

MS. B. 1. 17 v. 1

Answer for Robert Hutchinson Scaler in
Thornness to the Petition and Complaint of
Robert Grahame of Nedlande on of the
Magistratus & Justices of the Peace for the County
of Orkney given unto the Justices of the Peace
of the said County.

The Present Complaint who complain a repetition
of a peace action presently depending before the Vice
Admiral Court of Orkney both charging the Respondent
with contempt of the law of the Admiralty and
a Justice of the Peace in November last Prohibiting
any Person to fish Silcock or off the west Point
or off Wester millie Harbour of Thornness before the
who on this first of March next under the Seal of the
Court are especially mentioned for that it is said to have been issued and
to have been published in consequence and in term of a Writ
of the Court by several fishermen in the said village to the pre-
dicted upon which pretended
breach openly forced fishing Silcock & north roads conjecture that
is in the present petition for the respondent entered upon the said
Cause and in the present cause he begs liberty to inform that
in the execution of the same offence called a pretended Writ one of the
fishermen mentioned before was Martine & John Anderson of the Community
of the Corporation of the town of Stromness in the said County
and the Corporation at least did this one ought to be determined
place a respondent to the effect contained in the same
and the execution of the same was applied in the said village
of the Petitioner to whom the Nature of both actions carried on
prescribed order. It is agreed and consented that the action of the Petitioner
be dismissed - Considering the whole offence that the Respondent
committed and offering to make by my seal the complaint to be made upon
the action of the Petitioner doubly charged with the said offence
the respondent being a person in the said Corporation from
and the like upon the Petitioner to show whether such
offence was committed in the said village
and proceeding on such a complaint for petition
it is agreed that the same be added and the execution of the same
offering to make and whether such order could
be carried out to make all the effects of a publick
order people that
had no to do with such a case or ways the Petitioner cannot
whereafter be heard except for any action on the same
cause his cause
against protestation The Respondent will be given to say that
is agreed to the Petitioner cannot make their appear to the
same satisfaction of the court so as to induce
and cause them to inflict any punishment upon the Respondent
there can be no breach of a writ that needs to be
executed to himself for a crime he offence he
usually guilty of that is evident in every respect

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time that especially in their Trial at the Delictous without
they actuall any off solemnity or procedure then the Delicton
to get the Community prejudicid fishermen unexperiened —
providenc of affair prejudicid fishermen unexperiened —
in full ha. are greater to amself an absolute authority over
bound and all the res to prohibite them to fish but by a com
aff and that be alled under a com penality till a da fixed
the respondent ^{say} and ^{do} so penuilly ^{so} aff id
called great Wren at the same time it is acknowledge that
numed as though the Harbour abounds with fishing plentie and
that the respondent catched great numbers
and that by & will see or were encouraged to
follow his example and at the same time it would
st all loose be deca the very ^{the} ^{the} ^{the} ^{the} ^{the} ^{the} ^{the} ^{the}
follow the Will respect to the Order of the Complaint
example it will not in reason or justice be urged that the
respondent
it is no more criminal or offence to catch the greater
catching fish in feld of less smaller number off fish especially
when the waters where abundance is acknowledged it would
along seeme be rather criminal to suppress such a would
it self net
that has lost Sale of the greater numbers it would be both
accord with a vitory to the freedom of fishing a prejudicel
come ^{the} ^{the}
monopolists demand a right of property in such fish whether
appear in the are catched and consequently one cannot be supposed
complaints to be catched greater sumben by the next than other
proceed to from catching them on the off and plenty feld
especially manner be exappable of and the whole amount
of the respondent
or practice of the Complaint of the Respondent is that he
complaints ^{the} ^{the} ^{the} ^{the} ^{the} ^{the} ^{the} ^{the}
only way he catched greater sumben by the next than other
proceed to be did by the road but still there is plenty
to go on in fef
the principle of the ^{the} ^{the} ^{the} ^{the}
complaints ^{the} ^{the} ^{the} ^{the}
The order of any such order ever issued had been
of the government founded and you can be said to coulmed
and contemn
consider you but such as said apply to ^{the} ^{the} ^{the} ^{the} ^{the}
This after the order the respondent had not subected
concur with the ^{the} ^{the} ^{the} ^{the} ^{the}
Respondent himself and he will also be forgiven to say
that he must proceed from a sense of the injustice in
the Delictous
as alwaies may of the Delictous own authority to afform
or to recd to impose a penalty in such a case that he apply
and he turned to and curst your self & to the authority of the dominal
a restrely to exact that or any off penalty in such a case
the novelt of to exact that or any off penalty in such a case
providence in. But the consequence is plain that as happenell
giving penaliy her not been due or lawfully imposed
and oblige them that ought be bound and good law to oblige them
to exact that or any off penalty in such a case

