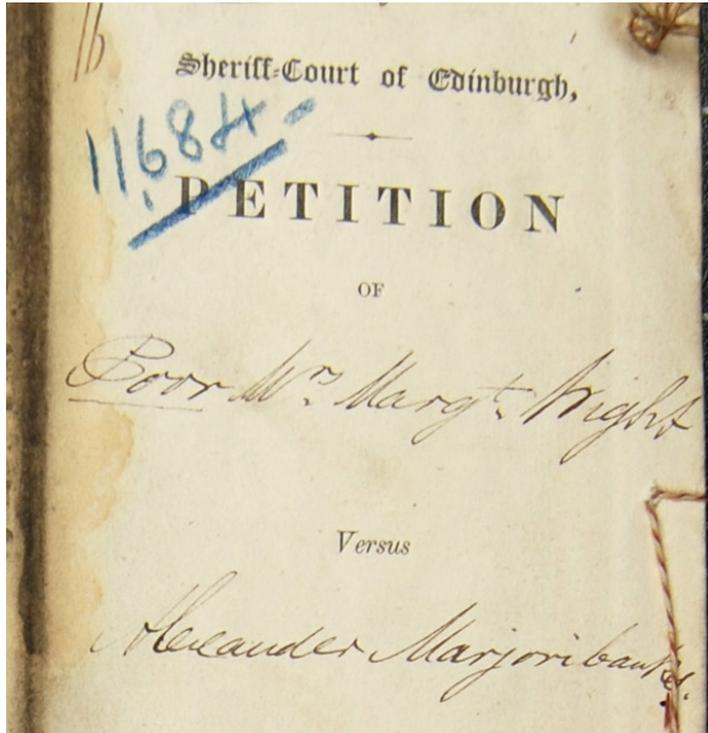


# Tracing Your Illegitimate Ancestors in the Sheriff Court Records

## What, Why Where?

When you can't trace your genealogy because an ancestor was illegitimate you are missing a piece of your family story. You can't fully answer the question, 'Who Do You Think You Are?'



One resource in Scotland which can help in this situation is the Sheriff Court records, most of which are held by the National Records of Scotland. In particular we are talking about civil court actions heard by the Sheriff Courts called 'Actions of Affiliation and Aliment'. We often speak of these as paternity cases, although they are not normally referred that way in the records.

In most of these cases, you will find details of an attempt to compel a father to give financial support for an illegitimate child.

**Left: Sheriff Court Process: NRS reference SC39/17/976/11684**

Evidence would be presented, perhaps an acknowledgement from the father, or the testimony of witnesses, in order to establish the individual responsible for the maintenance of the child.

The records of these cases are particularly useful because as the 19th century progressed, the grip that the church once had on people's lives was waning, especially in urban areas. Also, whilst the Sheriff Court material largely survives, records of many churches have been lost. This means that while church records, such as the Kirk Session records of Presbyterian churches, can be very useful in cases of illegitimacy, it may be that you need to turn to the Sheriff Court records.

## *How many cases were there? How likely is it that my ancestor's case will be there?*

These are big questions, and we do not yet know all the answers. Just to give an indication, though, we have taken a sample year from the mid-19th century to see if we can get even a rough idea. We took five counties in southern Scotland for the year 1858. For that year, we have calculated that just under 15% of illegitimate births had some kind of record in the Sheriff Court, around 10% of which included extracted decrees.

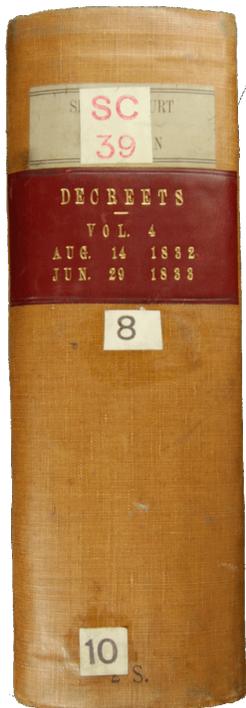
## *Understanding Court Terminology - Decree, Extracted and Unextracted*

A decree (or decret) is a decision made by a court. For the paternity cases we are indexing a decree will be particularly concerned with details of the amount of aliment to be paid, and who would be responsible for paying (usually the father of the child). The decree was legally binding and if payment was not forthcoming further action could be taken to enforce the decree. A decree will usually clearly identify all the individuals concerned, giving their addresses, if they were known. Former addresses are common. Relatives of both parties are also frequently named. The date of birth and sex of the child is almost always given (but not normally the forename).

