

ANNO QUINQUAGESIMO NONO

GEORGII III. REGIS.

CAP. XXXV.

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 extending Trial by Jury to Civil Causes.* [19th *May* 1819.]

WHEREAS extending Trial by Jury to Civil Causes, in that Part of *Great Britain* called *Scotland*, in the Manner provided by 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 extending Trial by Jury to Civil Causes*, has been attended with beneficial Effects to the Administration of Justice: And whereas it is expedient, that farther Provision should be made, to extend and regulate Trial by Jury in Civil Causes, and that the said Act should be in Part altered and amended, and the Court thereby created be made a permanent Part of the Judicial Establishment 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 in all Processes raised in the Outer House of the Court of Session, by ordinary Action or otherwise, on account of Injuries to the

55 G. 3. c. 42.

Certain Actions to be sent to the Jury Court.

the Person, whether real or verbal, as Assault or Battery, Libel or Defamation, or on account of any Injury to Moveables, or to Lands, where the Title is not in question; or on account of Breach of Promise of Marriage, Seduction or Adultery, or any Action founded on Delinquency or *quasi* Delinquency of any Kind, where the Conclusion shall be for Damages and Expences only; the Lord Ordinary of the Outer House, before whom such Processes shall be enrolled, do remit, and he is hereby authorized and required, after Defences are lodged, to remit the whole Process and Productions forthwith to the Jury Court in Civil Causes; which last-mentioned Court is authorized and required, according to Rules and Regulations which the said Court and the Court of Session are herein-after empowered to make, to settle an Issue or Issues, and to try the same by a Jury to be summoned and impannelled under the Provisions now in force, or herein-after enacted for that Purpose.

Questions of Law reserved for the Court of Session.

II. And be it enacted, That if it shall appear to the Parties, or either of them, that there is a Question of Law or Relevancy which ought to be decided previous to the Remit of the Cause to the Jury Court, it shall be competent for them to state the same orally to the Lord Ordinary; who, if he thinks fit, may give Judgment *de plano*, or order Pleadings on the alleged Question of Law or Relevancy; and if he orders Pleadings, then the Case is to be proceeded in according to the Course of the Court of Session; and as soon as such Question of Law or Relevancy shall be disposed of, if Matters of Fact remain to be proved, the whole Process and Productions in the Case shall be forthwith remitted to the Jury Court for the Purposes aforesaid.

Lord Ordinary to decide as to Question of Law.

III. And be it further enacted, That it shall be competent for the Lord Ordinary, if it shall appear to him that there is no Question of Law or Relevancy which ought to be decided previous to the Remit of the Cause to the Jury Court, forthwith to order such Cause to be remitted to the said Court, for the Purposes aforesaid: Provided always, that it shall also be competent for the Lord Ordinary, if he sees Cause, to reserve the alleged Question of Law for the Consideration of the Court of Session, after the Matters of Fact shall have been found by a Jury; and in all such Cases, the Interlocutor of the Lord Ordinary, ordering the Cause to be remitted to the Jury Court, whether with or without a Reservation of the alleged Question of Law, shall not be subject to Review by Representation, Petition, Appeal to the House of Lords, or otherwise.

Lords Ordinary to have the Power of remitting whole Process to Jury Court, without reporting to the Inner House.

IV. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the Lords Ordinary, in all Cases other than the Actions for Damages herein-before enumerated, when Matters of Fact are to be proved, to order the whole Process and Productions in the Cause to be remitted to the Jury Court, without reporting to the Inner House; and the said Jury Court is hereby authorized and required to settle an Issue or Issues, and try the same by a Jury, in Manner aforesaid; and if it shall appear to the said Lords Ordinary to be expedient for the due Administration of Justice, they may pronounce an Interlocutor pointing out the Matters of Fact which they

require to be determined by a Jury; and the said Jury Court is hereby authorized and required to settle an Issue or Issues, in Terms of such Interlocutor, and such other Issue or Issues as may arise out of the Examination of the Case by the said Court, and to try the same by a Jury, in manner aforesaid.

The Lord Ordinary to have the Option of reporting.

V. And be it further enacted by the Authority aforesaid, That it shall be lawful for the Lords Ordinary, in all Cases other than the Actions for Damages herein-before enumerated, when Matters of Fact are to be proved, to prepare and settle an Issue or Issues without reporting to the Inner House; and to remit the same when settled to the Jury Court, to be there tried by a Jury; but nothing herein contained shall take away from the Lords Ordinary, in such Cases, the Power of reporting an Issue or Issues to the Inner House, in the Manner and Form now in force.

The Division to have the Power of transmitting the whole Process to the Jury Court.

VI. And be it further enacted by the Authority aforesaid, That it shall be lawful and competent for the Court of Session in either of its Divisions, in all Cases depending in the Inner House in which Matters of Fact are to be proved, if it shall appear to them expedient for the due Administration of Justice, to order and direct, by special Interlocutor, the whole Process and Productions to be remitted to the Jury Court, for the said Court to settle an Issue or Issues, and to try the same by a Jury, as aforesaid: And if it shall appear to the said Divisions to be expedient for the due Administration of Justice, they may pronounce an Interlocutor, pointing out the Matters of Fact which they require to be determined by a Jury, and the said Jury Court is hereby authorized and required to settle Issues, in Terms of such Interlocutor; and the said Court may likewise settle such other Issues as may arise out of the Examination of the Case by the said Court, and try all such Issues by a Jury in Manner aforesaid.

The Division to prepare and settle Issues,

VII. And be it further enacted by the Authority aforesaid, That it shall be competent and lawful for either Division of the Court of Session, in all Processes other than the Actions of Damages herein-before enumerated, when it shall appear to them expedient for the due Administration of Justice, to prepare and settle an Issue or Issues, and to send the same to the Jury Court, to be there tried by a Jury, in Manner aforesaid.

and the Divisions and Lord Ordinary to settle further Issues.

VIII. And be it further enacted, That the said Divisions, or the Lords Ordinary, in all Processes which come before them for Judgment after Verdict, may direct such farther Issue or Issues as they may see necessary, to enable them to pronounce Judgment in the Cause.