it be to it cannot many want be duey or lawfully
made & given & declared or any oþ punishment inflicted where
thereby there were really no crime in it self or actually
done by the Respondent aany
offences committed for tho the Respondent aany
should be individually subjected to the pretended
and unfairness of Congress really performed in the way of settling the bough
to do to them the greatest plenty tho those that offend
remain in the country roads calched but a few yds all the
a right to sue the Respondent would gain him where the fault
is his but they that should subject him to suffer for such an
unjustly seemly refuse to share w him in the plenty
employment offered to them of the common blessing

~~in this~~ The Respondent is hopefull that he has faire
and amissall
~~and sufficient~~ to satisfy the Court that he has been
more dauidly
one & only of no crime or offence he is confident he
of himself has not been conuincacious in any respect and
the said ~~accused~~ especially in that as it will not be allowed that
any reppublican authority of a Justice of the Peace could be
interwolved in effect misc a affairs so as to create a forehand
and precepcy
penalty or a publick regulation as if it
in a case of this kind nor could he be guilty of the pretended
no proper
calle maintained
that he was of an authority where it could not crest But
transfaring oullie contrary the Respondent has been most
is seconded unselfly an ollected in full and unexcepted in all
is a sound course of his ffining and deprived of the benefit
of his state would have recaped for the substance of his
ability pecisely and lawfainly in that day and also been
by the like by
innumerable opprest with most unjust and vexatious
capable & reponesse procces in the affair to his
torment or to leunbly hopes the present procces will be
restrained & leunbly hopes the present procces will be
from calumny hisisted and that he will be remitted to
he a certain damage and expences
day when
assure them
that they are
to be called
at all times
day selected by
the Justicew
to be obred in such
times to call the
causes in that off
time & place
and by their
method in their
power that they may
liberty adde to them if neede be

In respect therof

If the Courtmaner only had been in good
it would have followed that he also
tolance exceedit & times wout any right to
any oþ court for further an y and as the Respondent
could not becauare of any higher penality than
£20, said tollace regard by the Petitioner and if
he could be liable to no more in any way
But the Petitioner since the pccompaint will be
supressed will be Donald, pretended to have been in his
power that he to accept of the Pet. if he so pccomplaint requiret by
liberty adde to them if neede be

was only at 10 pock the day said in the & there
action on the same head to see at 20 dethat scoll
the action laid in both the Courts for the same pre
le. did offerer see at 20 each the howe pock
the crest per aliy to 240 But as will be sayes
of the Preffessor deposition etc record to summond ffor
and now make the respondent and poffessor
for meach of a pretended only iugall & abuie the
Reffpondent cannot apprehend to what extent the
Petitioner may magnify his Plea & of what course
gencral may bee to him for Redress howering deposed
debarred from affyng or id the reponce and occidanc
upon two diffrent tyme on two sevnes after
The Reffpondent heathen to bee vilyndone
by a undifinate paunt and penallys for a supposed
cunne offence that never exifted but to plead Petition
one cretting by his own aule & shal coulde offe
effet. If the Petitioner only stand in need offurther
aid to make it effectually effectual a propos of it
isf insufficiency and coulde of any confequence if not
The Petitioner had not to have graue huyll & other
Reffpondent to trouble but shal immediatly exclud
the penally himselfe The Reffpondent apprehend he was
even bound to do so without further oppugnac
Reffpondent And therefor as the present action coulde
thend on a generall Reffordant & coulde
hopefull that he woulde be intituled to damage & expens
hould

The complaint before adduced has gone so far
as to be refred to a Proff The Reffpondent is well
aare of what the Proff that the Petitioners will
bring in what case goes accyding to what will
be no more than to call the poffessor deponent ad undia
both in what were present action & that hys poff
red in his dayes were leade and that hys former
petefacter more fiftie yeare late employe on his ffor
hand