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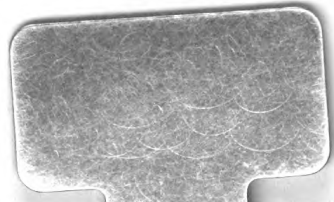
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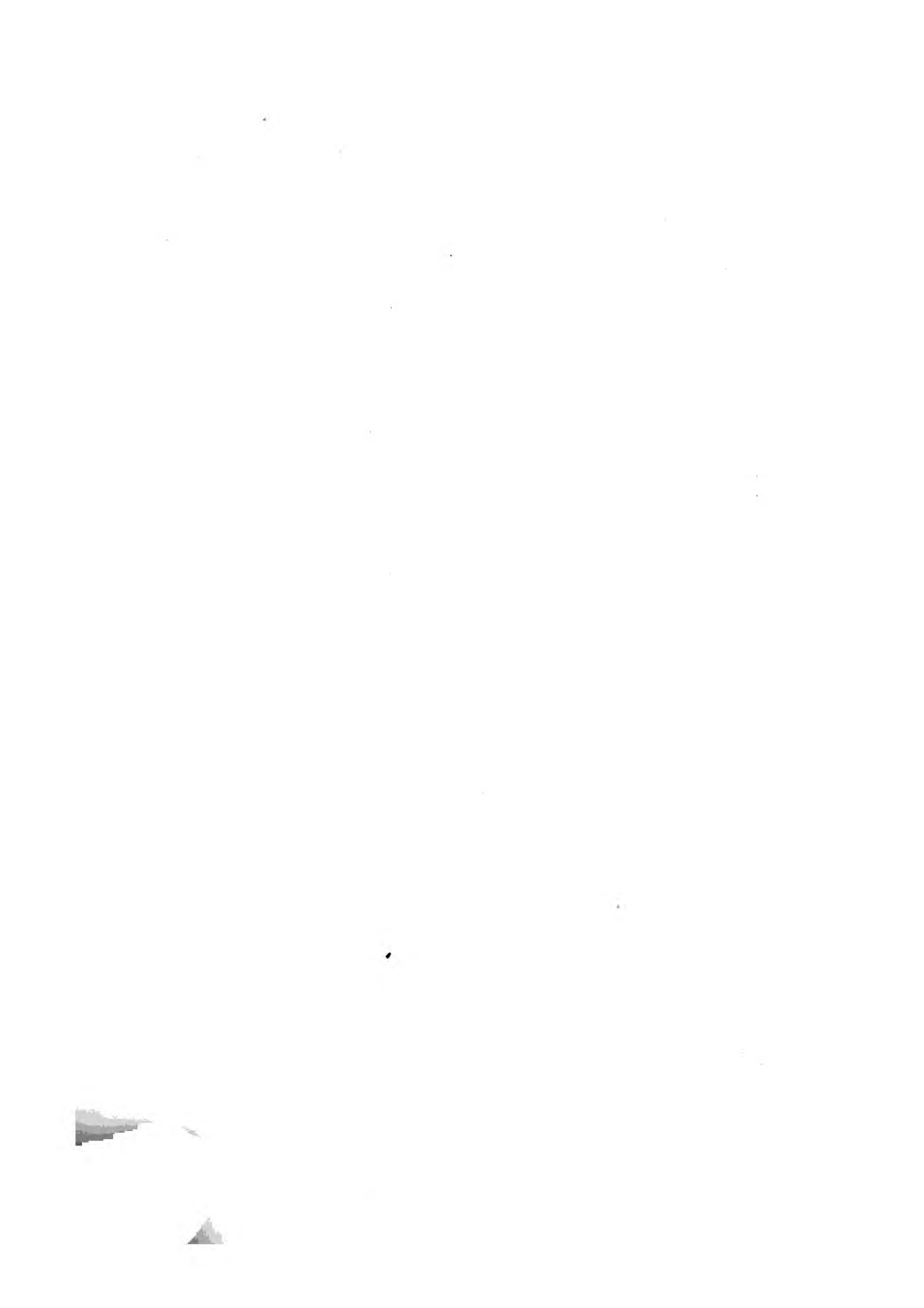
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SECOND SUPPLEMENT
TO
ABRIDGEMENT
OF THE
ACTS OF SEDERUNT.



SECOND SUPPLEMENT

TO

ABRIDGEMENT

OF THE

ACTS OF SEDERUNT

OF THE

LORDS OF COUNCIL AND SESSION :

CONTAINING

THE ACTS FROM 24TH DECEMBER 1842, WHEN THE
SUPPLEMENT TO THE ABRIDGEMENT ENDS,
TO DECEMBER 1851.

BY

WILLIAM ALEXANDER,

WRITER TO THE SIGNET.

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PUBLISHED BY AUTHORITY OF THE COURT.  
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SECOND SUPPLEMENT

TO

ABRIDGEMENT OF ACTS OF SEDERUNT OF THE LORDS OF COUNCIL AND SESSION.

Act directing Papers to be Boxed for the Professor of Law
in Glasgow. 1843.

Edinburgh, 17th February 1843.

The Lords direct that, from and after this date, a copy of all printed papers boxed for the Judges, shall be put into a Box for the Professor of Law in the University of Glasgow; and that for this purpose an additional copy of each paper shall be furnished by the Agents; and appoint this order to be intimated in the Minute-book, and inserted in the Books of Sederunt.

D. BOYLE, *I.P.D.*

Act of Sederunt authorizing Lord Ivory to call his Rolls on
certain days, &c.

Edinburgh, 22d November 1843.

The Lords of Council and Session authorize Lord Ivory to call his Rolls upon the same days of the week on which Lord Cockburn, now removed to the Inner House, called his Rolls—namely, on Wednesday, Thursday, Friday, and Saturday—and Lord Robertson to call his Rolls upon Tuesday, Wednesday, Friday, and Saturday, being the days heretofore set apart for Lord Ivory.

And they further authorize all the Lords Ordinary, as occasion may require, and without the necessity of applying to the Court for special leave, as heretofore, to sit and call their Rolls on their several Blank days.

And the Lords appoint this Act to be engrossed in the Books of Sederunt, and to be intimated in the Minute-book.

D. BOYLE, *I.P.D.*

1844.

Act of Sederunt for making further Regulations regarding
Proceedings in Jury Causes.

Edinburgh, 10th July 1844.

The Lords of Council and Session taking into consideration the Act of Sederunt of 19th December 1835, whereby a Table of Fees for the Practitioners in the Court of Session was authorized and sanctioned to be acted on, as an Interim Table and rate of Charge for three years, from 12th January 1836, and that by section 4th of the said Table, certain Rules and Regulations were established regarding Proceedings in Jury Causes; and, further, considering that it is expedient to make further Rules and Regulations respecting Jury Causes, therefore ordain as follows:—

I. That no charge shall in future be allowed for Journeys and attendances for taking precognitions of witnesses, but, in lieu thereof, a charge shall be allowed for taking instructions for precognitions of 13s. 4d., £1, 1s., £2, 2s., or £3, 3s., according to the circumstances of the case; and also charges for drawing the precognitions according to length at the same rate as is chargeable for drawing memorials and other papers, and that the said charges may be stated either in the form of a memorial to counsel for conducting the trial, or separately, as may be considered proper: Provided always, that the charges for drawing the precognitions shall be subject to the control of the Court, and that in case they shall contain irrelevant or unnecessary matter, they shall not be allowed by the auditor on the taxation of the account: And also, Provided that in cases where it can be shewn to the satisfaction of the auditor that it was indispensably necessary, or highly expedient, that either the Edinburgh or country agent should go to a distance from their places of residence for the purpose of precognosing a witness or witnesses, reasonable charges shall be allowed for such journeys, and the expenses thereof; but in such cases no charge shall be allowed for drawing the precognitions of such witness or witnesses.

II. That the charges for copies of the memorial for the trial and precognitions, as well as for copies of any papers or documents which may

be necessary for the instruction of counsel to conduct the trial, shall be stated in the account immediately before the fees to counsel for the consultation or trial, and that no charge for copies of papers or documents shall be allowed but such as are essentially necessary for the instruction of counsel; that is to say, if it is only a particular clause or clauses of a deed or particular letters or papers on which the party relies, a charge shall only be allowed for copies of such clauses or letters, and not for copies of the whole deed or whole papers, if unnecessary at the trial: And it is hereby provided, That in such cases as there may be many papers or documents which are necessary for the instruction of counsel on both sides, or which it may be necessary or proper should be laid before the Judges and jury, it may be competent for the parties to print the same at their mutual expense so as to avoid the expense of copies.

1844.

III. That the charges for witnesses attending a trial shall not be stated either in the town or country agent's accounts, but in a separate schedule to be appended to the account, and which schedule shall be in the form hereto annexed.

IV. That the allowances to be made to witnesses attending a trial shall be as follows:—

(1.) When the witnesses reside in the town where the trial takes place.

Labourers, mechanics, servants, journeymen, &c., per day, from 5s. to 7s. 6d., according to circumstances.

Tradesmen, shopkeepers, innkeepers, clerks, farmers, &c., per day, from 10s. to 15s., according to circumstances.

Superior tradesmen, manufacturers, shopkeepers, auctioneers, &c., per day, from 10s. 6d. to £1, 1s.

Gentlemen, merchants, bankers, clergymen, &c., per day, £1, 1s.

Professional persons, such as writers or solicitors, accountants, physicians, surgeons, eminent architects, engineers, surveyors, &c., per day, £2, 2s.

Females, according to their station in life, per day, from 5s. to £1.

The above allowances being in full of all the above respective classes of persons shall be entitled to demand for their trouble and maintenance, and no separate charges shall be allowed for tavern expenses, or otherwise, in respect of witnesses.

1844. (2.) Where the witnesses do not reside in the town where the trial takes place.

They shall be allowed at the above rates for the time necessarily occupied by them in going to, remaining at, and returning from, the place of trial, besides reasonable travelling charges for going to and returning from the place of trial, according to their rank and station of life, and with reference to the means of conveyance to and from their respective places of residence, such as steam-boats, railways, &c. : Provided always that the said allowances for travelling shall not exceed in whole the rate of sixpence per mile for going to, and the same for returning from, the place of trial : And also, Provided that in cases where it is found necessary to employ professional or scientific persons, such as physicians, surgeons, chemists, engineers, land-surveyors, or accountants, to make certain investigations previous to a trial, in order to qualify them to give evidence thereat ; such additional charges for the trouble and expenses of such persons shall be allowed as may be considered fair and reasonable : Provided that the Judge who tries the cause, shall, on a motion made to him, either at the trial or within eight days thereafter, if in session, or if in vacation, within the first eight days of the ensuing session, certify that it was a fit case for such additional allowance.

V. That receipts or vouchers for all the sums stated as paid to witnesses shall be produced to the auditor at the taxation of the account, otherwise the same shall not be allowed.

VI. That the names of the witnesses who were examined at the trial shall be stated separately, as in the annexed Schedule, from those that were not examined ; and if the expenses of all or any of the latter class of witnesses shall be demanded, the grounds or reasons for such demand shall be stated ; as, for example, that he was cited to prove a certain fact or writing which the opposite party had refused to admit before trial, but which his counsel admitted at the trial, whereby the examination of the witnesses was rendered unnecessary ; or (in the case of a defender) because the pursuer had failed to prove his case, in consequence of which the defender's witnesses were not examined ; but, in this latter case, it ought to be shewn that all the witnesses charged for were properly and necessarily cited ; the general rule laid down by the Court being, that

the expense of witnesses who are not examined shall not be allowed, unless a good and valid reason shall be assigned for their non-examination. 1844.

VII. That the charges for messengers for executing Summonses or Citations of witnesses or havers, and returning an execution, shall be at the rate of 1s. 6d. per mile for travelling, and 1s. 6d. for each copy or Citation, including all expenses of travelling, &c., or 2s. 6d. for each Citation, if the defender, haver, or witness resides in the same town as the messenger. And the Lords appoint this Act to be entered in the Books of Sederunt, and printed and published in the usual manner.

D. BOYLE, *I.P.D.*

SCHEDULE referred to in the foregoing regulations:—

Witnesses' Names and Designations.	Distance from Place of Trial.	Number of days absent, and rate per day.	Total Sums Paid.	Taxed off by the Auditor.
I. Witnesses Examined.				
II. Witnesses not Examined.				

Act of Sederunt anent Petitions for Sequestrating Estates under Sale, or for Money.

Edinburgh, 13th July 1844.

The Lords having taken into consideration the Act of Sederunt of 17th July 1764, and also the Act of Sederunt of 5th June 1790, regulating the time for receiving petitions for sequestrating estates under sale, or for payment of money; and also the Act of Parliament, 2d and 3d of Her present Majesty, cap. 36, altering the time for holding the summer session, do hereby repeal the said Acts of Sederunt, and enact and declare, that from and after the 20th day of July current all Petitions for sequestrating estates under sale, or for money, shall be boxed for the Court on or before the 25th day of February for the winter session, and 5th day of July for the summer session. And the Lords appoint this Act to be entered in the Books of Sederunt, and printed in the Minute-Book.

D. BOYLE, *I.P.D.*

1845.

Act of Sederunt as to Records in Sheriff Courts.

Edinburgh, 13th February 1845.

Whereas the existing rules, in regard to the preparation of Records in Sheriff Courts, established by Act of Sederunt, 11th July 1839, have been found, in practice, inadequate to secure that simplicity and precision, both of statement and pleading, which is so essential to the proper administration of justice; and whereas it is expedient that the same should be altered and amended; and whereas, moreover, it may tend to greater uniformity of practice, were a closer assimilation to be made in this respect of the system of procedure to be followed in the Sheriff Courts to that which now prevails in the Supreme Court.

I. The Lords of Council and Session do hereby enact and declare—

That in all ordinary actions to be raised in the said Sheriff Courts from and after the 1st day of March, the Record shall be closed,—Either, 1. upon *Summons and Defences* alone, with such qualification or amendment of either as shall be allowed and sanctioned by the Sheriff in manner following:—Or, 2. upon *separate Condescendence and Answers*; the Summons and Defences in this case being to be considered as part of the Record, only in so far as reference to them may be necessary to regulate the measure beyond which the respective Statements and Pleas of the pursuer and defender shall not be allowed to go.

II. As it is most desirable, both for avoiding multiplicity of procedure, and for preventing the delay and expense consequent thereon, that the Record should, wherever that is possible, be made up according to the first of these forms, it is ordered—

(1.) That the Summons shall, in all cases, be framed articulately; having its various allegations of fact set forth in substantive propositions, and under distinct heads or articles, to be numbered consecutively as in a Condescendence; the conclusions deduced therefrom being, in like manner, distinctly and severally set forth.

(2.) That the Defences shall likewise, in all cases, be framed in an articulate form; the various allegations in the Summons being each to

be separately met, under distinct heads or articles applicable thereto, and numbered in the like manner ; and the defender being bound in all cases —(unless 1. where his Defence involves a substantive counter case of his own, *e. g.*, where, admitting the debt pursued for, he is to plead compensation, &c. ; Or, 2. where, from the nature of the defence it would be impossible, in any but a separate form, to state its details intelligibly)—to insert and embody, in his respective Answers to the pursuer's allegations, all requisite and intrinsic qualifications or explanations ; thereby avoiding the necessity of a separate “ Defender's Statement of Facts,” the too frequent resorting to which has led to great abuse. 1845.

(3.) That where the defender's case is such as to require a separate Statement of Facts, the allegations in such Statement shall be set forth articulately, and in the like manner in all points with what has been required above, as to the pursuer's allegations in the Summons.

(4.) That, in either case, the Defences shall contain a note or summary of the defender's whole Defences and Pleas,—Preliminary and Dilatory as well as Peremptory,—set forth under distinct heads, and by way of general propositions, with a simple reference to authorities (if the defender so choose), but without comment or quotation, and without entering into detail or argument.

(5.) That no Replies shall be allowed, as at present ; but the Sheriff shall at once call the parties before him, and—

1st, If Preliminary or Dilatory Defences have been pleaded,—Either, (1.) he may dispose thereof at once, if no further statement in point of fact be necessary ;—Or, (2.) if farther statement be required, he may order a separate Record in regard thereto, and afterwards dispose of the Defences upon such Record ;—Or, (3.) if he see cause, he may, either with or without further statement, order written argument confined to this preliminary matter ;—Or, (4.) he may reserve consideration of the Defences till a future stage of the cause ; and, where it seems expedient, appoint any requisite Statement of Fact in regard thereto, to be included in the Record upon the merits. But in all cases, at whatever stage (unless where the judgment disposing of such Defences is mixed up with, and forms part of, a judgment on the merits), there shall no Reclaiming Petition be allowed against any judgment *repelling* the said Defences :—though, where the judgment has been pronounced by the Sheriff-Substitute, the defender may appeal to the Sheriff ; and the Sheriff

1845. may, if he see cause (where there has been no previous written argument), ordain the parties to argue the matter in writing.

2*d*, Where no Dilatory Defences have been proponed,—or where (if proponed) they shall have been either definitively repelled, or reserved for future consideration—the Sheriff shall proceed, with the parties, to adjust, and, if possible, to close the Record :—For which end he may, in this stage, allow, where necessary, a Note of Pleas without argument, and with a simple reference to authorities (as in the case of the Defences), to be given in for the Pursuer, and generally such modifications of either Summons and Defences as would, at any rate, be competent in the shape of amendments,—the same being always stated in a separate Minute of Amendment ; and where the Defences have been so framed as to contain matter of counter averment, and even where there is a separate Statement of Facts for the defender,—if the pursuer be content to meet the same with a simple Minute of Denial, and the defender shall not insist upon an explicit and articulate answer to his allegations,—such Minute may also be allowed : And if, in either of these ways, the case shall then appear to the Sheriff ripe for closing the Record, he shall order the parties to state whether they be willing to hold their respective Pleadings as containing their full and final Statement ; and if they agree, and minute their consent, he shall close the Record, agreeably to the provisions to that effect made in the existing Act of Sederunt ; and where they do not agree, but one or other insists for Condescence and Answers, the Sheriff, while he pronounces an order for such Condescence and Answers, shall, at the same time, with a view to future guidance in the question of expenses, cause it to be minuted upon whose motion this further procedure takes place.

III. In those cases where the parties decline to close the Record upon Summons and Defences—or where the Sheriff himself is satisfied (from the defender's giving in a separate Statement, or otherwise) that it is inexpedient or impossible to do so without further procedure,—it is ordered—

(1.) That the Sheriff, after disposing of, or reserving the Preliminary and Dilatory Defences (if any) as aforesaid, shall pronounce a Deliverance, ordaining the parties to prepare a Record by Condescence and Answers.