If an official written copy of the decision of the court was required (usually for enforcement) an extract of the decree would be made. When this happened, a copy would also be entered in what was called the 'Register of Extracted Decrees'. If a copy or extract was not requested then the decree would not be entered in this register (even if the court had made a decree).

When no extract was made, the text of the decree may still exist. Prior to 1860 decrees can usually be found in the processes (or case papers) relating to the action. These court processes can also tell us more about cases even where an extract was made and can be found in the Register of Extracted Decrees.

# Where to start!



Where possible we would recommend starting with the volumes of **extracted decrees**.

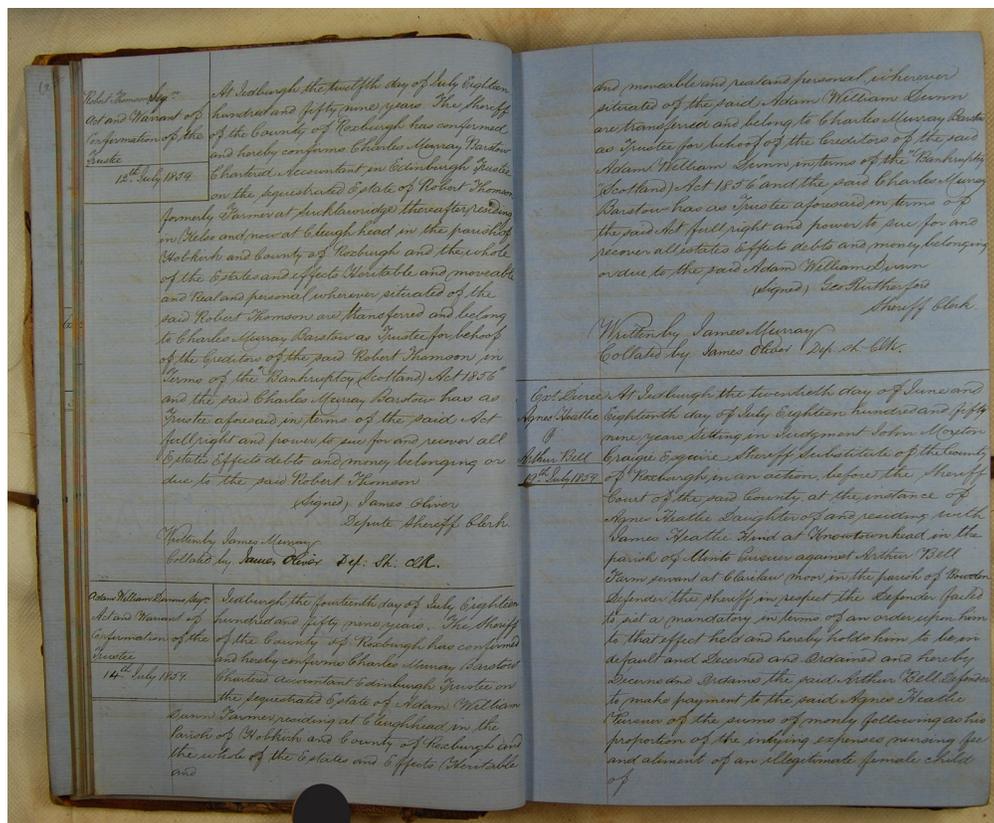
These volumes commence in most courts around 1830, likely as a result of the restructuring of the Scottish courts that was taking place at that time.

Most Sheriff Courts have complete runs of these volumes into the 20th century, although sadly Aberdeen is an exception to this.

To determine if they do exist for the area you are searching in, you will need to use the catalogue of the National Records of Scotland. At the time of writing you can access the catalogue through the old National Records of Scotland (NAS) website\*.

