in Absence so pronounced, and Warrants *de novo* issued, shall be equally valid and effectual as if they had been granted and issued by Two or more Justices then and there present.

Cases in which One Justice may transact Business.

XVII. And be it enacted, That the following and no other or higher Fees shall be allowed to the Clerk and Officers of Court; *videlicet*,

Fees allowed to the Clerk and Officers.

CLERK'S FEES.

From the Pursuer:

For filling up and issuing the Complaint, with Warrant annexed for citing the Defender and the Witnesses on both Sides - -	Sixpence.
For Copy of the Complaint and Warrant, signed by the Clerk, for Service on the Defender -	Sixpence.
For the First Time of entering in the Procedure Book the Names and Designations of the Parties, the Nature and Amount of the Claim, and such other Particulars as may be directed by the Justices - -	Sixpence.
For a Warrant to cite, *de novo* - -	Four-pence.

From the Defender:

For the First Appearance of each Defender -	Sixpence.

From

From the Pursuer or Defender, (*as the Case may be*):

For every Oath of Party	One Shilling.
For every Oath of Witness	Four-pence.
For filling up and issuing a printed or other Form of Decree, with Warrant of Execution inserted therein	Sixpence.
For a Rehearing, *videlicet*; for receiving Consignation from a Defender, or the Sum appointed by this Act to be deposited by a Pursuer, and granting Certificate thereof; granting Warrant to sist, and Warrant for Citation of Party and Witnesses; Entry in the Procedure Book; filling up and issuing the Decree when required, and paying over the said Consignation or Deposit	One Shilling and Sixpence.
For Inspection of the Book containing Reports of Executions by the Constables, a Fee	not exceeding Sixpence each Time, to be fixed by Order of the Justices.

CONSTABLES OR OFFICERS FEES.

From Pursuer or Defender, (*as the Case may be*):

For each Citation, whether of a Party or Witness, with Execution thereof	Fourpence.
For Execution of an Arrestment	Sixpence.
For Execution of a Poinding, including the Appraisement, Payment of Assistants, and Report of the Execution, as required by this Act	Three Shillings.
For selling the Goods poinded, including Payment of Assistants, and Report of the Sale, as required by this Act	Two Shillings.
For Execution against the Defender's Person, including Payment of Assistants and Report of the Execution, as required by this Act	Three Shillings.
For every Mile which the Constable or Officer travels, in order to give a Citation or execute a Decree	Four-pence.
And for each Assistant, not exceeding Two, where Assistance is necessary	Three-pence.
But no Allowance for travelling shall be received, either by the Officer or by Assistants, where the Distance does not amount to a Mile; and the Allowance shall only be charged once to the same Party for the whole Distance actually travelled in any One Day.	—

CRYER'S FEE.

For calling each Complaint in Court	One Penny.

XVIII. And be it further enacted, That an Abstract of the said Table of Fees shall be printed on each Complaint, and on each Copy of Complaint for Service, agreeably to the Form marked, annexed to the present Act, or other Form, to be settled by the Justices of the Peace; and a Copy of the said Table, signed by Two of the Justices and by the Clerk, shall be suspended, and continued at all Times in a patent Situation in the Clerk's Office, and in every Court Room or Place for holding of Courts under Authority of this Act; and the said Fees shall be subject to Modification by the Justices in very small Cases, or where One Complaint is directed against Two or more Defenders.

Abstract of Table of Fees to be printed upon each Complaint.

Table of Fees to be hung up in Court Room, and Clerk's Office.

XIX. And be it enacted, That if any Clerk or Depute Clerk of the Peace, or any Constable or other Officer, shall exact or take from any Party, in a Case of small Debt, any Fee not expressly authorized by this Act, or any higher Rate of Fee than is authorized hereby, the Person so offending shall be liable to a Penalty not exceeding, if he is a Clerk or Depute Clerk, the Sum of Five Pounds for each Offence, or if he is a Constable or other Officer, not exceeding the Sum of Twenty Shillings for each Offence; which Penalties respectively shall be awarded by the Justices of the Peace, either at a Quarter Sessions or at a District Meeting, on Complaint, either written or verbal, from the Party who has been aggrieved by such illegal Exaction, and satisfactory Proof thereof, and which Penalties the Justices shall direct to be paid either to the Party complaining or to the Poor, or partly to both, as they may see fit, reserving always to the said Justices the Power competent to them of farther punishing their Officers by Suspension or Dismissal, for this as well as other Acts of Malversation in Office.