Jury Court to direct Facts to be indorsed, &c.

IX. And be it further enacted by the Authority aforesaid, That it shall be competent to the Judges of the Jury Court to order and direct any Facts not falling under the Issues, but which shall appear in Evidence, and which they shall deem material to the Merits of the Case, or important to the Decision of the Law, to be found by the Jury, and to be indorsed on the Issue or Issues, or on a Paper or Parchment to be attached to the Issue or Issues, and certified under the

the Hands of the Judge who tries the Cause, and returned with the Verdict and Issues to the Division of the Court of Session, or the Lord Ordinary, by whom the Case was sent to the Jury Court.

The Court of Admiralty to transmit the whole Process.

X. And be it further enacted by the Authority aforesaid, That it shall and may be lawful and competent for the Judge of the High Court of Admiralty, in all Processes relating to the running down of or other Injury to Ships, and relating to Policies of Insurance, and Charter Parties, and in all Maritime and Mercantile Cases competent to his Jurisdiction as a Civil Judge, wherein Matters of Fact are to be proved, to order, by Special Interlocutor, the whole Process and Productions, without reporting to the Court of Session, to be remitted to the Jury Court; which Court is hereby authorized and required finally to settle the Issue or Issues in the Cases so remitted, and to try the same by a Jury in Manner aforesaid: Provided always, that nothing herein contained shall prevent the Judge Admiral, in all Cases which come before him for Judgment after Verdict, from directing such farther Issue or Issues as he may see necessary, to enable him to pronounce Judgment thereon: And it shall likewise be competent to the Judges of the Jury Court, to order and direct any Facts not falling under the Issues, but which shall appear in Evidence, and which they shall deem material to the Merits of the Case, or important to the Decision of the Law, to be found by the Jury, and to be indorsed on the Issues, or on a Paper or Parchment to be attached to the Issue or Issues, and certified under the Hand of the Judge who tries the Cause, and returned with the Verdict and Issues to the Judge of the Admiralty Court.

If the Court of Admiralty refuse to transmit, the Court of Session may be applied to by Petition to order it.

XI. And be it further enacted by the Authority aforesaid, That it shall be competent to either of the Parties in any such Action in the Court of Admiralty, if the Judge Admiral shall refuse to order a Remit to be made to the Jury Court, as herein-before authorized and empowered, for the Purposes aforesaid, to apply for a Review of the Deliverance to that Effect to the Court of Session, in either of its Divisions, by Petition, to be intimated Three Days before the same is boxed; which Court, if it shall see Cause, is hereby authorized to pronounce an Interlocutor instructing the Judge Admiral to make such Remit.

Jury Court to have a Power to re-transmit Questions of Law;

XII. And be it further enacted by the Authority aforesaid, That it shall be competent and lawful for the Jury Court, when it appears to the said Court in the Course of settling an Issue or Issues, or at any Time before Trial, in the Cases remitted to them as aforesaid, that there is a Question or Questions of Law or Relevancy which ought to be previously decided, to remit back the whole Process and Productions to the Division of the Court of Session, the Lord Ordinary or Judge Admiral, who remitted the same to the Jury Court, that the Question or Questions of Law or Relevancy may be considered and determined there: Provided always, that it shall be lawful to the said Division, Lord Ordinary, or Judge Admiral, when Matters of Fact shall after such Consideration or Determination remain to be proved, again to remit the whole Process and all the Productions to the Jury Court, in order that an Issue or Issues may be prepared and tried

as aforesaid: Provided further, that it shall be competent to the said Division and Lords Ordinary to prepare and settle an Issue or Issues in Manner aforesaid, for the Purpose aforesaid; and it shall be competent for the Jury Court, when it appears to the said Court in the Course of settling an Issue or Issues, that a Case turns upon Matter of complicated Accounts, or other Matter to which Trial by Jury is not beneficially applicable, to remit back the whole Process and Productions as aforesaid, with their Report thereon, in order that the Division, Lord Ordinary, or Judge Admiral, may proceed with the same in such Manner as shall appear to be most expedient for the Administration of Justice.

also certain other Cases.

XIII. And be it further enacted by the Authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to prevent the Court of Session, in either of its Divisions, or the Lords Ordinary, (save and except in the Cases concluding for Damages herein-before enumerated), or the Judge Admiral, unless otherwise instructed as aforesaid by the Court of Session, to take Proof on Commission, by Remit, or *in presentia*, and thereafter disposing of the Cause in the Manner now practised in such Cases.

The Court of Session still to grant Commissions when it shall see proper.

XIV. And be it further enacted by the Authority aforesaid, That in all Cases brought from an Inferior Court to the Court of Session, wherein Proof by Witnesses has been taken by Order of the Inferior Court, the Court of Session, in either of its Divisions, or the Lords Ordinary, if they deem further Proof to be expedient to be taken, shall direct the same to be taken, and the Investigation of the Facts to be completed according to the Forms of the said Court, unless the Parties consent to cancel the Depositions of such Witnesses as are alive and within *Scotland*; in which Case it shall be competent for the Court of Session, or Lords Ordinary respectively, to direct the Case to be sent to the Jury Court, in Manner provided by this and the aforesaid Act of the Fifty-fifth Year of the Reign of His present Majesty: Provided always, that nothing herein contained shall restrain the Court of Session, in either of its Divisions, or the Lords Ordinary, from directing Issues in the Cases brought before them from an Inferior Court, as aforesaid, on any Point or Points not connected with the Proof already taken before such Court.

Cases brought by Advocation or Suspension, wherein Proof has been commenced by Witnesses.

XV. And be it further enacted by the Authority aforesaid, That it shall not be competent, by Representation, reclaiming Petition, Bill of Advocation, Appeal to the House of Lords, or otherwise, to bring under Review any Interlocutor by the said Divisions, Lords Ordinary, or Judge of the Admiralty, ordering a Trial by Jury.

Orders to try by Jury cannot be appealed from.