(2.) That under this order, the parties—dealing with the Summons and Defences, as their original Statements,—shall respectively revise these Statements, so as substantially to make the Condescence and Answers proper revised pleadings; and shall once more embody and set forth in their said Condescence and Answers, articulately, in a separate and independent form (so that each of these papers shall be complete in itself, without reference to the previous Summons and Defences), their whole Statements of Fact and Pleas in Law; with such modifications and alterations thereon as in this stage shall have been found to be necessary; and with a reference to authorities, if deemed advisable; but without comment or quotation, and without entering into detail or argument:—And it shall no longer be requisite for either party to set forth, as is now the case, the mode of proof applicable to his respective averments. 1845.

(3.) That the pleadings being thus prepared, the Sheriff shall again call the parties before him, with a view to adjust and close the Record; And when, with such further modifications as may be ordered or authorized by the Sheriff, the Condescence and Answers shall at last have been finally adjusted, the Sheriff shall again order the parties to state whether they be willing to hold their respective papers as containing their full and final statement; and if they agree and minute their consent, he shall close the Record agreeably to the provisions of the existing Act of Sederunt. Where they do not agree, and one or other refuses to close, the Sheriff himself shall, in this case, if satisfied that the parties have sufficiently met the averments of each other, be entitled to declare the Record closed, without the assent of either; but if he be not satisfied with the existing state of the papers, he shall pronounce an order for revisal, or such other deliverance, as shall appear to him most proper for reducing the Record into a concluded and perfect shape.

IV. The Record being closed in one or other of the above ways, the Sheriff shall proceed to dispose of the cause, with or without written argument. But there shall be no written argument without an express order to that effect by the Sheriff; and the written argument, where ordered, shall in no case be understood to form part of the proper Record.

1845.

V. And the Lords do further enact and declare—

That in all Summary Applications to be presented in the said Sheriff Courts, from and after the said 1st day of March next while it shall be competent to pronounce, at any time, such interim orders, interdicts, warrants, or decernitures, as the exigencies of the case shall require, the form of preparing and closing the Record (in cases where a Record is necessary) shall be as follows:—

(1.) The Petition shall state generally (as in the present form of a Note of Suspension before the Supreme Court) the subject of complaint, setting forth specifically in the prayer the remedy craved.

(2.) There shall be annexed to said Petition an articulate Statement of Facts, with a Note of Pleas in Law, all separately set forth, in distinct and substantive propositions, without argument; in like manner and form as has already been directed, in the case of a Summons or Condescendence in ordinary actions.

(3.) The Answers to said Petition shall, in the like articulate manner, be framed according to the form already enacted in the case of Defences, or of Answers to a Condescendence, in ordinary actions.

(4.) There shall be no Replies; and in all other respects, the Rules for the preparation and closing of the Record shall, as far as practicable, be the same as in ordinary actions.

VI. And the Lords do further enact and declare—

That the Regulations contained in the foresaid existing Act of Sederunt, so far as they are at variance with those now enacted, or in any ways incompatible with their operation, are, from and after the said 1st of March next, hereby repealed; but to all other effects, they shall remain, as at present, in full force. And the Lords appoint this Act to be engrossed in the Sederunt Book, and printed and published.

D. BOYLE, *I.P.D.*

Act of Sederunt as to Records in the Courts of the Royal
Burghs and Burghs of Barony.

1845.

Edinburgh, 13th February 1845.

Whereas the existing rules, in regard to the preparation of Records in the Courts of the Royal Burghs and Burghs of Barony (established by Acts of Sederunt, 12th November 1825, and 9th March 1826), have been found, in practice, inadequate to secure that simplicity and precision, both of statement and pleading, which are so essential to the proper administration of justice; and whereas it is expedient that the same should be altered and amended; and whereas, moreover, it may tend to greater uniformity of practice, were a closer assimilation to be made in this respect of the system of procedure to be followed in the said Courts, to that which now prevails in the Supreme Court—

I. The Lords of Council and Session do hereby enact and declare—

That in all ordinary actions to be raised in the said Courts from and after the 1st day of March next, the Record shall be closed,—Either, 1. upon *Summons and Defences* alone, with such qualification or amendment of either, as shall be allowed and sanctioned by the Judge, in manner following:—Or, 2. upon *separate Condescendence and Answers*; the Summons and Defences in this case being to be considered as part of the Record, only in so far as reference to them may be necessary to regulate the measure beyond which the respective Statements and Pleas of the pursuer and defender shall not be allowed to go.

II. As it is most desirable, both for avoiding multiplicity of procedure, and for preventing the delay and expense consequent thereon, that the Record should, wherever that is possible, be made up according to the first of these forms, it is ordered—

(1.) That the Summons shall, in all cases, be framed articulately; having its various allegations of fact set forth in substantive propositions, and under distinct heads or articles, to be numbered consecutively as in a Condescendence; the conclusions deduced therefrom being, in like manner, distinctly and severally set forth.

(2.) That the Defences shall likewise, in all cases, be framed in an articulate form; the various allegations in the Summons being each to

1845. be separately met, under distinct heads or articles applicable thereto, and numbered in the like manner; and the defender being bound in all cases—(unless, 1. where his defence involves a substantive counter case of his own, *e. g.*, where, admitting the debt pursued for, he is to plead compensation, &c.; Or, 2. where, from the nature of the Defence, it would be impossible, in any but a separate form, to state its details intelligibly)—to insert and embody, in his respective Answers to the pursuer's allegations, all requisite and intrinsic qualifications or explanations; thereby avoiding the necessity of a separate "Defender's Statement of Facts," the too frequent resorting to which has led to great abuse.

(3.) That where the defender's case is such as to require a separate Statement of Facts, the allegations in such Statement shall be set forth articulately, and in the like manner in all points with what has been required above, as to the pursuer's allegations in the Summons.

(4.) That, in either case, the Defences shall contain a note or summary of the defender's whole Defences and Pleas,—Preliminary and Dilatory as well as Peremptory,—set forth under distinct heads, and by way of general propositions, with a simple reference to authorities (if the defender so choose), but without comment or quotation, and without entering into detail or argument.

(5.) That no Replies shall be allowed, as at present; but the Judge shall at once call the parties before him, and—

1st, If Preliminary or Dilatory Defences have been pleaded,—Either, (1.) he may dispose thereof at once, if no further statement in point of fact be necessary;—Or, (2.) if further statement be required, he may order a separate Record in regard thereto, and afterwards dispose of the Defences upon such Record;—Or, (3.) if he see cause, he may, either with or without further statement, order written argument confined to this preliminary matter;—Or, (4.) he may reserve consideration of the Defences till a future stage of the cause; and, where it seems expedient, appoint any requisite Statement of Fact in regard thereto, to be included in the Record upon the merits. But in all cases, and at whatever stage (unless where the judgment disposing of such Defences is mixed up with, and forms part of, a judgment on the merits), there shall no Reclaiming Petition be allowed against any judgment *repelling* the said Defences.

2d, Where no Dilatory Defences have been proponed,—or where (if proponed) they shall have been either definitively repelled, or reserved

for future consideration,—the Judge shall proceed with the parties, to adjust and, if possible, close the Record:—For which end he may, in this stage, allow, where necessary, a Note of Pleas, without argument, and with a simple reference to authorities (as in the case of the Defences), to be given in for the pursuer, and generally such modifications of either Summons and Defences as would, at any rate, be competent in the shape of Amendments,—the same being always stated in a separate Minute of Amendment; And where the Defences have been so framed as to contain matter of counter averment, and even where there is a separate Statement of Facts for the defender,—if the pursuer be content to meet the same with a simple Minute of Denial, and the defender shall not insist upon an explicit and articulate answer to his allegations,—such Minute may also be allowed: And if in either of these ways the case shall then appear to the Judge ripe for closing the Record, he shall order the parties to state whether they be willing to hold their respective Pleadings as containing their full and final Statement; and if they agree and minute their consent, he shall close the Record, agreeably to the provisions to that effect made in the existing Act of Sederunt; and where they do not agree, but one or other insists for Condescendence and Answers, the Judge, while he pronounces an order for such Condescendence and Answers, shall, at the same time, with a view to future guidance in the question of expenses, cause it to be minuted upon whose motion this further procedure takes place.

1845.

III. In those cases where the parties decline to close the Record upon Summons and Defences—or where the Judge is himself satisfied (from the defender's giving in a separate Statement, or otherwise) that it is inexpedient or impossible to do so without further procedure—it is ordered—

(1.) That the said Judge, after disposing of, or reserving the Preliminary and Dilatory Defences (if any) as aforesaid, shall pronounce a Deliverance, ordaining the parties to prepare a Record by Condescendence and Answers.

(2.) That under this order, the parties—dealing with the Summons and Defences, as their original Statements,—shall respectively revise these Statements, so as substantially to make the Condescendence and Answers proper revised pleadings; and shall once more embody and set forth in their said Condescendence and Answers, articulately, in a separate and

1845. independent form (so that each of these papers shall be complete in itself, without reference to the previous Summons and Defences), their whole Statements of Fact and Pleas in Law; with such modifications and alterations thereon as in this stage shall have been found to be necessary; and with a reference to authorities, if deemed advisable; but without comment or quotation, and without entering into detail or argument: And it shall no longer be requisite for either party to set forth, as is now the case, the mode of proof applicable to his respective averments.

(3.) That the pleadings being thus prepared, the Judge shall again call the parties before him, with a view to adjust and close the Record; And when, with such further modifications as may be ordered or authorized by the said Judge, the Condescendence and Answers shall at last have been finally adjusted, the parties shall be again ordered to state whether they be willing to hold their respective papers as containing their full and final statements; and if they agree and minute their consent, the Judge shall close the Record agreeably to the provisions of the existing Act of Sederunt. Where they do not agree, and one or other refuses to close, the Judge shall himself, in this case, if satisfied that the parties have sufficiently met the averments of each other, be entitled to declare the Record closed, without the assent of either; but if he be not satisfied with the existing state of the papers, he shall pronounce an order for revisal, or such other deliverance, as shall appear to him most proper for reducing the Record into a concluded and perfect shape.

IV. The Record being closed in one or other of the above ways, the Judge shall proceed to dispose of the cause, with or without written argument. But there shall be no written argument without an express order to that effect by the Judge; and the written argument, where ordered, shall in no case be understood to form part of the proper Record.

V. And the Lords do further enact and declare—

That in all Summary Applications to be presented in the said Burgh Courts, from and after the said 1st day of March next—while it shall be competent to pronounce, at any time, such interim orders, interdicts, warrants, or decernitures, as the exigencies of the case shall require—the form of preparing and closing the Record (in cases where a Record is necessary) shall be as follows:—

(1.) The Petition shall state generally (as in the present form of a Note of Suspension before the Supreme Court) the subject of complaint, setting forth specifically in the prayer the remedy craved. 1846.

(2.) There shall be annexed to said Petition an articulate Statement of Facts, with a Note of Pleas in Law, all separately set forth, in distinct and substantive propositions, without argument; in like manner and form as has already been directed, in the case of a Summons or Condescendence in Ordinary Actions.

(3.) The Answers to said Petition shall, in the like articulate manner, be framed according to the form already enacted in the case of Defences, or of Answers to a Condescendence, in ordinary actions.

(4.) There shall be no Replies; and in all other respects, the Rules for the preparation and closing of the Record shall, as far as practicable, be the same as in ordinary actions.

VI. And the Lords do further enact and declare—

That the regulations contained in the foresaid existing Acts of Sederunt, so far as they are at variance with those now enacted, or in any ways incompatible with their operation, are, from and after the said 1st of March next, hereby repealed; but to all other effects, they shall remain, as at present, in full force. And the Lords appoint this Act to be engrossed in the Sederunt Book, and printed and published.

D. BOYLE, *I.P.D.*

Act of Sederunt for Regulating Procedure before the Sheriff
Courts, in applications under the Statute 8th and 9th
Vict., cap. 83, sect. 73.

Edinburgh, 12th February 1846.

Whereas it is proper that proceedings before the Sheriffs under the Statute 8th and 9th Vict., c. 83, intituled, “An Act for the amendment of the laws relating to the Relief of the Poor in Scotland,” should be summary and uniform,—

The Lords of Council and Session do hereby enact and declare—

I. That where Relief has been refused, by any Parish or Combination, to any poor person who shall have made application for relief, such poor person may apply to the Sheriff of the County, without the intervention of an agent, and either verbally or in writing.

1846.

II. That the Sheriff shall forthwith proceed to consider the facts stated by such poor person ; and if he be of opinion, upon the facts so stated, that such poor person is not legally entitled to relief, he shall at once pronounce a Deliverance to that effect.

III. That if, on the contrary, the said Sheriff shall be of opinion upon the facts so stated, that such poor person is legally entitled to relief, then he shall forthwith make an order upon the Inspector of the poor, or other officer of the Parish or Combination, directing him to afford relief to such poor person in the meantime, until such Inspector or other officer shall, on or before a day to be appointed by the Sheriff in the same order and to be intimated, lodge with the Sheriff-Clerk a statement, in writing, shewing the reasons why the application of such poor person for relief was refused.

IV. That it shall be sufficient intimation of such order to the said Inspector, or other officer, that a certified copy thereof be transmitted to him through the Post-Office, marked on the back with the words, " Sheriff's-Office—Poor-Law Intimation—Immediate." And it shall be the duty of the Sheriff-Clerk to make such intimation. And the Sheriff-Clerk shall preserve the principal order by the Sheriff, and likewise enter in the Minute-Book of Court the date of transmitting the copy thereof as aforesaid.

V. That if, after such intimation, the Inspector, or other said officer, shall not, within the time appointed by the Sheriff, lodge a statement, in writing, in terms of the Sheriff's order, the Sheriff shall forthwith, upon a certificate by the Sheriff-Clerk that a copy of such order was duly transmitted as aforesaid, pronounce a deliverance or judgment, definitively finding such poor person to be legally entitled to relief, and ordaining the Parish or Combination instantly to proceed and determine the question of amount.

VI. That where, on the other hand, the Inspector, or other said officer, shall duly lodge his statement, in writing, in terms of the Sheriff's order, the Sheriff shall appoint the same to be answered ; and he shall, if required, nominate an agent to appear and answer on behalf of such poor person ; and shall further, if necessary, direct a Record to be made up, and a Proof to be led, by both parties ; after which he shall proceed to pronounce judgment in the cause, finding substantively such poor person to be legally either *entitled* or *not entitled* to relief ; and, in the former case, ordaining the Parish or Combination, as before, instantly to proceed and determine the question of amount.

VII. That so long as the cause shall be in dependence before the Sheriff, and after the said Inspector, or other officer, shall have given in his statement, in writing, as aforesaid, it shall be lawful for the Sheriff to resume, at any time, the question of interim support; and (if he shall see fit) to direct such interim support to be continued until a final judgment shall have been pronounced on the merits of the case; And it shall, on the other hand, be lawful for the Sheriff (if he see fit), after the said Inspector, or other officer, shall have given in his statement, in writing, to direct such interim support to be at any time discontinued,—as well as thereafter, at any time, to ordain the same to be of new afforded, as he may see cause. 1846.

VIII. Finally, that the said causes, so far as such poor person applying to the Sheriff is concerned, shall, in all respects, be conducted on the same footing,—in regard to payment, in the first instance, of any dues of Court, or other fees,—as if such poor person had been admitted to the benefit of the Poor's Roll; that is to say, such poor person shall not, in the first instance, be liable in payment either of any dues of Court, or of any dues to the clerk or officers of Court, or of fees to any agent who may have been appointed to act in his behalf, as aforesaid, except to the extent of actual outlay; but, in the event of such poor person being ultimately found entitled to expenses of process, it shall be competent to such poor person to include and charge in his account of said expenses, as against the Parish or Combination, all ordinary fees of Court, including clerk's dues and dues of extract, as well as fees, at the usual rate of charge, to his agent, and any officers of Court, in like manner as if he had been an ordinary litigant; and, on the said expenses being recovered, the amount thereof shall be accounted for by such poor person, or his agent, to the several parties interested. And, further, in the event of such poor person's being ultimately subjected, by the Sheriff's judgment, in expenses to the Parish or Combination, the expenses so awarded shall be held to include all the usual fees and dues, payable, and which have been paid, by the said Parish or Combination in the character of an ordinary litigant.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and to be printed and published in common form.

D. BOYLE, *I.P.D.*

1846.

Act of Sederunt respecting Jury Causes.

Edinburgh, 24th February 1846.

The Lords of Council and Session, considering that there is doubt as to the meaning or construction of the enactments contained in the 10th and 11th sections of the Act of Sederunt of 16th February 1841, regulating proceedings in Jury Causes, do hereby repeal the said 10th and 11th sections of the said Act of Sederunt, and do enact and declare, that, from and after the date hereof, the following regulations shall be used and observed in place thereof, viz :—

That as soon as the Issue or Issues in the cause are finally engrossed and lodged in the office in the Register House, it shall be competent to the pursuer in the Issue or Issues to give notice of trial ; and if the pursuer does not give notice of trial within ten days from the time the said Issue or Issues are so lodged as aforesaid, or, after giving notice of trial, countermands the same, and does not renew the notice of trial within ten days after such countermand, it shall thereafter be competent to the defender to give notice of trial to the pursuer, and also to countermand such notice of trial in like manner as is competent to the pursuer. But if the defender countermands, then the pursuer's right to take the lead shall revive for other ten days from the date of such countermand : Provided always, that in case either party countermands the notice of trial given by him, it shall be competent for the Court, if then sitting, or to the Judge at the sittings, or on the Circuit for which such notice of trial had been given, to fix the time and place of trial, on cause shewn by the opposite party. And the party who shall be served with a countermand shall be entitled to such expenses as may have been incurred in consequence of such notice of trial, and which may not be available for the trial of the cause when it afterwards takes place.

And whereas, by the 7th section of the Act 1st and 2d Victoria, cap. 118, it is, *inter alia*, enacted, “ That the said causes so appropriated to “ trial by jury, or ordered to be so tried, shall not be sent to the Jury-clerk's “ offices until the Record is ready to be closed, and Issues are to be pre- “ pared : Provided always, that the practice of remitting such causes to “ the Jury Roll shall remain as at present ; but being so remitted, such “ causes shall not be retransmitted to the Court of Session Roll, but shall

“ be dealt with in the Jury Court Roll in all respects, and subject to the
 “ like review, as if they had been in the Court of Session Roll :”—it is 1846.
 hereby declared that this regulation does not apply to causes in which
 the matter sent for trial has been withdrawn, settled, or abandoned, or
 where parties have agreed as to the facts, or to renounce probation by
 witnesses, or to causes after trial, where other matter is left to be dis-
 posed of by the Division or Lord Ordinary remitting the cause. It is
 therefore enacted and declared, that in all such cases the process shall
 be retransmitted by the clerks in Jury Causes to the Division or Lord
 Ordinary who transmitted the same, to be proceeded in in the Court of
 Session Roll as in other Court of Session causes.

