

ANNO PRIMO

GULIELMI IV. REGIS.

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CAP. LXIX.

An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*. [23d *July* 1830.]

WHEREAS an Act was passed in the Fifty-fifth Year of the Reign of His Majesty King *George* the Third, intituled *An Act to facilitate the Administration of Justice in that Part of the United Kingdom called* Scotland, *by the extending Trial by Jury to Civil Causes*; by which Act certain Commissioners were appointed for the Trial of such Causes, and certain Regulations made in regard to such Trials: And whereas another Act was passed in the Fifty-ninth Year of the Reign of His said Majesty, intituled *An Act to amend an Act passed in the Fifty-fifth Year of the Reign of His present Majesty, intituled 'An Act to facilitate 'the Administration of Justice in that Part of the United Kingdom 'called* Scotland, *by the extending Trial by Jury to Civil Causes:'* And whereas another Act was passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better regulating of the Forms of Process in the Courts of Law in* Scotland; by which last Act certain Provisions were made relative to the Constitution of the Jury Court, and which Provisions are declared to continue and be in force until the Thirtieth Day of *June* in the Year One thousand eight hundred and thirty, and from thence to the End of the next Session of Parliament; and it is further provided by the said

55 G. 3. c. 42.

59 G. 3. c. 35.

6 G. 4. c. 120.

said last-recited Act, that it should be lawful for His Majesty to appoint such Persons as He should think fit, to make all Inquiries, as they should be directed, by Instructions from His Majesty, into the Forms of proceeding in Trials of Civil Causes by Jury in *Scotland*, and to report whether these Forms may be improved, and at what Time and in what Manner the Union of the Benefit of Jury Trial in Civil Causes with the Jurisdiction of the Court of Session may be best accomplished: And whereas pursuant to the said last-recited Act His late Majesty did, by an Instrument under His Royal Sign Manual, appoint certain Persons to make the Inquiries set forth in the said last-recited Act, as more particularly specified in Instructions annexed to the said Instrument under the Royal Sign Manual: And whereas the said Commissioners so appointed made a Report to His late Majesty upon the Subject Matters into which they were appointed to inquire; which Report has been laid before both Houses of Parliament: And whereas it is expedient that the said recited Acts should be altered, amended, and continued in certain Parts, and that Provision should be made for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session in *Scotland;* and that in so doing Advantage should be taken of the Knowledge and Experience of the present Lord Chief Commissioner and of the other Lords Commissioners of the Jury Court: And whereas it is also expedient that certain other Alterations and Reductions should take place in the Judicial Establishments of *Scotland:* May it therefore please Your Majesty that it may be enacted; and be it 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 from and after the Fifth Day of *October* next after the passing of this Act, the Jurisdiction for Trial by Jury in Civil Causes shall be united with and shall form Part of the ordinary Administration of Justice in the Court of Session in *Scotland;* and the Trial of Causes by Jury shall take place in the Court of Session as herein-after directed: Provided always, that the Jury Court and the Jurisdiction thereof shall continue as now constituted until the said Date, after which it shall cease and determine; but without Prejudice to the present Lord Chief Commissioner and the other Lords Commissioners of the Jury Court respectively continuing to perform the Duties herein-after directed.

From Oct. 5, 1830, Trial by Jury in Civil Causes shall be united with the ordinary Administration of Justice in the Court of Session in Scotland.

II. And be it enacted, That from and after such Union all Causes and Issues, which, if they had occurred before the passing of this Act, must by Law have been tried by Jury in the Jury Court, shall be tried by Jury in the Court of Session; and such Causes shall be prepared for Trial by the Lords Ordinary respectively before whom such Causes shall depend.

Causes to be prepared by the Lords Ordinary, and tried by Jury in the Court of Session.