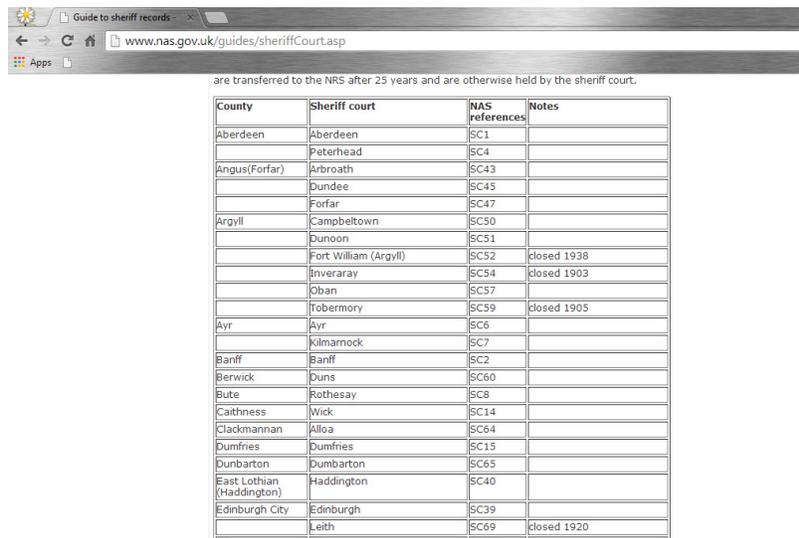
\*On 1 April 2011, the General Register Office for Scotland merged with the National Archives of Scotland to become the National Records of Scotland (NRS). This NAS website will remain active until it is replaced in due course by a new website for NRS.

**Left: Volume from the Register of Extracted Decrees: NRS reference SC39/8/10**  
**Below: Register of Extracted Decrees: NRS reference SC62/11/11**



## Finding the right book

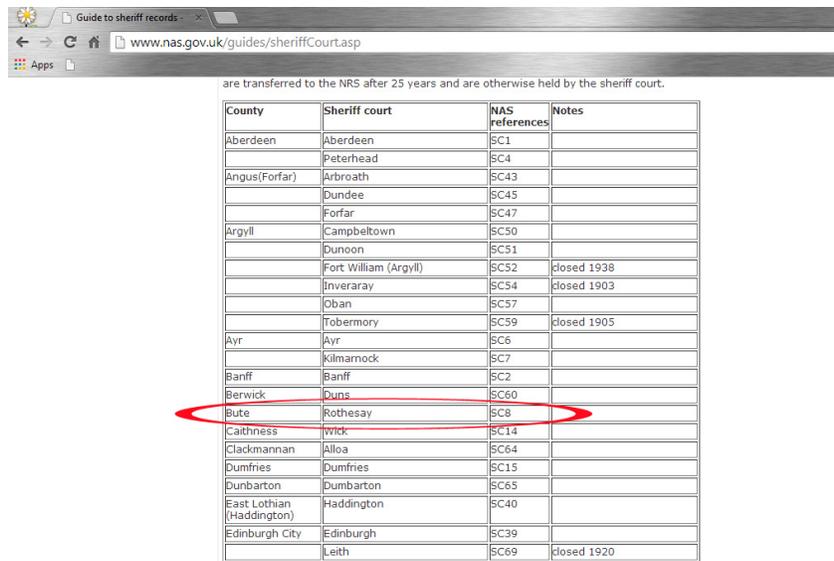
**Step One:** Go to the list of Sheriff Courts on the NRS website (in the 'Guides' section):  
<http://www.nas.gov.uk/guides/sheriffCourt.asp>



are transferred to the NRS after 25 years and are otherwise held by the sheriff court.

County	Sheriff court	NAS references	Notes
Aberdeen	Aberdeen	SC1	
	Peterhead	SC4	
Angus(Forfar)	Arbroath	SC43	
	Dundee	SC45	
	Forfar	SC47	
Argyll	Campbeltown	SC50	
	Dunoon	SC51	
	Fort William (Argyll)	SC52	closed 1938
	Inveraray	SC54	closed 1903
	Oban	SC57	
	Tobermory	SC59	closed 1905
Ayr	Ayr	SC6	
	Kilmarnock	SC7	
Banff	Banff	SC2	
Berwick	Duns	SC60	
Bute	Rothsay	SC8	
Caithness	Wick	SC14	
Clackmannan	Alloa	SC64	
Dumfries	Dumfries	SC15	
Dunbarton	Dunbarton	SC65	
East Lothian (Haddington)	Haddington	SC40	
Edinburgh City	Edinburgh	SC39	
	Leith	SC69	closed 1920

**Step Two:** Look down the list to find the NRS reference for the court you need. In this example we will use Rothsay Sheriff Court on Bute. In the list you will see it has the NAS reference number 'SC8'.



are transferred to the NRS after 25 years and are otherwise held by the sheriff court.