And the Lords appoint this Act to be engrossed in the Sederunt-Book,
 and printed and published in the usual manner.

D. BOYLE, *I.P.D.*

Act of Sederunt for regulating the Fees payable to Sheriffs,
 Sheriffs-Substitute, and Sheriff-Clerks, under the
 Statute 8th and 9th Victoria, cap. 35, sect. 6.

Edinburgh, 3d July 1846.

Whereas it is enacted by the Statute 8th and 9th Vict., cap. 35, sect. 6,
 “ That where infeftment is to be completed under a Precept issuing from
 “ the Office of Chancery, which Precept has hitherto been directed to the
 “ Sheriff of the county in which the lands or some part thereof lie, such Pre-
 “ cept shall, after the said First day of October, be addressed to any Notary-
 “ Public : Provided always, that such Precept shall be null and void,
 “ unless an instrument of sasine thereon be recorded in the General
 “ Register of Sasines, or the Register of Sasines applicable to the lands
 “ therein contained, before the first term of Whitsunday or Martinmas
 “ posterior to the date of such Precept, without prejudice to a new Pre-
 “ cept being issued as heretofore, and that, before such Precept is issued
 “ from Chancery, the retour duties and casualties due to the Crown shall
 “ be paid to the proper officer there, who shall account to the Exchequer
 “ for the same, in like manner as the Sheriffs were wont to do ; and the
 “ same officer shall also receive at the same time certain fees on behalf
 “ of the Sheriffs, Sheriffs-Substitute, and Sheriff-Clerks of the counties

1846. “ in which the lands lie, and on which sasine would have been taken,
 “ according to the form heretofore in use, and to whom such officer shall
 “ account for the same, in place of the fees which they have heretofore
 “ been in use to receive, but such fees shall be paid only during the ex-
 “ istence of the respective interests of the present Sheriffs, Sheriffs-Substi-
 “ tute, and Sheriff-Clerks in their respective offices; and the Lords of
 “ Council and Session are hereby authorized and required, by an Act or
 “ Acts of Sederunt, to regulate and determine the amount of the fees to
 “ be so received on behalf of each Sheriff, Sheriff-Substitute, and Sheriff-
 “ Clerk, having due regard to the existing interest of each :”—The Lords
 of Council and Session enact and declare, that the fees to be received by
 the proper officer in Chancery, on behalf of Sheriffs and Sheriffs-Substi-
 tute respectively, who held their respective offices at the date of the
 aforesaid Statute, shall be as follows :—

I. That, subject to the provisions hereinafter contained, the fees set forth in Schedule A, hereto annexed, shall be payable, as heretofore, to each of the Sheriffs whose names are contained in Schedule B, also hereto annexed, so long as such Sheriff shall continue in his present office.

II. That, in the event of the death or resignation of any of the Sheriffs whose names are contained in Schedule B, while their substitute or substitutes, named in Schedule C, hereto annexed, shall continue in the offices held by them respectively at the date of the aforesaid Statute, there shall, from and after the death or resignation of such Sheriff, be payable to such Substitute or Substitutes, during their continuance thereafter in such office, one-third of the fees specified in Schedule A : Provided always, that where a sheriffdom has been divided into districts, such one-third of the fees shall be payable to the Sheriff-Substitute acting within the district in which the infetment would have been given prior to the passing of the foresaid Act,—and where there are two or more Substitutes in a Sheriffdom, to whom separate districts have not been assigned, the aforesaid one-third of the fees shall be paid to such Substitutes, to be equally divided among them ; and, upon the death or removal of one or more of them, to the Substitute or Substitutes who may continue in office.

III. That, at the same time that the application is made to the proper officer in Chancery to issue a Precept or Precepts, in terms of the Statute, there shall be produced a certificate, by the Sheriff-Clerk of the county or counties in which the lands, or any part thereof, are situated, of the

real rent of such lands. And the parties are hereby required to exhibit to the Sheriff-Clerks sufficient evidence of the real rents of the lands as aforesaid, so as to enable them to issue such certificates. 1846.

IV. That where the Infertment to follow upon any Precept or Precepts issued in terms of the aforesaid Statute, shall embrace not only the *dominium directum* of the whole lands, but also the *dominium utile* of the whole, or of any part thereof, or where the *dominium utile* of the whole lands, or any part thereof, is held by the person in whose favour the Precept or Precepts are issued, but under separate titles capable of being consolidated in his person, the fee to the Sheriffs shall be regulated according to the real rent of the lands contained in the Precept, of which the claimant has the *dominium utile* ; but it shall in no case be less than five guineas.

V. That where the party applying for the Precept has no right to the *dominium utile* of any portion of the lands inserted in the Precept, but has right to the naked superiority only, the fee shall be five guineas, if the valued rent of the said superiority shall exceed one hundred pounds Scots, but when the superiority is not of that amount of valued rent there shall be no fee paid.

VI. That where in a Crown charter there is a clause of union, or a clause of dispensation, whereby, according to the practice previous to the passing of the aforesaid Act, the Precept was directed to the Sheriff of the sheriffdom in which a part only of the lands lie, it is declared that the fees shall be paid to the Sheriff to whom the Precept was in use to be so directed ; and the amount of such fees shall be regulated according to the real rent of the whole lands described in the Precept, though situated in different sheriffdoms.

VII. And whereas by the aforesaid Statute one Precept may now be issued, embracing lands situated in different counties, though the charter contains no clause of union or of dispensation : And whereas, before the passing of said Act, two or more Precepts must, in such cases, have been issued, and the customary fees paid to the Sheriff of each of the counties within which the lands were situated, it is enacted and declared, that in such cases the amount of the fees exigible under the Statute, and this relative Act of Sederunt, shall be the same as if separate Precepts, directed to the several Sheriffs of the counties in which the lands lie, had been issued, and shall be paid to the said several Sheriffs entitled as aforesaid.

1846.

VIII. And whereas certain fees are, in terms of the foresaid Act, to be paid and received for behoof of the Sheriff-Clerks, although the Instrument of Sasine may not be drawn by them, and are to be so received at issuing the Precept, and whereas the length of the Precept affords a fair criterion for determining the amount of such of the said Fees as were formerly regulated by the length of the Instrument of Sasine, it is enacted and declared, that there shall be received and paid to each of the Sheriff-Clerks mentioned in Schedule D (who were appointed prior to the passing of the Act, 1st and 2d Victoria, cap. 119, 16th August 1838), while he shall continue in his present office, the sum set forth in Schedule E, hereunto annexed, under the column of the said schedule applicable to the sheriffdom of which he is Sheriff-Clerk.

IX. That there shall also be paid to each of the said Sheriff-Clerks, while he shall continue in his present office, the sum set forth in Schedule F, hereto annexed, under the column of the said schedule applicable to the sheriffdom of which he is Sheriff-Clerk, in lieu of the fee formerly paid for attendance at taking infestment.

X. That the above rules applicable to the case of Sheriffs, viz., rules IV., VI., and VII., shall also, *mutatis mutandis*, be held to apply to the fees of Sheriff-Clerks, set forth in Schedule F; and that the Sheriff-Clerks shall be entitled to no other fees under the provisions of the 6th section of the aforesaid Statute, except those specified in Schedules E and F.

And the Lords appoint this Act to be engrossed in the Sederunt-Book, and printed and published in the usual manner.

D. BOYLE, *I.P.D.*

SCHEDULE A.

Fees to be received and paid to the Sheriffs mentioned in Schedule B.

1. Where the party in whose favour the Precept is issued has no right to the *dominium utile* of any portion of the lands contained in the Precept, but has right to the naked superiority only, and where the valued rent of such superiority shall not exceed £100 Scots, no fee shall henceforth be exigible.
2. Where the party has right to the naked superiority only, but where the valued rent of such superiority shall exceed £100 Scots, or where the real rent of the lands of which the party holds the *dominium utile* is under £200, £5 5 0

3. Where the real rent of the lands of which he holds the <i>dominium</i>					1846.
<i>utile</i> is above £200, and not exceeding £300, . . .					£6 6 0
300,	...	400,	. . .	8 8 0	
400,	...	500,	. . .	10 10 0	
500,	...	600,	. . .	12 12 0	
600,	...	700,	. . .	14 14 0	
700,	...	800,	. . .	16 16 0	
800,	...	900,	. . .	18 18 0	
900,	...	1000,	. . .	21 0 0	
1000,	...	1100,	. . .	22 1 0	
1100,	...	1200,	. . .	23 2 0	

And so increasing at the rate of £1, 1s. per cent. on the rental, but in no case exceeding £105, where the lands are all situated in one county, or are included in a Charter of Union, or where there is a clause of Dispensation.

SCHEDULE B.

Names of the Sheriffs and Stewards in Office at the date when the Act 8th and 9th Victoria, chapter 35, was passed (21st July 1845), specifying the Sheriffdoms and Stewartries.

Names of Sheriffdoms and Stewartries.	Names of Sheriffs and Stewards.
Aberdeen,	Andrew Murray.
Argyll,	Robert Bruce.
Ayr,	Archibald Bell.
Banff,	Alexander Currie.
Berwick,	Robert Bell.
Bute,	Robert Hunter.
Caithness,	Robert Thomson.
Clackmannan and Kinross,	John Tait.
Dumbarton,	John Campbell Colquhoun.
Dumfries,	Mark Napier.
Edinburgh,	Graham Spiers.
Elgin and Nairn,	Cosmo Innes.
Fife,	Alexander Earle Monteith.
Forfar,	James L'Amy.
Haddington,	William Horne.
Inverness,	William Fraser Tytler.
Kincardine,	George Douglas.
Kirkcudbright,	Erskine Douglas Sandford.
Lanark,	Archibald Alison.
Linlithgow,	John Cay.
Orkney and Zetland,	Charles Neaves.
Peebles,	George Napier.
Perth,	Robert Whigham.
Renfrew,	Hercules James Robertson.
Ross and Cromarty,	John Jardine.
Roxburgh,	William Oliver Rutherford.
Selkirk,	George Dundas.
Stirling,	Robert Handyside.
Sutherland,	Hugh Lumsden.
Wigtown,	Adam Urquhart.

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SCHEDULE C.

Names of the Sheriffs-Substitute and Stewards-Substitute in Office at the date when the Act 8th and 9th Victoria was passed (21st July 1845), specifying their Sheriffdoms and Districts (where Districts are assigned).

Names of Sheriffdoms and Stewartries.	Names of Sheriffs and Stewards-Substitute.	Names of Districts where Assigned.
Aberdeen,	William Watson,	Aberdeen.
do.	James Skelton,	Peterhead.
Argyll,	John Maclaurin,	Inveraray.
do.	Dugald Mactavish,	Campbelton.
do.	James Robertson,	Tobermory.
do.	Andrew Fraser,	Fort-William.
Ayr,	Andrew Jamieson jun.,	
Banff,	John Pringle,	
Berwick,	Alexander Boswell,	
Bute,	Alexander Irvine,	
Caithness,	James Gregg,	
Clackmannan,	William Clark,	
Kinross,	David Syme,	
Dumbarton,	William Cuninghame Steele,	
Dumfries,	John Pitcairn Trotter,	
Edinburgh,	George Tait,	
do.	James Macdonald,	
Elgin,	Patrick Cameron,	
Nairn,	Alexander Falconer,	
Fife,	Andrew Jameson,	Cupar.
do.	Charles Sheriff,	Dunfermline.
Forfar,	Andrew Robertson,	Forfar.
do.	John Irving Henderson,	Dundee.
Haddington,	Robert Riddell,	
Inverness,	William Hanson Colquhoun,	Inverness.
do.	Andrew Fraser,	Fort-William.
do.	Thomas Fraser,	Skye.
do.	Charles Shaw,	Long Island.
Kincardine,	Hugh Fullerton,	
Kirkcudbright,	James Welsh,	
Lanark,	Henry Glassford Bell,	Glasgow.
do.	George Skene,	do.
do.	Daniel Vere,	Lanark.
do.	James Veitch,	Hamilton.
Linlithgow,	Francis Home,	
Orkney,	Charles Gordon Robertson,	
Zetland,	Robert Bell junior,	
Peebles,	Arthur Burnett,	
Perth,	Hugh Barclay,	Perth.
do.	Andrew Cross,	Dunblane.
Renfrew,	Alexander Campbell,	Paisley.
do.	Claud Marshall,	Greenock.
Ross,	George Cameron,	Dingwall.
Ross and Cromarty,	Robert Sutherland Taylor,	Tain and Cromarty.
Ross,	Andrew Lothian Macdonald,	Stornoway.

Names of Sheriffdoms and Stewartries.	Names of Sheriffs and Stewards-Substitute.	Names of Districts where Assigned.
Roxburgh, Selkirk, Stirling, do. Sutherland, Wigtown,	John Craigie, Francis Somerville, Sir John Hay, Bart., James Wardrope Dickson. Alexander Gordon, Alexander Macdonnell,	Stirling. Falkirk.

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SCHEDULE D.

Names of the Sheriff-Clerks and Steward-Clerks in Office at the date when the Act 8th and 9th Victoria, c. 35, was passed (21st July 1845), specifying their Sheriffdoms and Stewartries, and whose appointments were prior to the Act 1st and 2d Victoria, c. 119, § 28.

Names of Sheriffdoms and Stewartries.	Names of Sheriff-Clerks and Steward-Clerks.
Aberdeen, Argyll, Ayr, Bute, Kinross, Dumbarton, Dumfries, Elgin, Nairn, Fife, Forfar, Haddington, Inverness, Kincardine, Kirkcudbright, Lanark, Linlithgow, Orkney, Zetland, Perth, Ross, Stirling, Wigtown,	James Gordon. Scipio Mactaggart. Alexander Hunter. Archibald Macneill. Peter Macgill. Phineas Daniel. William Thomson. Arthur Duff. Robert Malcolm. Thomas Horsburgh. Patrick Orr. Henry Maxwell Davidson. Patrick Grant. William Stewart. David Melville. John Drysdale. Thomas Liston. William Henry Fotheringhame. Francis Heddell. James Murray Patton. Alexander Ross Suter. William Galbraith. George Agnew.

NOTE.

By the Statute 1st and 2d Vict., c. 119, § 28, it is declared, That

“ No person who shall hereafter be appointed to the Office of Sheriff-Clerk, or who shall acquire right to any Fees or Emoluments in any Sheriff-Court, in virtue of the provisions of this Act, from and after the passing of the same, shall acquire a vested right to the Fees or Emoluments of such Office; or shall be entitled to any compensation in consequence of the subsequent abolition of such Office or Fees, or of any alteration in the constitution of such Office, or in the amount of such Fees, or in

1846. the mode of paying such Sheriff-Clerk or Officer, either by such Fees or such Salary as may hereafter be determined."

In consequence of the above enactment, the Committee of Judges directed the names of those Sheriff-Clerks who have been appointed since the date of that Statute, to be struck out of Schedule D; and intimation thereof to be made to them; which has been done. The names of those struck out are as follows:—

Banffshire,	George Robinson Forbes.
Berwickshire,	William Turnbull Kellie.
Caithness-shire,	Robert M'Lauchlan.
Clackmannanshire,	Andrew Jameson.
Edinburghshire,	John Archibald Campbell.
Peeblesshire,	William Stuart.
Renfrewshire,	John Hart.
Cromartyshire,	John Taylor.
Roxburghshire,	John Stewart Newbigging.
Selkirkshire,	John Lang.
Sutherlandshire,	Donald M'Leod Smith.

SCHEDULE E.

Fees to be Paid to Sheriff-Clerks, in Schedule D., for each Sheet or portion of 250 Words contained in the Precept.

	Aberdeen.			Ayr, Dumfries.			Forfar.			Lanark.			Other Counties.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
First Sheet, . .	0	10	6	0	12	0	0	9	0	0	5	3	0	15	0
Every other, . .	0	7	0	0	8	0	0	6	0	0	3	6	0	10	0

NOTE.—The sheet to be computed at 250 words; but if the writing do not contain 250 words, to be charged as one sheet; and if, after finding the sheet or sheets which any such writing shall comprise, calculated at the rate aforesaid, any number of words less than 250 words shall remain, such fewer words shall be charged as a sheet.

SCHEDULE F.

Fees in lieu of those formerly Paid to Sheriff-Clerks for taking Infefments.

	Aberdeen.			Ayr, Dumfries.			Forfar.			Lanark.			Other Counties.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Where the real rent does not exceed L.100, or where no part of the <i>dominium utile</i> belongs to the party, . .	0	14	9	0	16	9½	0	12	7	0	7	4½	1	1	0
L.100 and not exceeding L.200,	1	9	6	1	13	7	1	5	2½	0	14	9	2	2	0
L.200 L.500,	2	4	3	2	10	5	1	17	2½	1	2	1½	3	3	0
L.500 L.1000,	2	19	0	3	7	0	2	10	5	1	9	6	4	4	0
Every additional L.1000, . .	0	14	9	0	16	9½	0	12	7	0	7	4½	1	1	0
Not exceeding in all, . .	7	7	6	8	8	0	6	6	0	3	13	6	10	10	0

1847.

Act of Sederunt as to the Issue Department.

Edinburgh, 6th February 1847.

The Lords of Council and Session, considering that, in consequence of the office of the principal Jury Clerks being now vacant, it is necessary to make such regulations as may enable the two principal Clerks of Session, nominated in conformity with the provisions of the Act 1 and 2 Vict., c. 118, S. 6, to perform the business of the Issue Department with as little interruption as possible to the performance of their other official duties. Considering also that, in consequence of the death of the late assistant Issue Clerk, it is necessary to make provision for the performance of the duties formerly performed by him : And further, considering the power conferred on the Court of Session by section 33d of said Act, to make from time to time such regulations by Act of Sederunt “ As the “ said Court may deem meet for the purpose of carrying into effect the “ purposes of this Act,”—Do enact and declare as follows :—

1st, That the 4th section of the Act of Sederunt, dated 16th February 1841, which directs the attendance in the Issue Chambers to commence at ten o'clock in the morning, be, and is hereby altered, and power is hereby given to the said two principal Clerks of Session, to commence the Issue business at half-past nine o'clock in the morning.

2d, That power be, and is hereby also given, to the said two principal Clerks of Session, to proceed with the dispatch of Issue business during the sittings of the Lords Ordinary at the commencement and termination of the Winter Session, in terms of the 9th section of the Act 2d and 3d Vict., c. 36.

3d, That the duties heretofore performed by the said Assistant Issue Clerk (now deceased) shall, in the meantime, be performed by the surviving Assistant Record Clerk : And the Lords appoint this Act to be recorded in the Books of Sederunt.

D. BOYLE, *I.P.D.*

1847.