XVI. And be it further enacted by the Authority aforesaid, That in all Cases in which General Verdicts are found by a Jury, all Motions for setting aside the Verdict, and granting a new Trial, shall henceforth be made in the Jury Court, and not in the Court of Session; and the Order for granting or refusing a new Trial by the Jury Court shall be final, and not subject to Review, by Petition, Representation, Appeal to the House of Lords, or otherwise; and there shall be at least

Motions for new Trial to be in Jury Court, and except on Special Verdicts, and the Judgment to be final, unless for Mis-

direction of Judges in Matters of Law.

least Two Judges in Court when a Motion is made for a new Trial, or an Order is pronounced granting or refusing the same.

Bill of Exceptions to Judgment in certain Cases may be tendered.

XVII. And it is hereby enacted, That if the Motion for setting aside the Verdict be founded on the Misdirection of the Judge at the Trial in Matter of Law, or on the undue Admission or Rejection of Evidence, it shall be competent to the Party against whom Judgment is given by the Jury Court, to tender a Bill of Exceptions to such Judgment in the same Manner as at a Trial; and the Proceedings on such Bills of Exceptions shall be conformable in all respects to the Provisions of the Act of the Fifty-fifth Year of the Reign of His present Majesty, herein-before recited, regarding Bills of Exception: Provided always, that in all Causes remitted by the Court of Admiralty to the Jury Court, the Bills of Exception shall be presented by the Judge of the Jury Court to the Divisions of the Court of Session alternately, beginning with the First Division; provided further, that Motions for new Trials on a Special Verdict, or Special Findings, shall be made in the Division of the Court of Session from which the Proceedings were sent to the Jury Court, in Manner directed by the said recited Act of the Fifty-fifth Year of the Reign of His present Majesty: Provided nevertheless, that the Interlocutor to be pronounced on such Motions shall be final, and shall not be subject to Review by Petition, Representation, Appeal to the House of Lords, or otherwise.

Proceedings to remain in Jury Court.

XVIII. And be it further enacted by the Authority aforesaid, That in all Cases of new Trial in which a Bill of Exceptions to a Decision in the Jury Court is presented to the Court of Session, the Process and Productions shall remain in the Jury Court, in order to enable that Court to proceed in the new Trial, if the Judgment shall be reversed; or to proceed to pronounce Judgment upon a General Verdict, in case it shall be affirmed: Provided always, that it shall be competent to the Divisions of the Court of Sessions to order the said Process and Productions to be brought into the said Division, when it shall deem the same to be necessary; and after an Interlocutor shall be pronounced upon the Bill of Exceptions, the said Process and Productions shall be returned to the Jury Court, for the Purposes aforesaid; and that in all Cases of Special Verdicts or Special Findings, in all Cases where the Judgment of the Jury Court on a Bill of Exception, other than new Trials, is affirmed, the whole Process and Productions shall be forthwith remitted to the Court of Session, that the said Court may proceed to discuss the Law of the Case, and pronounce Judgment thereon.

Verdict to be final, and Judgments on Verdicts to be entered in Jury Court, and Execution to proceed on them.

XIX. And be it further enacted by the Authority aforesaid, That in all Cases where the Verdict of the Jury exhausts the Conclusions of the Action, (except certain Cases as herein-after provided), it shall and may be lawful, after the Elapse of the Time allowed for moving for a new Trial, or after a new Trial shall have been finally refused, for the Judge or Judges of the Jury Court, by a Judgment or Deliverance on the Verdict to be issued and to be subscribed by the presiding Judge, without the Necessity of any Motion to that Effect, to ordain that all Manner of legal Execution shall pass upon the same in common Form;

and it shall and may be lawful for the Judge or Judges of the Jury Court to award not only the Expences incurred in the said Court, but also the previous Expences incurred in the Court of Session, Court of Admiralty, or Inferior Court, and to require the Auditor of the Court of Session to tax the same; and the said Judgment shall specify the Expences, in the said Courts and in the Jury Court; and a Copy of the Verdict and Judgment, certified under the Hand of one or other of the Clerks of the Jury Court, shall be a sufficient Warrant for all legal Diligence and Execution, and equally effectual to all Intents and Purposes as if the same were an extracted Decree of the Court of Session, and shall be observed as such by the Lords Ordinary on the Bills, Clerks of the Bills, Keepers of the Signet, and all others; and that the Letters under the Signet shall in such Case bear, that they proceed on the Judgment of the Commissioners of the Jury Court, in those Instances in which, according to the present Practice, they bear, that they proceed on the Decree of the Lords of Council and Session; and the original Verdict and Judgment thereon, together with the whole Steps of Proceeding, and such Productions as may not have been taken up by the Parties entitled thereto, shall in all such Cases be transmitted for Preservation to the Keeper of the Records of the Court of Session, and in other respects dealt with in the same Way and Manner as the extracted Processes in the Court of Session are or may be transmitted and dealt with.

In Cases of Special Verdicts, &c. Proceedings to be returned to the Court of Session.

XX. Provided always, and be it enacted by the Authority aforesaid, That in Special Verdicts, and in all Cases where the Verdict contains any Special Findings, which may require the Judgment of the Court of Session on the Law, and also in all Processes of Reduction or Declarator, and in all Processes wherein the Decree to be pronounced will form a Part of the Title, or will affect or qualify the Title to any Heritable Estate, the Verdict, with the whole Process and Productions, shall be returned to the Court of Session, in order that the said Court may pronounce Decree in the said Cause: Provided always, in Cases remitted by the Admiralty Court, when the Return by the Jury is in the Form of a Special Verdict or Special Findings, which may require the Judgment of the Judge Admiral on the Law, the Verdict, with the whole Process and Productions, shall be returned into the Admiralty Court, that the Judge Admiral may pronounce Judgment in the Cause; and that in Cases remitted by the Court of Admiralty, the Bills of Exception shall be returned to the Divisions of the Court of Sessions alternately, beginning with the first, unless the Case was sent to the Jury Court in consequence of a Petition to the Court of Session as herein-before enacted, in which Case the Bill of Exceptions shall be returned to the Division to which the previous Petition was presented.

Admiralty Court.

