

ANNO QUINQUAGESIMO NONO

GEORGII III. REGIS.

CAP. XLV.

An Act to explain and amend certain Acts relative to the Court of Session in *Scotland*.

[22d *June* 1819.]

WHEREAS by an Act passed in the Forty-eighth Year of the Reign of His present Majesty, intituled *An Act concerning the Administration of Justice in* Scotland, *and Appeals to the House of Lords*, it was enacted, that the Judges or Lords of Session should usually sit in Two Divisions, and the Lord President of the whole Court and Seven of the Ordinary Lords of Session should form One and the First of the said Divisions, and the Lord Justice Clerk for the Time being and Six of the Ordinary Lords of Session should form the other and the Second of the said Divisions: And whereas, by another Act passed in the Fiftieth Year of the Reign of His present Majesty, intituled *An Act for abridging the Form of extracting Decrees of the Court of Session in* Scotland, *and for the Regulation of certain Parts of the Proceedings of that Court*, it was enacted, that the Three Junior Ordinary Judges of the First Division of the Court of Session, and the Two Junior Ordinary Judges of the Second Division, should be relieved from Attendance in the Inner House, and should, from and after the passing of the said Act, not sit therein, but should sit as Lords Ordinary in the Outer House: And whereas, by another Act passed in the Fifty-third Year of the Reign of His present Majesty, intituled *An Act for the better Regulation of the Court of Session in* Scotland, it was enacted, that the Three Junior Ordinary Judges of the First Division of the Court of Session, and the Two Junior Ordinary Judges of the Second Division of the Court of Session for the Time being, should officiate

48G.3.c.151.

50G.3.c.112.

53G.3.c.64.

officiate as permanent Lords Ordinary, in the Manner therein directed: And whereas a Vacancy has arisen in the Second Division of the Court of Session by the Death of one of the Two Ordinary Judges officiating as permanent Lords Ordinary therein, and Vacancies may arise in either of the said Divisions by the Death or Resignation of some one or more of the Judges sitting in the Inner House, as well as by the Death or Resignation of some one or more of the Ordinary Judges officiating as permanent Lords Ordinary therein; and Circumstances may arise which may make it desirable that a Judge sitting in the Inner House of one of the said Divisions should sit in the Inner House of the other of the said Divisions; and it is expedient that the Power of His Majesty should be declared in such Cases: May it therefore please Your Majesty that it may be enacted and declared; and be it enacted and declared 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 be lawful for His Majesty, His Heirs and Successors, upon a Vacancy arising by the Death or Resignation of any of the Judges sitting in the Inner House in either of the said Divisions of the Court of Session, to order and direct, by a Warrant under His Majesty's Sign Manual, that any one of the Judges sitting in the Inner House of the Division where the Vacancy shall not have arisen (if such Judge shall desire it), shall sit in the Division where the Vacancy shall have arisen; and that the Vacancy thus created in the said Division, from which the said Judge shall have been removed, shall be supplied by the Senior Ordinary Judge officiating as a permanent Lord Ordinary in the Outer House, who shall thereafter be enabled to sit in the Inner House of the said Division, although such Junior Judge shall not have been appointed to sit in the said Division; or if no Judge sitting in the Inner House of the Division where the Vacancy shall not have arisen, shall desire to sit in the Division where the Vacancy shall have arisen, that the Senior Ordinary Judge officiating as a permanent Lord Ordinary in either of the said Divisions shall be enabled thereafter to sit in the Inner House of that Division in which the said Vacancy shall have arisen, although such Senior Judge shall not have been originally appointed to sit in the Division where such Vacancy shall happen.

In the Case of a Vacancy in the Inner House of either Division, a Judge may be removed from the one Division to the other.

II. And be it further enacted and declared by the Authority aforesaid, That where a Vacancy shall arise in either Division among the Ordinary Judges officiating as permanent Lords Ordinary therein, it shall and may be lawful for His Majesty, His Heirs and Successors, by a Warrant under His Majesty's Royal Sign Manual, to order and direct that the Senior of the Ordinary Judges officiating as a permanent Lord Ordinary in the Division where the Vacancy shall not have arisen, if he shall desire it, and if he shall not desire it, then that the next Ordinary Judge officiating as a permanent Lord Ordinary in the Division where the Vacancy shall not have arisen, if such Judge shall desire it, shall sit in the Division where the Vacancy shall have arisen; and where a Vacancy shall arise among the Ordinary Judges officiating as permanent Lords Ordinary in the Second Division, then the Junior or last appointed Judge for the

Provision in the Case of a Vacancy among the Judges officiating as permanent Lords Ordinary.

Time being, of the Three Junior Ordinary Judges of the First Division, shall be appointed in Manner directed by this Act to sit in the Second Division, and so long as he shall continue one of the Two Junior Ordinary Judges therein, shall officiate as one of the permanent Lords Ordinary therein, in the Manner directed by the said last-recited Act.

Provision as to Rank and Precedence.

III. Provided always, and be it enacted by the Authority aforesaid, That in the Case of the Removal of any of the said Judges from the one of the said Divisions to the other of the said Divisions, such Judge shall have Rank and Precedence in the Division to which he shall be removed according to and from the Date of his original Appointment to sit in the Division from which he shall be removed.

Provision in case of the Junior or last appointed Judge of the First Division being removed.

IV. And be it further enacted by the Authority aforesaid, That in the Case of the Junior or last appointed Judge of the First of the said Divisions being removed to the Second Division pursuant to this Act, it shall be competent to the whole Court, or a Quorum thereof, to appoint the other Judges officiating as permanent Lords Ordinary to officiate each Week by Rotation as Ordinaries in the Bill Chamber and in Teind Processes, and other Matters mentioned in the said last-recited Act, in the Manner therein directed in the Case of the Death, Resignation, Sickness, or necessary Absence of such Junior or last appointed Judge.

Provision in the Cases of Removal under this Act.

V. And be it further enacted by the Authority aforesaid, That in all other Cases where an Ordinary Judge officiating as a permanent Lord Ordinary shall be removed from the one of the said Divisions to the other of the said Divisions, it shall and may be lawful for the whole Court, or a Quorum thereof, to remit the Processes then depending before such permanent Lord Ordinary in the Manner directed by the said last-recited Act, in the Event of the Death, Resignation, or Removal into the Inner House, of any of the said permanent Lords Ordinary.

This Act and recited Acts to be construed together.

VI. And be it further enacted by the Authority aforesaid, That this Act and the said Three recited Acts shall be construed together in the same Manner as if this Act had made Part of the said last-recited Act.

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