Act of Sederunt to Regulate Publication in Services, and
the Fees of Sheriff-Clerks therein.

Edinburgh, 14th July 1847.

The Lords of Council and Session, in pursuance of the powers vested in them by the Act of Parliament passed in the 10th and 11th years of Her present Majesty's reign, chap. 47, intituled, "An Act to amend the Law and Practice in Scotland as to the Service of Heirs,"—Declare,—

I. That the Abstracts to be published in regard to General and Special Services, before the Sheriffs of Counties and the Sheriff of Chancery, shall be in the forms, or as nearly as may be in the forms, following, according to the circumstances of the case:—

1. *Abstract of Petition for General Service, when presented to the Sheriff of a County.*

Petition for General Service to the Sheriff of [here name the county] by A. B. [here name and design the Petitioner] as [here mention the relationship and character as stated in the Petition] in general to the deceased C. D. [here name and design the deceased] whose ordinary or principal domicile, at the period of his death, was in the said county.

Presented on the [here mention the date of presenting the Petition.]

2. *Abstract of a Petition for Special Service, when presented to the Sheriff of a County.*

Petition for Special Service to the Sheriff [here name the county] by A. B. [here name and design the Petitioner] as [here mention the relationship and character as stated in the Petition] in special to the deceased C. D. [here name and design the deceased] in the lands of [here mention the general designation or leading name, and if there be more parcels than one, the leading names of the lands described in the Petition.]

Presented on the [here mention the date of presenting the Petition.]

3. *Abstract of a Petition for General Service, when presented to the Sheriff of Chancery.*

Petition for General Service to the Sheriff of Chancery by A. B. [here name and design the Petitioner] as [here mention the relationship and

character as stated in the Petition] in general to the deceased C. D. [here name and design the deceased] whose ordinary or principal domicile, at the period of his death, was in the county of [here name it, *or* who died domiciled furth of Scotland.] 1847.

Presented on the [here mention the date of presenting the Petition.]

4. *Abstract of a Petition for Special Service, when presented to the Sheriff of Chancery.*

Petition for Special Service to the Sheriff of Chancery by A. B. [here name and design the Petitioner] as [here mention the relationship and character as stated in the Petition] in special to the deceased C. D. [here name and design the deceased] in the lands of [here mention the general designation or leading name, and if there be more parcels than one, the leading names of the lands described in the Petition] situate in the County of [here name it, *or if in more Counties than one, say in the Counties of* and .]

Presented on the [here mention the date of presenting the Petition.]

II. That in making edictal publication of all Services, an Abstract, in the form above prescribed, as suitable to the case, shall be left by the Sheriff-Clerk of Chancery at the office of the Keeper of the Register of Edictal Citations, and shall be entered by him in a separate book, to be kept by him for that purpose, and shall be printed and published weekly in the printed record of edictal citations, which, so far as regards the purposes of this enactment, shall be a weekly publication.

III. That the Official Notices of Publication shall be required and given by the several Sheriff-Clerks, whether of Counties or of Chancery, in the following forms, or as nearly as may be in these forms :—

1. *Requisition from the Sheriff-Clerk of a County to the Sheriff-Clerk of Chancery.*

[Place and Date.]

SIR,—I request you to publish edictally the Service, of which an Abstract is subjoined, and to send me immediate notice of your having done so. I am, &c.

[Signature and designation.]

[Here copy the Abstract.]

1847.

2. *Answer by the Sheriff-Clerk of Chancery to the above.**Edinburgh* [Date.]

SIR,—I have received your Requisition of the [date] which I return enclosed, with a Certificate of Publication annexed to it. I am, &c.

[Signature and designation.]

3. *Certificate of Publication to be so annexed by the Sheriff-Clerk of Chancery.**Edinburgh,* [Date.]

I hereby certify that the before-written Abstract was Edictally published by me this day.

[Signature and designation.]

4. *Requisition from the Sheriff-Clerk of Chancery to the Sheriff-Clerk of a County.**Edinburgh,* [Date.]

SIR,—I request you to publish in your County the Service of which an Abstract is subjoined, and to send me immediate notice of your having done so. I am, &c.

[Signature and designation.]

[Here copy the Abstract.]

5. *Answer by the Sheriff-Clerk of the County to the above.*

[Place and Date.]

SIR,—I have received your Requisition of the [date] which I return enclosed, with a Certificate of Publication annexed to it. I am, &c.

[Signature and designation.]

6. *Certificate of Publication to be so annexed by the Sheriff-Clerk of the County.*

[Place and Date.]

I hereby certify that the before-written Abstract was duly published in this County by me this day.

[Signature and designation.]

IV. That the Requisition for publication above prescribed shall be made by the Sheriff-Clerk, whether of a County or of Chancery, with whom the Petition for Service has been lodged, without delay after his receiving such Petition, in a post-paid letter; and the publication shall be made, and the prescribed answer to such requisition shall be returned, likewise in a post-paid letter, without delay.

V. That when a Petition of Service is lodged with the Sheriff-Clerk of any county, he shall receive from the party presenting the same the fee payable to the Sheriff-Clerk of Chancery for the edictal publication thereof, and shall, once in each year, at a period and in the manner to be appointed under proper authority, make due accounting to the Sheriff-Clerk of Chancery therefor. And when a Petition of Service shall be lodged with the Sheriff-Clerk of Chancery, he shall receive from the party presenting the same the fee payable to the Sheriff-Clerk of the county in which such service has to be published for such publication thereof, and shall, once in each year, at a period and in the manner to be appointed under proper authority, make due accounting to the Sheriff-Clerk of such county therefor. 1847.

VI. And to obviate doubts in regard to the form of Extracts of Decrees of General Service, which, in terms of the 25th section of the said Statute are limited to certain lands and heritages embraced in a particular specification thereof annexed to the Petition for Service, it is declared that such specification shall be signed by the Sheriff-Clerk, but it shall not be necessary that the copy thereof to be embodied in such Extracts shall be so signed.

VII. And, until otherwise ordered by Act of Sederunt, the following fees shall be exigible by Sheriff-Clerks for the business done under the foresaid Act of Parliament.

And the Lords appoint this Act of Sederunt to continue in force till the third Sederunt-Day of May next, and to be printed and published in the usual form.

D. BOYLE, *I.P.D.*

TABLE OF FEES.

Fees to be Paid in the Office of Chancery.

For extracting Decrees of Service (including recording), each sheet of said extract, or part of a sheet of 300 words,	£0 2 0
For Certified Copies of Proceedings in Services, when required by the party, each sheet, or part of a sheet, of 300 words,	0 2 0
For inspection of each Book of Record, having a corresponding Index of reference,	0 2 6

1847.	For inspection of the proceedings in a Service,	£0 2 6
	For searches in the Indices in the Books of Record—	
	(1.) For any period not exceeding 1 year, a Fee of	0 2 6
	(2.) For any period from 1 year to 10 years inclusive, a Fee of	0 5 0
	(3.) For any longer period,	0 10 0
	For transmitting the proceedings in a service on the Warrant of the Court of Session,	0 7 6
	For each attendance to exhibit a Book or Books of Record, where the same may be lawfully required, a Fee of	0 5 0

Fees to be paid to the Sheriff-Clerk of Chancery, and Sheriff-Clerks of Counties.

Fee to be received on presenting the Petition whether of General or Special Service, whereof one-half to be retained by the Sheriff-Clerk receiving it, and the other half accounted for by him to the Sheriff-Clerk who assists in the publication of the Petition, and to cover correspondence, framing of abstracts, publication, and postages,	£0 10 0
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In General Services.

For attending at Service, and framing and recording Minutes,	£0 3 6
In litigated Cases, the Clerk or Assistant-Clerk to be paid for writing the proof, at the rate, per sheet of 300 words, of	0 0 6
For general trouble connected with the Service,	0 10 0
For writing Decree of Service,	0 2 6

In Special Services.

For framing and recording Minutes (including attendance at the Service)—	
For the first sheet of 300 words,	£0 3 6
Every following sheet,	0 2 0
For general trouble connected with the Service,	0 15 0
For writing Decree of Service,	0 5 0
In litigated cases, the Clerk or Assistant-Clerk to be paid for writing the Proof, at the rate, per sheet of 300 words, of	0 0 6

NOTE.—In all cases, the additional procedure occurring when the Service is opposed, to be paid for by the parties according to the rates chargeable by the respective Sheriff-Clerks in ordinary business; and in the case of the Sheriff-Clerk of Chancery, according to the rates chargeable by the Sheriff-Clerk of Edinburgh, as regulated by the Act 1st and 2d Vict., cap. 119.

Caveats.

For each Caveat (to be effectual for one year), the Sheriff-Clerk to receive, for his own use, in all cases,	£0 2 6
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Act of Sederunt Regulating Prorogations in Sheriff-Courts. 1848.

Edinburgh, 11th March 1848.

Whereas great delay often arises in the progress of causes in Sheriff-Courts, from the frequency of prorogations of consent, or otherwise, in the course of preparing the record, and of taking proofs, be it enacted,—

I. That in future no such prorogations shall be permitted, except on cause shewn to the satisfaction of the Sheriff, which cause shall be set forth in his deliverance; and that proofs, when once commenced, shall proceed continuously to their close, at peremptory diets to be previously fixed.

II. That such peremptory diet shall be assigned to the party whose proof is to be first led; and that the proof for the other party shall commence either immediately, or on the first lawful day following that on which the proof of the former is concluded, and shall proceed continuously in like manner.

III. That it shall be competent for the Sheriff, on cause shewn to his satisfaction, which cause shall be set forth in his deliverance, to postpone the day for either party commencing his proof.

IV. That it shall be competent, nevertheless, for the Sheriff (or Sheriff-Substitute), when the proof is taken by him in person, and when his other duties render it necessary, to adjourn the proof to a day as soon thereafter as his engagements will permit; and when the proof is taken by a Commissioner, it shall not be adjourned, excepting by authority of the Sheriff, on cause shewn to his satisfaction, to be stated in the deliverance, and the Sheriff shall, at the same time, fix the day to which it shall be adjourned. But when a day, or period of eight hours, has been consumed, and the evidence is not concluded, the proof may be resumed next lawful day.

V. That either party neglecting to avail himself of the diets fixed by the Sheriff shall be held as renouncing probation, and shall only be reponed by the Sheriff on payment of previous expenses, or such part thereof as the Sheriff may award; and if the diet be neglected by the party who is to open the proof, it shall be optional to the opposite party to lead his proof, or to delay doing so, till it be ascertained whether the party at fault is to be reponed or not.

And the Lords appoint this Act of Sederunt to be engrossed in the Books of Sederunt, and to be printed and published in the usual form.

D. BOYLE, *I.P.D.*

1848.

Act of Sederunt Regulating Publication in Services, &c.

Edinburgh, 23d May 1848.

The Lords renew the Act of Sederunt, 14th July 1847, Regulating Publication in Services, &c., till the third Sederunt day in November next.

D. BOYLE, *I.P.D.*

Act of Sederunt Regulating Publication in Services, &c.

Edinburgh, 15th November 1848.

The Lords renew the Act of Sederunt regulating the Publication in Services, and the Fees of Sheriff-Clerks therein, &c., till the third Sederunt day in November 1849.

D. BOYLE, *I.P.D.*

Act of Sederunt Regulating the Forms of Consents under the Act 11th and 12th Victoria, cap. 36.

Edinburgh, 18th November 1848.

The Lords of Council and Session, in virtue of the powers, and in pursuance of the directions contained in the Act of the 11th and 12th of Victoria, cap. 36, intituled "An Act for the Amendment of the Law of Entail in Scotland,"—Do enact and declare,—

That all Consents required by the said Act to instruments of disentail, deeds of conveyance or security, leases, feus, or excambions of any entailed estate, or part thereof, or the disposal of any money, or of other property, real or personal, invested in trust for the purpose of purchasing land to be entailed, or of land directed to be entailed, or any other act or deed to which the Statute requires Consent, shall be in the form, or as nearly as may be in the form, of the Schedule hereto annexed.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and printed and published in the usual form.

D. BOYLE, *I.P.D.*

SCHEDULE.

1848.

I, *A. B.* (*state the designation and place of abode of the party, and whether he is in minority or of full age, or that he is of the age of 25, if that be requisite*), the heir next in succession, being heir apparent of *F. G.* (*name and designation*), the heir (*or institute, as the case may be*) in possession (*or in whatever character the consent is granted, here set it forth; and if granted by more than one heir, state their names and other particulars as above; and if it is granted by or with the consent of the guardians, one or more, of a pupil or minor or incapable person, state the name, designation, place of abode, and character or office of every such guardian, and the name and other particulars, as above, of the pupil or incapable person*), under a deed of entail, dated (*here set forth the date of the entail, and, if recorded in the Register of Tailzies, the date of registration*), executed by the now deceased *C. D.* of *E.* in favour of (*here insert the destination*) of All and whole (*here insert the leading name of the estate, or a general description of the same, and state the county or counties in which the same is situate*) do hereby consent to the disentail* by the said *F. G.*, of the whole lands, estate, and others contained in the said deed of entail (*or if the consent applies to a part only, say "of the following parts of the said lands and others contained in the said deed of entail," and then proceed to describe them particularly*), and that in the form and manner authorized by an Act of the 11th and 12th of Victoria, cap. 36, intituled "An Act for the Amendment of the Law of Entail in Scotland." (*If the consent is given under the 4th section of the Statute, and subject to conditions, limitations, or restrictions, which the party consenting wishes to insert in the Deed of Consent, insert such conditions, limitations, or restrictions here.*) And I consent to the registration hereof for preservation. In witness whereof (*add a testing-clause in legal form.*)

[*Signature of Party or Parties.*]

F. G., Witness.

H. I., Witness.

* NOTE.—If the deed of consent applies to a Deed of Conveyance or Security, an Excambion, a Lease, or a Feu, or the disposal of Trust-Money, or other property directed to be entailed, or any other act or deed to which the Statute requires consent, the necessary alteration will be here made, stating, shortly, the nature of the proposed transaction.

1848.

Act of Sederunt to Regulate for three years, the Fees payable to the Keeper of the Register of Entails, in Relation to the Proceedings under the Act for the Amendment of the Law of Entail in Scotland.

Edinburgh, 8th December 1848.

The Lords of Council and Session, in virtue of the powers and in pursuance of the directions contained in the Act of the 11th and 12th of Victoria, cap. 36, intituled “ An Act for the Amendment of the Law of “ Entail in Scotland,”—Do enact and declare,—

That the Fees to be received by the Keeper of the Register of Entails for Recording Instruments of Disentail, Excambions, and other writings, which shall be Recorded in such Register, in pursuance of the said Act, shall, for the period of three years from this date, be as follows :—

	£	s.	d.
For Recording an Instrument of Disentail, with the Decree of Court on which it proceeds, or an Excambion, or other Deed or Document :—			
For each sheet or part of a sheet,	0	6	1½
<i>Note.</i> —This is to include 1s. 4d., allowed to the Recording Clerk ; and each complete sheet is to contain 400 words of English, or 340 words of Latin.			
For the Keeper's docket of Recording,	1	1	0
For a Search in the Record of Entails for any such Document,	0	2	6

And the Lords appoint this Act to be Recorded in the Books of Sederunt, and Published in the Minute-Book, for the information of all concerned.

D. BOYLE, *I.P.D.*

1848.

Act of Sederunt in Regard to the Service of Petitions under
the Entail Act.

Edinburgh, 23d December 1848.

The Lords of Council and Session, in virtue of the powers contained in the Act 11th and 12th of Victoria, cap. 36, intituled, "An Act for the Amendment of the Law of Entail in Scotland,"—Do enact and declare,—

That, unless otherwise provided for by the Interlocutors or Orders of the Court, in the particular case, the Petitions presented under the said Act shall be intimated to, or served on, the Parties called in such Petitions, or called or appointed to be called in the course of the procedure thereon, in manner following:—

I. Where the Party called is within Scotland, he shall be allowed fourteen days from the date of service, or forty days if within Shetland or Orkney, for answering the Petition.

II. Where the Party called is furth of Scotland, he shall be allowed sixty days from the date of service for answering the Petition, and service shall be made in the way and manner prescribed for services in lieu of the previously subsisting form of edictal service, by the Act 6th George IV., cap. 120, and relative Act of Sederunt in the matter: And intimation shall also be made by the Petitioner's agent to such Party's known agent in Scotland, if he has any known agent there, and a certificate shall be produced in process, signed by the Petitioner's agent, stating either that such intimation has been made, or that the Party has no known agent in Scotland.

III. Where the Party called is in minority, or subject to any legal incapacity, and has a Father, or known Tutors or Curators, or other legal Guardians, one or more, other than the Petitioner, such Petition shall, besides being served in the usual form, be also served on such Father, or on one, at least, of such Tutors, Curators, or other legal Guardians, in the same manner as if he were a Party called.

IV. When the Party called is in minority, and the Petitioner is the Father, or sole Tutor, Curator, or legal Guardian, of such Party, it shall not be necessary to serve the Petition on the Petitioner as the Party's legal Guardian, or to use the form of service on the Tutors and Curators of such Party at any market-cross; but in the course of the application, a sepa-

1849. rate *tutor ad litem*, or *curator ad litem*, or *curator bonis*, or other Guardian, shall be appointed to such Party.

V. It shall be competent for any Party of full age, when granting his consent, in terms of the said Statute, and relative Act of Sederunt, to insert in such consent a declaration, that he dispenses with intimation to himself of the Petition with or under which such consent shall be produced; and when he is called as a party in such Petition, such consent shall be equivalent to intimation thereof to him, and no further intimation thereof to him shall be necessary. And it shall also be competent, in such consent, to dispense with the *induciae*, or time allowed, or to be allowed, for answering the Petition.

But there is hereby reserved to the Court full power to order intimation and service otherwise or additionally, or to dispense with service in whole or in part, and that in each case according to the circumstances of such case.

And the Lords appoint this Act to be engrossed in the Books of Sederunt, and to be printed and published in the usual form.

D. BOYLE, *I.P.D.*

Act of Sederunt as to Prorogations and Proofs in Sheriff-Courts.

Edinburgh, 10th March 1849.

Whereas the Act of Sederunt passed on the 11th March 1848, intituled an Act "Regulating Prorogations in Sheriff-Courts," has been found in some respects difficult of enforcement, and various alterations and amendments have been suggested, so that the evils against which the same was directed may be more readily and effectually remedied—the said Act of Sederunt is hereby repealed; and in place of the regulations thereby made, it is *provided and enacted*,—

I. That all *orders* pronounced by the Sheriff, in the course of any process,—whether for the lodging of papers,—or in the making up and closing of Records,—or otherwise (apart from the taking of Proofs) in the progress of the cause,—shall be peremptory and absolute; with the following exceptions, *viz.* :—

1. That the Sheriff may, on special cause shewn (which cause shall be set forth in his deliverance), grant one Prorogation or renewal, without subjecting the party in expenses. 1849.