Terms and Sittings fixed.

XXI. And be it further enacted by the Authority aforesaid, That there shall be certain distinct Periods of the Year for the Meeting of the Jury Court, to be called The Term, allotted for such Matters as do not require the Intervention of a Jury; and that there shall be certain other distinct Periods, to be called The Sittings, allotted for Trials by Jury; and the Jury Court shall, for the Purposes first aforesaid, keep and

and observe Four Terms in every Year, whereof One, to be called the *January Term*, shall commence yearly on the Twelfth of *January*, and shall end on the Twelfth Day of *February*; another, to be called the *May Term*, shall commence yearly on the Twelfth Day of *May*, and shall end on the Fifth Day of *June*; another, to be called the *June Term*, shall commence yearly on the Sixteenth Day of *June*, and end the Tenth Day of *July*; and the Fourth, to be called the *November Term*, shall commence yearly on the Twelfth Day of *November*, and shall end on the Tenth Day of *December*; and if any of the said Days on which the said Terms shall begin or end shall happen to be a *Sunday*, then such Term respectively shall begin or end on the next Day following.

Three Sittings in every Year.

XXII. And be it further enacted, That the said Court shall, for the Purposes last aforesaid, keep and observe Three Sittings in every Year, one to commence on the Day immediately after the *January* Term, another to commence the Day immediately after the *June* Term, the other to commence the Day immediately after the *November* Term; and if any of the said Days on which the said Sittings shall begin shall happen to be a *Sunday*, the said Sittings respectively shall begin on the Day next following; and all such Sittings shall be held, if necessary, from Day to Day, on every lawful Day, and shall so continue and endure, according to Exigency of Business; and it shall likewise be competent to the said Court to appoint Cases to be tried by Jury at other Times than the regular Sittings, when in their Judgment it shall appear to be necessary; and the Judges of the said Court shall hold Circuits in the Spring and Autumn Vacations, as at present practised.

Proceedings for preparing Issues.

XXIII. And be it further enacted by the Authority aforesaid, That the Proceedings for preparing and settling Issues, for hearing and determining all Matters necessary for forwarding Cases to be tried by Jury, the Hearing of all Motions respecting Judgments, new Trials, Expences of Process; all Applications for Remits to the Court of Session, and all other Matters and Things falling within the Jurisdiction of the Jury Court, and not requiring the Intervention of a Jury, may and shall be heard and determined during the Term only: Provided always, that nothing herein contained shall prevent one or more Judge or Judges of the Jury Court from making Orders out of Term, on the Application of Parties by the Counsel, respecting Commissions for the Examination of Witnesses, respecting the Inspection of written Evidence previous to a Trial by Jury; and in all other Matters and Things relative to furthering the Trial of Causes at the Sittings or on the Circuits, in case such Application could not have been made during the preceding Term; such Judge or Judges being satisfied, by Affidavit or otherwise, that the Application so made could not have been made in the preceding Term; and nothing herein contained shall prevent the Judge or Judges presiding at the Trial of any Case from putting off the same on account of the Absence of a material Witness or Witnesses, or for any other Cause in which Justice requires that a Trial should be put off; provided it is ascertained, by Affidavit to the Satisfaction of the Judge or Judges, that there is good

good Cause for so doing, and that such Cause could not have been foreseen in Time, to have moved the same in the preceding Term.

Regulations as to Condescendences and Answers.

XXIV. And be it further enacted by the Authority aforesaid, in all Processes in which the Jury Court is to settle the Issues, That Rules and Regulations shall be and are hereby directed to be framed for ordering Condescendences and Answers, by virtue of the Authority given in this Act for making Rules and Regulations, so that the Condescendences and Answers may either be in the Court of Session or in the Jury Court, as may be found most expedient; and in all Cases in which Condescendences and Answers shall be ordered in the Jury Court, the Clerk of the said Court shall collect the Fees on such Proceedings payable in the Court of Session, and shall account to the Officer in the Court of Session entitled to receive the same, for all Fees which shall be so collected.

Provision as to the Sum to be paid to Jurors.

XXV. And be it further enacted by the Authority aforesaid, That the Amount of the Sum to be paid to each Juror for serving on a Jury, shall be regulated by the Order of the Judge or Judges presiding at the Trial; provided that the said Judge or Judges shall not order more to be paid to any Juryman than Twenty Shillings for any One Trial, unless in Cases of Adjournment to a Second Day, when the Sum to be paid to him may, in the Discretion of the Judge or Judges, be extended to Forty Shillings; every such Sum to be paid by the Parties in manner now provided and in force.

Court to proceed against absent Jurors.

XXVI. And be it further enacted by the Authority aforesaid, That from and after the passing of this Act, it shall no longer be necessary for the Officer of any Sheriff or Stewart Depute or Substitute to attend in the Jury Court for the Purpose of proving the Service of a Summons served on any Juror, for enabling the said Court to proceed to impose a Fine on such Juror for not obeying their Summons, but it shall henceforth be lawful for the Jury Court, at its Sittings or Circuits, to proceed in respect to absent Jurors according to the Course which prevails in the Court of Justiciary.

Attendance of Officers.

XXVII. And be it further enacted by the Authority aforesaid, That the Sheriffs Depute and Substitute of Counties, and the Magistrates of Burghs, at the Place where the Judges of the Jury Court hold their Circuit, shall furnish the same Attendance of Officers on the Judges of the said Court on such Occasion, as is in use to be provided for the Lords of Justiciary on their Circuits, and the Expence thereof shall be reimbursed to the said Sheriffs and Magistrates in the same Manner as is now done in the Case of the Justiciary Circuit.

Jury Court may compel the Attendance of Witnesses, &c.

XXVIII. And be it further enacted, That it shall be competent to the Jury Court to issue their Order or Orders, Diligence or Diligences, for summoning Witnesses, and for Production of Writings, and for all other Matters and Things which the said Court may judge proper and necessary, in Manner and Form as is practised by the Court of Session; and that the said Jury Court shall have the same Power and Authority in granting the Protections to

Witnesses, committing for Prevarication and Contempt, in every respect, in Cases depending before them, as is competent to the Court of Session, without any Exception or Limitation whatever; and that the Orders of the said Court shall be executed by all Public Officers in the same Way as the Orders of the Court of Session; which the said Public Officers and Magistrates are hereby enjoined and authorized to execute accordingly.