III. And be it enacted, That from and after the Period when such Union shall take place as aforesaid, the Lords President of the Two Divisions shall respectively try by Jury all Issues arising out of Causes depending in these Divisions respectively when such Trials take place at *Edinburgh;* and may otherwise respectively discharge all Duties previously assigned to the Lord Chief Commissioner, in so

Lords President to try all Jury Causes originating in their respective Divisions.

far as may regard such Causes, not being inconsistent with the Provisions of this Act: Provided always, that it shall continue to be competent to the said Lord Chief Commissioner to perform all such Duties; and farther, that for the Space of Three Years from and after the Time when such Union shall take place, there shall be present and form a component Part of the Court, upon all Occasions when either of the Lords President of the Two Divisions of the Court of Session shall respectively try by Jury any Issue arising out of a Civil Cause, either the Lord Chief Commissioner of the Jury Court, or One of the Judges of the Court of Session, who at the Time of such Union shall have held the Office of One of the Lords Commissioners of the Jury Court; and provided farther, that in the Event of the Indisposition or necessary Absence of either of the said Lords President, such Issues shall, during the foresaid Space of Three Years, be tried either by the said Lord Chief Commissioner along with One of the Judges of the Court of Session, or by at least Two Judges of the Court of Session, whereof there shall be One of the said Judges of the Jury Court; and that from and after the Expiration of that Period, such Issues shall in the said Events be tried by any other Judge or Judges of the Division of the Court before which the Cause may depend.

Lord Chief Commissioner to continue to perform his Duties relative to Trial of Civil Causes.

Provision in case of Absence of Lord President.

IV. Provided always, and it is hereby enacted, That if the Judges of the Court of Session who had held the Office of Commissioners of the Jury Court shall, before the Expiry of Three Years, be reduced to Two, it shall be competent to the Lord President of either Division to proceed to Trial, if he think fit, without any Judge who has formerly been of the Jury Court, and they are hereby empowered so to proceed.

Lord President may proceed to Trial without Judge of Jury Court.

V. And be it enacted, That it shall and may be lawful for either Party to apply to the Division of the Court to which a Cause belongs, that the Issue or Issues shall be tried before such Division; and such Division may or may not, in its Discretion, order such Cause to be so tried.

Application for Trial.

VI. And be it further enacted, That the Lord President of each Division of the Court shall have Power, and he is hereby authorized and empowered, to order and direct that any Issue or Issues shall be tried before the Division of the Court to which he belongs: Provided always, that for the Space of Three Years as aforesaid, either the Lord Chief Commissioner or one of the foresaid Judges of the Jury Court shall be one of the Court on Occasion of such Trials.

Lord President may direct Issues to be tried before his Division of the Court.

VII. And be it enacted, That all Proceedings for the Correction of Errors or Injustice alleged to have been committed in the Trial of a Cause, and all Questions reserved for Decision after Trial, and all Questions relating to the Application of the Verdict, or the Rights and Interests arising therefrom, and all Questions of Expences, shall proceed before the Division of the Court to which the Cause belongs: Provided always, that such Division shall have Power to order a Hearing before the whole Court of Session, or to require the Opinions of

Proceedings in Error to be taken before the Division to which the Cause belongs.

of the other Judges, on such Points or Questions as such Division may deem proper.

Lord Chief Commissioner to sit as a Lord of Session in Jury Cases.

VIII. And be it enacted, That the said Lord Chief Commissioner shall be empowered and have Right to sit and vote in both Divisions of the Court as a Judge of the Court of Session, in the before-recited and all other Proceedings touching any Cause now triable in the Jury Court, both before and after Verdict, and shall be entitled to rank immediately after the Lord Justice Clerk.

Trials by Jury may proceed when the Division is not sitting.

IX. And be it enacted, That Trials by Jury may proceed at all such Times, as well during Session as in the Vacation, as the Division of the Court before which the Cause stands inrolled shall appoint; and all Causes remaining untried and entered as ready for Trial, at the Termination of the Winter or Summer Sessions, or at the Commencement of the *Christmas* Recess, shall be tried at Sittings of the Court to be held immediately after these Periods respectively, excepting only such Causes as, on the Motion of any Party, the Court may think fit to postpone.

Provision for extending the Winter and Summer Sessions.

X. And be it enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, with Consent of His Privy Council, and He is hereby empowered, if He shall think fit, to order and direct that the Winter and Summer Sessions of the Court of Session, or either of them, shall be extended, and to specify the Time or Times of such Extension, and the precise Duration thereof, and to direct that such Extension shall apply either to the whole Court of Session, or exclusively to the permanent Lords Ordinary: Provided always, that such Extension shall not on the whole exceed the Space of One Calendar Month in the Course of the Year; and that it shall in like Manner be lawful for His Majesty thereafter to direct that such Extension be diminished as to Duration, and altered or varied as to the Time or Times when the same shall take place, and that the Sessions shall in like Manner be again extended as Occasion may require, and the said Court, or the permanent Lords Ordinary, shall sit at the Time or Times and during the Period or Periods which may be so ordered by His Majesty; and for the Information of His Majesty in this Behalf, the Lord President of the Court of Session is hereby required, on or before the Fifteenth Day of *January* in every Year, to transmit to One of His Majesty's Principal Secretaries of State a Return, according to the Form prescribed in the Schedule hereunto annexed; which Return shall be laid before both Houses of Parliament.

