

Blacks depend up and are put in by the Secretary of State, Unless the Sheriff have the power of Naming the Excesses in his heretofore Charter 17 July 1705 Ric and Jon contra Earl Eglington. And Sheriffs are not to account for what their Clerks do amiss; the the Clerks Malversing forfeit their Massables act 71 Parl. 11 J. 6.

Writs for Electing Commissioners for shires and burgh to sit and vote in the house of Commons, are Directed to and Returned by the Sheriffs and Stewards of the Respective shires and Stewartries; the the Sheriffs themselves are not to be Electors.

Sheriffs may sit and give judgement themselves, but Commonly do it by Deputies except in some great cases. They may fine for Contumacy in 10 pound 7 Feb. 1624 Sandys contra Robertson 6 Decem. 1628 Crichton contra Wiff and they may fine for bloodwits in 50 pound but no higher. Anciently Sheriffs might sit upon slaughter or Murder if the Criminal was Attached within 40 days Quon. Att. cap. 55 act 40 Parl. 6 J. 1 And might Judge him within one Sun or day if he was taken the hand is: in hot blood or immediately Committing the Murder d. act 40. What time allotted to the Sheriff for Judging a Murderer taken Red hand, is by Mistake in posterior laws Act 28 Parl. 3 J. 4 act 4 Sept. 5 Parl. W. 3 M. 1 mentioned to be three Sun. But albeit the law allowing Sheriffs to Judge Murderers taken within 40 days (act 40 Parl. 6 J. 1) is now where abrogated, nor any Inducement to the contrary appears except Sir Thomas Hopes Assertion in his Minor Treatise (Tit. of the Justice, Jurisdiction § 221) which may be interpreted of Cognitions after Execution of the 40 days. Yet the proper law is, that a Sheriff can Judge in the case of Murder or Slaughter only when the Criminal is taken the hand and must proceed against him within three Sun or days Whewell Crim. part 1 Tit. 11 § 22 printed 1790

part 2 Tit. 12 § 3 Who if Apprehended in alio territorio must be sent back to be tried before the Sheriff where the Crime was Committed act 28 Parl. 3 J. 4 that Reparation may be made where the offence was given. But the formerly Sheriffs could only try and execute with in three Sun, this time was afterwards restricted to the sentenced only. So that if the Criminal were tried and Condemned within three Sun after the Crime Committed, the time for his Execution was left to the Discretion of the Judge not Exceeding 9 Days act 4 Sept. 5 Parl. W. 3 M. 1. And at this day no sentence or Judgment of any Civil Magistrate or Court of Judicature Importing a Capital punishment or Dismembering, pronounced in any place to the Northward of the River Forth can be put to Execution within less than 40 days, or pronounced in any place to the southward of the said River, within less than 30 days after date of the sentence 11 G. 1 cap. 25 § Nor can any Judgment or sentence Importing Corporal punishment less than death or Dismembering, if pronounced in any part to the North of the said River be put to Execution till after Elapsing of 12 Days, and if given or pronounced in any place to the southward of the said River, be put to Execution till after Elapsing of eight Days from and after the date of such Judgment or sentence 3 G. 2 cap. 32 §.

A Sheriff may try a thief taken with the bang, the no private party Concur in the pursuit: Whom as he cannot try a thief where no bang is found, except a private party pursue Whewell Crim. part 2 Tit. 12 § 5. As to the question if Sheriffs be Competent to Judge thieves upon Citation or if only when they are taken in the bang: Sir George Whewell seems to contradict him self. For in one place (Just. lib. 1 Tit. 4 § 5 ult.) he positively asserts, that a Sheriff can Judge the best upon Citation; and in another (Crim. part 1 Tit. 19 § 7 infir) he says, that to Judge a thief upon Citation belongs only