Power to make Rules and Regulations for the Proceedings of the Court;

XXIX. And be it further enacted by the Authority aforesaid, That from and after the passing of this Act, it shall be lawful for the Lords Commissioners of the Jury Court, or any Two of them, to assemble from Time to Time, and as often as there shall be occasion, for the Purpose of framing such Rules and Regulations as may be necessary for settling an Issue or Issues, and for ordering the Forms of Process, and regulating the Proceedings in the said Court, in all Matters and Things falling within the Jurisdiction of the said Court; and that the said Rules and Regulations shall be reported to the Court of Session, assembled for the Purpose by the Authority of the Lord President, together with the Lords Commissioners of the Jury Court, who shall take the same into Consideration; and upon such Report being approved, the same shall be entered in the Books of Sederunt of the Court of Session, and in the Sederunt Book of the Jury Court: Provided always, that such Regulations as are applicable, not only to the Jury Court but also to the Court of Session, shall be framed in the Manner provided by the foresaid Act of the Fifty-fifth Year of the Reign of His present Majesty.

and for the Cross-examination of Witnesses.

XXX. And whereas great Inconvenience has arisen in the Administration of Justice in the Jury Court, out of the Regulations now in force respecting the Precognoscing of Witnesses by the Agents of Parties, also respecting the Cross-examination of Witnesses, and in other Matters of Regulation as to Evidence; be it enacted by the Authority aforesaid, That it shall be lawful for the Judges of the Court of Session, and of the Jury Court, being assembled for the Purpose of passing Acts of Sederunt, as provided by the said Act of the Fifty-fifth Year of His present Majesty, to make Acts of Sederunt, establishing such Regulations and Rules of Court for the Preparation of Evidence and the Examination of Witnesses, as shall be expedient for the due Administration of Justice in the Jury Court.

An additional Clerk to be appointed.

XXXI. And be it further enacted by the Authority aforesaid, That from and after the First Day of *December* One thousand eight hundred and nineteen, it shall and may be lawful for His Majesty, His Heirs and Successors, to appoint a Fourth Clerk to the said Jury Court, in the Manner in which the present Clerks of the said Jury Court were directed to be appointed by the said recited Act passed in the Fifty-fifth Year of the Reign of His present Majesty, with a Salary not exceeding the Sum of Six hundred Pounds *per Annum*, payable in the same Manner and at the same Periods as the Salaries authorized to be granted to the present Clerks of the said Jury Court are directed to be paid and are payable by virtue of the said recited Act; and the said Salary of such Clerk, as well as the Salaries of the other Clerks

of the Jury Court shall be subject to such and the like Taxes and Deductions and none other, to which the Salaries granted to the Clerks of the Court of Session are subject and liable.

Three Assistant Clerks to be appointed.

XXXII. And be it further enacted by the Authority aforesaid, That from and after the said First Day of *December* One thousand eight hundred and nineteen, it shall and may be lawful for His Majesty, His Heirs and Successors, to appoint Three Assistant Clerks, or Closet Keepers, to the said Jury Court, with Salaries not exceeding the Sum of Three hundred Pounds *per Annum* to each, payable in the same Manner and at the same Periods as the Salaries authorized to be granted to the Clerks of the said Jury Court are directed to be paid by the said recited Act and this Act.

Auditor of Court of Session to be the Auditor of the Jury Court.

XXXIII. And be it enacted by the Authority aforesaid, That in all Cases in which the Jury Court is authorized to award and allow Expences, the Accounts of such Expences shall be audited, settled, and reported upon, by the Person exercising the Office of the Auditor of the Court of Session in either of its Divisions, who shall be and is hereby declared to be Auditor of the Jury Court; and such and the like Fees shall be paid to such Auditor as in the case of Accounts of Expences audited, settled, and reported upon in the Court of Session, under the Authority of an 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, and for the Regulation of certain Parts of the Proceedings of that Court;* and such Auditor shall become entitled to the said Fees from and after the First Day of *December* and the Twelfth Day of *January* next, according as Expences in the Court of Session or other Courts, or in the Jury Court, may arise, and are awarded by the Jury Court. 50 G. 3. c. 112.

Power to appoint interim Clerks.

XXXIV. And be it further enacted by the Authority aforesaid, That in case of the Absence from Illness or other sufficient Cause of the Clerk or Clerks of the Jury Court, either at *Edinburgh*, or on the Circuits, it shall be lawful for the presiding Judge to appoint, by Writing, signed by the said Judge, and afterwards to be entered in the Sederunt Book of the Court, a proper Person to act as Clerk for the Occasion, to whom the Oaths appointed to be taken by the Clerks of the Jury Court shall be administered previous to his acting.

Viewers in some Northern Counties regulated.

XXXV. And be it enacted by the Authority aforesaid, That in Cases where an Order for a View has been obtained, and that the Place to be viewed lies in the Counties of *Sutherland*, *Caithness*, and *Orkney*, which Counties are not required to send Jurors to *Inverness*, the Sheriffs Depute or Substitute of the said Counties respectively shall return Three Persons of the County in which the Action arises, to be the Viewers; and that the said Viewers shall be bound to attend at the Trial, and be first called to serve on the Jury; the Manner of proceeding to take the View, and the Qualification of the Jurors, being subject always to the Regulations now in force respecting Views, and respecting the Qualification of Jurors; and if from any Cause it shall be expedient that Viewers should

should be sent from a neighbouring County, the Jury Court shall issue an Order for a certain Number of Jurors of the nearest County from which it may be expedient that Viewers should be taken, and they shall be bound to attend the View, and shall be first called to serve on the Jury, as at present practised.

Jury Court made permanent.

