

ANNO SEPTIMO

GEORGII IV. REGIS.

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CAP. LXVII.

An Act to regulate the Mode in which certain Societies or Copartnerships for Banking in *Scotland* may sue and be sued. [26th *May* 1826.]

WHEREAS the Practice has prevailed in *Scotland* of instituting Societies possessing Joint Stocks, the Shares of which are either conditionally or unconditionally transferrable, for the Purpose of carrying on the Business of Banking; and it is expedient that every such Society or Copartnership should be enabled to sue and be sued in the Name of its Manager, Cashier, or other principal Officer; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for every such Joint Stock Society or Copartnership, already established or that may hereafter be established in *Scotland* for the Purposes of Banking, to sue and be sued in the Name of the Manager, Cashier, or other principal Officer of such Society or Copartnership, provided that such Joint Stock Society or Copartnership shall observe the Regulations prescribed by this Act.

Banking Copartnerships in Scotland may sue and be sued in the Name of their Manager, &c.

II. And be it further enacted, That every such Joint Stock Society or Copartnership already formed shall, between the Twenty-fifth Day of *May* and the Twenty-fifth Day of *July* in this and each succeeding Year, and every such Joint Stock Society or Copartnership hereafter to be formed,

Such Societies shall yearly deliver, at the Stamp Office

in Edinburgh, an Account, containing the Name of the Firm, &c.

formed, shall, before such Joint Stock Society or Copartnership shall begin to carry on Business, and thereafter in each succeeding Year, between the said Twenty-fifth Day of *May* and the Twenty-fifth Day of *July*, cause an Account or Return to be made out according to the Form contained in the Schedule marked A. to this Act annexed, wherein shall be set forth the true Names, Title, or Firm of such intended or existing Society or Copartnership, and also the Names and Places of Abode of all the Members of such Society, or of all the Partners concerned or engaged in such Copartnership, as the same respectively shall appear on the Books of such Society or Copartnership, and the Name or Firm of every Bank or Banks established or to be established by such Society or Copartnership, and also the Name and Place of Abode of the Manager, Cashier, or other principal Officer, in the Name of whom such Society or Copartnership shall sue and be sued, as hereinafter provided, and also the Name of every Town and Place where any of the Bills or Notes of such Society or Copartnership shall be issued by any such Society or Copartnership, or by their Agent or Agents; and every such Account or Return shall be delivered to the Head Collector of Stamp Duties at the Stamp Office in *Edinburgh*, who shall cause the same to be filed and kept in the Stamp Office there, and an Entry and Registry thereof to be made in a Book or Books to be there kept for that Purpose, and which Book or Books any Person or Persons shall from Time to Time have liberty to search and inspect, on Payment of the Sum of One Shilling for every Search.

Accounts to be verified on Oath.

III. And be it further enacted, That such Account or Return shall be made out by the Officer named as aforesaid, and shall be verified by the Oath of such Officer taken before any Justice of the Peace, and which Oath any Justice of the Peace is hereby authorized and empowered to administer, and that such Account or Return shall, between the Twenty-fifth Day of *May* and the Twenty-fifth Day of *July* in every Year, be in like Manner delivered by such Officer as aforesaid to the said Collector, to be filed and kept in the Manner and for the Purposes as herein-before mentioned.

Certified Copies of such Returns to be Evidence of the Appointment of the Public Officers, &c.

IV. And be it further enacted, That a Copy of any such Account or Return, so filed or kept and registered at the Stamp Office, as by this Act is directed, and which Copy shall be certified to be a true Copy, under the Hand of the said Collector, or of the Comptroller of the Stamp Duties at *Edinburgh*, shall in all Proceedings, civil or criminal, and in all Cases whatsoever, be received in Evidence as Proof of the Appointment and Authority of the Officer named in such Account or Return, and also of the Fact that all Persons named therein as Members of such Society or Copartnership were Members thereof at the Date of such Account or Return.

Commissioners of Stamps to give certified Copies of Affidavits.

V. And be it further enacted, That the said Collector or Comptroller for the Time being shall, and he is hereby required, upon Application made to him by any Person or Persons requiring a Copy certified according to this Act, of any such Account or Return as aforesaid, in order that the same may be produced in Evidence, or for any other Purpose, to deliver to the Person or Persons so applying

for the same such certified Copy, he, she, or they paying for the same the Sum of Ten Shillings and no more.

Account of new Officers or Members in the Course of any Year to be made.