Punishing Officers exacting Fees beyond the Table.

XX. And be it enacted, That an Account shall be kept by the Clerk of Court of all Fines awarded by the Justices by virtue of this Act; and all such Fines shall, where the Application of them is not otherwise provided for and directed by this Act, be paid to the Poor in such Manner as the Justices shall direct.

Clerk to keep an Account of all Fines awarded.

XXI. And be it enacted, That the Justices of the Peace for each County in that Part of *Great Britain* called *Scotland* shall have Power at any Meeting of the Quarter Sessions, to make suitable Divisions of the County or Stewartry into Districts where not already done, or to alter the Divisions already made, within which the Justices of the Peace shall meet at such stated Times and Places as the said Justices at their Quarter Sessions shall fix as most convenient, in order to carry the Purposes of this Act into execution, and which Meetings may be adjourned, if necessary, to any other lawful Day or Days, to be held at the same Place; and of such Divisions into Districts, and of the stated Times and Places of Meetings so to be appointed, or of the Alterations of such Divisions or stated Meetings, where Alterations are necessary, the Justices at their Quarter Sessions shall order due Notice to be given to all concerned by Advertisement at the Church Doors of every Parish in the County or Stewartry, at least

Justices at Quarter Sessions to make Divisions of County or Stewartry into Districts for Purposes of the Act.

Notice to be given.

Two *Sundays* previous to the first stated Meetings so to be appointed or altered.

In case Clerk of Peace shall not attend, Justices may appoint another.

XXII. And be it enacted, That in case the Clerk of the Peace shall fail to attend, either personally, or by a sufficient Deputy, in any of the said Districts at the Meetings appointed by the said Justices, of which the said Clerk of the Peace has had due Notice, the Justices who shall attend at such District Meeting or Meetings shall and they are hereby empowered to name an Interim Clerk for that District, who shall be removable by any subsequent Quarter Sessions, and another Clerk may then be appointed by the said Quarter Sessions from Time to Time, as they shall see cause.

Justices empowered to make Rules and Orders for Furtherance of the Act.

XXIII. And be it further enacted, That for the better regulating the Proceedings of the said Justices empowered to hear and determine the said Causes, it shall and may be lawful to and for the Justices, at their Quarter Sessions, from Time to Time, to make such Rules and Orders as they shall find to be necessary and most conducive for carrying into Effect the Provisions and Purposes of this Act, such Rules and Orders not being inconsistent with any of the express Enactments or Conditions herein contained, or otherwise contrary to Law; and the said Rules and Orders having been made by the said Justices at their Quarter Sessions, shall be in force and kept and observed by the said Justices empowered to hear and determine the said Causes, and their Clerks and Officers, and the Suitors before them, until the same shall be repealed or varied by the Justices at their said Quarter Sessions, or by the Lords of Session or Justiciary at *Edinburgh*, or by the Circuit Courts of Justiciary, on the Application of any Two or more Justices of the Peace.

Persons summoned not to be exempt on account of Privilege.

XXIV. And be it enacted, That no Person liable to be summoned by virtue of this Act shall be exempt from the Jurisdiction of the said Justices on account of Privilege, as being a Member of any other Court of Justice.

Act not to extend to any Debt where the Title of Lands is in question, or in Cases of Contract, &c.

XXV. Provided always, and be it enacted, That this Act or any thing herein contained shall not extend to any Debt or Demand where the Title of any Lands, Tenements, or Hereditaments, or where any Heritable Right whatsoever, is brought in question, nor to any other Debt, Matter, or Thing that shall or may arise upon or concerning the Validity of any Will, Testament, or Contract of Marriage, although the same shall not amount to the Sum of Five Pounds Sterling; nor to any Debt for any Money or Thing won at or by Means of any Horse-race, Cock-match, or any Kind of Gaming or Play, or any Debt or Demand for or on account of any Spirituous Liquors; any thing herein contained to the contrary in anywise notwithstanding.