County	Sheriff court	NAS references	Notes
Aberdeen	Aberdeen	SC1	
	Peterhead	SC4	
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	Dundee	SC45	
	Forfar	SC47	
Argyll	Campbeltown	SC50	
	Dunoon	SC51	
	Fort William (Argyll)	SC52	closed 1938
	Inveraray	SC54	closed 1903
	Oban	SC57	
	Tobermory	SC59	closed 1905
Ayr	Ayr	SC6	
	Kilmarnock	SC7	
Banff	Banff	SC2	
Berwick	Duns	SC60	
Bute	Rothsay	SC8	
Caithness	Wick	SC14	
Clackmannan	Alloa	SC64	
Dumfries	Dumfries	SC15	
Dunbarton	Dunbarton	SC65	
East Lothian (Haddington)	Haddington	SC40	
Edinburgh City	Edinburgh	SC39	
	Leith	SC69	closed 1920

**Step Three:** Go to the online catalogue: <http://www.nas.gov.uk/onlineCatalogue/>

In the 'Reference' box type in the court reference number, in this example it would be 'SC8'. Also, make sure 'Starts' has been selected.

The screenshot shows the search interface of the National Archives of Scotland. The search form has the following fields and options:

- Search for:** Type in your search term
- Reference:** SC8
- Search options:** Starts (selected), Matches, Contains, Exactly Matches
- Dates from:** Type in your search term
- Dates to:** Type in your search term
- Include undated records:**

The search button is highlighted in red.

**Step Four:** Click on the reference number for the first item in the list, this time it is 'SC8'. This is the top level entry for this court.

The screenshot shows the search results overview page. The search results are sorted by reference. The first result is highlighted with a red circle, showing the reference number 'SC8'.

Reference	Title	Date	Access status
SC8	Rothsay Sheriff Court	1699-1998	●
SC8/1	Minute books	1673-1978	●
SC8/11	Minute book	7 Jan 1573-6 Jul 1790	●
SC8/12	Minute book	8 May 1790-29 Mar 1890	●
SC8/13	Minute book	10 Mar 1890-22 Nov 1923	●
SC8/14	Minute book	14 Feb 1824-4 Apr 1978	●
SC8/2	Roll books	1923-1979	●
SC8/21	Roll book	1923-1927	●
SC8/22	Awarding		●
SC8/23	Roll book	1931-1934	●

**Step Five:** You will now see a summary of everything held regarding this particular court. The cases we are looking for in this search were heard by the civil or ordinary court. Look down the list for the books of extracted decrees and take note of the number, in this case it is '5'.

**Note** that these books can be entered in the catalogue in different ways. Sometimes they are called ‘Registers of Decrees’ or as in this case ‘Extract Decree Books’. The words ‘Decreet’ or ‘Decreets’ can also be encountered. This why it is good to search the catalogue using this method rather than by keyword. You are less likely to miss what you are looking for.

The screenshot shows the 'Single record details' page for an entry in the National Archives of Scotland catalogue. The page includes a navigation bar with 'Welcome', 'Browse', 'Search', 'Results summary', and '[Results]'. The breadcrumb trail indicates the user is in 'Catalogue search > Simple search > Single record'. On the left, there are 'Page options' (print, email, previous page) and a 'Records updated: 27 August 2014' notice. The main content area shows a table of metadata:

Country code	GB
Repository code	234
Repository	National Records of Scotland
Reference	SC8
Title	Rothesay Sheriff Court
Dates	1669-1998
Access status	Open
Location	Information not available
Description	ORDINARY COURT

Below the description, a list of record types is provided:

- 1 Minute books
- 2 Roll books
- 3 Diet books
- 4 Register of ordinary actions ('A' and 'B' registers)
- 5 Extract decree books
- 6 Process inventory & borrowing books
- 7 Processes - preservation, 1st series

The 'ORDINARY COURT' entry and the '5 Extract decree books' option are circled in red in the original image.

**Step Six:** Go back to the catalogue home page (<http://www.nas.gov.uk/onlineCatalogue/>), and start a new search, this time searching for all records that begin with the reference you have found. In this example we will search for entries beginning ‘SC8/5’. In large courts it may save time to enter years in the ‘Dates’ boxes, cutting down the number of search results to page through.

In the results list, select the entry that covers the year your ancestor likely appeared before the court, and click on the reference. You will now have the National Records of Scotland (NRS) reference. If you are planning a trip to the NRS click the the link towards the top of the page which says: ‘An advance order may be placed for this record. Click here to place an advance order for this record.’

## The books of Extracted Decrees

The books sometimes have an index at the back (or sometimes at the front) so always look for this before you start leafing through the volume. Remember, though, that these indexes are generally arranged alphabetically by the pursuer's surname (usually this is the mother).