VI. Provided also, and be it further enacted, That the Manager or other Officer of every such Society or Copartnership shall, and he is hereby required from Time to Time, as often as Occasion shall render it necessary, make out upon Oath, in manner herein-before directed, and cause to be delivered to the said Collector as aforesaid, a further Account or Return according to the Form contained in the Schedule marked (B.) to this Act annexed, of the Name of any Person who shall have been nominated or appointed a new or additional Officer of such Society or Copartnership, in whose Name the same shall sue and be sued, and also of the Name or Names of any Person or Persons who shall have ceased to be Members of such Society or Copartnership, and also of the Name or Names of any Person or Persons who shall have become a Member or Members of such Society or Copartnership, either in addition to or in the Place or Stead of any former Member or Members thereof, and of the Name or Names of any new or additional Town or Towns, Place or Places, where such Bills or Notes are or are intended to be issued, and where the same are to be made payable; and such further Accounts or Returns shall from Time to Time be filed and kept, and entered and registered at the Stamp Office in *Edinburgh*, in like Manner as is herein-before required with respect to the original or annual Account or Return herein-before directed to be made.

Copartnerships shall sue and be sued in the Name of their Officer.

VII. And be it further enacted, That all Actions and Suits, and also all Petitions to found any Sequestration in *Scotland*, or Commission of Bankruptcy in *England*, against any Person or Persons who may be at any Time indebted to any such Copartnership carrying on Business under the Provisions of this Act, and all Proceedings at Law or in Equity under any Sequestration or Commission of Bankruptcy, and all other Proceedings at Law or in Equity to be commenced or instituted for or on behalf of any such Copartnership, against any Person or Persons, Bodies Politic or Corporate, or others, whether Members of such Copartnership or otherwise, for recovering any Debts or enforcing any Claims or Demands due to such Copartnership, or for any other Matter relating to the Concerns of such Copartnership, shall and lawfully may, from and after the passing of this Act, be commenced or instituted and prosecuted in the Name of the Officer named as aforesaid for the Time being of such Copartnership, as the nominal Pursuer, Plaintiff, or Petitioner, for and on behalf of such Copartnership; and that all Actions or Suits, and Proceedings at Law or in Equity, to be commenced or instituted by any Person or Persons, Bodies Politic or Corporate, or others, whether Members of such Copartnership or otherwise, against such Copartnership, shall and lawfully may be commenced, instituted, and prosecuted against the Officer named as aforesaid for the Time being of such Copartnership, as the nominal Defender or Defendant for and on behalf of such Copartnership; and that all Indictments, Informations, and Prosecutions by or on behalf of such Copartnership, for any Stealing or Embezzlement of any Money, Goods, Effects, Bills, Notes, Securities, or other Property

perty of or belonging to such Copartnership, or for any Fraud, Forgery, Crime, or Offence committed against or with Intent to injure or defraud such Copartnership, may be had, preferred, and carried on in the Name of the Officer named as aforesaid for the Time being of such Copartnership; and that in all Indictments and Informations to be had or preferred by or on behalf of such Copartnership against any Person or Persons whomsoever, it shall be lawful and sufficient to state the Money, Goods, Effects, Bills, Notes, Securities, or other Property of such Copartnership to be the Money, Goods, Effects, Bills, Notes, Securities, or other Property of the Officer named as aforesaid, for the Time being, of such Copartnership; and that any Forgery, Fraud, Crime, or other Offence committed against or with Intent to injure or defraud any such Copartnership, shall and lawfully may in such Indictment or Indictments, notwithstanding as aforesaid, be laid or stated to have been committed against or with Intent to injure or defraud the Officer named as aforesaid, for the Time being, of such Copartnership; and any Offender or Offenders may thereupon be lawfully convicted for any such Forgery, Fraud, Crime, or Offence; and that in all other Allegations, Indictments, Informations, or other Proceedings of any Kind whatsoever, in which it otherwise might or would have been necessary to state the Names of the Persons composing such Copartnership, it shall and may be lawful and sufficient to state the Name of the Officer named as aforesaid, for the Time being, of such Copartnership; and the Death, Resignation, Removal, or any Act of such Officer shall not abate or prejudice any such Action, Suit, Indictment, Information, Prosecution, or other Proceeding commenced against, or by or on behalf of such Copartnership, but the same may be continued, prosecuted, and carried on in the Name of any other Manager, Cashier, or other principal Officer of such Copartnership for the Time being.

Not more than One Action for the Recovery of One Demand.