2. That, where no sufficient cause is shewn,—or where a second application shall be made after a first has already been granted for cause,—the Sheriff shall still have it in his power to grant one Prorogation or renewal; but in this case, only upon condition that the party requiring the same, shall pay to the opposite party such sum in name of expenses as the Sheriff shall award; the said sum being, in all cases, sufficient, at the least, to cover the actual expenses which the proceeding, or the delay giving occasion to it, may have caused to the adverse party.

3. That, in no case, shall the Sheriff have power to grant any Prorogation or renewal, after a former Prorogation or renewal shall (whether in the first or second instance) have been granted only on payment of expenses: But—

4. That the parties themselves, or their agents, may, at any stage of the proceedings, *of consent*, give such delay as they think fit to each other,—by prorogation, or renewal, or otherwise: Provided always, in this case, 1. That written proof of such consent shall be lodged in Process; 2. That no motion, or other application, shall be made for the purpose to the Court; 3. That the expense thereby extrajudicially occasioned on either side shall not be recognized or given effect to, either by the Sheriff, or by the Auditor of Court, as forming any part of the expenses of Process; And, 4. That the Sheriff may, at all times, put a stop to such delays of consent, and enforce the due and peremptory execution of his own orders, so far as the interests of the cause may appear to him to require it.

II. That with regard to *Proofs*, the following rules and regulations shall, in future, be observed:—

1. That the Interlocutor allowing the Proof shall appoint the place where it is to be taken; and the Sheriff shall, in every instance, on due consideration of the circumstances of the case, and of the matters to be submitted to probation, assign a time for commencing the Proof, and another within which the same shall be reported; unless there be, in any

1849. process, some special cause for omitting all or any of these particulars, in which case, such special cause shall be distinctly set forth in the Sheriff's deliverance.

2. That it shall, in all cases, be the "duty of the Sheriff or his Substitute to take the Proof" (A. S. 10th July 1839, sect. 68):—and no remit shall, at any time, be made to a Commissioner, unless where the Sheriff or his Substitute cannot personally perform this duty, without interfering with the other and more important functions of the judicial or magisterial office, which cannot be delegated.

3. That all diets for such Proofs shall (subject to the modifications hereinafter provided) be peremptory; and the proof, when once commenced, shall, as far as possible, be proceeded in continuously, *de die in diem*, until the same be brought to a conclusion.

4. That, for this end, the Sheriff or his Substitute, or the Commissioner, shall convene before him the Agents of the parties, and shall make with them such arrangements regarding the number of Witnesses to be in attendance on the day on which the Proof is to commence, and on subsequent days, as shall appear to him, on due consideration of the circumstances, best calculated to insure a continuous procedure in the Proof, and at the same time to prevent needless occasions of expense;—care always being taken, in making such arrangements (wherever the whole Proof cannot be concluded at a single diet), that witnesses be brought forward in sufficient number, to secure (as far as may be) that each day's sederunt shall occupy not less than one entire day of eight complete hours.

5. That where, from the illness or absence of witnesses,—or the extraordinary distance from which they may, in particular cases, have to be brought,—or from any other circumstances of necessity, or strong expediency,—it shall be made out to the satisfaction of the Sheriff, or his Substitute, or the Commissioner, that the Proof at any time cannot, consistently with the just interests of the cause, be proceeded in continuously from day to day,—it shall, in such case, be competent to the said Sheriff, or Substitute, or Commissioner, to adjourn the diet for such longer period as he may see fit,—but so, always, as in no instance whatever to exceed the actual necessities of the case; or extend beyond the time assigned for reporting the Proof. And wherever such adjournment

is made, the special cause rendering the same necessary shall be set forth in the Interlocutor; and if any question of expenses have arisen between the parties with reference to the matter, the same shall be disposed of by the Interlocutor. 1849.

6. That it shall also be competent to the Sheriff or his Substitute, or the Commissioner,—if, at any stage of the proceedings, he shall be satisfied, upon a due consideration of the circumstances, that it would not be expedient that, on the closing of one party's Proof, the other should be called upon immediately to proceed with his,—to postpone or adjourn the diet for this latter purpose, for such period as may be requisite;—but so as never to exceed the actual necessity of the case: And the Proof of the said second party, when commenced, shall go on, and be proceeded with (as far as may be) continuously,—and, in all other respects, in like manner, and subject to the same provisions and regulations as have been hereinbefore provided for the party whose Proof is to be first led.

7. That it shall further be competent for the Sheriff or his Substitute (but not for the Commissioner), as often as he shall find it necessary, to prorogate the time originally fixed for commencing, as well as that for closing the Proof;—and this, with or without an award of expenses, but only upon sufficient cause shewn, which cause shall be specially set forth in the Interlocutor of Prorogation.

8. That it shall also be competent for the parties themselves, *of consent*, at any time to stop the Proof which either of them is in the course of leading, or to give such delays as they think fit to each other: Provided always, 1. That written Proof of such consent shall be lodged in Process; 2. That no motion or application for the purpose shall be made to the Sheriff or his Substitute, or the Commissioner; 3. That any expense thus extrajudicially occasioned shall form no part of the expenses of Process; and, 4. That no delay thus given shall interfere with the diets, whether original or prorogated, fixed by the Sheriff or his Substitute, for commencing or for reporting the Proof, unless authority shall be expressly interponed thereto, and further prorogation on that account granted, by the said Sheriff or his Substitute.

9. That, in all cases, either party neglecting to avail himself of the diets for proving allowed to him by the Sheriff, shall be held as renouncing probation; or if he have partly availed himself of the same,

1849. but failed to complete his Proof within the term allowed for reporting, his Proof shall be held as concluded, and circumduction be pronounced against him : And, in either case, he shall not be reponed by the Sheriff unless on payment of previous expenses, or of such part thereof as the Sheriff may award : And if the default lie with the party who is to open the Proof, it shall be optional to the other party to lead his Proof, or to delay doing so till it be ascertained whether the party so in default is, or is not, to be reponed.

And the Lords ordain, that this Act shall take effect from and after the 20th day of March current, and shall endure and be in force until the 26th day of May 1851 ; reserving for future consideration how far it ought to receive the sanction of the Court as a permanent rule : And they appoint the same to be engrossed in the Books of Sederunt, and to be printed and published in common form.

D. BOYLE, *I.P.D.*

Act of Sederunt regulating the Fees of Procurators in the Sheriff, Stewart, and Commissary Courts.

Edinburgh, 10th March 1849.

The Lords of Council and Session having taken into consideration that the Act of Sederunt of the 6th of March 1833, renewed and rendered permanent by another Act of the 2d June 1837,—being the Act under which the Fees of Procurators and Practitioners in Sheriff and Stewart Courts in Scotland are at present regulated,—has, from recent alterations of the Form of Process in those Courts, and other circumstances, become unsuitable ; and having considered a Report, with relative Regulations and a Table of Fees submitted by the Sheriffs, in virtue of the provisions of the Act 1st and 2d Vict., cap. 119, sect. 32 : Do therefore, in virtue of the powers conferred upon them by the Act 6th Geo. IV., cap. 23, and by the said Act 1st and 2d Vict., cap. 119, repeal from and after the 15th May next, the said Acts of Sederunt of the 6th March 1833 and 2d June 1837, in so far as regards the Fees of Procurators and Practitioners, and ordain, that in place thereof the Regulations and relative Table of Fees hereto annexed, shall, from and after the said

15th day of May next, and until the 26th day of May 1851, be acted upon, as an interim rule of charge in regard to the Fees of Procurators and Practitioners in Sheriff, Stewart, and Commissary Courts; reserving for future consideration how far the same shall receive the sanction of the Court as a permanent rule; and direct the several Sheriffs and Stewards, on or before the 20th day of May 1851, to report to the Court the effect and operation of this Interim Act. 1849.

And the Lords appoint this Act, and the relative Regulations and Table of Fees, to be engrossed in the Books of Sederunt, and printed and published in common form.

D. BOYLE, *I.P.D.*

GENERAL REGULATIONS.

I. There shall be two scales of taxation, viz., one for causes where the sum concluded for does not exceed £25, and another for causes where the sum concluded for exceeds that sum. And the fees chargeable, in either case, shall be those inserted in the annexed table.

II. Where the demand does not exceed the sum which may be competently concluded for in the Sheriff's Small-Debt Court, no fees shall be allowed except those authorized by the Act 1st Vict., cap. 41, unless the Sheriff see cause to the contrary (see sect. 36 of that Act), it being always competent to the Sheriff, when a case is removed from the Small-Debt Court to the Ordinary Court, or at any subsequent stage of the process, to determine whether it is to be conducted and charged for according to either of the scales of the annexed tables (specifying which), or on the principle that no other or higher fees are to be taken than those allowed by 1st Vict., cap. 41.

III. The scale for taxation shall, in the ordinary case, be determined by the amount concluded for; but it shall be competent for the Sheriff, if he see cause, to direct the account to be taxed according to the scale applicable to the amount decerned for; this, however, shall not affect the ordinary power of the Sheriff, to declare that such expenses shall be subject to modification.

IV. In all cases the Sheriff may disallow all charges for entire papers or parts of papers, or for steps of procedure or agency, which appear to him to have been unnecessary.

1849. V. The Fees allowed for agency in attendance at callings, and Fees upon Interlocutors of Court on the merits, and at taking appeals, shall be held to include intimation (where necessary) to the client and opposite party. No Fee shall be allowed upon Interlocutors of a merely formal kind, nor for Interlocutors disposing of questions in the course of a proof; but the agent shall be allowed to charge for a copy of the Minutes of Procedure up to the closing of the Record, and also of every subsequent Interlocutor and Note on the merits of the cause, including Interlocutors and Notes sustaining or repelling or reserving Preliminary Defences, but not any such formal Interlocutors, or Interlocutors in the course of a proof.

VI. In order to prevent delay by frequent meetings for adjusting and closing the Record, only one Fee shall be allowed in each case for all the duty connected with this part of the procedure, however frequent the meetings may be; except when the Sheriff shall direct a Record to be made up on Preliminary Defences; or when a Record already closed shall be ordered to be opened up and adjusted and closed of new; in each of which cases the Sheriff may, if he shall see fit, allow a single Fee in like manner. No Interlocutor Fee shall be allowed on the deliverance, "Record Closed."

VII. Wherever a Procurator on one side attends any meeting ordered by the Sheriff for adjusting the Record, or for any other purpose, and the other is absent, or not prepared to proceed, the Sheriff shall have power to decern for payment of the Fee for attendance to the Procurator who is ready.

VIII. Procedure in removings and ejections to be charged by the amount of rent. Where the amount of rent is not set forth in the Summons, or is not set forth as exceeding £25, the charges shall be according to Scale I.

IX. In actions *ad factum præstandum*, for exoneration, and others, where the pecuniary amount or value of the matter in question cannot be measured or ascertained from the process, the charges shall be according to Scale II., unless it shall appear to the Sheriff proper in the circumstances to direct that Scale I. shall be the rule.

X. In actions where there are more defenders than one pursued for different debts, or summoned to remove from different premises, full charges for writings will be allowed for the highest of the rents or sums

charged for,—one-fourth only of the ordinary fees will be allowed on each of the other rents or sums,—and the whole amount will be apportioned among the different defenders, according to the debts for which they are respectively sued, or the rents of the premises from which they are respectively summoned to remove. But in such cases the procurator will be allowed to charge one-half only of the Fees under Article 12 of the Table against each defender, according as the amount of his debt, or the rent of the subjects from which he is summoned to remove, falls under Scale I. or Scale II. 1849.

XI. The principal Interlocutor sheets shall not be given out to parties; a certified copy thereof shall be made up by the Clerk, from time to time, and put in process, for which he shall be allowed to make a charge at the end of the process for the total number of sheets contained therein, according to Article 5 of the Table, to be paid by the party found liable in expenses, or where no expenses are found due by the parties equally.

XII. Every sheet of two pages shall contain 250 words; but if the whole writing does not extend to 250 words, the fee for a sheet is notwithstanding to be chargeable for such writing; and if, after finding the number of sheets which any writing shall comprise, calculated at the above rate, any number of words less than 250 shall remain, such fewer number of words shall be charged as a sheet.

XIII. No other or higher fees shall be allowed than those hereby authorized.

D. BOYLE, *I.P.D.*

TABLE OF FEES.

Writings.

	SCALE I.	SCALE II.
	£ s. d.	£ s. d.
1. For all Original Writings, comprehending Summons, Petition, Edict of Executry, Tutorial, Curatorial, or other Edict, Petitions under Brieves, application for Fugæ Warrant, for Excambion, Lawburrows, <i>Cessio bonorum</i> , or for Sealing Repositories; Complaints for Breach of Sequestration, and under the Poor-Law or Bankrupt Statute, and generally for the writing by which <i>any</i> process or application is first brought before the Court— <i>per sheet</i> (including taking instructions to prepare it),	0 4 0	0 5

1849.	SCALE I.	SCALE II.
	£ s. d.	£ s. d.
2. For the Original Writing in Defence, Answer, or Opposition to those above referred to— <i>per sheet</i> , including taking instructions,	0 4 0	0 5 0
3. For drawing Tutorial or Curatorial Inventories, or Inventories in processes of <i>Cessio bonorum</i> , Juratory Caution, or Confirmations of Executry— <i>per sheet</i> ,	0 4 0	0 5 0
4. For drawing Papers of any other description than the above, and for all necessary States, Schedules of Intimation, Requisition, and Protest, Precepts of Arrestment, or Diligence against Witnesses or Havers— <i>per sheet, excepting</i> as under No. 10,	0 3 0	0 4 0
<i>Note.</i> —Where a paper necessarily exceeds 20 sheets, each sheet above 20 sheets to be charged	0 2 0	0 3 0
5. For all necessary copies— <i>per sheet</i> ,	0 1 0	0 1 0
6. For making up Accounts of Expenses of Process for Taxation, and also necessary Copies of States, Copies of Accounts of Expenses, to be furnished opposite party, and Notarial Copies— <i>per sheet</i> ,	0 1 6	0 1 6
7. After the Record is closed, and a proof is allowed, the Pursuer's Agent will be allowed a copy of the <i>Defender's Record</i> , and the Defender's Agent a copy of the <i>Pursuer's Record</i> ; and each a copy once of the Minutes of Procedure— <i>per sheet</i> (see Regulation V.)	0 1 0	0 1 0
8. For Inventory of Productions, lodged with any written pleading or application, not exceeding 10 numbers,	0 1 0	0 1 6
And for each additional 10 numbers,	0 1 0	0 1 6
A similar charge for any remaining number.		
9. Each necessary Letter and Intimation of Diet of Proof, exclusive of Letters intimating an Interlocutor, or step for which a separate charge is allowed, and those excluded by Regulation V.,	0 2 4	0 3 4
<i>Note.</i> —Letters or Intimations of <i>Adjourned Diets</i> of Proof not to be chargeable.		
10. For Revised Condescendence or Answers, or other papers appointed by the Judge to be revised— <i>per sheet</i> ,	0 1 6	0 2 0
<i>Appeals.</i>		
11. For drawing, and lodging, or minuting a Note of Appeal,	0 2 6	0 2 6
<i>Court and other Attendance.</i>		
12. Fee for attendance at reporting each Interlocutor, and at each calling of the cause at which anything not merely formal is done, minuted, and subscribed by the Judge,	0 2 6	0 3 6

SCALE I. SCALE II. 1849.
 £ s. d. £ s. d. {

Note.—This fee includes intimating to the client the business done at the attendance for which it is allowed.

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| 13. Attendance by previous order of the Judge, to be heard on any point, <i>excepting</i> for adjusting the Record— <i>per hour</i> , | 0 | 4 | 0 | 0 | 5 | 0 |
| 14. Fee for attendance at or connected with the adjustment and closing of the Record, inclusive of writing Minute consenting (<i>once only</i>), see Regulation VI., | 0 | 7 | 0 | 0 | 10 | 0 |
| 15. For attendances at Proofs, Depositions, Declarations, Examinations, or Judicial Inspections, or before Reporters or Judicial Referees— <i>per hour</i> , | 0 | 4 | 0 | 0 | 5 | 0 |

Note.—No fee to be exigible for any Debates written during a Diet of Proof. The fee exigible by a Procurator acting as Commissioner—where the proof is necessarily taken by a Commissioner—to be the same as that of the Agent, *exclusive* of the Agent's Precognition Fee.

To the Commissioner's Clerk for writing— <i>per sheet</i> ,	0	0	6	0	0	6
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Note.—No fee to be allowed upon any judgments delivered by a Commissioner, Reporter, or Judicial Referee.

16. For time spent in preparing for Proof, and in precognosing the *whole* Witnesses in a cause, and writing notes of their Declarations,—a fee to be allowed equal to 1s. for each hour occupied by the whole Proof on the side for which they were precognosced.

Note 1.—The fee for precognosing is to include the arrangements as to diets of proof with the Sheriff or Commissioner, and is to be allowed only to the agent for the party who is leading the proof, and not to the opposite agent; nor in any case, unless the Auditor be satisfied that a precognition was actually taken.

2.—The Sheriff or Auditor, in determining the fee for precognition, shall disallow such part of the time occupied in the proof as has been taken up by discussions of, and deliverances on Objections, which may be estimated by comparison of the length of the written proof with the time occupied.

17. The necessary outlay of Agents incurred in *travelling* to attend Inspections, Commissioners, Reporters, or Judicial Referees, and to precognosce Witnesses,

1849.

SCALE I.	SCALE II.
£ s. d.	£ s. d.

serve a Protest, or any similar necessary business, to be allowed *only* when they are necessarily required to go to a distance from the place where the Court is held, and when vouched to the satisfaction of the Auditor. No charges for subsistence to be allowed.

General Agency.

