CAP. CXII.

An Act to make Provision in regard to the Mode of taking Evidence in Civil Causes in the Court of Session in *Scotland*. [10th *August* 1866.]

'WHEREAS the Practice of taking Proofs by Commission in Causes before the Court of Session in *Scotland* is productive of unnecessary Expense and of great Delay in the Administration of Justice:'

Be it therefore 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:

Evidence to be taken before the Lord Ordinary.

1. Except as herein-after enacted, it shall not be competent in any Cause depending before the Court of Session to grant Commission to take Proof; but where in such Causes it is, according to the existing Practice, competent to take Proof by Commission, and where in such Causes Proof shall be allowed (which the Lord Ordinary is hereby authorized to allow, without the Consent of both Parties, and without reporting to and obtaining the Leave of the Inner House), a Diet of Proof shall be appointed, which Diet may be fixed, in the Discretion of the Lord Ordinary, either during the Sitting of the Court or in Vacation, at which the Evidence shall be led before the Lord Ordinary, and he shall himself take and either write down with his own Hand the oral Evidence, in which Case it shall be read over to the Witness by the Judge in open Court, and shall be signed by the Witness, if he can write; or the Lord Ordinary shall record the Evidence by dictating it to a Clerk, in which Case it shall also be read over to and signed by the Witness; or the Lord Ordinary shall cause the Evidence to be taken down and recorded in Shorthand by a Writer skilled in Shorthand Writing, to whom the Oath De fideli administratione officii shall be administered; and the Lord Ordinary may, if he think fit, dictate to the Shorthand Writer the Evidence which he is to record; and the Shorthand Writer shall afterwards write out the Evidence so taken by him; and the extended Notes of such Shorthand Writer, certified by the presiding Judge to be correct, shall be the Record of the oral Evidence in the Cause; and the Lord Ordinary shall himself take or dictate to his Clerk or Shorthand Writer a Note of the Documents adduced; and any Ruling of the Lord Ordinary in reference to the Admission or Rejection of Evidence may be recalled or altered by the Inner House on a Reclaiming Note against the final Interlocutor of the Lord Ordinary disposing of the Cause; and the Proof shall be taken continuously in like Manner as at Jury Trials in Civil Causes before the Court of Session in *Scotland*, but with Power to the Lord Ordinary to adjourn the Proof upon such Grounds as Causes set down for Jury Trial may according to the existing Law and Practice be adjourned or postponed, or on such other special Grounds as to him shall appear sufficient, and under such Conditions, if any, as he shall think proper.

In what Cases Proof may be taken by Commission.

2. Provided always, That it shall be competent to the Judges of either Division of the Court or to the Lord Ordinary to grant Commission to any Person competent to take and report in Writing the Depositions of Havers; and also upon special Cause shown, or with Consent of both Parties, to grant Commission to take the Evidence in any Cause in which Commission to take Evidence may, according to the existing Law and Practice, be granted; and also to grant such Commission to take and report in Writing according to the existing Practice the Evidence of any Witness who is resident beyond the Jurisdiction of the Court, or who, by reason of Age, Infirmity, or Sickness, is unable to attend the Diet of Proof; provided that nothing herein-contained shall affect the existing Practice in regard to granting Commission for the Examination of aged and infirm Witnesses to take their Evidence to lie *in retentis* before a Proof has been allowed.

Disposal of Questions on Admission of Evidence.

3. Where Proof shall be ordered by One of the Divisions of the Court, such Proof shall be taken before any One of the Judges of the said Division, or the Lords Ordinary, to whom the Court may think fit to remit, in one or other of the Modes above provided in Section First hereof, and his Rulings upon the Admissibility of Evidence in the Course of taking such Proof shall be subject to Review by the Division of the Court in the

Discussion of the Report of the Proof; and when the Court shall alter any Finding of the Judge rejecting Evidence, they shall, if they think the Justice of the Case requires it, remit to have such Evidence taken; and where a Reference to Oath is made and sustained either by the Lord Ordinary before whom the Cause depends or by One of the Divisions of the Court, the Deposition shall be taken in one or other of the Modes above provided.

With Consent, Evidence in Causes now depending may be taken before the Lord Ordinary.

4. If both Parties consent thereto, or if special Cause be shown, it shall be competent to the Lord Ordinary to take Proof in the Manner above provided in Section First hereof, in any Cause which may be in Dependence before him, notwithstanding of the Provisions contained in the Act passed in the Sixth Year of the Reign of His Majesty King *George* the Fourth, Chapter One hundred and twenty, Section Twenty-eight, and the Provisions contained in the Act passed in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Thirty-six, Section Forty-nine, and the Judgment to be pronounced by him upon such Proof shall be subject to Review in the like Manner as other Judgments pronounced by him.

Procedure to be regulated by Act of Sederunt.

5. The Court of Session are hereby authorized and empowered to make from Time to Time such Orders and Regulations as to Forms of Process by Acts of Sederunt as they may consider necessary for carrying into execution the Purposes of this Act.

This Act not to affect 24 & 25 Vict. c. 86.

6. Nothing in this Act contained shall be held to affect "The Conjugal Rights (*Scotland*) Amendment Act, 1861."

Short Title.

7. This Act may be cited for all Purposes as "The Evidence (*Scotland*) Act, 1866."

CAP. CXIII.

An Act to amend the Act providing Superannuation Allowances to Officers of Unions and Parishes, and to make other Amendments in the Laws relating to the Relief of the Poor. [10th *August* 1866.]

'WHEREAS it is expedient that the Act providing Superannuation Allowances to Officers of Unions and Parishes should be amended, and that certain other Amendments should be made in the Laws regulating the Relief of the Poor in *England*:' Be it therefore 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:

Registrars of Births and Deaths deemed Officers under 27 & 28 Vict. c. 42., and may be superannuated.

1. The Superintendent Registrar and the Registrar of Births and Deaths appointed in any Union or Parish shall be deemed an Officer within the Operation of the Statute Twenty-seventh and Twenty-eighth *Victoria*, Chapter Forty-two, and in computing the Salary of any Officer under that or the present Statute the Amount of the Emoluments of his Office on the Average of the Three Years concluded at the last preceding Quarter may be taken into the Calculation by the Guardians, Managers, or Overseers.

Provision for Relieving Officers who have also been Registrars.

2. Where any Relieving Officer of any Union or Parish shall have also held the Office of Registrar of Births and Deaths in the same Union or Parish, he shall not be disqualified from receiving a Superannuation Allowance in respect of such Office of Relieving Officer by reason of his having simultaneously held the Office of Registrar, and by reason of his having resigned his Office of Relieving Officer subsequent to the passing of the last-mentioned Act.

Managers of District Schools empowered to grant Super-

3. The Board of Management of any District School may exercise the same Power in respect of any Officer of such School in their Service as the Guardians of any Union can do under such last-mentioned Statute with like Consent as therein provided, and shall charge