ANNO QUINQUAGESIMO QUINTO

GEORGII III. REGIS.

C A P. XLII.

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.

[2d *May* 1815.]

WHEREAS Trial by Jury in Civil Cauſes would be attended with beneficial Effects to the Adminiſtration of Juſtice in that Part of the United Kingdom of *Great Britain* and *Ireland* called *Scotland*; but it is expedient, that ſuch Trials for a Time to be limited, ſhould in the Firſt Inſtance be confined to Iſſues directed by either Diviſion of the Court of Seſſion: 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 as ſoon as by virtue and under the Authority of this Act His Majeſty ſhall appoint Judges to form a Court for the Trial of Iſſues in Civil Cauſes, it ſhall and may be lawful for either Diviſion of the Court of Seſſion, in all Caſes that may be brought before them during the Continuance of this Act, wherein Matters of Fact are to be proved, to order and direct, by Special Interlocutor, ſuch Iſſues as may appear to them expedient for the due Adminiſtration of Juſtice, to be ſent to the ſaid Court, that ſuch Iſſues may be there tried by a Jury in Manner herein-after directed.

Court of Seſſion empowered to direct Iſſues.

Lord Ordinary to report for this Purpose.

II. And be it enacted by the Authority aforesaid, That in all Cases as aforesaid wherein a Lord Ordinary shall see Cause for Issues to be directed to be tried by a Jury, he shall take the Cause verbally to report to the Division of the Court to which such Ordinary belongs, so that the said Division may determine whether such Issue shall be sent to the said Court to be tried by a Jury, or shall dispose of the Cause, as in Manner and Form as at present practised.

Provision in regard to the Court of Admiralty.

III. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the Judge of the Court of Admiralty to report in Writing to either of the Divisions of the Court of Session, the Circumstances of every Case that appears to him to be a Case in which an Issue should be directed to be tried by a Jury, in order that the Division may direct such Issue, or order the Cause to proceed in Manner and Form as at present practised.

Interlocutor granting or refusing Trial not to be questioned.

IV. And be it further enacted by the Authority aforesaid, That it shall not be competent, either by Reclaiming Petition or Appeal to the House of Lords, to question any Interlocutor granting or refusing such Trial by Jury.

Issues for Reparation in pecuniary Damages.

V. And be it further enacted by the Authority aforesaid, That in all Issues referred by the Court of Session to be tried by a Jury in Causes wherein the Summons concludes for Reparation by pecuniary Damages, the Jury, if they shall find a Verdict for the Pursuer, shall also assess the Damages.

New Trial, how to be applied for.

VI. And be it further enacted by the Authority aforesaid, That in all Cases in which an Issue or Issues shall have been directed to be tried by a Jury, it shall be lawful and competent for the Party who is dissatisfied with the Verdict to apply to the Division of the Court of Session which directed the Issue for a new Trial, on the ground of the Verdict being contrary to Evidence, on the ground of Mis-direction of the Judge, on the ground of the undue Admission or Rejection of Evidence, on the ground of Excess of Damages, or of *Res noviter veniens ad Notitiam*, or for such other Cause as is essential to the Justice of the Case: Provided also, that such Interlocutor granting or refusing a new Trial shall not be subject to Review, by Reclaiming Petition or by Appeal to the House of Lords.

Exception may be taken.

VII. And be it further enacted by the Authority aforesaid, That it shall be competent to the Counsel for any Party at the Trial of any Issue or Issues, to except to the Opinion and Direction of the Judge or Judges before whom the same shall be tried, either as to the Competency of Witnesses, the Admissibility of Evidence, or other Matter of Law arising at the Trial, and that on such Exception being taken, the same shall be put in Writing by the Counsel for the Party objecting, and signed by the Judge or Judges; but notwithstanding the said Exception, the Trial shall proceed, and the Jury shall give a Verdict therein for the Pursuer or Defender, and assess Damages when necessary; and after the Trial of every such Issue or Issues, the Judge who presided shall forthwith present the said Exception, with the Order or Interlocutor directing such Issue or Issues, and a Copy of the Verdict of the Jury indorsed thereon, to the Division by which the said Issue or Issues were directed, which Division shall thereupon