XXXVI. And be it further enacted by the Authority aforesaid, That the Jury Court in Civil Causes, created under the Authority of the aforesaid Act of the Fifty-fifth Year of the Reign of His present Majesty, with all the Officers belonging thereto, and to the Lord Chief Commissioner thereof, shall remain in all Time coming a Part of the Judicial Establishment of *Scotland*, and of the College of Justice therein, subject to such Regulations, for the better Administration of Justice, as may hereafter be made by Parliament.

Commencement of the new Judicature.

XXXVII. And be it further enacted by the Authority aforesaid, That this Act shall take Effect in directing the Proceedings of the Court of Session from and after the First Day of *December* next, and in directing the Proceedings of the Jury Court from and after the Twelfth Day of *January* next, except as to the framing and passing Rules and Regulations, which, as herein-before enacted, may be framed and passed at any Time from and after passing of this Act; declaring always, that it shall be competent for the aforesaid Courts respectively to proceed in Manner and Form now practised, until the First Day of *December* and Twelfth Day of *January* aforesaid.

Qualification of the Lord Chief Commissioner of the Jury Court, and Appointment of Salary.

XXXVIII. And be it enacted by the Authority aforesaid, That so much of the said recited Act of the Fifty-fifth Year of the Reign of His present Majesty, as requires that the Chief Commissioner of the Jury Court be a Senator of the College of Justice, or a Baron of Exchequer in *Scotland*, be and the same is hereby repealed; but that no Person shall be appointed to be Chief Commissioner of the said Court, unless he be qualified to be appointed a Senator of the College of Justice; and when at any Time the Person holding the said Office shall not hold any other judicial Office than that of Chief Commissioner, every such Person, during the Time he shall hold the said Office of Chief Commissioner and no other judicial Office, shall be entitled to such Salary as shall be equal to the Salary of the Person holding the Office of Lord Justice Clerk in *Scotland*; and such Salary to such Chief Commissioner shall be directed to be paid, and shall be payable, in the Manner and at the same Periods as the Salary granted to the Person holding the Office of Chief Commissioner of the Jury Court is now, by virtue of the said recited Act passed in the Fifty-fifth Year of the Reign of His present Majesty, directed to be paid.

Extending the Provisions of 48G.3.c.145. to the Judges of the Jury Court.

XXXIX. And whereas by an Act passed in the Forty-eighth Year of the Reign of His present Majesty, intituled *An Act for enabling His Majesty to grant Annuities to the Judges of the Courts of Session, Justiciary, and Exchequer in* Scotland, *upon the Resignation of their Offices;* it was enacted, that it should and might be lawful for His Majesty, His Heirs and Successors, by His Majesty's Sign Manual,

to give and grant unto any Person who should have executed the Office of Lord President of the Court of Session, or of the Lord Justice Clerk, or of the Lord Chief Baron of the Court of Exchequer in *Scotland*, and who should have respectively resigned any such Office, an Annuity or yearly Sum of Money, not exceeding Three-fourth Parts of the Salary appertaining to each such Office at the Period of the Resignation thereof, to commence and to be paid in the Manner and subject to the Conditions mentioned in the said recited Act: And whereas it is reasonable and expedient that Annuities should in like Manner be granted to the Lord Chief Commissioner, and the other Commissioners of the Jury Court, upon the Resignation of their respective Offices; and also, that the Successor of every such Commissioner should in like Manner be entitled to have and receive such Salaries and Profits as may arise and become due from the Death or Resignation of his Predecessor; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by His Majesty's Sign Manual, to give and grant unto any Person who shall have executed the Office of Lord Chief Commissioner, or of a Commissioner of the Jury Court, as well before as after the passing of this Act, and who shall have respectively resigned any such Office, an Annuity or yearly Sum of Money, not exceeding Three-fourth Parts of the Salary appertaining to each such Office at the Period of the Resignation thereof, to commence and be payable in all Respects in the same Manner and subject to the same Conditions as any Annuity is authorized and directed to be granted under and by virtue of the said recited Act, passed in the Forty-eighth Year of the Reign of His present Majesty; and also that the Successor of every such Person, who shall have executed the Office of Lord Chief Commissioner, or of a Commissioner of the Jury Court, shall be entitled to have and receive such Salary as shall have arisen and shall have become due from the Death or Resignation of his Predecessor, in like Manner as if his Letter Patent or Commission had borne Date the Day next subsequent to the Day of the Death or Resignation of his Predecessor.

Buildings to be erected for the Court, &c.

XL. And whereas permanent Accommodation is required for carrying on the Business of the said Court with proper Convenience for the Judges, and for the Clerks and Officers thereof, and the Buildings necessary and proper for this Purpose may be erected so as to be connected with the Buildings now used for the Courts of Session, Justiciary, and Exchequer in *Scotland*; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for the Lord Chief Baron, and the Barons of the Court of Exchequer in *Scotland*, with the Advice and Consent of the Lord High Treasurer and Lords Commissioners of His Majesty's Treasury for the Time being, to order and direct such necessary and proper Buildings to be erected for the Accommodation of the Jury Court, and to order the Expence thereof to be defrayed out of the Monies that shall arise from any of the Duties and Revenues in *Scotland*, which by several Acts made in the Seventh and Tenth Years of the Reign of Her Majesty Queen *Anne*, were charged and made chargeable for keeping up the Courts of Session, Justiciary, and Exchequer in *Scotland*, and to order such

Sums to be paid out of such Duties and Revenues as shall be from Time to Time required for such Expence, to the Trustees acting in the Execution of an Act, passed in the Forty-eighth Year of the Reign of His present Majesty, intituled *An Act for vesting the Stock of the Court of Session in Trustees for the erecting Buildings for the better Accommodation of the College of Justice and a public Gaol in the City of* Edinburgh; *and for other Purposes therein mentioned;* and such Powers and Authorities are hereby given and granted to such Trustees for the Purpose of erecting the Buildings hereby directed, as are given to the said Trustees for erecting the Buildings directed by the said last-mentioned Act.

48G.3.c.146.

Bodies Politic empowered to sell and convey for the Purposes of this Act.