Trial of Issues before Circuit Courts.

XI. And be it enacted, That all Causes or Issues appointed to be tried before any Circuit Court shall and may be so tried before any One or more of the Judges of the Court of Justiciary when upon Circuit; and at all Trials before any Circuit Court the Jury shall be taken from the Lists prepared for the Trial of criminal Offences: Provided always, that it shall be competent to either Division of the Court of Session, if in their Judgment it shall be considered necessary, to direct any Causes or Issues to be tried by any other Judge

Judge or Judges of the Court of Session at any Circuit Town, and if necessary for the Trial of the same to cause Jurymen to be summoned in the Manner provided by the before recited Acts.

Clerks in Jury Court.

XII. And be it enacted, That the Clerks and Macers of the Jury Court shall continue to discharge the Duties of their respective Offices in the Court of Session, after such Union, as well at *Edinburgh* as on the Circuits; and that all other inferior Offices in the Jury Court shall be and the same are hereby abolished.

Reduction of Clerks, &c. in the Court of Session.

XIII. And be it enacted, That the Two Vacancies which shall next occur in the Office of Principal Clerk of Session, as also in the Office of Depute Clerk of Session, shall not be supplied; and that in like Manner the Vacancies in the Offices of the other Clerks belonging to the Court of Session shall not be supplied until the total Number of such Clerks, including those connected with Proceedings in Trial by Jury, shall not exceed the Number of Clerks exclusively belonging to the Court of Session at the passing of this Act; and it shall be lawful for the said Court, from Time to Time as said Vacancies occur, to make such Regulations as may be necessary for duly apportioning the Duty among the remaining Clerks; and it is provided that as Vacancies shall occur in the Office of Macer, the Number of Macers shall be reduced, so that they shall not exceed the Number of Macers officiating exclusively in the Court of Session at the passing of this Act.

Appointment of Depute Clerks to be in His Majesty.

XIV. And be it enacted, That the Appointment of Depute Clerks and of Assistant Clerks of Session shall be vested in His Majesty; and it is hereby provided, that during the necessary Absence of any Principal Clerk of Session it shall be competent for any Depute Clerk of Session to discharge the Duties of such Principal Clerk.

Certain Causes to be exempted from the Fee Fund.

XV. And be it enacted, That no Payment on account of the Fee Fund of the Court of Session, nor any Fee or Demand by any Clerk or Officer of that Court, shall be exigible in respect of any Step or Proceeding in any Cause which might not have been exigible if such Cause had been brought into the Jury Court previously to the passing of this Act.

Provisions of above recited Acts to remain in force where not inconsistent with this Act.

XVI. And it is further enacted, That all the Provisions of the foresaid recited Acts now in force, in so far as not inconsistent with this Act, shall be continued and remain in force until altered or revoked by Parliament, and that all Rules and Regulations in observance in the Jury Court at the Time of the Union of Jury Trial in Civil Causes with the Administration of Justice in the Court of Session, established and enforced by Act of Sederunt, shall continue and be observed as Rules and Regulations applicable to the Court of Session after such Union, until the same shall be altered by Acts of Sederunt; and it is hereby provided, that the said Court of Session shall have full Power and Authority, by Acts of Sederunt, to make all Regulations for duly adapting the Forms previously observed in the Jury Court to the Proceedings in the Court of

Session, and afterwards to alter and amend such Regulations when necessary: Provided always, that such Regulations be not inconsistent with the Provisions of this or any other Act of Parliament now in force; and that all Acts of Sederunt authorized by this Act to be made shall be laid before Parliament, if sitting, within Fifteen Days from the respective Dates thereof, and if Parliament be not sitting, within Fifteen Days from and after the next Meeting of Parliament.

Acts of Sederunt to be laid before Parliament.

No Successors to be appointed to the present Jury Court Judges.

XVII. And be it enacted, That in the Event of the Death or Resignation of the said Lord Chief Commissioner, or of any of the other Lords Commissioners of the Jury Court, no Successor shall be appointed to any such Judge or Judges as Commissioner of the Jury Court.