upon order the said Exception to be heard in presence on or before the Fourth Sederunt Day thereafter; and in case the said Division shall allow the said Exception, they shall direct another Jury to be summoned for the Trial of the said Issue or Issues, or if the Exception shall be disallowed, the Verdict shall be final and conclusive as herein-after mentioned: Provided always, that it shall be competent to the Party against whom any Interlocutor shall be pronounced on the Matter of the Exception, to appeal from such Interlocutor to the House of Lords, attaching a Copy of the Exception to the Petition of Appeal, certified by One of the Clerks of Session; so as such Appeal shall be presented to the House of Lords within Fourteen Days after the Interlocutor shall have been pronounced, if Parliament shall be then sitting, or if Parliament shall not be sitting, then within Eight Days after the Commencement of the next Session of Parliament, but not afterwards; and so as the Proceedings on such Appeal do conform in all Respects to the Rules and Regulations established respecting Appeals; and every such Appeal shall be appointed to be heard on or before the Fourth Cause Day after the Time limited for laying the printed Cases in such Appeal upon the Table of the House of Lords; and upon the Hearing of such Appeal, the House of Lords shall give such Judgment regarding the farther Proceedings, either by directing a new Trial to be had, or otherwise, as the Case may require.

Judgment thereupon, or refusing a new Trial, not to be questioned.

VIII. And be it further enacted by the Authority aforesaid, That if a new Trial shall not be applied for, or shall be refused, or if the Exception taken to the Opinion and Direction of the Judge or Judges shall be disallowed, the Verdict shall be final and conclusive as to the Fact or Facts found by the Jury, and shall be so taken and considered by the Court of Session or by the Judge Admiral respectively in pronouncing their Judgment, and shall not be liable to be questioned any where.

Power of Review of a Judgment in point of Law.

IX. Provided always, and be it enacted by the Authority aforesaid, That in all Cases wherein the Court shall pronounce a Judgment in point of Law, as applicable to or arising out of the Finding by the Verdict, it shall be lawful and competent for the Party dissatisfied with the said Judgment in point of Law, to bring the same under Review, either by Representation or Reclaiming Petition, or by Appeal to the House of Lords, or where the Judge Admiral shall have pronounced Judgement in point of Law on the Verdict, it shall be lawful and competent for the Party or Parties to bring the same under the Review of the Court of Session as heretofore.

Commissioners of the Jury Court to be appointed.

X. And be it further enacted by the Authority aforesaid, That immediately after the passing of this Act it shall be lawful for His Majesty, His Heirs and Successors, to nominate and appoint, by Commission under the Seal appointed by the Treaty of Union to be kept and used in that Part of the United Kingdom called *Scotland*, instead of the Great Seal thereof, One Chief Judge, and Two other Judges, before whom the Trial of Issues may be had and take place, to be called "The Lords Commissioners of the Jury Court in Civil Causes," and to hold their said Offices *ad vitam* if this or any other Act under which they shall be Commissioners shall so long continue, or *ad culpam*; and in case of future Vacancies in the said Commission, the same shall be filled up by a Letter from His Majesty, His Heirs and Successors, directed to the President and Senators of the College of Justice: Provided always and nevertheless, that it shall be lawful for

for His Majesty, His Heirs and Successors, to remove the said Judges on an Address from both Houses of Parliament.

Of whom to be composed.

XI. And be it enacted by the Authority aforesaid, That the Persons so to be nominated shall be Senators of the College of Justice, or Barons of the Court of Exchequer, in *Scotland*, and that they shall always be at the Time of their Nomination qualified to be Senators of the College of Justice.

Salaries to be paid.

XII. And be it enacted by the Authority aforesaid, That from and after the passing of this Act, it shall and may be lawful for His Majesty, His Heirs and Successors, during the Continuance of this Act, to order and direct to be issued and paid in every Year by Quarterly Payments, out of the Monies that shall arise from any of the Duties and Revenues in that Part of *Great Britain* called *Scotland*, which by the several Acts made in the Seventh and Tenth Years of the Reign of Queen *Anne* were made chargeable with the Fees, Salaries, and other Charges allowed or to be allowed by Her Majesty, Her Heirs, and Successors, for keeping up the Courts of Session, Justiciary, and Exchequer in *Scotland*, the Sum of Seven thousand Pounds; out of which Sum of Seven thousand Pounds there shall be paid and applied as Salary to the Chief Commissioner of the Jury Court, such Sum Yearly in Addition to the Salary which he may receive as a Senator of the College of Justice, as a Lord Commissioner of the Court of Justiciary, or as a Baron of the Court of Exchequer, as will make his Salary equal to the full Salary of the Lord Justice Clerk; and that there shall be paid and applied out of the said Sum of Seven thousand Pounds, a Salary of Six hundred Pounds yearly to each of the Two other Commissioners, in Addition to the Salaries which they may receive as Senators of the College of Justice, as Commissioners of the Court of Justiciary, or as Barons of the Court of Exchequer; and that of the said Sum of Seven thousand Pounds, the Sum of Two thousand four hundred Pounds shall be applied in Payment of the Salaries of the Clerks and other Officers of the said Jury Court, and be divided in such Proportions as His Majesty, His Heirs and Successors, shall direct and appoint; and that the Remainder of the said Sum of Seven thousand Pounds, or so much thereof as shall be certified by the Chief Commissioner to the Court of Exchequer to be requisite, shall be applied in defraying the Expences attending the Court and Circuits, the Application of which last-mentioned Sum shall be accounted for in the Exchequer of *Scotland*.

