

ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

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CAP. XLIV.

An Act to regulate the Institution of Suits at the Instance of the Crown and the Public Departments in the Courts of *Scotland*.

[17th *August* 1857.]

WHEREAS Doubts are entertained as to the proper Instance to be employed in the Institution of Actions, Suits, and Proceedings in the Courts of Justice in *Scotland* on the Behalf of Her Majesty and of Public Departments: Be it enacted by the Queen'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, as follows:

Crown Suits, &c. may be brought in Name of the Lord Advocate;

I. Every Action, Suit, or Proceeding to be instituted in *Scotland* on the Behalf of or against Her Majesty, Her Heirs and Successors, or in the Interest of the Crown, or on the Behalf of or against any Public Department, may be lawfully raised in the Name and at the Instance of or directed against Her Majesty's Advocate for the Time being as acting under this Act.

with the Sanction of the Department having the Interest.

II. Provided always, That before instituting or defending any such Action, Suit, or Proceeding Her Majesty's Advocate shall have the Authority of Her Majesty or of the Public Department respectively

tively on whose Behalf or against whom such Action, Suit, or Proceeding shall be instituted, to the Institution or Defence thereof.

Persons prosecuted not entitled to object to the Instance.

III. Provided also, That it shall not be competent to any private Party in any Action, Suit, or Proceeding instituted as aforesaid to challenge or impugn the Instance of or the Title to defend such Action, Suit, or Proceeding, or the Right or Title of Her Majesty's Advocate to raise and prosecute or to defend the same, upon any Allegation that such Authority (as aforesaid) has not been granted, or that Evidence of such Authority is not produced.

Meaning of "Public Department."

IV. The Expression "Public Department" shall include the Commissioners of Her Majesty's Treasury, the War Department, the Post Office, the Board of Inland Revenue, the Board of Customs, the Commissioners of Her Majesty's Woods and Forests, the Commissioners of Works and Public Buildings, the Committee of Her Majesty's Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations, and all the like Public Departments, Bodies, or Boards, and all and every Officer and Officers, Person and Persons acting on the Behalf or in the Interest of or entitled at the Date of the passing of this Act to sue on the Behalf or in the Interest of any such Public Department.

Existing Actions, &c. not to be affected.

V. Nothing in this Act contained shall affect the Instance or Defence of any Action, Suit, or Proceeding instituted or that may be instituted in conformity with the Law as existing at the Date of the passing of this Act; and no Action, Suit, or Proceeding raised or to be raised at the Instance of or against Her Majesty's Advocate for the Time being shall abate or be affected by any Change in the Person holding the Office of Her Majesty's Advocate.

Laws, &c. repealed so as to give Effect to this Act.

VI. All Laws, Statutes, and Usages are hereby repealed, so far as necessary to give Effect to this Statute, but no further or otherwise.

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