XLI. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the said Trustees to acquire, and for all Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Guardians, Trustees, and all other Persons and Trustees whomsoever, not only for and on behalf of those having the beneficial Interest, whether Persons under Age, Issue unborn, Lunatics, Idiots, or fatuous Persons, or other Person or Persons, and for every other Person or Persons whomsoever who shall be seised, possessed of, or interested in any Lands, Grounds, and Heritages, which shall be required for the Purposes of this Act, to contract for, sell, and convey the same and every Part thereof unto the said Trustees for the Purposes of this Act; and all such Contracts, Agreements, Sales, Conveyances, and Assurances shall be valid and effectual in the Law to all Intents and Purposes whatsoever, any Law, Statute, Usage, or Custom to the contrary thereof in anywise notwithstanding; and all Bodies Politic, Corporate, or Collegiate, and all Persons whomsoever so conveying as aforesaid, are hereby indemnified for or in respect of any such Sale which he, she, or they, or any of them, shall respectively make by virtue or in pursuance of this Act.

XLII. And be it further enacted by the Authority aforesaid, That all Conveyances and Assurances which shall be made of any Lands or Heritages to the said Trustees for the Purposes of this Act, shall be made according to the following Form, or as near thereto as the Circumstances of the Case will admit:

Form of Conveyance.

'I [*or* We] of in consideration of the Sum of to me [*or* us] paid, do hereby grant, dispone, and convey to all [*describing the Premises to be conveyed*] and all my Right, Title, and Interest to and in the same and every Part thereof, to hold to the said for the Purposes specified in an Act passed in the Fifty-ninth Year of the Reign of His Majesty King *George* the Third, intituled [*here set forth the Title of this Act.*] In witness whereof I have set my Hand to these Presents, written by [*insert Name and Description of the Writer*] this Day of in the Year of our Lord before these Witnesses [*insert Names and Descriptions of Witnesses, who will also subscribe as Witnesses.*]'

And

And all such Conveyances and Assurances shall be registered, within Sixty Days of the Date thereof, in the general Register of Sasines, or in the particular Register of Sasines of the County of *Edinburgh*, and shall thereupon be valid and effectual in the Law to all Intents and Purposes, and shall be a complete Bar to all other Rights, Titles, Trusts, and Interests, and Incumbrances to, in, or upon the same whatsoever.

Satisfaction to be made.

XLIII. Provided always, and be it further enacted by the Authority aforesaid, That all and every Body Politic, Corporate, or Collegiate, Trustees, or other Persons herein-before capacitated to sell and convey any Lands, Tenements, and other Heritages, or any Owner or Owners, and the Occupier or Occupiers of any Lands, Tenements, or other Heritages required to be taken for the Purposes of this Act, may accept and receive Satisfaction for the Value of such Lands, Tenements, and Heritages, or of any such Interests as aforesaid; and from and immediately after the Time of making and executing such Sale and Conveyance, or any Contract or Contracts for the same, the said Trustees purchasing the same, for the Purposes of this Act, may and shall be at liberty to enter upon, and from thenceforth for ever to have, take, and use the said Lands, Tenements, and other Heritages, for the Purposes of this Act; and in case the Parties interested in such Lands, Tenements, or Heritages, cannot or do not agree as to the Amount or Value of such Satisfaction, the same shall be ascertained and settled by the Verdict of a Jury as is herein-after directed.

If Parties are dissatisfied, or refuse, or are unable to treat, &c. a Jury to be impannelled to decide the Matter.

XLIV. And for settling all Differences which may arise between the said Trustees and the several Owners of or Persons interested in any Lands, Tenements, or other Heritages which shall or may be taken or used for the Purposes of this Act, be it further enacted by the Authority aforesaid, That if any Body Politic, Corporate, or Collegiate, or any other Person or Persons so interested, for and on his, her, or their Part or Parts, or for or on the Part of any Person or Persons for whom they may hold the same, or Persons as aforesaid, shall refuse to accept such Purchase Money or other Compensation as shall be offered by them the said Trustees, or their Agent by or on their Behalf, shall give Notice thereof in Writing to any Three of the said Trustees within Seven Days after such Offer shall have been made, and the Party or Parties giving such Notice as aforesaid shall therein request that the Matter or Matters in Dispute may be submitted to the Determination of a Jury; or if any Body Politic, Corporate, or Collegiate, or any other Person or Persons seised or possessed of or interested in any such Lands, Tenements, or Heritages, as aforesaid, shall refuse to treat or agree, or shall not agree, or by reason of Absence or Disability cannot agree with the said Trustees, or with any Person or Persons authorized by them, for the Sale and Conveyance of their respective Estates and Interests therein, or cannot be found or known, or shall not produce or evince a clear Title to the Premises they may be in Possession of, or to the Interest they shall claim therein, to the Satisfaction of the said Trustees, or of the Person