Issues may be tried before all or any of the Three Judges.

XIII. And be it enacted by the Authority aforesaid, That the Trial of all Issues may be had and take place, and shall be good and effectual in the Law, whether the same is conducted in Presence of One or more than One of the said Three Commissioners; and in all Cases in which the Chief Commissioner shall be present, such Chief Commissioner shall be the Presiding Judge, and in his Absence, if the Two other Commissioners shall be present, such of the Two other Commissioners shall be the Presiding Judge as shall be first named in the said Commission, and afterwards in the Order of their Appointment.

How the Commissioners shall vote.

XIV. And be it enacted by the Authority aforesaid, That in all Cases in which the said Three Commissioners shall be present in Court, and any Difference of Opinion shall arise, the Matter shall be determined by

by the Majority; but when Two of the ſaid Commiſſioners are preſent in Court, and they ſhall differ in Opinion, then the Matter ſhall be determined by the Judge preſiding.

Where Iſſues may be tried.

XV. And be it further enacted by the Authority aforeſaid, That it ſhall and may be lawful to try ſuch Iſſues at *Edinburgh* in Time of Seſſion; and alſo in Time of Vacation at *Edinburgh*, and at ſuch Circuit Towns, as in the Opinion of the ſaid Court of Commiſſioners the Circumſtances of the Caſe may require, at ſuch Time in the Spring and Autumn Vacations immediately after ſuch Iſſue is directed as they ſhall appoint.

Attendance of Witneſſes.

XVI. And be it enacted by the Authority aforeſaid, That it ſhall be lawful for the Jury Court to grant Warrant for citing Witneſſes and Havers, who ſhall attend and may be compelled to attend and be examined upon Oath, before the Jury Court when required, in the ſame Manner that Witneſſes and Havers do attend or may be compelled to attend for the Purpoſe of Examination upon Oath by the Court of Seſſion.

Verdicts how to be returned.

XVII. And be it further enacted, That after the Trial of every ſuch Iſſue or Iſſues, the Judge who preſided ſhall forthwith make a Return to the Diviſion or Lord Ordinary which directed the Iſſue of the Order or Interlocutor, directing ſuch Iſſue or Iſſues, with a Copy of the Verdict of the Jury indorſed thereon, certified by his Signature to be a true Copy; and that the ſaid Preſiding Judge ſhall alſo, when required by ſuch Diviſion, deliver to them a Report in Writing of the Evidence adduced and given on the Trial of ſuch Iſſue, as taken down by him at the Time, and of the Directions, if any, in point of Law; and the ſaid indorſed Copy of the Verdict and the Report of the Proceedings on ſuch Trial ſhall be concluſive of what paſſed on ſuch Trial: Provided always that it ſhall be lawful for the ſaid Preſiding Judge to make ſuch Return directly to the Judge Admiral where the Iſſue ſhall have been directed upon his Report.

Preſiding Judge may attend Diviſion pending Motion for new Trial.

XVIII. And be it further enacted by the Authority aforeſaid, That it ſhall be lawful for the Commiſſioner or Commiſſioners who ſhall have preſided at the Trial of the Iſſue, to attend the Diviſion of the Court of Seſſion pending the Conſideration of the Motion, or Petition for a new Trial, and then and there to give ſuch Explanation of what paſſed at the Trial, as to the ſaid Commiſſioner or Commiſſioners may ſeem fit or neceſſary.

Houſe of Lords may direct Iſſues.

XIX. And be it further enacted by the Authority aforeſaid, That it ſhall be lawful for the Houſe of Lords, in remitting to the Court of Seſſion any Cauſe which is now or ſhall hereafter come before the ſaid Houſe by Appeal from the ſaid Court of Seſſion, to inſtruct the Diviſion of the ſaid Court of Seſſion to which the Cauſe is remitted, to order and direct ſuch Iſſue or Iſſues as the ſaid Houſe of Lords ſhall think fit, to be tranſmitted to the ſaid Commiſſioners, for the Purpoſe of being tried by a Jury in Manner directed by this Act; ſubject nevertheleſs to ſuch Rules and Regulations as are contained with reſpect to Remits in 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 concerning Appeals to the Houſe of Lords.* 48G.3.c.151.

