

Debt: For a Messenger may find not only for the debt due to his employers, but also for the Sheriff fee due to himself for his pains. The goods so appraised are offered to the Debtor for the sum they are valued at 4 Decemb. 1679 Forrester contra tacksmen of the excise of Edinburgh. The just and order by way of pointing Stair of Corn differs from the pointing of other moveables in that the latter may be adjudged for the sum pointed for; whereas the quantity of a sack or corn cannot be known or appraised by the view. If the Debtor do not appear nor any person for him offers to Redeem the goods pointed, they are appraised again at the Market Cross of the burgh of the Jurisdiction, where the pointing is executed or at the accustomed place of the Barony if it proceed on a Bond Decretal, and offered to the Debtor upon payment of the debt and Sheriff fee, and if neither he nor any in his name accept the offer, are sold covered to the pointer in satisfaction of his debt in whole or in part. After the pointing is thus completed, but not till the 11th March 1707 Erkin contra Lady Roswald and her husband the Messenger should offer to the Debtor a copy of the letters of pointing and Executions signed by him and the witnesses there to if he can write, or by the Notary who formed and signed the Executions for him, which will sufficiently instruct payment pro tanto if a part only be satisfied, or totally if the whole be paid Stair lib. 47 § 33. The Messenger carries not always the whole to the Market Cross for it sufficeth to carry ripe of Corn in 2 and samples of Corn or Meal in 2 barrels to the Cross Stair lib. 53. Where the Creditor thinks fit presently to carry away Corn pointed leaving the Straw, the Messenger must appoint two takers upon oath to keep thresh and deliver the Corn to Measure. But if the Creditor is willing to leave the corn and fodder together on the ground that the fodder may be taken as he has occasion for it, the Messenger should appoint but 2 skilful men upon oath for casting proof who must turn over the stacks, sever thresh and winnow the proof sheaves instantly before he go, and the stack must be appraised effere to the Creditor sum and the Sheriff fee 29 Novemb. 1679 Lord Hutton supplicant; Estimating what the Ball of such corn and fodder is worth in such a place at that Execution of pointing of Corns by a ripe or parcel of them

at the Cross, and pricing the Balls with the fodder, was found Null: for that the Messenger did not choose a skilfull sworn taster for proofing the Corn, and allow either party to be the proof Ball and measured 13 Decemb. 1679 Kay contra Kay. But there is no necessity of a sworn taster or taster, where the pointed corn are threshed out and measured and delivered by the owner, and some respect no taster more favourable than himself 11 March 1707 Colonel Erkin contra Lady Roswald and her husband.

If payment of the goods pointed and appraised be offered by the Debtor a reasonable time shall be allowed for counting the money which must be delivered to the Creditor or some assignee or trustee, and upon his granting a Discharge in full and discharge, at the Court of the Messenger or Judge ordinary of the place. If no discharge be granted, the Debtor or his trustee may carry the money in the hands of the Judge ordinary or his Clerk, to be made for the coming to the Creditor upon his Discharge. Which Creditor may charge the Depository upon the Execution of pointing and the Judicial Warrant to Deliver up the Money to him Stair lib. 47 § 32. But if there be a Pollary present, it is more proper that an Instrument be taken in his hands upon the Executions, than in the officers hand who is commonly ignorant Stair lib. 47 § 32. After such consignation the Creditor may take back his goods, and there can be no further Execution upon the order to point Stair lib. 47 § 32. If the Debtor having confidence in the Messenger set a person on Credit, Deliver the Money to him where a Discharge is not offered; the Messenger may, after delivering to the Debtor the subscribed Double of the letters and Executions of pointing, safely give up the Consigned Money to the Creditor Stair lib. 53. The Executions of pointing are more Creditor than any offering to prove the contrary, and can be Redargued only by Improbation McKenzie Just lib. 3 Titul 510.

Pointing cannot be executed after an Intimate Suspension of the debt. And the pointing the day after a Stop upon a bill of Suspension was found inarrantable; in respect of the pointer's presumptive Ignorance of the Stop: yet a second pointing after Answers made by the pointer's Lingers in his Name to the Bill of Suspension and the Intervening of a competent time for advertising him, the not Intimated to him personally or at his Dwelling house; was found unarrantable. In respect the Giving in these Answers obstructs