Constable not liable to Penalty for

XXVI. And be it enacted, That no Constable or other Officer of the Peace, to whom Execution of the Decrees and Warrants of the Justices

tices in Cases falling under the present Act may be committed, shall be liable to any Penalty, Fine, or Punishment for selling Goods or Effects under Authority of the said Decrees and Warrants, by public Sale or Auction, although such Constable or Peace Officer may not be licensed as an Auctioneer; any thing in the Act of Nineteenth of *George* the Third, Chapter Fifty-six, or in any other Act or Acts for regulating Sales by public Auction, or imposing Duties thereon, to the contrary in anywise notwithstanding.

selling by Auction under this Act.

XXVII. And be it further enacted, That no Solicitor or Procurator in any Inferior Court in *Scotland*, or the Partner of any such Person, shall from and after the passing of this Act be capable to continue or be a Justice of the Peace, or act as such, in any County in *Scotland*, during such Time as such Solicitor, Procurator, or Partner of any such Person shall continue in the Business or Practice of Solicitor or Procurator in any Inferior Court.

No Solicitor or Procurator shall be capable to act as a Justice of the Peace.

Schedule

Schedule (A.)

FEES allowed by the Act.

	s.	d.
CLERK'S FEES.		
Complaint Warrant to cite	0	6
Copy for Service	0	6
Entering into Procedure Book	0	6
For Defender's Appearance	0	6
For every Oath of Party	1	0
For every Oath of Witness	0	4
Decree and Warrant of Execution	0	6
Warrant de Novo	0	4
Rehearing	1	6
For Inspection of Book	0	6
CONSTABLE'S FEES, including Assistants.		
Citation and Execution	0	4
Execution of Arrestment	0	6
Ditto of Poinding	3	0
Sale	2	0
Imprisonment	3	0
Travelling Expences per Mile, Constable	0	4
Assistants, each	0	3
CRIER'S FEES.		
For calling	0	1

N. B.—The Justices strictly enforce the Provision of the Act which requires a Copy of the Account, Document of Debt, or State of the Demand, to be delivered to the Defender, at the Time he is summoned.

UNTO the Honorable His Majesty's Justices of the Peace for the Shire of

Complains, That owing the Complainer the Sum of which refuses to pay unless compelled: Therefore the said Defender ought and should be decerned and ordained to make Payment to the Complainer of the aforesaid Sum of with Expences.

AT the Day of the Clerk of Peace for the Shire of grants Warrant for summoning the said Defender to compear before the Justices of the Peace for the said Shire at , in the Court House thereof, upon the Day of at o'Clock, to answer at the Instance of the said Complainer; and appoints a Copy of the Account pursued for, Document of Debt, or State of the Demand, to be delivered to the Defender along with the Citation; also grants Warrant for citing Witnesses for both Parties to compear at same Place and Date, to give Evidence in the said Matter.

C. D. Clerk.

UPON the Day of One thousand eight hundred and I Constable, summoned the above designed to compear before His Majesty's Justices of the Peace, Time and Place above mentioned, to answer at the Instance of the Complainer, with Certification that will otherwise be held as confessing the Debt. This I did by a full Copy of the before Complaint and Warrant, with a short Copy of Citation thereto subjoined.

A. B. Constable.

AT the Day of One thousand eight hundred and Years, the which Day His Majesty's Justices of the Peace for the County of found and hereby find the within designed Defender liable to the also within designed Pursuer, in the Sum of with of Expences, as herein below marked and decerned and ordained, and hereby decern and ordain instant Execution by Arrestment, and also Execution to pass hereon by Poinding and Imprisonment after free Days.

C. D. Clerk.

Schedule (B.)

Referred to in the foregoing Draft of amended Small Debt Act.

Numbers.	Date of Complaints.	Pursuers.	Defenders.	Sums.	How due.	How cited.	By what Constable.	Interlocutors and Decrees.

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

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