Common Jury Summons.

XX. And be it further enacted by the Authority aforeſaid, That a Jury ſhall be ſummoned for the Trial of ſuch Iſſues as aforeſaid, in the ſame Manner as the Jury is at preſent ſummoned to the High Court of Juſticiary; and that ſuch Summons ſhall iſſue by virtue of an Authority or Precept ſigned by the Clerk of the Jury Court; and that immediately upon Receipt of the ſaid Authority or Precept, the Sheriff, Stewart, or other Officer or Officers employed to return Juries to the High Court of Juſticiary, ſhall make out a Liſt containing the Chriſtian and Surnames, Additions, and Places of Abode of a competent Number of Perſons qualified to ſerve as Jurors, and ſhall return the ſaid Liſt to the Clerk of the Jury Court, annexed to the ſaid Authority or Precept, without Delay, the Names of the ſame Perſons being always inſerted in the Liſts annexed to each Authority or Precept iſſued by the Clerk of the Jury Court in Manner aforeſaid; which Number of Jurors ſhall not be leſs than Thirty-ſix in any County, City, Town, or Place, nor more than Fifty; and that the Perſons named in the ſaid Liſts ſhall be ſummoned to ſerve as Jurors for the Trial of ſuch Iſſues within the Counties, Cities, Towns or Places named in ſuch Authorities or Precepts reſpectively, and no others.

Common Jury Ballot.

XXI. And be it further enacted, That the ſaid Clerk of the Jury Court ſhall cauſe the Name of each and every Perſon who ſhall be included in the ſaid Liſts, and ſummoned as aforeſaid, with his Addition and Place of his Abode, to be written on ſeveral and diſtinct Pieces of Parchment or Paper, being all as near as may be of equal Size and Bigneſs, and ſhall cauſe the ſaid Pieces of Parchment or Paper to be rolled up as near as may be in the ſame Manner, and to be put together in a Box or Glaſs provided for that Purpoſe; and when any Iſſue ſhall be called on to be tried, ſome indifferent Perſon by Direction of the Preſiding Judge of the ſaid Jury Court may and ſhall in open Court draw out the ſaid Parchments and Papers one by one; and if any of the Perſons whoſe Names ſhall be ſo drawn ſhall not appear, or be challenged and ſet aſide, then ſuch further Number, until Twelve Perſons be drawn who ſhall appear; and after all Cauſes of Challenge ſhall be allowed or diſallowed, the ſaid Twelve Perſons ſo firſt drawn and appearing, and approved as indifferent, their Names being marked in the Liſt, and they being ſworn, ſhall be the Jury to try the ſaid Iſſue; and the Names of the Perſons ſo drawn and ſworn ſhall be kept apart by themſelves in ſome other Box or Glaſs to be kept for that Purpoſe, till ſuch Jury ſhall have given in their Verdict, and the ſame is recorded, or until the Jury ſhall by the Conſent of the Parties or Leave of the Court be diſcharged, and then the ſame Names ſhall be rolled up again and returned to the former Box or Glaſs, there to be kept with the other Names remaining at that Time undrawn, and ſo *toties quoties* as long as any Iſſue remains then to be tried: Provided always, that in challenging the Jurors, it ſhall be lawful for each Party to have any Four Challenges allowed without aſſigning any Cauſe, the Challenges for Cauſe aſſigned (if any) being firſt made reſpectively.

Fines on Jurors making Default.

XXII. And be it further enacted, That every Perſon or Perſons whoſe Name or Names ſhall be ſo drawn as aforeſaid, or who ſhall be ſummoned as a Special Juror or Special Jurors as aftermentioned, and who ſhall not appear after being openly called Three Times, upon Oath made by ſome credible Perſon that ſuch Perſon ſo making Default had been lawfully ſummoned,

moned, shall forfeit and pay for every Default in not appearing upon Call as aforesaid (unless some reasonable Cause of his Absence be proved by Oath or Affidavit to the Satisfaction of the Court or Commissioner who sits to try the said Issues) such Fine or Fines, not exceeding the Sum of Five Pounds, and not less than Forty Shillings, as the Court or Commissioner shall think reasonable to inflict or assess for such Default.

Jury to be sworn though former Verdict not returned.

XXIII. Provided always, That if the Trial of any Issue shall be brought on in the said Jury Court before the Jury in any other Issue shall have brought in their Verdict or be discharged, it shall and may be lawful for the Court to order Twelve of the Residue of the said Parchments or Papers, not containing the Names of any of the Jurors who shall not have so brought in their Verdict, or be discharged, to be drawn in such Manner as is aforesaid, for the Trial of the Issue which shall be so brought on to be tried.