Office of Lord Justice General to devolve on Lord President.

XVIII. And be it enacted, That from and after the Termination of the present existing Interest in the Office of Lord Justice General, that Office shall devolve upon and remain united with the Office of Lord President of the Court of Session, who shall perform the Duties thereof as presiding Judge in the Court of Justiciary; and that the Salary attached to the Office of Lord Justice General shall cease, and that the Appointment of Macers of the said Court shall be vested in His Majesty.

In such Case Lord President to dispatch Business in any Circuit Court notwithstanding Act of the Scotch Parliament 1672, c. 40, or 20 G. 2. c. 43.

XIX. And be it enacted, That when the Office of Lord Justice General shall have devolved upon the Lord President of the Court of Session, and when he shall deem it expedient to be present at any Circuit Court, it shall be lawful for him to dispatch Business in such Court, whether any other Judge or Judges of the Court of Justiciary be or be not present; any thing contained in an Act of the Parliament of *Scotland*, passed in the Year One thousand six hundred and seventy-two, intituled *An Act concerning the Regulation of the Judicatories*, or in an Act passed in the Twentieth Year of the Reign of His Majesty King *George* the Second, intituled *An Act for taking away and abolishing the Heritable Jurisdictions in that Part of* Great Britain *called* Scotland, *and for making Satisfaction to the Proprietors thereof, and for restoring such Jurisdictions to the Crown, and for making more effectual Provision for the Administration of Justice throughout that Part of the United Kingdom, by the King's Courts and the Judges there, and for obliging all Persons acting as Procurators, Writers, or Agents in the Law in* Scotland *to take the Oaths, and for rendering the Union of the Kingdoms more complete*, or in any other Law or Custom to the contrary notwithstanding.

Lords Ordinary to be reduced to Five, and the Court to Thirteen.

XX. And be it enacted, That when Vacancies shall occur among the permanent Lords Ordinary of the Court of Session, whether by Death, Resignation, or Removal into One of the Divisions of the Inner House, such Vacancies shall not be filled up until the Number of permanent Lords Ordinary shall be reduced to Five, so that the total Number of Judges composing the Court of Session, including the Lord President and the Lord Justice Clerk, shall be limited to Thirteen.

XXI. And

Transference of Admiralty Jurisdiction.

XXI. And whereas all Maritime Causes may now be brought by Review before the Court of Session, and many Causes formerly heard and determined by the High Court of Admiralty are now remitted to the Jury Court: And whereas the Court of Justiciary holds a cumulative Jurisdiction with the High Court of Admiralty as to all Crimes competent to be tried by the High Court of Admiralty: And whereas it has become unnecessary and inexpedient to maintain any separate Court for Maritime or Admiralty Causes; be it therefore enacted, That the High Court of Admiralty be abolished, and that hereafter the Court of Session shall hold and exercise original Jurisdiction in all Maritime Civil Causes and Proceedings of the same Nature and Extent in all respects as that held and exercised in regard to such Causes by the High Court of Admiralty before the passing of this Act; and all Applications of a summary Nature connected with such Causes may be made to the Lord Ordinary on the Bills: Provided always, that all such Causes, not exceeding the Value of Twenty-five Pounds Sterling, shall be instituted and carried on in the first Instance before an inferior Court, in the Manner directed and with the Exceptions specified in an Act of the Parliament of *Scotland*, passed in the Year Sixteen hundred and seventy-two, intituled *An Act concerning the Regulation of the Judicatories.* 1672, c. 40.

Sheriffs to have Jurisdiction in Maritime Causes.

XXII. And be it enacted, That the Sheriffs of *Scotland* and their Substitutes shall, within their respective Sheriffdoms, including the navigable Rivers, Ports, Harbours, Creeks, Shores, and anchoring Grounds in or adjoining such Sheriffdoms, hold and exercise original Jurisdiction in all Maritime Causes and Proceedings, Civil and Criminal, including such as may apply to Persons residing furth of *Scotland*, of the same Nature as that heretofore held and exercised by the High Court of Admiralty.

Maritime Causes to be tried in same Manner as other Causes.