## Digging Deeper



Above: A typical box of Sheriff Court processes: NRS reference SC62/10/390

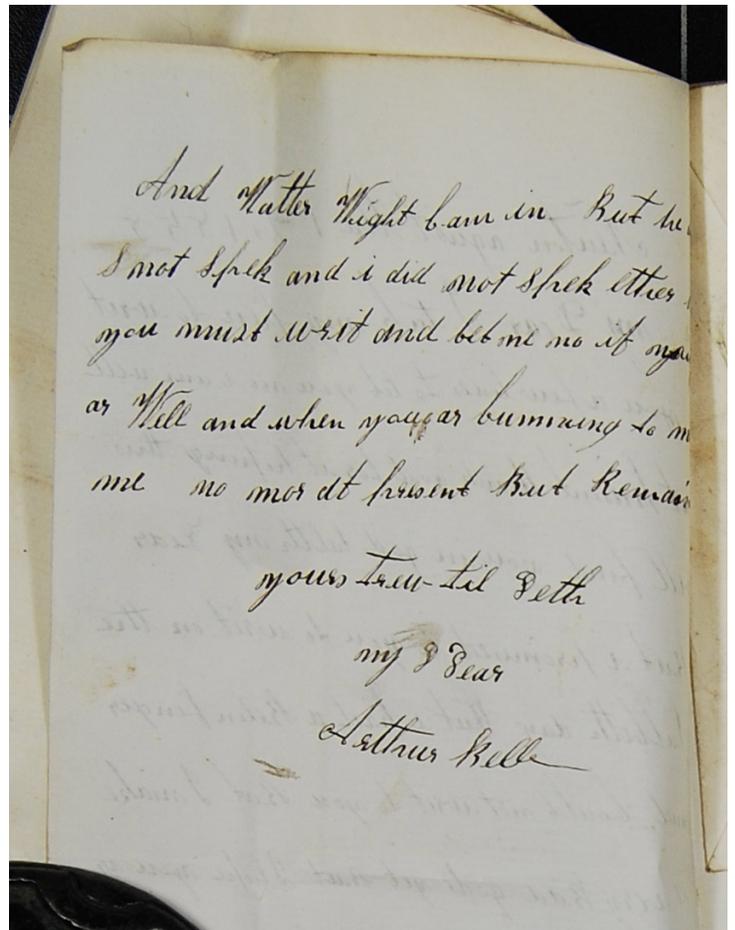
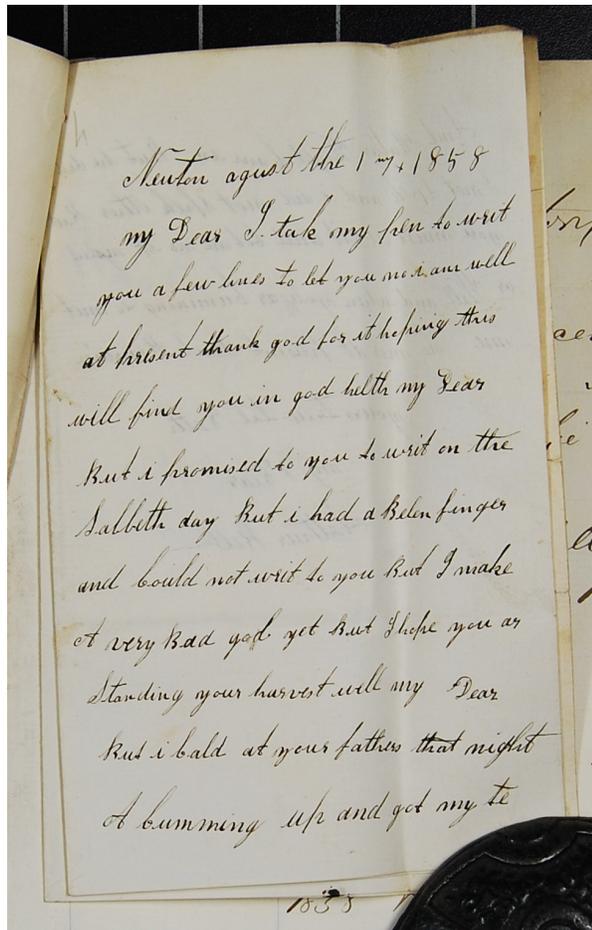
The paperwork of each case varies. After 1860 the processes have been largely destroyed, which is a great shame from our point of view. Before 1860, though, most of the processes survive and these can prove fascinating.