Special Jury.

XXIV. And be it enacted by the Authority aforesaid, That it shall and may be lawful for either of the Parties, in any Case where an Issue or Issues is ordered to be tried by a Jury, to apply to the Division of the Court of Session ordering such Issue or Issues, or to the said Jury Court, to direct that the same shall be tried by a Jury specially chosen from Persons paying Cess in the County, City, Town, or Place from which such Jury shall be taken, upon One hundred Pounds of valued Rent, or paying Assessed Taxes to the Crown on a House of the Rent of Thirty Pounds Sterling by the Year; the Persons so qualified as Special Jurymen to be returned as herein enacted as to the Common Juries: Provided always, that it shall not be competent to question any Order or Interlocutor for the striking of any Jury, by Reclaiming Petition or Appeal to the House of Lords.

List of Persons qualified to be Special Jurymen.

XXV. And be it further enacted by the Authority aforesaid, That in order to secure the Return of Jurymen qualified to be Special Jurymen as herein-before provided, the Sheriff, Stewart, or proper Officer or Officers employed to return Juries to the High Court of Justiciary, shall, immediately after the passing of this Act, and afterwards on or before the First Day in the Month of *January* in each Year, make up a Roll of all Persons within their Districts so qualified as Special Jurymen in the immediately preceding Year, by paying Cess in the County, City or Town in which such Persons reside, upon One hundred Pounds of valued Rent, or paying Taxes to the Crown on a House of Thirty Pounds Sterling by the Year; and shall return the said List to the Clerk of the Jury Court on or before the Thirty-first Day of the said Month.

Jurymen how to be returned.

XXVI. And be it further enacted by the Authority aforesaid, That the Number of qualified Persons to be returned by the Sheriff or Steward as Special Jurymen to try any Issue, shall be Thirty-six; and the Names of the said Thirty-six Persons shall be returned to the Clerk of the Jury Court, and shall by him be annexed to the Order or Interlocutor directing the Issue to be tried by a Special Jury.

Notice of striking the Jury to be given.

XXVII. And be it further enacted and provided by the Authority aforesaid, That the Clerk of the Jury Court shall form an exact Copy of the said List of Thirty-six Persons so returned by the Sheriff or Stewart; and when the

the Day of Trial has been fixed by the ſaid Commiſſioners, he ſhall give due Notice to the Agents and Counſel of the Parties to attend him at a Time and Place to be ſpecified in ſaid Notice, which the Agents or Counſel of the Parties are hereby required to do; and the ſaid Agents or Counſel ſhall, in the Preſence of the ſaid Clerk, alternately beginning with the Purſuer, ſtrike off One from the ſaid Liſt, until the Number of Jurymen is reduced to Twenty, which Twenty only ſhall be ſummoned to attend the Court on the Day of Trial; and if either of the Parties, their Agents or Counſel, ſhall fail to attend, after ſuch Notice duly ſerved on them, then the other Party attending ſhall proceed to ſtrike off One from the ſaid Liſt, and the Clerk of Court ſhall ſtrike off One alternately: Provided always, that Twenty Names be left on the Liſt to be ſummoned to attend the Trial; and the Jury for trying the ſaid Iſſue ſhall conſiſt of ſuch Twelve of the ſaid Twenty as ſhall firſt appear on the Names being called over in Court to try the Iſſue.

Tales. XXVIII. And be it further enacted, That where a full Jury ſhall not appear before the ſaid Jury Court or elſewhere, after Challenge by either of the Parties, and the Jury is like to remain untaken for default of Jurors, it ſhall be lawful for the ſaid Court, or the Commiſſioner before whom any Iſſue is to be tried, to direct the Sheriff or other Officer or Officers who ſummoned the ſaid Jury, upon Requeſt made by either Party, to add to the Liſt of the ſaid Jury the Name or Names of ſuch other Perſon or Perſons of the County, City, Town or Place, where the Iſſue is to be tried, who ſhall be inſerted in ſome other Liſt of the Jurors, and who ſhall then be attending the Court where ſuch Trial is to be had, to ſerve upon ſuch Jury, and not any others, if ſo many out of the ſaid other Liſt be preſent in Court, or can there be found, and that either of the Parties, Purſuer and Defender, may have his Challenge to the Juror or Jurors ſo named and added to the former original Liſt, in ſuch wiſe as if he or they had been originally included in the ſaid Liſt of Jurors for the Trial of ſuch Iſſue; and that the ſaid Court or Commiſſioner who ſits to try ſuch Iſſue ſhall and may proceed to the Trial thereof with thoſe Perſons whoſe Names were originally inſerted in the ſaid Liſt of Jurors, together with the Perſon or Perſons whoſe Names have been ſo added to the original Liſt of Jurors as aforeſaid, in the ſame Manner as the ſaid Court or Commiſſioner might and ought to have done if all the ſaid Jurors, whoſe Names were inſerted in the ſaid original Liſt, had appeared to try ſuch Iſſue; and in caſe any Perſon or Perſons ſo added to the ſaid Liſt of Jurors as aforeſaid, and who ſhall have been preſent at that Time, ſhall be called and not appear, or after his or their Appearance ſhall wilfully withdraw himſelf or themſelves from the ſaid Service, then and in every ſuch Caſe the ſaid Jury Court ſhall and may ſet a Fine upon every ſuch Perſon making Default or wilfully withdrawing himſelf, ſuch Fine not exceeding the Sum of Five Pounds Sterling, nor leſs than the Sum of Forty Shillings, as the ſaid Jury Court ſhall think reaſonable.