VIII. And be it further enacted, That no Person or Persons, or Body or Bodies Politic or Corporate, having or claiming to have any Demand upon or against any such Society or Copartnership, shall bring more than One Action or Suit, in case the Merits shall have been tried in such Action or Suit, in respect of such Demand; and the Proceedings in any Action or Suit by or against the Officer named as aforesaid for the Time being, of any such Copartnership, may be pleaded in bar of any other Action or Actions, Suit or Suits, for the same Demand, by or against such Copartnership.

Decrees of a Court of Equity against the Officer to take Effect against the Copartnership.

IX. And be it further enacted, That all and every Decree or Decrees, Order or Orders, Interlocutor or Interlocutors, made or pronounced in any Suit or Proceeding in any Court of Law or Equity against the Officer named as aforesaid of any such Copartnership carrying on Business under the Provisions of this Act, shall have the like Effect and Operation upon and against the Property and Funds of such Copartnership, and upon and against the Persons and Property of every or any Member or Members thereof, as if every or any such Members of such Copartnership were Parties before the Court to and in any such Suit or Proceeding; and such Order, Interlocutor, and Decree shall be enforced against every or any

any Member of such Copartnership, in like Manner as if every such Member of such Copartnership was a Party before such Court to and in such Suit or Proceeding.

Judgments against Officer shall operate against the Copartnership.

X. And be it further enacted, That all and every Judgment and Judgments, Decree or Decrees, in any Action, Suit or Proceedings in Law or Equity against the Officer named as aforesaid of any such Copartnership, shall have the like Effect and Operation upon and against the Property of such Copartnership, and upon and against the Property of every such Member thereof as aforesaid, as if such Judgment or Judgments had been recovered or obtained against such Copartnership; and that the Bankruptcy, Insolvency, or stopping Payment of such Officer for the Time being of such Copartnership, in his individual Character or Capacity, shall not be nor be construed to be the Bankruptcy, Insolvency, or stopping Payment of such Copartnership; and that such Copartnership and every Member thereof, and the Capital Stock and Effects of such Copartnership, and the Effects of every Member of such Copartnership, shall in all Cases, notwithstanding the Bankruptcy, Insolvency, or stopping Payment of any such Officer, be attached and attachable, and be in all respects liable to the lawful Claims and Demands of the Creditor and Creditors of such Copartnership, or of any Member or Members thereof, as if no such Bankruptcy, Insolvency, or stopping Payment of such Officer had happened or taken place.

Officer, &c. in such Cases indemnified.

XI. Provided always, and be it further enacted, That such Officer in whose Name any such Suit or Action shall have been commenced, prosecuted, or defended, and every Person or Persons against whom Execution upon any Judgment obtained or entered up as aforesaid in any such Action shall be issued as aforesaid, shall always be reimbursed and fully indemnified for all Loss, Damages, Costs, and Charges which such Officer or Person may have incurred by reason of such Execution, out of the Funds of such Copartnership, or in failure thereof, from the Funds of the other Members of such Copartnership, as in the ordinary Cases of Copartnership.

Not to affect Questions depending at the Time of passing this Act.

XII. Provided always, and be it enacted, That nothing herein contained shall in any way affect any Question which may be in dependence before any Court of Law at the passing of this Act; but such Question shall be dealt with in all respects in the same Manner as if this Act had not been passed.

Limiting the Number of Licences to be taken out for Branches.

XIII. Provided always, and be it further enacted, That no such Society or Copartnership shall be obliged to take out more than Four Licences for the issuing of any Promissory Notes for Money payable to the Bearer on Demand, allowed by Law to be re-issued, in all, for any Number of Towns or Places in *Scotland*; and in case any such Society or Copartnership shall issue such Promissory Notes as aforesaid, by themselves or their Agents, at more than Four different Towns or Places in *Scotland*, then after taking out Three distinct Licences for Three of such Towns or Places, such Society or Copartnership

nership shall be entitled to have all the rest of such Towns or Places included in a Fourth Licence.

Penalty on Copartnership neglecting to send Returns, and Penalties for making false Returns.