XXIII. And be it enacted, That the finding of Caution and using of Arrestment heretofore observed in the High Court of Admiralty, and all Regulations relative thereto, may be enforced in the foresaid Courts respectively; and Maritime Causes may be heard and determined by the Sheriff according to the same Modes and Rules which are applicable in the Sheriff Court to Causes not Maritime, including the Mode prescribed in an Act passed in the Tenth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the more effectual Recovery of Small Debts, and for diminishing the Expences of Litigation in Causes of small Amount, in the Sheriff Courts in* Scotland; and the Sentences, Interlocutors, and Decrees pronounced by Sheriffs in Maritime Causes shall be subject to Review by the Courts of Session and Justiciary respectively, in the same Way and Manner in which Sentences, Interlocutors, and Decrees of Sheriffs in similar Causes not Maritime are subject to Review at present, and not otherwise: Provided always, that it shall not be competent to the Sheriff to try any Crime committed on the Seas of a Nature which it would not be competent for that Judge to try if the Crime had been committed on Land. 10 G. 4. c. 55.

XXIV. And

Provision when Counties are separated by Water.

XXIV. And be it enacted, That where Counties are separated from each other by a River, or by a Firth or Estuary, the Sheriffs of the Counties adjoining to the Sides thereof shall have a cumulative Jurisdiction over the whole intervening Space so occupied by Water: Provided always, that the Pursuer of all Civil Causes shall, where such cumulative Jurisdiction applies, bring the Cause before the Sheriff of that County within which the Defender may reside; and it is provided, that where there are several Defenders in the same Cause, residing in different Counties, the same Rules shall apply in regard to the Citation of the whole of such Defenders before the same Sheriff Court, which are observed in similar Circumstances with respect to Causes not Maritime; and it is provided farther, that Sheriffs shall respectively have Power to remit such Causes from their own Court to that of another Sheriff *ob Contingentiam*, or for other sufficient Cause.

Office of Judge Admiral abolished.

Provision for depending Actions.

XXV. And be it enacted, That from and after the Commencement of this Act, the Office of the Judge Admiral shall be and the same is hereby abolished, as also the Offices of all Clerks and Officers belonging to that Court; and it is hereby provided, that all Actions and Proceedings which shall be depending on the said Fifth Day of *October* before the High Court of Admiralty shall be transferred to the Sheriff of any Court wherein such Action and Proceeding might have originated if this Act had been passed previously to the Commencement of such Actions or Proceedings, and the same shall thereupon be heard and determined in the same Manner as if they had been brought before such Sheriff in the first Instance; and as soon as conveniently may be after the said Fifth Day of *October*, the Processes in all such depending Actions shall be transmitted accordingly to such Sheriff by the Clerk of the High Court of Admiralty, together with an Inventory made by the said Clerk, to the Accuracy whereof he shall make Oath if required: Provided always, that if any Doubt shall arise touching the Transmission of any such Process, it shall be competent to the Clerk of the High Court of Admiralty, or to any Party in any such Cause, to apply to the Lord Ordinary on the Bills, who shall give Directions thereupon, and whose Directions shall be final; and provided also, that when the Parties to any such Cause shall, previously to such Transmission, give in a joint Note to the said Clerk, setting forth their Wish that such Cause should proceed in the Court of Session instead of being so transferred to the Sheriff, and shall therein specify the Lord Ordinary by whom they are desirous that such Cause should be decided, the Clerk of the High Court of Admiralty shall thereupon transmit the Process, together with the said Note, to one of the Principal Clerks of Session, and such Cause shall be inrolled before such Lord Ordinary, and shall thereafter be heard and determined in the same Way as if such Cause had been instituted in the Court of Session in Terms of this Act.

Provision as to other Processes.

XXVI. And be it enacted, That as soon as conveniently may be after the Fifth Day of *October* next after the passing of this Act, all other Processes, Records, and Warrants of Decrees, together with an

Inventory thereof made by the Admiralty Clerk, which he is hereby required to make, and to make Oath to the Accuracy thereof if required, shall be transmitted to the General Register House at *Edinburgh*.

Sheriff Clerks to act as Clerks to Sheriffs in Maritime Causes.

XXVII. And be it enacted, That the Sheriff Clerks of the several Counties of *Scotland* shall respectively act as Clerks to the Sheriffs in Maritime Causes: Provided always, that neither that Officer, nor any other Person appointed to any Office, or acquiring Right to any Fees or Emoluments in virtue of the Provisions of this Act, shall be entitled to prefer any Claim to Compensation in consequence of the subsequent Abolition of such Office or Fees, or of any Alteration therein.