View. XXIX. And be it further enacted, That when it ſhall appear that it will be proper and neceſſary that the Jurors who are to try ſuch Iſſues as aforeſaid ſhould have the View of the Houſes, Lands, or Places in queſtion, in order to their better underſtanding the Evidence that will be given upon the Trial of ſuch Iſſues, in every ſuch Caſe it ſhall be lawful for either Diviſion of the ſaid Court of Seſſion by the Special

Interlocutor by which ſuch Iſſue is directed, or for the ſaid Jury Court, to order that a View ſhould be allowed; and in every Caſe where ſuch View is allowed as aforeſaid, Six of the Jurors named in the ſaid Liſt, or ſummoned as Special Jurors, or more, who ſhall be mutually conſented to by the Parties or their Agents on both Sides, and if the Parties cannot agree, Six or more of the Firſt Twelve on the Liſt of Jurors returned by the Sheriff, Stewart, or other Officer or Officers as aforeſaid, ſhall have the View, and ſhall be firſt ſworn, or ſuch of them as ſhall appear upon the Jury to try the Iſſue before any Drawing as aforeſaid, and ſo many only ſhall be drawn to be added to Viewers who appear, as ſhall after all Defaulters and Challenges allowed, to make up the Number of Twelve, to be ſworn for the Trial of the ſaid Iſſue; and it ſhall and may be lawful for the ſaid Jury Court, and they are hereby required in every ſuch Caſe by an Authority or Precept ſigned by the Clerk of the Jury Court, to order and direct the Sheriff or Officer or Officers, who ſhall ſummon the Jury for the Trial of ſuch Iſſue, to have the ſaid Jurors, who ſhall be ſo ſelected or named to be Viewers as aforeſaid, at the Place in queſtion, ſome convenient Time before the Trial of the ſaid Iſſue, who ſhould then and there have the Matters in queſtion ſhewn to them by Two Perſons named in the ſaid Summons, and appointed by the ſaid Jury Court; and the ſaid Sheriff or other Officer or Officers ſhall certify upon the ſaid laſt-mentioned Authority or Precept, that the View hath been had according to the Direction contained therein, and ſhall forthwith return the ſame to the ſaid Jury Court: Provided always, that the Expence of ſuch View ſhall be equally borne by all Parties, and that no Evidence ſhall be given on either Side at the Time of taking thereof: Provided alſo, that in caſe no View ſhall be had, or if a View ſhall be had by any of the Jurors contained in the ſaid Liſt, whether they ſhall happen to be any of the Jurors who ſhall be ſelected or nominated as aforeſaid, yet the Trial of the ſaid Iſſue ſhall proceed, and no Objection ſhall be made on thereof, or for want of a proper Certificate of the View having been taken as aforeſaid.

Paying Jurors.

XXX. And be it further enacted, That every Perſon who ſhall ſerve upon a Jury for the Trial of any Iſſue or Iſſues, ſhall be allowed and paid by the Party or Parties againſt whom upon ſuch Iſſue or Iſſues a Verdict ſhall be found, the Sum of Twenty Shillings: Provided always, that in caſe the Jury upon the Trial of any Iſſue ſhall return a Special Verdict, the Sum to be paid to the ſeveral Jurors who ſhall ſerve upon ſuch Trial ſhall be borne and paid by the Purſuer or Purſuers, Defender or Defenders, in equal Portions; and that the Party or Parties in whoſe Favour the Court of Seſſion ſhall ultimately decide upon ſuch Special Verdict, ſhall be allowed the Sum ſo paid by him, her, or them, to the ſaid Jurors in the Coſts to be awarded by the ſaid Court of Seſſion.