XIV. And be it further enacted, That if any such Society or Copartnership, carrying on the Business of Bankers under the Authority of this Act, shall issue any Bills or Notes, or to borrow or owe or take up any Money on their Bills or Notes, without having caused such Account or Return as aforesaid to be made out and delivered in the Manner and Form directed by this Act, or shall neglect or omit to cause such Account or Return to be renewed yearly and every Year between the Days or Times herein-before appointed for that Purpose, such Society or Copartnership so offending shall, for each and every Week they shall so neglect to make such Account and Return forfeit the Sum of Five hundred Pounds; and if any Officer of such Society or Copartnership shall make out or sign any false Account or Return, or any Account or Return which shall not truly set forth all the several Particulars by this Act required to be contained or inserted in such Account or Return, the Society or Copartnership to which such Officer so offending shall belong, shall for every such Offence forfeit the Sum of Five hundred Pounds, and the said Officer so offending shall also for every such Offence forfeit the Sum of One hundred Pounds; and if any such Officer making out or signing any such Account or Return as aforesaid, shall knowingly and wilfully make a false Oath of or concerning any of the Matters to be therein specified and set forth, every such Officer so offending, and being thereof lawfully convicted, shall be subject and liable to such Pains and Penalties as by any Law now in force Persons convicted of wilful and corrupt Perjury are subject and liable to,

Penalties how to be recovered.

XV. And be it further enacted, That all pecuniary Penalties and Forfeitures imposed by this Act shall and may be sued for and recovered in His Majesty's Court of Exchequer at *Edinburgh*, in the same Manner as Penalties incurred under any Act or Acts relating to Stamp Duties may be sued for and recovered in such Court.

Act may be altered this Session.

XVI. And be it further enacted, That this Act may be altered, amended, or repealed by any Act or Acts to be passed in this present Session of Parliament.

SCHEDULES referred to by this Act.

SCHEDULE (A.)

RETURN or Account to be entered at the Stamp Office in Edinburgh, in pursuance of an Act passed in the Seventh Year of the Reign of King George the Fourth, intituled [*here insert the Title of this Act*]; *viz.*

FIRM or Name of the Banking Society or Copartnership, *viz.* [*set forth the Firm or Name.*]

Names and Places of Abode of all the Partners concerned or engaged in such Society or Copartnership, *videlicet*, [*set forth all the Names and Places of Abode.*]

Names and Places of the Bank or Banks established by such Society or Copartnership, *videlicet*, [*set forth all the Names and Places.*]

Name and Description of the Officer of the said Banking Society or Copartnership in whose Name such Society or Copartnership shall sue and be sued, *videlicet*, [*set forth the Name and Description.*]

Names of the several Towns and Places where the Bills or Notes of the said Banking Society or Copartnership are to be issued by the said Society or Copartnership, or their Agent or Agents, *videlicet*, [*set forth the Names of all the Towns and Places.*]

A. B. of Manager, or other Officer, [*describing the Office*] of the above Society or Copartnership, maketh Oath and saith, That the above doth contain the Name, Style, and Firm of the above Society or Copartnership, and the Names and Places of the Abode of the several Members thereof, and of the Banks established by the said Society or Copartnership, and the Name, Title, and Description of the Officer of the said Society or Copartnership in whose Name such Society or Copartnership shall sue and be sued, and the Names of the Towns and Places where the Notes of the said Society or Copartnership are to be issued, as the same respectively appear in the Books of the said Society or Copartnership, and to the best of the Information, Knowledge, and Belief of this Deponent.

Sworn before me the Day of at in the County of

C. D. Justice of the Peace in and for the said County.

SCHEDULE (B.)

RETURN or Account to be entered at the Stamp Office in Edinburgh, on behalf of [*name the Society or Copartnership,*] in pursuance of an Act passed in the Seventh Year of the Reign of King George the Fourth, intituled [*insert the Title of this Act*]; *videlicet,*

NAME of any new or additional Officer of the said Society or Copartnership in whose Name the same shall sue and be sued; *videlicet,*

A. B. in the Room of *C. D.* deceased or removed [*as the Case may be.*]

Names of any and every Person who may have ceased to be a Member of such Society or Copartnership; *videlicet,* [*set forth every Name.*]

Names of any and every Person who may have become a new Member of such Society or Copartnership, [*set forth every Name.*]

Names of any additional Towns or Places where Bills or Notes are to be issued, and where the same are to be made payable.

A. B. of Manager [*or other Officer*] of the above-named Society or Copartnership, maketh Oath and saith, That the above doth contain the Name and Place of Abode of any Person who hath become or been appointed an Officer of the above Society or Copartnership, in whose Name the same may sue and be sued, and also the Name and Place of Abode of any and every Person who hath ceased to be a Member of the said Society or Copartnership, and of any and every Person who hath become a Member of the said Copartnership, since the Registry of the said Society or Copartnership on the Day of last, as the same respectively appear on the Books of the said Society or Copartnership, and to the best of the Information, Knowledge, and Belief of this Deponent.

Sworn before me, the Day of
at in the County of .

C. D. Justice of the Peace in and for the said County.

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