Sometimes a father would quickly accept responsibility for the child, and in such cases the processes tend to be less extensive. In other cases, though, the testimony of witnesses would

be presented, including statements of when and where the couple were seen. The woman could recount occasions when she met the child's father and mention who had seen them walking out together. If you're really fortunate the pursuer will have kept her love letters, as we found in the case concerning Graham's great-great-aunt!



Left: NRS reference SC62/10/390



Above: NRS reference SC62/10/390

Here is a transcription of the letter shown above:

“Newton August the 17, 1858

My Dear I take my pen to write you a few lines to let you know I am well at present - thank God for it. Hoping this will find you in good health my dear but I promised to you to write on the Sabbath day But I had a 'belen finger' and could not write to you But I make a very bad job yet But I hope you are standing your harvest well my dear But I called at your father that night A coming up and got my tea and Walter Wight came in But he did not speak and I did not speak either. But you must write and let me know if you are well and when you are coming to meet me. No more at present, But remains yours true till death my dear. Arthur Bell”

This goes to demonstrate how much these records can really help you understand your ancestors, as well as trace your genealogy.

# How to Find the Court Processes

As you did with the books of extracted decrees, you will need to use the NRS catalogue.

**Step One:** Go to the online catalogue: <http://www.nas.gov.uk/onlineCatalogue/>

In the 'Reference' box type in the court reference number. Using the example of Rothesay Sheriff Court once more, we would enter 'SC8'. Again, make sure that 'Starts' has been selected.

The screenshot shows the NAS Online Catalogue search interface. The search form is titled 'Search catalogue records'. It includes fields for 'Search for:', 'Reference:', and 'Dates from:'. The 'Reference:' field contains 'SC8' and is circled in red. The 'Starts' radio button is selected and also circled in red. The page title is 'Catalogue search - internet'.

**Step Two:** Click on the reference number at the top, this time it is 'SC8'.

The screenshot shows the search results page for 'SC8'. The results are sorted by reference. The first result is 'SC8' for 'Rothesay Sheriff Court'. The page title is 'Catalogue search - internet'.

Reference	Title	Date	Access status
SC8	Rothesay Sheriff Court	1659-1998	●
SCB/1	Minute books	1673-1978	●
SCB/1/1	Minute book	7 Jan 1673-6 Jul 1790	●
SCB/1/2	Minute book	8 May 1790-29 Mar 1890	●
SCB/1/3	Minute book	10 Mar 1890-22 Nov 1923	●
SCB/1/4	Minute book	14 Feb 1924-4 Apr 1978	●
SCB/2	Roll books	1923-1979	●
SCB/2/1	Roll book	1923-1927	●
SCB/2/2	Awarding		●
SCB/2/3	Roll book	1931-1934	●

**Step Three:** You will now see a summary of everything held regarding this particular court. The cases we are looking for in this search were heard by the civil or ordinary court.

For cases before 1860 look for 'Processes' (often followed by 'preservation', 'preservation, 1st series', or similar)

As before, take note of the number, then search the catalogue for SC8/7. You will be looking for the references for the boxes of processes covering the year your case was extracted. Note that in most courts this is not the date the case was heard, but the date it was extracted!

Finally, you will have the NRS reference number of the box (or boxes) which should contain the case you are seeking. In some courts there may be a large number of boxes covering one year. Sadly you'll need to order in every box in these situations. You'll need to order the boxes into the NRS a few days in advance.

## *Finding the case in the box*

In the National Records of Scotland you will normally only be given one box at a time. The reason for this is that it is vitally important that items from one box are not inadvertently put into other boxes.

Within the box you may see some organization. Perhaps cases are bundled into months, or classified as extracted or unextracted. It is a good idea to assess the organization first before you dive in.

## *Help is at Hand!*

With the help of our volunteer Margaret Hamilton, we are indexing these wonderful records. So far the Registers of Extracted Decrees for the Sheriff Courts of the southern counties of Scotland (from Berwickshire right across to Wigtownshire) have been completely indexed and Margaret is working hard indexing the Register for Edinburgh Sheriff Court, which is being progressively released on our website.

As with all our indexes, you can access them for free on [www.scottishindexes.com](http://www.scottishindexes.com). Please do not hesitate to email us if you need a helping hand.

Email: [emma@scottishindexes.com](mailto:emma@scottishindexes.com)