Procurators in Admiralty Court.

XXVIII. And be it enacted, That it shall and may be lawful for all Persons entitled, before the passing of this Act, to conduct Causes as Procurators before the High Court of Admiralty in *Scotland*, and all such Persons are hereby authorized, during their respective Lives, to conduct, as Agents before the Court of Session, all or any Causes and Proceedings whatsoever which are or may be competently heard and determined in that Court.

As to inferior Admiralty Jurisdiction.

XXIX. And be it enacted, That all inferior Admiralty Jurisdiction, not dependent upon the High Court of Admiralty, shall continue as heretofore, but the Judgments of such Courts shall be subject to Review solely in the Courts of Session and Justiciary respectively: Provided always, that nothing herein contained shall extend or be construed to extend to lessen or take away any Salary or Allowance now payable to the Sheriff Substitute of the District of the Town of *Leith* by the Commissioners of Police of the said Town, but the same shall continue to be paid as heretofore.

Each of the Sheriffdoms of Edinburgh, Haddington, and Linlithgow to constitute a Commissariot.

XXX. And be it enacted, That so much of an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the Regulation of the Court of the Commissaries of* Edinburgh, *and for altering and regulating the Jurisdiction of inferior Commissaries in* Scotland, as provides that the Sheriffdoms of *Edinburgh*, *Haddington*, and *Linlithgow* shall be the Commissariot of *Edinburgh*, be repealed; and that the Commissariot of *Edinburgh* shall comprehend only the Sheriffdom of *Edinburgh*; and it is hereby provided, that the Sheriffdoms of *Haddington* and *Linlithgow* shall each constitute a Commissariot, and that the whole other Provisions of the said recited Act shall apply to the said Sheriffdoms of *Haddington* and *Linlithgow* in the same Way in all respects as the same apply to the other Sheriffdoms of *Scotland* where the Sheriff is Commissary.

Jurisdiction of Commissary Court of Edinburgh restricted.

XXXI. And be it enacted, That the Commissary Court of *Edinburgh* shall possess and exercise the same and no other Jurisdiction in the Sheriffdom of *Edinburgh* than that possessed and exercised by Sheriffs being Commissaries in other Sheriffdoms of *Scotland*; and that any Jurisdiction of a more extensive Nature heretofore possessed

or exercised by the Commissary Court of *Edinburgh* shall entirely cease, save and except such as may regard the granting of Confirmation of Testaments of Persons dying furth of *Scotland*, having Personal Property in *Scotland*, which Jurisdiction is hereby reserved to the said Court.

Actions of Aliment.

XXXII. And it is further enacted, That Actions of Aliment may be instituted, heard, and determined in any Sheriff Court of *Scotland*.

Consistorial Actions to be instituted in the Court of Session.

XXXIII. And be it enacted, That all Actions of Declarator of Marriage, and of Nullity of Marriage, and all Actions of Declarator of Legitimacy and of Bastardy, and all Actions of Divorce, and all Actions of Separation *a Mensa et Thoro*, shall be competent to be brought and insisted on only before the Court of Session.

Transmission of Consistorial Processes.

XXXIV. And be it enacted, That all such Actions which shall be depending before the Commissary Court at the Commencement of this Act, shall be transmitted to the Lord President of the Court of Session: Provided always, that where a Proof shall have been allowed by the said Court of the Commissaries previously to the Commencement of this Act, such Proof shall be concluded before such Action shall be transmitted as herein directed.

Regulation as to Causes transmitted.

XXXV. And be it enacted, That the Lord President shall remit all Causes so transmitted to such Lord Ordinary as he may think fit for Preparation and Judgment; and the Judgments of the Lords Ordinary, in these and in all other Actions of the same Description instituted in the Court of Session, shall be subject to the Review of the Division of the Court to which the Lord Ordinary may belong, in the same Way as in other Civil Causes.

Regulations in regard to Consistorial Actions.

XXXVI. And be it enacted, That the Lord Ordinary shall in all Actions of Divorce administer the usual Oath of Calumny to the Pursuer; and no Decree or Judgment in favour of the Pursuer shall be pronounced in any of the Consistorial Actions herein-before enumerated, whether Appearance shall or shall not be made for the Defendant, until the Grounds of Action shall be substantiated by sufficient Evidence.

