



Sheriff Courts (Scotland) Act 1876

1876 CHAPTER 70

V

Special Actions Multiplepointings; Processes of Cessio

25 Procedure in multiplepointings

In actions of multiplepointing the following provisions shall have effect:

- (1) The party raising the action shall set forth in the petition who is the real raiser of the action:
- (2) The sheriff shall, at the first calling of the action, where no defences are stated, or, where defences are stated and repelled, at the first calling thereafter, pronounce an order for claims within a short space:
- (3) Any of the parties whose claims in the action depend upon the same grounds may state their claims in the same paper; and may, where their claims are opposed and yet they are agreed on the facts, make their averments in the form of a joint case, appending thereto their respective claims and pleas in law :
- (4) When the parties who shall appear and claim an interest in the fund in medio shall have lodged their claims, or had opportunity allowed them for doing so, the sheriff shall appoint the parties-or their. agents to meet him; and shall at such meeting allow each party to adjust his own part of the record, and to meet the averments of the other claimants so far as necessary; and the procedure at such meeting, and in the after progress of the action, shall be as nearly as may be the same as is herein-before provided with reference to ordinary actions after defences have been lodged.

26 Cessio bonorum

Prom and after the passing of this Act the following provisions shall have effect with respect to processes of cessio bonorum:

- (1) All such actions shall be instituted in the sheriff court only:

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) A debtor being insolvent and under a charge to pay any civil debt on which charge imprisonment may follow ; or against whom a decree for payment of civil debt, not requiring a charge, has been granted, on which imprisonment may follow; shall, being prepared to surrender his whole means and estate, to his creditors, be entitled to raise an action in the sheriff court, praying for interim protection and for decree of cessio bonorum under the Act of the sixth and seventh years of the reign of King William the Fourth, chapter fifty-six, as amended by this Act, and the production of the said charge, or a certificate of the granting of such a decree as aforesaid, under the hands of the clerk of the court which granted the same, shall be a sufficient title on which to raise such action :
- (3) It shall be lawful for the sheriff—
 - (a) At once to grant interim protection against imprisonment for civil debt to the applicant on his finding caution, for such amount as the sheriff may deem reasonable, for his appearance at all diets of the process :
 - (b) When the applicant is in prison to grant warrant for his interim liberation, after forty-eight hours notice to the incarcerating creditor or his known agent of the motion for liberation, and on caution being found for such amount as the sheriff may deem reasonable for the: applicant's appearance at all diets of the process, and also binding the cautioner to present the applicant at the prison for re-incarceration should the cessio be refused or the interim warrant recalled:
- (4) Judgments or interlocutors pronounced in such actions shall be reviewed on appeal in the same form and subject to the like provisions, restrictions, and conditions as are by law provided in regard to appeals against any judgment or interlocutor pronounced in any other action in the sheriff's ordinary court; but warrants of interim protection or interim liberation shall become effectual when granted, and remain good till recalled :
- (5) Any notices or intimations required bylaw to be given to creditors shall be sufficiently given in the case of creditors furth of Scotland if given to their known, agents or mandatories in Scotland.