18. For obtaining Extracts of Decrees, interim or final, and for procuring Warrants of any kind for which a fee is not specially allowed, and which are not embraced in an Interlocutor for which a fee is allowed,	0 2 6	0 3 6
19. Instructing Officer to Serve Summons, Petition, Edict, Brieve, or other Instrument requiring Service, or instructing the Clerk of Court or Officer to execute any Warrant, and revising Execution,	0 2 6	0 3
<i>Note.</i> —When more Executions at the same stage of the Process than one, are necessary, one-half of this fee is to be allowed for Revising each necessarily separate Execution.		
20. Instructing Counsel to prepare Written Pleadings, or to attend a Verbal Debate, wherever the Judge shall either authorize or subsequently approve of such employment,	0 6 8	0 6 8
21. Revising a Paper prepared by Counsel, when such employment is so authorized or approved of,	0 7 6	0 10 0
22. For Presenting Summons after Service, Defences, or any other Paper at the Clerk's Office, and getting them marked and entered in the Process Inventory, and for ordering Caption to force back Papers,	0 1 0	0 1 0
<i>Note.</i> —No charge to be allowed for Enrolling.		
23. For each necessary Borrowing,	0 0 6	0 0 6
<i>Note.</i> —No Fee to be allowed for <i>returning</i> the Process.		
24. Attendance at Taxation of Expenses by Auditor, when the Decree is in Absence,	0 1 0	0 1 0
25. Attendance at Taxation of Expenses by Auditor, in a Litigated Process and under Diligence, where the Account of Expenses is under £5,	0 3 6	0 3 6
Above £5 and under £20,	0 3 6	0 5 0
Above £20,	0 4 0	0 6 0
26. Auditor's Fee, taxing Accounts :—		
In Decrees in Absence,	0 1 0	0 1 0
In Litigated Cases, when the Account is under £5,	0 3 6	0 3 6
£5 and under £20,	0 6 0	0 6 0
£20 and under £50,	0 10 0	0 10 0
Above £50,	1 0 0	1 0 0

	SCALE I.	SCALE II.	1849.
	£ s. d.	£ s. d.	
27. Agency :—			
Conducting Proceedings under Edicts of Executry until Confirmation, and under Tutorial or Curatorial Edicts and Brieves, till ready for Extract :—			
Where the value of the Estate is under £100,	0 5 0		
£100 and under £250,	0 10 0		
£250 and under £500,	0 15 0		
£500 and under £1000,	1 1 0		
£1000 and under £2000,	1 11 6		
£2000 and upwards,	2 2 0		

Personal Diligence.

28. Instructing Officer to charge, and revising his Execution,	0 2 6	0 3 6
29. Copy Executions for Record— <i>per sheet</i> ,	0 1 0	0 1 0
30. Procuring Executions Recorded,	0 2 6	0 3 6
31. Drawing Minute for <i>Fiat</i> ,	0 4 0	0 5 0
32. Agency procuring <i>Fiat</i> ,	0 2 6	0 3 6
33. Instructing Officer to Apprehend,	0 2 6	0 3 6
34. Framing State of Debt and Copy— <i>per sheet</i> ,	0 2 6	0 3 6

Poindings.

35. Instructing Officer to Poind,	0 2 6	0 3 6
36. Reporting Poinding, and attendance at procuring Warrant to Sell,	0 4 0	0 5 0
37. For Copy Warrant for Service, Instructing Officer, making out Account of Expenses for Taxation, attending Auditor, and framing State of Debt for Sale, including ordering Sale. See the charges under §§ 5, 19, 6, 24, or 25, and 34, respectively.		

Sales.

38. Fee on Reporting Sales under Poindings or Sequestrations, or any other Judicial Sales, including procuring approval of Roup-roll,	0 3 6	0 4 6
39. Fee on obtaining Warrant to pay,	0 2 6	0 3 6
40. Fee for conducting Sale, whether by the Procurator or a person not the Procurator, including Auctioneer's Fee, when the free proceeds of the Roup-roll are under £100, at the rate of £5 per cent.; for all above, £2, 10s. per cent.; besides the necessary outlay, and 1s. per sheet for an Assistant-Clerk.		

1849.

	SCALE I. £ s. d.	SCALE II. £ s. d.
<i>Diligence affecting Heritage.</i>		
41. For applying for Letters of Inhibition, Interdiction, General or Special Charge, Hornings against Superiors, and the like,	0 3 4	0 3 4
42. Instructing Officer to Charge,	0 3 4	0 3 4
Where separate Executions necessary, half-fees additional for each to be allowed.		
43. Fee getting Recorded,	0 5 0	0 6 8
44. Copies for Record,	0 1 0	0 1 0
Where Inhibition or Interdiction, &c., requires to be recorded in different Counties, half-fees additional to be allowed for getting Recorded in each additional County.		

Advocations.

45. Intimating to Clerk of Court and opposite party,	0 2 6	0 3 6
46. To Advocator's Agent for procuring Bond of Caution and getting it executed and lodged,	0 4 0	0 5 0
47. To Agent of opposite party for inquiries as to sufficiency of Cautioner,	0 4 0	0 5 0
48. Any discussion or other proceedings will be regulated by §§ 3, 4, 9, 12, 13, 15, &c.,		

Loosing Arrestments.

49. Fee procuring Bond of Caution and getting it executed and lodged,	0 4 0	0 5 0
50. Fee obtaining Loosing,	0 2 6	0 3 6
51. The Fees for any inquiries or discussion occurring here to be regulated as in §§ 45, 46, 47, &c.		

Affidavits.

52. Same as in §§ 1 and 5.

Advertisements.

53. Wherever ordered by Statute or by the Judge— <i>per sheet</i> ,	0 4 0	0 5 0
54. One Fee only for Ordering insertion, whether in one or more Newspapers,	0 2 4	0 2 4

Appeals to Circuit-Court of Justiciary.

55. Drawing Appeal— <i>per sheet</i> ,	0 4 0	0 5 0
56. Procuring Bond, and getting signed and lodged,	0 4 0	0 5 0
57. Serving Copy, Indorsing, Certificate, and lodging with Clerk,	0 4 0	0 5 0

	SCALE I.	SCALE II.	1849.
	£ s. d.	£ s. d.	}
58. All the other business to be charged for according to the Fees for similar business in the foregoing Table; excepting attendance in Court when the Appeal is discussed, for which a charge <i>per hour</i> will be allowed of	0 4 0	0 5 0	
<i>Procurator-Fiscal.</i>			
59. For his concurrence, <i>when</i> required,	0 2 6	0 2 6	
	D. BOYLE, <i>I.P.D.</i>		

Act of Sederunt as to Prorogations and Proofs in the Courts of the Royal Burghs and Burghs of Barony.

Edinburgh, 10th March 1849.

Whereas the Lords have this day passed an Act of Sederunt, for the better regulating of procedure “ as to Prorogations and Proofs in the “ Sheriff-Courts,” and it is expedient, as well in point of principle as for the sake of uniformity in practice, that the same rules and regulations should also be put in force and have effect in the Courts of the Royal Burghs and Burghs of Barony, it is *provided* and *enacted*,—

I. That all *Orders* pronounced by the Courts of the said Royal Burghs and Burghs of Barony, in the course of any process—whether for the lodging of papers—or in the making up and closing of Records—or otherwise (apart from the taking of Proofs) in the progress of the cause—shall be peremptory and absolute; with the following exceptions, viz. :—

1. That the Court may, on special cause shewn (which cause shall be set forth in the deliverance), grant one prorogation or renewal, without subjecting the party in expenses.

2. That, where no sufficient cause is shewn,—or where a second application shall be made after a first has already been granted for cause—the Court shall still have power to grant one prorogation or renewal; but in this case, only upon condition that the party requiring the same, shall pay to the opposite party such sum in name of expenses as the Court shall award; the said sum being, in all cases, sufficient, at the least, to cover the actual expenses which the proceeding, or the delay giving occasion to it, may have caused to the adverse party.

1849. 3. That, in no case, shall the Court have power to grant any prorogation or renewal, after a former prorogation or renewal shall (whether in the first or second instance) have been granted only on payment of expenses : But—

4. That the parties themselves, or their agents, may, at any stage of the proceedings, *of consent*, give such delay as they think fit to each other—by prorogation, or renewal, or otherwise : Provided always in this case, 1. That written proof of such consent shall be lodged in process ; 2. That no motion, or other application, shall be made for the purpose, to the Court ; 3. That the expense thereby extrajudicially occasioned on either side shall not be recognized or given effect to, either by the Court, or by the Auditor, as forming any part of the expenses of process ; and, 4. That the Court may, at all times, put a stop to such delays of consent, and enforce the due and peremptory execution of its own orders, so far as the interests of the cause may appear to require it.

II. That with regard to *Proofs*, the following rules and regulations shall, in future, be observed :—

1. That the Interlocutor allowing the Proof shall appoint the place where it is to be taken ; and the Court shall, in every instance, on due consideration of the circumstances of the case, and of the matters to be submitted to probation, assign a time for commencing the Proof, and another within which the same shall be reported ; unless there be, in any process, some special cause for omitting all or any of these particulars, in which case, such special cause shall be distinctly set forth in the deliverance.

2. That all diets for such Proofs shall (subject to the modifications hereinafter provided) be peremptory ; and the Proof, when once commenced, shall, as far as possible, be proceeded in continuously, *de die in diem*, until the same be brought to a conclusion.

3. That, for this end, the Court, or the Commissioner appointed to conduct the Proof, shall convene the agents of the parties, and shall make with them such arrangements regarding the number of witnesses to be in attendance on the day on which the Proof is to commence, and on subsequent days, as shall appear, on due consideration of the circumstances, best calculated to insure a continuous procedure in the Proof, and at the same time to prevent needless occasions of expense ;—care always being

taken, in making such arrangements (wherever the whole Proof cannot be concluded at a single diet), that witnesses be brought forward in sufficient number to secure (as far as may be) that each day's sederunt shall occupy not less than one entire day, of eight complete hours. 1849.

4. That where, from the illness, or absence of witnesses,—or the extraordinary distance from which they may, in particular cases, have to be brought,—or from any other circumstances of necessity, or strong expediency,—it shall be made out to the satisfaction of the Court, or the Commissioner, that the Proof at any time cannot, consistently with the just interests of the cause, be proceeded in continuously from day to day,—it shall, in such case, be competent to the Court, or Commissioner, to adjourn the diet for such longer period as may seem fit,—but so, always, as in no instance whatever to exceed the actual necessities of the case; or extend beyond the time assigned for reporting the Proof. And wherever such adjournment is made, the special cause, rendering the same necessary, shall be set forth in the Interlocutor; and if any question of expenses have arisen between the parties with reference to the matter, the same shall be disposed of by the Interlocutor.

5. That it shall also be competent to the Court, or Commissioner,—if, at any stage of the proceedings, satisfied, upon a due consideration of the circumstances, that it would not be expedient, that, on the closing of one party's Proof, the other should be called upon immediately to proceed with his,—to postpone or adjourn the diet for this latter purpose, for such period as may be requisite;—but so as never to exceed the actual necessity of the case: And the Proof of the said second party, when commenced, shall go on, and be proceeded with (as far as may be) continuously,—and, in all other respects, in like manner, and subject to the same provisions and regulations as have been hereinbefore provided for the party whose Proof is to be first led.

6. That it shall further be competent for the Court (but not for the Commissioner), as often as it shall be found necessary, to prorogate the time originally fixed for commencing, as well as that for closing the Proof:—and this, with or without an award of expenses, but only upon sufficient cause shewn, which cause shall be specially set forth in the Interlocutor of Prorogation.

7. That it shall also be competent for the parties themselves, *of consent*, at any time to stop the Proof which either of them is in the course

1849. of leading, or to give such delays as they think fit to each other : Provided always, 1. That written Proof of such consent shall be lodged in process ; 2. That no motion or application for the purpose shall be made to the Court or the Commissioner ; 3. That any expense thus extrajudicially occasioned shall form no part of the expenses of process ; and, 4. That no delay thus given shall interfere with the diets, whether original or prorogated, fixed by the Court, for commencing or for reporting the Proof ; unless authority shall be expressly interponed thereto, and further prorogation on that account granted, by the Court.

8. That, in all cases, either party neglecting to avail himself of the diets for proving allowed to him by the Court shall be held as renouncing probation ; or if he have partly availed himself of the same, but failed to complete his Proof within the term allowed for reporting, his Proof shall be held as concluded, and circumduction be pronounced against him : And, in either case, he shall not be reponed unless on payment of previous expenses, or of such part thereof as the Court may award : And if the default lie with the party who is to open the Proof, it shall be optional to the other party to lead his Proof, or to delay doing so till it be ascertained whether the party so in default is, or is not, to be reponed.

And the Lords ordain that this Act have effect from and after the 20th day of March current, and continue and be in force until the 26th day of May 1851 ; reserving for future consideration how far it ought to receive the sanction of the Court as a permanent rule : And they appoint the same to be engrossed in the Books of Sederunt, and to be printed and published in common form.

D. BOYLE, *I.P.D.*

Act of Sederunt for Modifying a previous Act of Sederunt, in regard to the Service of Petitions under the Entail Act.

Edinburgh, 22d May 1849.

The Lords of Council and Session, in virtue of the powers contained in the Act 11th and 12th of Victoria, cap. 36, intituled, “ An Act “ for the Amendment of the Law of Entail in Scotland,” do enact and declare, that, from and after the date hereof, the following provision contained in the Act of Sederunt, passed on the 23d day of December 1848,

in regard to the service of Petitions under the aforesaid Statute, shall be no longer operative or have effect, viz :— 1849.

“ 5th, It shall be competent for any party of full age, when granting his consent in terms of the said Statute and relative Act of Sederunt, to insert in such consent a declaration, that he dispenses with intimation to himself of the Petition with or under which such consent shall be produced ; and when he is called as a party in such Petition, such consent shall be equivalent to intimation thereof to him, and no further intimation thereof to him shall be necessary : And it shall also be competent, in such consent, to dispense with the *induciae*, or time allowed, or to be allowed, for answering the Petition.”

But the aforesaid provision shall have full effect in regard to all consents granted in pursuance thereof, which have been signed before the date of this Act of Sederunt.

And the Lords appoint this Act to be entered in the Books of Sederunt, and published in the usual manner.

D. BOYLE, *I.P.D.*

Act of Sederunt for making permanent a previous Act of Sederunt in regard to Publication in Services, &c.

Edinburgh, 17th November 1849.

The Lords of Council and Session again renew the Act of Sederunt, dated on the 14th of July 1847, Regulating the Publication in Services, with the Relative Table of Fees, and declare the same permanent, with the following variation and addition, viz. :—

1st, That for extracting decrees of service (including recording) there shall be paid for each sheet of such extract, or part of a sheet of 300 words, 3s. 6d. in place of 2s. as heretofore ; and 2d, That there shall be paid a fee of 2s. for each service carried through before the said Sheriff to such macer or macers of the Court of Exchequer, when the Sheriff sits in that Court, or to such macer or macers of the Court of Session, when the Sheriff sits in that Court, as shall be appointed in either case by the Sheriff to officiate as macer or macers in the service.

1849.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and to be published in common form.

D. BOYLE, *I.P.D.*

Act of Sederunt in pursuance of the Statute for the better
Protection of the Property of Pupils and others.

Edinburgh, 11th December 1849.

The Lords of Council and Session, in pursuance of the powers vested in them by the Act of Parliament passed in the 12th and 13th year of Her present Majesty's reign, chapter 51, intituled, "An Act for the better Protection of the Property of Pupils, Absent Persons, and Persons under Mental Incapacity in Scotland," do hereby enact and declare as follows :—

I. That every Petition to be presented to either Division of the Court of Session for the appointment of any *Factor loco tutoris*, *Factor loco absentis*, or *Curator bonis*, shall, when boxed to the Judges and Clerk of Process, be also boxed to the Accountant of the Court of Session, and unless marked by the Boxing Clerk as duly boxed shall not be received by the Clerk.

II. That when not otherwise expressed in the Interlocutor appointing a Factor or Curator on such Petition, the time for finding caution shall be one calendar month from the date of such appointment; the Court hereby reserving power, on cause shewn, by application made at any time before expiry of that month, to prorogate the time for finding caution.

III. That all applications for special powers by *Factors*, or *Curators bonis* foresaid, or by Tutors or Curators coming within the provisions of the Act, shall be made to the Junior Lord Ordinary in the manner and form prescribed or permitted by the 7th and 8th sections of the Statute; and the Lord Ordinary shall, before reporting such applications to the Court, order such intimations to be made as he may deem proper, and may report the same either with or without ordering the papers to be printed and boxed to the Court, as the circumstances may require.

IV. The Principal Clerks of Session are authorized and directed to transmit to the Accountant at all times on his requisition, the proceedings,

or such part thereof as he may require, in all Processes of Judicial Factory or other Processes embraced by the said Act, whether depending now or to depend hereafter, in so far as such proceedings may not be required for the use of the Court; and the Senior Principal Clerk of Session is hereby authorized to transmit to the Accountant the Principal Return made by the Clerks of Session to the Court regarding Judicial Factories, dated on the 31st day of January 1849. 1849.

V. That the Bond of Caution to be lodged for any *Factor loco tutoris*, or *Factor loco absentis*, or *Curator bonis*, shall be forthwith transmitted by the Clerk of Process to the Accountant, and the Factory shall be entered in his Books.

VI. That upon the issuing of any gift of Tutory-dative, the Queen's and Lord Treasurer's Remembrancer shall forthwith transmit a copy of the Bond of Caution to the Accountant, who shall enter the appointment in his Books.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and to be printed and published in the usual manner.

D. BOYLE, *I.P.D.*

Act of Sederunt in pursuance of the Statute to Regulate the Dues of Registration.

Edinburgh, 21st December 1849.

The Lords of Council and Session, in pursuance of the powers conferred upon them by the Act of Parliament, 11th and 12th Vict., cap. 74, intituled "An Act to authorize the Lords of Council and Session to "Regulate the Rates or Dues of Registration to be charged by the "Keepers of the Registers of Sasines, Reversions, &c., in Scotland;" and having regard to the alteration occasioned by the operation of various other Acts of Parliament in the said Act recited, in the diminished produce of the Rates or Dues now and formerly chargeable at the said registers, do hereby enact and declare—

I. That, from and after the 1st day of January next, the several Keepers of the General and Particular Registers of Sasines, Reversions, &c., shall, besides the Rates or Dues authorized by an Act of Sederunt,

1850. passed on the 10th July 1811, be entitled to make the following additional charges, viz. :—

1. For each page of the Record—written as prescribed by the said Act of Sederunt—an additional Fee of Sixpence sterling.

2. For framing and engrossing the necessary Entries in the Minute-Book, and relative Alphabetical Indexes by the said Act of Sederunt, directed to be kept, and for the Certificate of Registration—upon each Instrument or Writ recorded, a Fee of Seven Shillings and Sixpence sterling.

II. That this Act shall continue in force for Two Years, from the date hereof, and no longer—unless the same shall be renewed: And—

III. That, in the meanwhile, and for the better information of the said Lords, as to the operation and effect of this Act of Sederunt, the several keepers of the said Registers shall respectively keep a just and accurate account of all the fees levied by them from and after the said 1st January next, and shall, half-yearly, transmit regular and detailed states thereof to the Office of the Senior Principal Clerk of Session; the said states shewing the amount of the Fees received; and further being arranged and classified, as far as possible, with reference to the prices or estimated values of the subjects contained in the several Instruments or Writs recorded, under two heads: one applicable to subjects the price or value of which is under, and the other to subjects the price or value of which is above, £2000.