As to Trial of such Causes by Jury.

XXXVII. And be it enacted, That such Causes shall not be appropriate to Trial by Jury, but it shall be competent to either Division of the Court of Session, or to a Lord Ordinary after advising with the Division of the Court to which he belongs, to direct that any such Cause, or any Issue or Issues of Fact connected therewith, be tried by Jury; and it is hereby provided, that in the swearing of Witnesses in Consistorial Causes, the same Oath shall be administered that is in Use in the other Courts of Justice in *Scotland*.

Regulations as to Proofs.

XXXVIII. And be it enacted, That when a Proof in any such Cause shall be directed to be taken by Commission, the Remit to take such Proof shall be made to the Commissary Court of *Edinburgh*,

which Court, or any Judge thereof, shall take such Proofs accordingly, and no Judge thereof shall receive any additional Remuneration on that Account.

Incorporated Solicitors of Edinburgh may conduct Causes before the Court of Session.

XXXIX. And be it enacted, That it shall and may be lawful for the Incorporated Solicitors practising before the Consistorial Court of *Edinburgh* previous to the passing of this Act, and they and each of them are and is hereby authorized and empowered, during their respective Lives, to conduct, as Agent or Agents before the Court of Session, all or any Causes or Proceedings, such as have heretofore been carried on before the Court of the Commissaries of *Edinburgh*, which may hereafter he proceeded in, heard, or determined before the Court of Session.

Agency Fees, &c.

XL. And be it enacted, That Summonses in Maritime and Consistorial Causes instituted in the Court of Session shall be signed by One of the Principal or Depute Clerks of Session, and it shall not be necessary that any such Summons should pass the Signet, or require any Concurrence for the public Interest; and it is provided, that for conducting such Causes in the Court of Session no Agent shall be entitled to a higher Rate of Charge for any Part of such Duty than such as would have been legally exigible for the same Duty in the High Court of Admiralty, or in the Court of the Commissaries of *Edinburgh* respectively, before the passing of this Act; and no Fee or Demand on account of the Fee Fund of the Court of Session, or on account of any Clerk or Officer in that Court, shall be due or exigible in any such Cause.

Offices of the Commissaries abolished.

XLI. And be it enacted, That when Vacancies occur in the Offices of the Judges of the Commissary Court of *Edinburgh*, such Vacancies shall not be filled up, and as soon as Vacancies shall occur in the whole of such Offices, the said Court shall be entirely abolished, and the whole Powers and Jurisdiction, as then competent to the said Court, shall thereupon be transferred to the Sheriff of the County of *Edinburgh*, who shall exercise such Jurisdiction in all respects, and the Provisions of the before-recited Act, passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth, shall apply to the Sheriffdom of *Edinburgh*, in the same Way as such Provisions apply to the other Sheriffdoms of *Scotland*; and it is provided, that when, in consequence of Vacancies in the said Offices, the Number of the Commissaries of *Edinburgh* shall be reduced to One, it shall be lawful for His Majesty's Principal Secretary of State for the Home Department to appoint, from Time to Time, such Number of Persons, being Sheriffs Depute of Counties, as he shall think fit, to take Proofs in Consistorial Causes, which Duty the Persons so appointed shall perform, but without Prejudice to the said remaining Commissary also performing the same; and the said Persons shall not receive any Remuneration on account of such Duty from any Party in any such Cause.

Two Barons of the Court of Exchequer to be reduced.

XLII. And be it enacted, That as Vacancies shall occur in the Office of Baron of the Court of Exchequer in *Scotland*, the same shall not

not be filled up until the Number of such Barons shall be reduced, so that the said Court shall consist only of the Lord Chief Baron and of One Baron of Exchequer; and it is hereby provided, that it shall be competent to these Judges, and to either of them, in the Absence of the other, to exercise the whole Jurisdiction and Powers of the Court of Exchequer, any Law or Practice to the contrary notwithstanding: Provided always, that after the Number of the Judges shall be so reduced, it shall be competent to the said Court, when deemed expedient, to require of the Lord President of the Court of Session that One Judge of that Court shall be directed to attend the Court of Exchequer; and on receiving such Requisition, One of the ordinary Judges of the Court of Session shall attend the said Court of Exchequer, and shall have Voice and Vote in all Matters then to be brought before the said Court, in the same Way in all respects as if such Judge were a Baron of the Court of Exchequer.