Oath to be adminiſtered to the Jury.

XXXI. And be it further enacted by the Authority aforeſaid, That the Clerk of the Jury Court, before proceeding to the ſaid Trial, ſhall adminiſter to the Jury, the following Oath; *videlicet*,

'YOU ſwear by God, and as you ſhall anſwer to God at the great Day of Judgment, That you ſhall well and truly try (*as the Caſe may be*) theſe Iſſues, or this Iſſue, and a true Verdict give according to the Evidence.'

Other Oaths how to be administered.

XXXII. And be it enacted by the Authority aforesaid, That this and all other Oaths necessary on the Trial of such Issues, shall be administered in the Manner and according to the Form at present in use in the High Court of Justiciary.

Chancellor of the Jury to be elected.

XXXIII. And be it further enacted by the Authority aforesaid, That the Chancellor or Foreman of the Jury shall be the Juror chosen by the Majority of the Jurors after they shall be sworn, and in case of an Equality of Votes, the Juror first sworn shall have a double Vote, and when the Verdict is returned to the Court, it shall be declared by the Chancellor or Foreman verbally in open Court, and taken down by the Clerk of the said Jury Court in Writing, before the Jury is discharged, to be afterwards indorsed and certified on the written Order or Interlocutor of the Court of Session directing the Issue.

Verdict how to be given.

XXXIV. And be it enacted by the Authority aforesaid, That all Verdicts shall be given by the whole Number of the Jury agreeing in the Verdict.

Provision in case the Jury cannot agree.

XXXV. Provided always, and be it enacted, That if a Jury impannelled shall not agree in their Verdict within the Space of Twelve Hours from the Time they shall be inclosed to consider of their Verdict, such Jury shall be discharged by the Jury Court from delivering their Verdict, and the said Court shall report the Proceeding to the Division of the Court of Session which directed the Issue, which Division may order another Jury to be summoned for the Trial thereof, or may dispose of the Cause in Manner and Form as at present practised: Provided always, that if the whole Number of any Jury who shall have been inclosed to consider of their Verdict, shall agree to apply to the Jury Court for further Time to consider of such Verdict, the said Jury Court are hereby required to grant such further Time beyond the said Period of Twelve Hours as such Jury shall desire.

Certain Persons exempted.

XXXVI. Provided always, and be it enacted, That no practising Advocate, Clerk to the Signet, Solicitor or Procurator before any of the Supreme or Inferior Courts, shall be returned or summoned to serve on such Juries.

Oaths to be taken by the Commissioners.

XXXVII. And be it further enacted by the Authority aforesaid, That the said Lords Commissioners of the Jury Court, previously to their executing any of the Duties of their Office, shall take the usual Oaths to His Majesty, and the Oath *de fideli*; which Oaths the Lord President of the College of Justice, the Lord Justice Clerk, or the Lord Chief Baron of the Court of Exchequer, are hereby respectively authorized to administer.

Clerks of Court how to be appointed

XXXVIII. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, from Time to Time, as the State of the Business may require, to appoint Three Clerks to the said Jury Court, being Advocates or Writers to the Signet of at least Three Years standing, and Three Macers; and the said Chief Commissioner shall have Power to appoint a Clerk during his Pleasure, who shall keep the Rolls of the Court, and perform other necessary Duties connected therewith; all of which Officers are hereby

ſtrictly prohibited and diſcharged from taking any Fees whatever, in reſpect of the Buſineſs of the ſaid Offices.

Oaths to be adminiſtered to Officers.

XXXIX. And be it further enacted by the Authority aforeſaid, That it ſhall and may be lawful for the ſaid Jury Court to adminiſter to the ſaid Officers and Macers the uſual Oaths to His Majeſty, and upon the Trial of any Iſſue or Iſſues that may be directed under the Authority of this Act, alſo to adminiſter the Oath *de fideli* to ſuch Officers and Macers as ſhall attend upon the Trial of ſuch Iſſue or Iſſues.

Rules and Regulations how to be framed.