D. BOYLE, *I.P.D.*

Act of Sederunt for regulating the Fees to be Received by
the Accountant of Court, under the Statute for the
Better Protection of Pupils and others.

Edinburgh, 1st February 1850.

The Lords of Council and Session, in pursuance of the powers vested in them by the Act of Parliament passed in the 12th and 13th year of Her present Majesty's reign, chapter 51, intituled "An Act for the better Protection of the Property of Pupils, Absent Persons, and Persons

“ under Mental Incapacity in Scotland,” do hereby enact and declare as follows :— 1850.

I. That, until further provision shall be made, in regard to the Fees to be exacted by the Accountant, he shall be entitled to levy Fees not exceeding those stated in the subjoined table, and as much less as the case may require in respect of the value or other circumstances of the individual estate, and also in respect of the state of the Fee Fund—the Fees for Auditing Accounts being in each case chargeable, according to what may be just, but within these limits and under the sanction of the Auditor of Court, and being subject to a right of objection on the part of the Factor, or Tutor, or Curator, or any party interested in the Estate, by a Note of Objections to that Division of the Court to which the case may belong.

II. But in all cases where the Accountant shall be of opinion that a higher Fee shall be charged, he shall report that matter to the Lord Ordinary, or the Court who shall have power to decide thereon. And where the Fee of Auditing an Account or any other Fee has been increased or occasioned by the Factor’s fault, the Accountant shall diminish the Factor’s Fee to the extent of such loss ; or where the circumstances do not admit of this, and the Factor does not indemnify the estate voluntarily for such loss, the Accountant shall report the matter to the Court.

And the Lords appoint this Act of Sederunt and Relative Table of Fees to be recorded in the Sederunt Book, and printed and published in the usual manner.

D. BOYLE, *I.P.D.*

1st February 1850.

TABLE of the Highest Amount of Fees to be Charged by the Accountant, unless under special authority in each case from the Lord Ordinary or the Court.

Head 1st. Fees on lodging Papers :—

Fee on lodging Rental,	£0 2 6
Fee on lodging Account and Vouchers,	0 2 6
Fee on lodging Application for Special Powers, or other Paper not above mentioned,	0 2 6
Fee on lodging Receipts for Consigned Money,	0 2 6
Besides 1s. for each £100 of the amount, but the Fee not to exceed in all £2, 2s.	

1850. *Head 2d. Fees for Searches and delivering up or exhibiting Documents :—*

For each Search for a Bond, Rental, or other Document, a Fee of	£0 5 0
For each Search of the Records of subsisting or of new Factories, or any information therein contained,	0 2 6
For Exhibition or Delivery of Bank Receipts, under warrant of the Court, &c.,	0 2 6
And 1s. for each £100 of Money uplifted, but not to exceed in all £2, 2s.	

Head 3d. For Copies of Papers :—

2s. 6d. for the First Sheet, besides the ordinary Copying Fees, as specified in the Act of Sederunt, 19th December 1835.

Head 4th. For Audits :—

For Auditing each Account, a Fee of	£0 10 6
Besides not more than 7 per cent. on the Factor's Commission as allowed ; or in case there is no Factor's Commission allowed, or less than full Factor's Commission, then not more than 7 per cent on what would have been the Factor's Commission, if chargeable, and fully allowed.	

Head 5th.

Report on Applications for final Discharge,	£0 10 6
And where the yearly Revenue of the Estate is above £500, then £1, 1s. This to be exclusive of Fees of Audit.	

Head 6th.

Report on Application for Special Powers in ordinary cases, and other Reports,	£0 10 6
In cases of importance, £1, 1s., and in cases of importance and difficulty, £2, 2s.	

D. BOYLE, *I.P.D.*

Act of Sederunt regarding the Fiar Prices of the County of East Lothian.

Edinburgh, 9th March 1850.

The Lords of Council and Session having had their attention called by the Judges of the Second Division to a Process of Suspension and Interdict disposed of by them on the 8th instant, from which it appears that the Sheriff of the county of East Lothian has been prevented, by reason of an Interdict which their Lordships have recalled, from striking the

Fiars of that county in the manner and within the time hitherto observed in that county, whereby very serious public inconvenience may be sustained; and to a Petition distributed to the Judges of the Second Division by the Complainers in the said Note of Suspension and Interdict, in which they ask that authority may be given to the said Sheriff to fix the said Fiar Prices, but in a mode not hitherto in use in that county, do now authorize, empower, and direct the said Sheriff to proceed, without delay, forthwith to fix the Fiar Prices in the way and manner hitherto observed in that county for the last crop. And the Lords direct the said Sheriff, if any application shall be made to him, in due time to adopt any other mode of procedure in regard to striking the Fiar Prices for the future by parties interested therein, immediately to lay such application before the Lord President of the Court of Session, that the Lords may fully and deliberately consider the same and hear all parties interested thereon. And in case such application shall be made to the said Sheriff, the Lords direct him, as soon as possible after communicating the same to the Lord President, to prepare and also transmit to his Lordship a full and detailed report as to the mode of fixing the Fiar Prices hitherto observed in the said county, and as to the manner in which the same are ascertained and estimated.

D. BOYLE, *I.P.D.*

Act of Sederunt regarding the Procedure in Processes of Sequestration in the Bill-Chamber.

Edinburgh, 8th June 1850.

Whereas it is provided by the Bankrupt Statute 2d and 3d Victoria, cap. 41, That the Clerks to the Bills shall be Clerks to the Sequestrations, and thenceforth custodiers of the judicial proceedings therein, in room and stead of the Principal Clerks of Session: and that the Acts of Sederunt for regulating proceedings in the Bill-Chamber, and providing for the arrangement and custody of these proceedings in sequestrations during the dependence thereof, *and specially* the Act of Sederunt, of date 20th July 1842, which enacts and declares, "That all extracts of Interlocutors, or other proceedings under the said Statute, shall continue in future to be issued by the Clerks of the Bills, in the same

1850. “ manner as extracts are issued by them in Processes of Suspension and “ Advocation,” contain no provision for the safe custody of the grounds and warrants of such processes of sequestration, when finally disposed of, by Recal or Dismissal, or by Decree of Discharge and Exoneration of the Bankrupt and Trustee respectively ; And whereas it is enacted by the 15th Section of the Act of Sederunt, 24th December 1838, That “ when any “ deeds or steps, or warrants of extracted processes, deposited with the “ Lord Clerk-Register, are required in processes depending before the “ permanent Lord Ordinary, it shall not be necessary to apply to the “ Inner-House for a warrant for the transmission of such documents ; “ but the Lords Ordinary before whom the causes depend, may grant “ such warrant when the productions appear to them to be necessary for “ the ends of justice : Provided always, That the motion is intimated to “ the opposite party, and also to the Lord-Clerk Register, or his deputy, “ two days before the motion, and that no relevant objection is stated “ thereto ; and the said warrant shall be certified by the Clerk, and “ delivered to the Lord Register, or his deputy, at receiving up the docu- “ ments ;” and it is desirable that similar powers should be conferred upon the Lord Ordinary of the Bills in processes of sequestration ; And whereas it is enacted by the 146th section of the Bankrupt Statute, “ That it shall be lawful for the Judges of the Court of Session, either “ during Session or Vacation, by an Act or Acts of Sederunt, from time “ to time, to apportion the duties to be performed by the officers in the “ Bill-Chamber, or in the said Court, or in the Sheriff-Courts, and to “ regulate procedure in relation to this Act, in so far as consistent there- “ with, and to establish a Table of Fees, to be allowed to agents both in “ the Court of Session and Sheriff-Courts, for conducting the proceedings, “ and to amend or alter such Act or Acts, from time to time ; and the “ said Act or Acts of Sederunt shall, within one month after the making “ thereof, be transmitted by the Lord President of the Court of Session “ to the Secretary of State for the Home Department, that the same may “ be laid before both Houses of Parliament :” The Lords therefore enact and declare :—

I. That at least once in every year, on or as soon after the first day of January in each year as possible, or as conveniently may be, the Clerks of the Bills shall transmit to the custody of the Lord-Clerk Register, or his Deputies, the whole proceedings, including the Sederunt-Book in

sequestrations, in which the trustee has been discharged, or the sequestration otherwise finally disposed of, in the same manner as is now provided and enacted, in regard to extracted processes by the Principal Extractor of the Court of Session, and the Keeper of the Judicial Records of that Court for the time being; and all deposit-receipts for unclaimed dividends, and all receipts for sums consigned in sequestrations, shall be transmitted to the Accountant of the Court of Session, and the warrant of the Lord Ordinary, granted under the Bankrupt Act, shall be a sufficient authority to the said Accountant to retransmit or deliver up said deposit-receipts, as the case may be.

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II. That in cases wherein it may be necessary for the ends of justice that the warrants of an extracted decree of Court, or the principal of a recorded deed, should be produced in a depending Process of Sequestration in the Bill-Chamber, or in incidental proceedings depending in the Bill-Chamber, and connected with, and occurring in a depending Process of Sequestration, the Lord Ordinary on the Bills in Vacation, or in time of Session, officiating as Lord Ordinary in Sequestrations, may grant a warrant for either of these purposes upon the Lord Clerk-Register, or his Deputies, in the same manner as is provided in section 15 of the Act of Sederunt, 24th December 1838, with regard to "Permanent Lords Ordinary." But that nothing herein contained shall be held to entitle any Lord Ordinary to grant such warrants in the course of any proceedings in the Bill-Chamber, other than and except in Processes of Sequestration, and incidental proceedings connected with, and occurring in depending Processes of Sequestration in the Bill-Chamber, as aforesaid; nor to entitle any Lord Ordinary to grant such warrants in the Bill-Chamber, in any proceedings under Bill of Suspension or of Advocation, or in any other proceedings there depending before him.

III. It is hereby enacted and declared, That as soon as the purpose for which any such principal of a recorded deed, or warrants of an extracted decree, shall have been produced in a depending Process of Sequestration or in any incidental proceeding connected with, and occurring in a depending Process of Sequestration, as aforesaid, shall have been answered; or the proceedings, in reference to which such principal of a recorded deed, or warrant of an extracted decree, have been transmitted, have come to an end, by a final judgment, or been otherwise finally disposed of, it shall be the duty of the Clerks of the Bills immediately

1850. thereupon, and before issuing the extract of any such judgment, to retransmit such principal deed or warrants of extracted decree to the Lord-Clerk Register, or his deputies, for safe custody; and the Lord-Clerk Register, and Depute-Clerk Register, are hereby enjoined and empowered to take such steps, and make such regulations in their department as may enable them to ascertain periodically, that this regulation is strictly complied with by the Clerks to the Bills.

D. BOYLE, *I.P.D.*

Act of Sederunt regarding Loosing of Arrestments.

Edinburgh, 8th June 1850.

The Lords of Council and Session, considering that an Act of Sederunt was passed on the 11th day of July 1826, to regulate the practice in Bills of Loosing Arrestment, and that certain regulations have been made from time to time by Acts of Sederunt, regarding the forms of procedure in the Bill-Chamber; and it does not clearly appear how far such regulations were intended to apply to Bills of Loosing Arrestments, do therefore hereby enact and declare, that from and after the passing of this Act, the following regulations shall be observed in the Bill-Chamber:—

I. All Bills or Petitions for Loosing Arrestments presented in the Bill-Chamber, shall be entered by the office clerk in the monthly roll in which Suspensions and Advocations are at present entered; and he shall give out Certificates and Extracts of Bonds of Caution, in such cases, in the same manner as in cases of Suspension.

II. In Bills of Loosing Arrestments, presented under the 4th section of the above-mentioned Act of Sederunt, and in all Bills or Petitions for Loosing Arrestment, which do not pass *de plano*, but in which Answers are ordered, or a discussion takes place between the parties, the Interlocutor passing or refusing such Bills or Petitions shall be entered by the office clerk in the Minute-book, and the certificate of refusal shall not be issued, or the passed Bill delivered, till the expiry of forty-eight hours after the entry in the Minute-book; and it shall be competent to the Lord Ordinary, on cause shewn by a Note for the party, to prohibit the issue of the certificate or delivery of the passed Bill during such time as he may judge reasonable, for enabling the party to obtain a review of

the Interlocutor; but the lodging of such Reclaiming Note shall not prevent the Interlocutor being carried into effect, unless such prohibition shall have been made by the Lord Ordinary. 1850.

III. All decrees for expenses in Loosing Arrestments shall be entered in the Minute-book, and extracted by the office clerk, in the same manner as in cases of Suspension.

D. BOYLE, *I.P.D.*

Act of Sederunt further Reducing and Altering the Table of Fees exigible by the Commissary-Clerk of Edinburgh.

16th July 1850.

The Lords, upon considering the Report by the Sheriff-Commissary of Edinburgh, dated 3d July current, do hereby, in further exercise of the powers committed to them by the Act of Parliament 4th Geo. IV., cap. 97, sec. 3 and 4, enact and declare, that from and after the 1st day of August next, the fees exigible by the Commissary-Clerk of Edinburgh, under the Acts of Sederunt passed on 20th December 1823, 1st June 1824, and 6th July 1838, shall cease; and in place thereof the fees specified in the schedule hereto annexed shall alone be exigible by the Commissary-Clerk.

And the Lords appoint this Act to be engrossed in the books of Sederunt.

D. BOYLE, *I.P.D.*

SCHEDULE before referred to:—

1. Each Edict, Libel, or other original application,	£0	3	0
2. A Diligence to cite witnesses, writing included,	0	5	0
3. Writing Proofs, Declarations, and Oaths of Parties— <i>per sheet</i> ,	0	1	6
4. Acts and Commissions extracted— <i>per sheet</i> , writing included,	0	1	6
No other part of the Process to be extracted but what strictly relates to the subject of the Commission.			
5. For an Extract of a Decree— <i>per sheet</i> ,	0	1	6
6. For affixing the seal in Confirmations, Decreets, and other writs,	0	1	0
7. Recording Inventories, Testaments, and other deeds— <i>per sheet</i> ,	0	1	6

1850.	8. For an Extract of every Inventory, Testament, or other deed, besides the stamp duty— <i>per sheet</i> ,	£0	1	6
	9. For the Oath, including Commissioner's fees, and all other trouble connected therewith, or with the Inventory, a fee proportioned to the amount of the Inventory, viz. :—			
	Amounting to £500 and under £1000,	0	5	0
	... 1000 ... 2000,	0	7	6
	... 2000 ... 3000,	0	10	0
	... 3000 ... 4000,	0	15	0
	... 4000 ... 5000,	1	0	0
	... 5000 ... 10,000,	1	5	0
	... 10,000 ... 20,000,	1	10	0
	... 20,000 ... 40,000,	2	0	0
	... 40,000 ... 50,000,	2	10	0
	... 50,000 and upwards,	3	0	0
	10. For Expediting a Confirmation, whether Testament Dative, Testamentar, or Eik, and all trouble relative thereto, a fee proportioned to the amount of the Inventory, confirmed as follows :—			
	When the Inventory is under £50,	0	1	0
	Amounting to £50 and under £100,	0	2	6
	... 100 ... 200,	0	4	0
	... 200 ... 300,	0	5	0
	... 300 ... 500,	0	7	0
	... 500 ... 1000,	0	10	0
	... 1000 ... 2000,	0	15	0
	... 2000 ... 3000,	1	0	0
	... 3000 ... 4000,	1	10	0
	... 4000 ... 5000,	2	2	0
	... 5000 ... 10,000,	3	3	0
	... 10,000 ... 20,000,	4	4	0
	... 20,000 ... 40,000,	5	5	0
	... 40,000 ... 50,000,	6	6	0
	... 50,000 and upwards,	10	10	0
	Besides writing the Confirmation at, per sheet,	0	1	6
	11. And for writing Bonds of Caution, when sum confirmed amounts to £500, and under £1000,	0	5	0
	£1000 and upwards,	0	10	0
	12. For Petition and warrant to seal and open Repositories,	0	6	0
	Attendance, and trouble thereanent, or for other business of a similar description, 6s. 8d. each hour employed.			
	13. For marking Bills of Advocation and List of Procedure,	0	2	6
	14. For searching for a Process, or other proceeding or receipt for the same, if beyond one year, and not beyond five,	0	2	6
	5 and not beyond 10,	0	5	0
	10 „ „ 20,	0	7	6
	20, and all above,	0	10	0

15. For giving inspection of any of the Records of Court, not exceeding											1850.
five years back,	.	.	.	.	.	.	£0	1	0		}
If beyond five years,	.	.	.	.	.	.	0	2	6		
Each sheet to contain 250 words of writing or print.											

D. BOYLE, *I.P.D.*

Act of Sederunt regarding the Expenses to be allowed of Documents printed for Jury Trials.

Edinburgh, 18th July 1850.

The Lords having had their attention directed to the provisions in the 2d section of the Act of Sederunt of 10th July 1844, respecting the prints of documents for the use of the Judge at the trial of causes, by a report from the auditor in the case of Forbes *v.* Dunbar, and considering that from the number of Documents which in many cases it is necessary to produce at the Trial, it is expedient for the ends of justice that the Judge should have the opportunity of considering the same in print when the parties furnish them in that form, declare that in future they will allow, under the conditions aftermentioned, to the successful party the expense of printing the Documents actually produced and used at the Trial;—but, in order to check undue expense, direct the Clerk at the Trial to mark on the margin of the print, for the use of the Auditor, the Documents actually produced, and the Auditor to examine such print, with a view to see whether Deeds have been unnecessarily printed at length, or accounts and other papers unnecessarily printed, when nothing turned on the terms of the same: And, further, the Lords direct the party who means to claim such expense to apply for, and obtain from the Judge trying the cause a certificate as to the extent to which such print was necessary, and direct the Auditor to tax the account according to such certificate, so far as he finds that it rules the matter: And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt, and to be printed and published in the usual form.

D. BOYLE, *I.P.D.*

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Act of Sederunt in pursuance of the Statute to facilitate
Procedure in the Court of Session.

Edinburgh, 31st October 1850.

The Lords of Council and Session, taking into consideration the terms of the 1st section of the Statute of the 13th and 14th of Her Majesty, chapter 36, do hereby enact and declare, that from and after the 1st of November, all Summonses shall be framed in the manner and according to the directions contained in the said 1st section of the above-mentioned Statute, and in the form given in Schedule A thereunto annexed : And it is further enacted and declared, that the conclusions of the Summons in each case, so far as the same are matter of form and style, shall, in the meantime, be in the form and style hitherto appropriate for the class of actions to which the Summons may belong.

J. H. MACKENZIE, *I.P.D.*

Act of Sederunt for Uniting the Members of the Society of
Advocates' First Clerks with the Incorporated Society
of Solicitors before the Supreme Courts ; and for consti-
tuting one body of Agents or Solicitors before the Court;
and for making other Regulations as to the Qualifica-
tion, Trial, and Admission of Agents or Solicitors.