Judges of Jury Court and Admiralty to continue to receive their Salaries.

XLIII. And be it enacted, That the Lord Chief Commissioner and the other Lords Commissioners of the Jury Court, and the Judge of the High Court of Admiralty in *Scotland*, shall, notwithstanding the Abolition of these several Courts, continue to receive, during their respective Lives, the Salaries payable to them at the Time of the passing of this Act.

Certain Payments on account of Jury Courts to cease.

XLIV. And be it enacted, That the several Sums of Seven thousand Pounds, Two thousand four hundred Pounds, and One thousand two hundred Pounds, authorized by the before recited Acts to be annually paid on account of the Jury Court, shall cease, save and except so much thereof as shall be certified by the Lord President of the Court of Session to be requisite to be applied in defraying the Expences attending the Circuits of such of the Judges of the Court of Session as are not Judges of the Court of Justiciary, and of Clerks and Macers, the Application of which Sum shall be accounted for in the Court of Exchequer in *Scotland*; and it is hereby provided, that the Salaries of the Judges, Clerks, and Macers, hitherto paid from the foresaid Sums, shall be paid, by Order of the said Court of Exchequer, out of the Monies charged or made chargeable by the Acts passed in the Seventh and Tenth Years of the Reign of Her Majesty Queen *Anne*, with the Fees, Salaries, and other Charges allowed or to be allowed for keeping up the Courts of Session, Justiciary, or Exchequer, in *Scotland*.

Payment of Salaries of Judges, &c.

Compensation to be made to Clerks, &c.

XLV. And be it enacted, That it shall and may be lawful for any Clerk or other Officer holding his Office at the passing of this Act, and entitled to Compensation for Loss to be suffered through the Operation and Effect of this Act, to make Application to the Court of Exchequer in *Scotland*, which Court shall direct Intimation thereof to be given to His Majesty's Advocate in behalf of the Public; and thereafter the said Court shall inquire into and consider the Circumstances of the Case, and shall award to every such Person such Compensation as the Court shall think such Persons entitled to, either by the Payment of a gross Sum or by way of Annuity, as the Court shall think proper: Provided always, that every Order made for such Compensation

Compensation shall set forth the Nature of the Office, the Grounds on which Compensation is prayed, and on which the Award may be founded; and that a Copy of every such Order shall be laid before Parliament within Two Calendar Months after the Commencement of the Session next ensuing after making the same; and no such Decision of the said Court shall be final and conclusive until Two Calendar Months after a Copy of the Order of such Court for Compensation shall have been so laid before Parliament; and any Sum of Compensation so to be awarded shall be paid and payable upon the Order of the said Court of Exchequer, in such Manner and at such Time or Times as the Court shall direct, out of the aforesaid Monies charged or made chargeable by the aforesaid Acts passed in the Seventh and Tenth Years of the Reign of Her Majesty Queen *Anne*, and every Sum of Compensation shall be clear of all Taxes and Deductions whatsoever.

Orders for Compensation to be laid before Parliament.

XLVI. And be it enacted, That the whole Provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the Fifth Day of *October* next after the passing of this Act.

Commencement of Act.

SCHEDULE to which this Act refers.

RETURN of the Number of CAUSES instituted and decided in the Court of Session in SCOTLAND, between the 1st Day of January 18 and the 1st Day of January 18 ; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these Dates.

OUTER HOUSE.

Names of Lords Ordinary.	Number of Causes for the first Time inrolled before each Lord Ordinary.	Number of Decrees in Absence.	Number of Final Judgments pronounced in litigated Causes.	Number of Causes ready for Debate, but not heard; with the Date when the first of these Causes was first inrolled in the Debate Roll.	Number of Causes at Avizandum.	Observations.

INNER HOUSE.

——	Number of reclaiming Notes presented against Judgment of Lords Ordinary in the Course of the above Year.	Number of incidental and summary Applications presented during the same Period, distinguishing those which have passed as Matters of Form from such as have been followed by Litigation.	Number of Final Judgments pronounced in litigated Causes, without the Intervention of a Jury.	Number of Causes tried by Jury.	Number of Causes ready for Judgment on hearing Counsel or otherwise; with the Date when the first of such Causes was so ready, and distinguishing those to be tried by Jury from such as are not to be so tried.	Observations.
First Division						
Second Division						

A. B., Lord President.

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