

1852 Summons of Removing Transcription

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II

Summons of Removing
The Marchioness & Marquess
of Stafford

Agt

John Macleod
& others

1852

G. MacKenzie

Thomas MacKenzie Esquire Advocate Sheriff of the Shires of Ross and Cromarty To

Officers of Court, Executors hereof, conjunctly and severally, specially constituted, Greeting, Whereas it is humbly meant and shewn to me by The Most Honourable Anne Hay MacKenzie Marchioness of Stafford, Heritable Proprietrix of the subjects and others after mentioned, and George Granville William Sutherland Leveson Gower, Lord Strathnaver commonly called Marquess of the County of Stafford her Husband for his interest, Pursuers against, John Macleod residing at Achabrae or Achdvray Tenant or pretended Tenant, or Subtenant and occupant of Lot Number One of the Lands of Achabrae or Achdvray, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross, Angus Macleod residing at Achcbrae or Achdvray Tenant or pretended Tenant

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Tenant or subtenant and occupant of Lot Number Two of the Lands of Achabrae or Achdvray, pentacle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross, Evander Campbell residing at Camusnacarian, Tenant ~~Tenant~~ or pretended Tenant or subtenant and occupant of Lot Number One of the Lands of Camusnacarian, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross, Murdo Maclean residing at Camusnacarian, Tenant or pretended Tenant or subtenant and occupant of Lot Number Two of the Lands of Camusnacarian, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross, Roderick MacRae residing at Achduart, Tenant or

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or pretended Tenant or subtenant and occupant of Lot Number One of the Lands of Achduart, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross, and Kenneth Maclean residing at Achduart, Tenant or pretended Tenant or Subtenant and occupant of Lot Number Two of the Lands of Achduart pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross Defenders, in terms of the

Condescence and Note of Pleas in Law herewith annexed. Therefore the said Defenders ought and should be Decreed and Ordained by Decreet and Sentence of me or my Substitute,
1. To flit and remove themselves their wives, bairns, families, servants subtenants, cottars and Defenders, Cattle goods and gear fourth and from the respective

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respective subjects above mentioned, and to leave the same void, redd and patent at the respective terms of removal after mentioned viz^t in so far as regards the Houses, yards, gardens and grass upon the aforesaid possessions at the term of Whitsunday next, and in so far as regards the arable land under crop at the separation of the Croft from the ground, all in this present year Eighteen Hundred and fifty two to the end the Pursuers or others in their names may then enter thereto and peaceably possess occupy and enjoy the same or otherwise dispose thereof as they shall think proper and to desist and cease from all further possession and occupation of the said subjects above mentioned from and after the respective terms of removal also above mentioned, and that in terms of and conform to the Act of Sederunt condescended on, Laws and daily practice of Scotland used and observed in the like cases in all points, and,
2. In the event of the said Defenders opposing

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opposing this action, to pay to the Pursuers a proportion of the sum of Fifty Pounds Sterling more or less as the expence of the Process, with the expence of extracting the Decree to follow hereon, as the same shall be ascertained by the Clerk of Court. My Will is Herefore and I command you that on sight hereof ye pass and lawfully summon warn and charge the said Defenders personally or at their respective dwelling places to compear before me or my Substitute within the Ordinary Court place at Dingwall upon the Seventh day next after the date of your citation if a Court day or if not the first Court day thereafter in the hour of cause with continuation of days to answer at the instance of the said Pursuers in the matter libelled. That is to say to hear and see the premises verified and proven and Sentence and Decreet given and pronounced therein ut supra or else to allege a reasonable cause to the contrary With Certification [and?] Given under the hand of the Clerk of Court

William Tulloch

Court at Dingwall this Thirteenth day of March Eighteen Hundred and fifty two years

William Tulloch

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Condescence

1. The Pursuer the said Most Honourable Anne Hay MacKenzie Marchioness of Stafford is Heritable Proprietrix of the Lands and Barony of Coigach of which the subjects and others aftermentioned form a part.
2. By Act of Sederunt of the Lords of Council and Session dated the Fourteenth day of December Seventeen Hundred and fifty six, entitled "An Act anent Removing" it is inter alia provided "that where the Tenant hath not obliged himself to remove without warning in such case it shall be lawful to the Heritor or other seller of the Tack in his option either to use the order prescribed by the Act of Parliament made in the year fifteen Hundred and fifty five entitled

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entitled Act anent the Warning of Tenants and thereupon pursue a Warning and Ejection or to bring his Action of Removing against the Tenant before the Judge Ordinary and such action being called before the Judge Ordinary at least Forty days before the term of Whitsunday shall be held as equal to a warning execute in terms of the aforesaid Act and the Judge shall thereupon proceed to determine in the Removing in the terms of that Act in the same manner as if a warning had been executed in terms of the foresaid Act of Parliament"

3. That John Macleod residing at Achabrae or Achdvray is Tenant or pretended Tenant, or Subtenant and occupant of Lot Number One of the Lands of Achabrae or Achdvray, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross.

4. That Angus Macleod residing at Achabrae

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or Achdvray is Tenant or subtenant and occupant of Lot Number Two of the Lands of Achabrae or Achdvray, pentacle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross.

5. That Evander Campbell residing at Camusnacarian, is Tenant or pretended Tenant or subtenant and occupant of Lot Number One of the Lands of Camusnacarian, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross.

6. That Murdo Maclean residing at Camusnacarian, is Tenant or pretended Tenant or subtenant and occupant of Lot Number Two of the Lands of Camusnacarian, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but

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but locally situated in the County of Ross.

7. That Roderick MacRae residing at Achduart, is Tenant or pretended Tenant or subtenant and occupant of Lot Number One of the Lands of Achduart, pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross.

8. That Kenneth Maclean residing at Achduart, is Tenant or pretended Tenant or Subtenant and occupant of Lot Number Two of the Lands of Achduart pendicle of Badenscallie, Houses, grazings and others thereto attached with the pertinent, lying within the Parish of Lochbroom and County of Cromarty but locally situated in the County of Ross.

9. The Leases or other rights of possession by which the said Defenders hold the said subjects cease and expire at the following term viz^t In so far as regards the Houses yards, gardens and grass upon their said possessions at the term of Whitsunday next and

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and in so far as regards the arable Land under crop, at the separation of the crop from the ground all in this present year Eighteen Hundred and fifty two

10. The Pursuers have oft and divers times desired and required the said Defenders to flit and remove themselves their wives bairns, families, servants, subtenants cottars and defenders, Cattle, goods and gear fourth and from their aforesaid possessions of the said subjects possessed by them respectively as above mentioned, and that at and against the respective terms of removal also above mentioned yet they refuse to do so unless compelled.

Note of Pleas in Law

1. In the circumstances stated the Pursuers are entitled to Decree of Removing against the Defenders in terms of the conclusions of the Summons.
2. In the event of the Defenders opposing this action the Pursuers will be entitled to the costs effering to such opposers.

In Respect Whereof

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P— — for the Pursuers

GLOSSARY

Act of Sederunt: rules by which the Court of Session regulates its own procedure

Anent: concerning; about

Compear: to appear in court personally or by attorney

Condescendence: that part of either a summons or an initial writ that sets out the facts founded on

Decreet: a court's final decision or judgment

Divers: various or several

Effeir: to appertain, to fall by right

Inter alia: among other things

Patent: unrestricted and unconditional

Pendicle: a small property that is a subsidiary part of a larger estate

Redd: to vacate a property, to leave a house, etc., empty and ready for occupation by the next tenant

Ut supra: as (shown or described) above

Viz: the abbreviation for the Latin word "videlicet" meaning "namely."