Edinburgh, 4th December 1850.

The Lords of Council and Session, having taken into their consideration the Memorial of the Society of Solicitors before the Supreme Courts, incorporated by Royal Charter, and of the Society of Advocates' First Clerks, craving that an Act of Sederunt should be passed, containing provisions necessary for uniting the Society of Advocates' First Clerks with the Incorporated Society of Solicitors ; and that the Dean and Faculty of Advocates have agreed to depart from and abandon the privilege of nominating or authorizing their First Clerks to act as Agents of Court, except to the extent hereinafter mentioned : And having also

taken into consideration the expediency of putting an end to the said privilege, and that there should be only one body of practising Agents or Solicitors before the Court, having adequate educational and professional attainments for the performance of their duties, and subject to the authority and control of the Court: And, having farther taken into their consideration, that, whereas, on 10th August 1754, An Act of Sederunt was passed, intituled “ Act of Sederunt concerning the Admission of “ Agents and Solicitors ;” and on 10th March 1772, another Act of Sederunt was passed, intituled, “ Act of Sederunt anent the Trial and Admission of Agents ;” and on 13th February 1787, another Act of Sederunt was passed, for enforcing the last-recited Act; and that another Act of Sederunt was passed on 21st December 1833, intituled, “ Act of Sederunt for enforcing the Acts of Sederunt, 10th March 1772 “ and 13th February 1787, and other existing Regulations relative to “ Agents and Practitioners before the Court of Session; and making “ farther Regulations for more effectually checking certain Irregularities “ and Abuses in the conducting of the Business of the Court.”

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A. S. Aug.
10, 1754.A. S. March
10, 1772.A. S. Feb-
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1787.A. S. De-
cember 21,
1833.

And the Lords being satisfied that the object of the said Memorial ought to be sanctioned, and other Regulations made in relation to the Qualification, Trial, and Admission of Agents, they do therefore hereby enact and declare :—

I. That the Members of the Society of Advocates' First Clerks shall, upon Petition to the Court, in manner heretofore in use, and on taking the usual oaths, be admitted and enrolled as Agents of Court, and as Members of the Incorporated Society of Solicitors, and their names entered in the Sederunt Book accordingly. And in respect the Members of the Society of Advocates' First Clerks, so to be admitted, have already undergone examination, and have been practising as Agents of Court, and the Incorporated Society of Solicitors being satisfied of their qualifications, it shall not be necessary for them again to undergo examination.

II. That instead of the Qualification for admission as an Agent or Solicitor before the Court, required by the said recited Acts of Sederunt, 10th August 1754 and 10th March 1772, in so far as relates to Apprenticeship or Clerkship, in order to admission, it shall in future be deemed sufficient, if the Applicant has served three years as an Apprentice or Clerk in the office of a Procurator before a Sheriff-Court, and also three years as an Apprentice or Clerk in the office of a Writer to the Signet, or

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Solicitor, admitted by the Court pursuant to the foresaid Acts of Sederunt or this present Act; or has served as an Apprentice or Clerk for three years in the office of a Procurator, before a Sheriff-Court, and has for three years *bona fide* acted as Clerk to an Advocate practising at the Bar; or has served as an Apprentice or Clerk for five years in the office of a Writer to the Signet, or Solicitor before the Court, admitted pursuant to said Acts of Sederunt, or this present Act, or as acting Clerk to an Advocate practising at the Bar.

III. That from and after the date hereof, the privilege of the Faculty of Advocates to nominate or authorize their First Clerks to act as Agents of Court, shall cease and determine.

IV. That no individual shall be entitled to act as Agent or Solicitor of Court, in virtue of any Letter of Nomination as First Clerk, to be hereafter granted by a Member of the Faculty of Advocates, excepting such Letters as shall be merely annual renewals of existing Nominations, in favour of persons now acting as Agents *qua* First Clerks to Advocates, and who may not become Solicitors before the Court, and Members of the Incorporated Society, under the authority of this Act.

V. That from and after the 1st day of January 1851, each Applicant for admission as a Solicitor before the Court, shall produce to the Examinators certificates from the Professors in the University of Edinburgh, that he has attended the Lectures on the Law of Scotland, and the Lectures on Conveyancing, and one or other of these Classes a second time, or the Lectures on Civil Law in place of such second attendance on the Scotch Law Class or Conveyancing Class; but this regulation shall not affect those who are at present otherwise duly qualified for admission, according to the Regulations heretofore made.

VI. That the Incorporated Society of Solicitors shall be bound to exact no higher dues of admission from Intrants, who have served as Clerks to Members of the Bar for the period of three or five years respectively, as aforesaid, than one-half of the ordinary rate of Fees of Admission, which may from time to time be exacted from Intrants, besides the Fees payable to the Library.

VII. That the Faculty of Advocates shall in future appoint four of their number (two being a quorum) for the purpose, if they think fit, of attending the examinations of Intrants who have served a Clerkship for five years or three years, as the case may be, with a Member of the Bar;

and it shall be incumbent on the Secretary of the said Incorporated Society for the time being, to give at least forty-eight hours previous notice of the time and place fixed for the examination, by letters addressed to each of the said four Advocates, who shall be entitled to attend the Examinations of such Intrants, if they shall see fit; but, in the event of their not attending, the Examinators appointed by said Incorporated Society shall proceed with said Examination, and report to the Court in manner at present in use.

1851.

VIII. That the foresaid recited Acts of Sederunt shall continue in full force and effect, except in so far as altered by, or at variance with the above Regulations, to which extent only the said recited Acts are hereby repealed.

And the Lords appoint this Act of Sederunt to be engrossed in the Sederunt-Book, and printed and published.

D. BOYLE, *I.P.D.*

Act of Sederunt, as to the Form of Judgments to be Pronounced in Inferior Courts, in Cases of Proof.

Edinburgh, 15th February 1851.

The Lords of Council and Session, taking into their consideration,—
 that, by the Statute 13th and 14th Vict., cap. 36, sect. 32, it was enacted,
 “ That in all cases of Advocation or Suspension which shall come to de-
 “ pend 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, who shall thereupon proceed to dis-
 “ pose 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: ”—

1851.

§ 40.

And, further, that by Statute 6th Geo. IV., cap. 120, it was enacted,
 “ That when in causes commenced in any of the Courts of the Sheriffs,
 “ or of the Magistrates of Burghs, or other Inferior Courts, matter of
 “ fact shall be disputed, and a proof shall be allowed and taken, accord-
 “ ing to the present practice, the Court of Session shall, in reviewing the
 “ judgment proceeding on such proof, distinctly specify in their Interlo-
 “ cutor the several facts material to the Case, which they find to be esta-
 “ blished by the proof, and express how far their judgment proceeds on
 “ the matter of fact so found, or on matter of law, and the several points
 “ of law which they mean to decide :” —

And deeming it expedient—with reference to the subject matter of both of these enactments, and especially to the power conferred upon the parties by that first recited, of having their causes upon proof reported directly to the Inner-House, without any Interlocutor being in the first instance pronounced thereon by the Lord Ordinary,—that all judgments proceeding upon proof, to be hereafter pronounced in Inferior Courts, should be prepared and framed in the like manner, and with the like specification in point of fact and of law, in which it would, according to the present practice, and under the said second recited enactment, be incumbent upon the Lord Ordinary, in reviewing the said judgments, to prepare and frame his Interlocutor ;—

Do hereby enact and ordain, That, when in causes commenced in any of the Courts of the Sheriffs, or of the Magistrates of Burghs, or other Inferior Courts, matter of fact shall be disputed, and a proof shall be allowed and taken according to the present practice ; the Sheriffs or other Judges in the said Courts, shall, in their judgment, proceeding upon such proof, distinctly specify the several facts material to the Case which they find to be established by the proof,—and express how far their judgment proceeds on the matter of fact so found,—or on the matter of law,—and the several points of law which they mean to decide.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and printed and published in the usual form.

D. BOYLE, *I.P.D.*

1851.
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Act of Sederunt as to Judicial Factories.

Edinburgh, 11th March 1851.

The Lords having considered the Report of the Accountant of Court, dated 31st October 1850, respecting the progress made by him in the examination of Factories, appointed before 31st October 1849, and finding it to be therein stated that, on the 31st October 1850, there were 1359 cases in which requisitions, sent by the Accountant under the authority of the Statute, to which such Factories are subjected, have been, and at this date, with few exceptions, are, wholly disregarded,—direct the Accountant to issue another requisition upon such factors, with a copy of this Act of Sederunt, and enjoin the Accountant, in the event of satisfactory compliance not being made to his requisitions, or sufficient explanations given, on or before the 1st day of September next, either according to the nature of the case to take the steps pointed out in the 21st section of the recent Statute, or to make out a list of such Factors to the Court, that the same may be transmitted to Her Majesty's Advocate, that he may, if he thinks proper, institute Petitions and Complaints thereon: And the Lords considering that the Act 12th and 13th Vict. cap. 51, sect. 4, requires the Factor to lodge his “account in the office of the Accountant, with the vouchers numbered and referred to in the “account by number,” dispense with the practice of lodging separate inventories of such vouchers: The Lords further dispense with the practice of lodging duplicates of factorial inventories and accounts with the Accountant: And the Lords appoint this Act to be inserted in the Books of Sederunt, and to be printed and published in the usual form.

D. BOYLE, *I.P.D.*

1851.

Act of Sederunt fixing the Days for the Lords Ordinary sitting
in the Outer-House.

Edinburgh, 24th May 1851.

The Lords authorize Lord Robertson to call his Rolls on Wednesday, Thursday, Friday, and Saturday; and Lord Rutherford to call his Rolls on Tuesday, Wednesday, Thursday, and Saturday, and the Teind-Roll on Thursday; and Lord Colonsay to call his Rolls on Tuesday, Wednesday, Friday, and Saturday; Lords Wood and Dundrennan continuing to call their Rolls on the days as at present fixed.

D. BOYLE, *I.P.D.*

Act of Sederunt regarding Teind Causes.

Edinburgh, 28th June 1851.

The Lords authorize the Lord Ordinary on Teinds to call the Outer-House Roll of Teind Causes on Fridays, instead of Thursdays, as at present.

D. BOYLE, *I.P.D.*

Act of Sederunt as to Records in Sheriff-Courts.

Edinburgh, 18th July 1851.

Whereas, by the Statute 13th and 14th Victoria, cap. 36, certain enactments have been made with regard to the form and preparation of Records in ordinary actions in the Court of Session, and whereas it is expedient that the same enactments should, as far as possible, be applied to the form and preparation of Records in such actions before the Sheriff-Courts in Scotland, and that the Act of Sederunt, enacted on 13th February 1845, as to Records in Sheriff-Courts, and the Regulations contained in the Act of Sederunt enacted on 11th July 1839, in so far as at variance with the present Act, should be repealed, so that the Rules as to the form and preparation of Records both in ordinary and summary Processes may, as far as possible, be embodied in one Act of Sederunt: The Lords of Council and Session hereby enact and declare:—

I. That, from and after the 31st day of July next, the said Act of

Sederunt, enacted 13th February 1845, as to Records in Sheriff-Courts, ^{1851.} is hereby repealed, and the Regulations contained in the Act of Sederunt enacted on 11th July 1839, in so far as they are at variance with those now enacted, or anywise incompatible with their operation, are also hereby repealed from and after the said date, but to all other effects the said Regulations shall remain in full force.

II. That the pursuer of any Summons before the said Sheriff-Courts shall set forth in such Summons, in the form contained in Schedule (A.) hereto annexed, the name and designation of such pursuer, and the name and designation of the defender, and the conclusions of the action, in the form at present in use, 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 Condescence, together with a note of the pursuer's Pleas in Law, which Condescence 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 Condescence, and, where necessary, have appended thereto a Statement of the Allegations in Fact on which the defender founds in defence, and a Note of the defender's Pleas in Law, Preliminary and Dilatory as well as Peremptory.

III. That, so soon as Defences have been lodged, the Sheriff shall advise the pleadings. If Preliminary or Dilatory Defences have been stated, the Sheriff may either, *1st*, dispose of them at once, if no further statement in fact be necessary; or, *2d*, if further statement be required, he may order a separate Record in regard thereto, and dispose of the Defences upon such Record; or, *3d*, if he see cause, he may, either with or without further statement, order written argument confined to this preliminary matter; or, *4th*, he may reserve consideration of the said Defences till a future stage of the cause, in which case any Statement of Fact in regard to the Defences so reserved shall be included in the Record upon the merits. But, unless where the judgment disposing of such Defences is mixed up with, and forms part of, a judgment on the merits, no Reclaiming Petition shall be allowed against any judgment repelling the said Defences; though there may be an appeal against such judgment from the Sheriff-Substitute to the Sheriff; and where there has been no previous written argument, the Sheriff may, if he see cause, appoint such argument.

1851.

IV. That where Preliminary or Dilatory Defences have not been proponed, or if proponed, have been repelled, or reserved for future consideration, the record, unless it be closed upon the Summons and Defences, shall be made by revisal by the pursuer of the Condescence and Pleas in Law annexed to his Summons, appending articulate answers to any separate statement of facts by the defender, and revisal by the defender of his Defences ; and, upon the expiration of the period for lodging a Revised Condescence, if no Revised Condescence shall be lodged, and, upon the expiration of the period for lodging Revised Defences, if a Revised Condescence shall be lodged, or sooner, if the parties shall consent thereto, the Clerk shall transmit the process to the Sheriff or his Substitute, who shall appoint a time for parties attending him in Court or at chambers, by their agents, with a view to the adjustment and closing of the Record ; and the Sheriff or his Substitute may, at any 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.

V. Provided always, that where the pursuer is willing to close the Record on the Summons and Defences without any revisal, a consent to that effect may be endorsed on the Defences, and signed by his agent ; and it shall then be the duty of the Clerk to transmit the process forthwith to the Sheriff or his Substitute, 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 as in the other cases of transmission to the Sheriff or his Substitute, with a view to the adjustment and closing of the Record hereinbefore mentioned : Provided always that it shall, in such case, be competent to the Sheriff or his Substitute, upon the motion of the defender, and by an Interlocutor to be pronounced either in Court or at Chambers, to make such order with a view to revisal as he may deem fit.

VI. That it shall not be necessary, in order to the closing of a Record in any process, that the Record be authenticated by agents as adjusted or closed, by Minute of Assent on the Minutes of Court, or otherwise. In all cases the Record shall be closed by the Sheriff or his Substitute in the following form (Date) "Record closed" (Sheriff's signature.)

VII. That the Record being closed, the Sheriff shall proceed to dispose

of the cause, with or without written argument. But there shall be no written argument without an express order to that effect by the Sheriff; and the written argument, where ordered, shall in no case be understood to form part of the proper Record. 1851.

VIII. That in Summonses of Multiplepinding, 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.

IX. That in all summary applications before the Sheriff-Courts, the Petition shall state generally (as in the present form of a Note of Suspension before the Court of Session) the subject of complaint, and set forth specifically in the prayer the remedy craved, and that there shall be annexed to the Petition an articulate Statement of Facts, with a Note of Pleas in Law, in the same form as the Condescence and Pleas in Law annexed to a Summons, and that the Answers to the Petition shall be framed in the same manner as Defences in an ordinary action.

X. That, in all other respects, while it shall be competent to pronounce, at any time, such interim orders, interdicts, warrants, or decernitures, as the exigencies of the case shall require, the rules for preliminary or dilatory pleas, and for the preparation and closing of the Record (where a Record is necessary) in summary cases, shall be the same as in ordinary actions.

And the Lords appoint this Act to be entered in the Books of Sederunt, and published in the usual manner.

D. BOYLE, *I.P.D.*

SCHEDULE (A.) TO WHICH THIS ACT REFERS.

No. I.

FORM of an ordinary PETITORY SUMMONS.

A. B., Esquire, Advocate, Sheriff of the Shire of *C*: To
 Officers of Court,
 executors hereof, conjunctly and severally, specially constituted, Greeting: Whereas it is humbly meant and shewn to me by *A.*, [*insert Name and Designation*], pursuer against *B.* [*insert Name and Designation*],

1851. defender, in terms of the Condescence and Note of Pleas in Law hereunto annexed : Therefore the defender ought and should be decerned and ordained 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 shall be modified 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 : My will is herefore, &c. [*insert the Will in common form down to the words " Given at*

, " (Date inclusive.)

[*To be signed on each page by the Clerk of Court.*]

CONDESCENCE.

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

NOTE OF PLEAS IN LAW.

[*State them articulately.*]

In respect whereof, &c.

[*The Condescence and Note of Pleas to be signed on each Page by the Procurator for the Pursuer.*]

No. II.

FORM of a SUMMONS OF COUNT and RECKONING and PAYMENT.

A. B., Esquire, &c. [*as before*] : Whereas, &c. [*as before*] : Therefore the defender ought and should be decerned and ordained to exhibit and produce before me 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 : And the defender ought and should be decerned and ordained to make payment to the pursuer of the sum of _____ Sterling, or of such other sum as shall appear and be ascertained to be due by the Defender as the balance of his said intromissions, with the legal interest thereof

1851. ought and should be decerned and ordained 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. My will is herefore, &c. [*insert the Will in common form, as before*].

[*To be signed as before.*]

Act of Sederunt regulating Fees of Procurators in Sheriff,
Stewart, and Commissary Courts.

Edinburgh, 18th July 1851.

The Lords renew and re-enact their Act of Sederunt of date 10th March 1849, for regulating the Fees of Procurators in the Sheriff, Stewart, and Commissary Courts, and declare that the said Act, with the relative Regulations and Table of Fees appended thereto, shall continue and be in force as an interim Rule of charge, until the 1st day of July 1853: Reserving for future consideration how far the same shall receive the sanction of the Court as a permanent Rule: And of new direct the several Sheriffs and Stewards, on or before the 20th day of May 1853, to report to the Court the effect and operation of this Interim Act.

D. BOYLE, *I.P.D.*

Act of Sederunt renewing and continuing the previous Acts,
dated 8th December 1848, 10th March, and 21st De-
cember 1849.

Edinburgh, December 13, 1851.

The Lords of Council and Session re-enact, and in all their particulars renew, and continue until farther order, the following Acts of Sederunt, viz. :—

I. The Act, 8th December 1848, regulating the Fees to be received by the Keeper of the Register of Entails for recording instruments of disentail, excambions, and other writings.

II. The Act 21st December 1849, regulating the Rates or Dues of Registration to be charged by the Keepers of the Registers of Sasines, Reversions, &c.

III. The Act, 10th March 1849, as to Prorogations and Proofs in the Sheriff Courts. And,

IV. The Act of same date as to Prorogations and Proofs in the Courts of the Royal Burghs and Burghs of Barony.

D. BOYLE, *I.P.D.*

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