XL. And be it enacted by the Authority aforeſaid, That it ſhall and may be lawful for the Court of Seſſion, together with the Commiſſioners of the ſaid Jury Court, or One of them, aſſembled by Authority of the Lord Preſident, from Time to Time as often as there ſhall be Occaſion, to appoint a Committee, conſiſting of One Judge from each Diviſion of the Court of Seſſion, and One of the ſaid Commiſſioners for the Purpoſe of framing ſuch Rules and Regulations as may be neceſſary for ordering the Form of Proceſs, and regulating the Manner of proceeding, as well in the ſaid Court of Seſſion as in the ſaid Jury Court, both before the Trial of any Iſſue, during the Trial thereof, and ſubſequent thereto, for the Purpoſe of carrying into Execution the Directions and Proviſions of this Act, and upon ſuch Report being made by the ſaid Committee, the ſame ſhall be taken into Conſideration by the ſaid Court of Seſſion and the ſaid Commiſſioners aſſembled by the Authority of the Lord Preſident, and ſuch Order or Orders ſhall be made thereupon as to the ſaid Court of Seſſion, or a Quorum thereof, and the ſaid Commiſſioners or One or more of them ſhall appear to be fit and proper.

Jury Court where to aſſemble.

XLI. And be it further enacted by the Authority aforeſaid, That the ſaid Jury Court ſhall be entitled to aſſemble and meet for the Purpoſe of trying any Iſſue or Iſſues to be directed as aforeſaid at *Edinburgh*, in either of the Rooms now appropriated to the Firſt and Second Diviſions of the Court of Seſſion, or in the Room uſed by the Court of Exchequer for Jury Trials, and at other Places in the Circuit Courts of Juſticiary, the Sheriff Courts, or any other Place ſuitable and proper, as Circumſtances and the Convenience of thoſe Courts may admit; and that proper Apartments ſhall be allotted to the Clerks of the Jury Court in the Regiſter Office in the ſame Manner as to the Clerks of Seſſion, and at other Places, as the Lord Clerk Regiſter ſhall order and direct.

Report to be made of Proceedings for carrying this Act into Execution.

XLII. And whereas the Proviſions of this Act are to endure for Seven Years and no longer: And whereas it is expedient, with reſpect to ſuch further Regulations as may be neceſſary during the Continuance thereof, as well as in regard to any future Proviſions for Trial by Jury in Civil Cauſes, after the Expiration of the ſame, that regular Returns ſhould be made to both Houſes of Parliament of all Proceedings which ſhall from Time to Time take place under the Authority of this preſent Act; be it enacted by the Authority aforeſaid, That a Report ſhall be made to both Houſes of Parliament once in every Year on or before the Twenty-fifth Day of *March*, if Parliament ſhall be then ſitting, and if Parliament ſhall not be then ſitting, within Fourteen Days after Parliament ſhall aſſemble thereafter, of the Proceedings had by the Court of Seſſion or a Quorum thereof, and the Commiſſioners of the ſaid Jury Court or One of them,

 purſuant

purſuant to this Act; which Report ſhall be certified under the Hands of the Lord Preſident of the Court of Seſſion, the Lord Juſtice Clerk, and the Chief Commiſſioner of the Jury Court, and ſhall contain Copies of all Rules and Regulations to be made for ordering the Form of Proceſs, and regulating the Manner of Proceeding, as well in the ſaid Court of Seſſion, as in the ſaid Jury Court, for carrying into Execution the Directions and Proviſions of this Act.

Report to be made of Iſſues directed.

XLIII. And be it enacted by the Authority aforeſaid, That a Report ſhall be made by each Diviſion of the Court of Seſſion to both Houſes of Parliament, once in every Year on or before the Twenty-fifth Day of *March*, if Parliament ſhall be then ſitting, and if Parliament ſhall not be then ſitting, within Fourteen Days after Parliament ſhall aſſemble thereafter, ſpecifying ſuch Iſſues as ſhall have been directed by either of ſuch Diviſions of their own Motion, and ſuch Iſſues as ſhall have been otherwiſe directed or refuſed by either of them; and every ſuch Report ſhall be certified under the Hands of any Two of the Judges of the Diviſion by whom ſuch Report is made.

Report to be made of Iſſues tried.

XLIV. And be it enacted by the Authority aforeſaid, That a Report ſhall be made to both Houſes of Parliament once in every Year, on or before the Twenty-fifth Day of *March*, if Parliament ſhall be then ſitting, and if Parliament ſhall not be then ſitting, within Fourteen Days after Parliament ſhall aſſemble thereafter, ſpecifying the Iſſues tried purſuant to this Act, certified under the ſeveral Hands of the Commiſſioners who ſhall preſide at the Trial of ſuch Iſſues reſpectively, and ſuch Reports may contain ſuch Obſervations as the Commiſſioner ſigning the ſame may think fit to make relative to ſuch Iſſues.

Continuance of the Act.

XLV. And be it further enacted by the Authority aforeſaid, That this Act ſhall endure and be in force for Seven Years from its Date, and to the End of the then next Seſſion of Parliament.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1815.