Person or Persons authorized by them, then and in every such Case the said Trustees shall and they are hereby empowered and required from Time to Time to direct the Sheriff Depute or Substitute of the County of *Edinburgh*, to summon, assemble, and choose a Jury, in such Way and Manner as Juries are summoned, assembled, and chosen in Counties in *Scotland*; and the said Sheriff may order and authorize the said Jury when chosen, or any Three or more of them, to view the Place or Places or Matters or Things in controversy; and such Jury shall upon their Oaths (which Oaths, as well as the Oaths of such Witnesses, the said Sheriff is hereby empowered and required to administer) inquire of, assess, and ascertain, and give a Verdict for the Sum or Sums of Money which shall be paid for the Purchase of such Lands, Tenements, or Heritages, or Compensation for any Interest therein as aforesaid; and the said Sheriff shall give Judgment for such Purchase Money or Compensation so assessed by such Jury; which said Verdict and the Judgment thereupon shall be binding and conclusive to all Intents and Purposes upon all Bodies Politic, Corporate, or Collegiate, and upon all Persons whomsoever, and shall not be subject to any Review, or any Stay or Sist of Execution whatsoever: Provided that Fourteen Days Notice in Writing at the least of the Hour and Place at which such Jury are so required to be returned be given to the Bodies Politic, Corporate, or Collegiate, or to the Person or Persons interested, or claiming so to be, before the Time of the Meeting of the said Sheriff and Jury as aforesaid, by leaving such Notice at the Dwelling-house of such Person or Persons, or of the Head Officer of such Body or Bodies Politic, Corporate, or Collegiate, or with some Tenant or Occupier of the Premises respectively intended to be valued; and in each and every Case where a Verdict shall be given for more Money, as a Recompence or Satisfaction for the absolute Sale of any Lands, Tenements, or Heritages, or as a Compensation for any Interest therein as aforesaid, than shall have been previously offered by or on behalf of the said Trustees before the summoning such Jury, and where no Compensation shall have been previously offered in respect thereof by or on Behalf of the said Trustees, or where by reason of Absence, or other Impediment or Disability, there shall not be found any Person or Persons at hand who may be legally capacitated to contract with and make Conveyances to or receive Compensation from the said Trustees as herein-before mentioned, then and in all such Cases all the reasonable Expences of causing such Value or Compensation to be assessed and awarded as aforesaid shall be settled by the said Sheriff, and be defrayed by the said Trustees, but if any Verdict shall be given for the same Sum that shall have been previously offered by or on behalf of the said Trustees, or for a less Sum than shall have been so previously offered, or in case of such Refusal to treat with or make Conveyances to the Trustees by any Bodies Politic, Corporate, or Collegiate, or by any Person or Persons whomsoever who is or are by the Provisions of this Act or otherwise legally empowered to treat and convey or receive such Compensation as aforesaid, then and in all such Cases (except where, by reason of Absence or otherwise, any Person shall have been prevented from treating and agreeing as aforesaid, in which Case all

such Costs and Expences shall be borne and paid by the said Trustees) the reasonable Costs and Expences of causing such Value or Compensation to be assessed and awarded as aforesaid shall be settled in like Manner to the said Sheriff, and be borne and paid by the Body or Bodies Politic, Corporate, or Collegiate, or by the Person or Persons with whom the said Trustees shall have such Controversies or Disputes; which said Costs and Expences shall and may be deducted out of the Money so assessed and awarded; and the Payment or Tender of the Remainder of such Sum or Sums of Money shall be deemed and taken to all Intents and Purposes to be Payment or Tender of the whole Sum or Sums so assessed or awarded as aforesaid.

Verdicts to be recorded.

XLV. And be it further enacted by the Authority aforesaid, That all the said Judgments and Verdicts shall be deemed to be and shall become Records of the said Sheriff to all Intents and Purposes whatsoever; and the same or true Copies thereof shall be allowed to be good Evidence; and all Persons shall have Liberty to inspect the same, paying for such Inspection the Sum of One Shilling, and to take Copies thereof, paying for every Copy the Sum of Sixpence for every One hundred Words, and so in proportion for any less Number of Words.

Power to enter upon and take Possession of Land, &c. on Payment or Tender of Purchase Monies.

XLVI. And be it further enacted by the Authority aforesaid, That upon Payment or legal Tender of such Sum or Sums of Money as shall have been contracted or agreed for between the Parties, or determined or adjusted by any Jury or Juries in Manner aforesaid, for the Purchase of any such Lands, Tenements, or Heritages, to the Proprietor or Proprietors of such Lands and other Heritages and Premises, or such other Person or Persons as shall be interested therein, or entitled to receive such Money or Compensation respectively, at any Time after the same shall have been so agreed for, determined, or awarded; or if the Person or Persons so entitled or interested, or any of them, cannot be found, or shall refuse to receive the same, or shall not be able to make a good Title to the Premises, to the Satisfaction of the said Trustees, or shall refuse to execute a Conveyance or Conveyances of the Premises which shall be required for the Purposes of this Act; then, upon Payment of the said Sum or Sums of Money into the Bank of *Scotland*, or the Royal Bank of *Scotland*, or the *British* Linen Company, as hereafter directed and required (in case the same shall be requisite), for the Use of such Person or Persons so interested or entitled as aforesaid, it shall be lawful for the said Trustees, and their Agents, Servants, and Workmen, or any other Persons authorized by them in their Behalf, immediately to enter upon such Lands, Grounds, and Heritages, respectively, and the Fee Simple and Inheritance thereof, together with the Yearly Profits thereof, and all the Estate, Use, Trust, and Interest of any Person or Persons therein, shall from thenceforth be vested in the said Trustees, in such Manner as is directed in and by this Act, to and for the Purposes of this Act, for ever; and such Tender, Payment, or Investiture shall not only bar all Right, Title, Claim, Interest, and Demand, of

the Person or Persons to whom the same shall or ought to have been made, but also shall extend to and shall be deemed and construed to bar the Terce of the Wife, and all Right of every other Person, and all Incumbrancers whomsoever therein: Provided nevertheless, that before such Payment it shall not be lawful for the said Trustees, or any Person acting under their Authority, to dig into such Lands or Grounds, for the Purpose of erecting the Buildings directed by this Act, without Leave of the respective Owners or Occupiers thereof in Writing under their respective Hands.

Application of Compensation when exceeding 200l.

XLVII. And be it further enacted by the Authority aforesaid, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Heritages, or for any other Matter, Right, or Interest, of what Nature or Kind soever, purchased, taken, or used by virtue of the Powers of this Act, for the Purposes thereof, which shall belong to any Corporation, Minor, or other Person or Persons under any Disability or Incapacity, as herein-before mentioned, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *Scotland*, or the Royal Bank of *Scotland*, or the *British* Linen Company, to be placed to an Account in the Name or Names of such Person or Persons as any Three of the said Trustees shall, by Writing signed by them, direct and appoint, to the Intent that such Money shall be applied, under the Direction and the Approbation of the Court of Session, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Heritages, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Heritages, which shall be conveyed to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands, Tenements, or Heritages, which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the meantime, and until such Purchase shall be made, the Interest or Annual Produce of such Money shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands, Tenements, and Heritages so hereby directed to be purchased, in case such Purchase or Settlement were made.

When less than 200l. and exceeding 20l.

XLVIII. Provided always, and be it further enacted by the Authority aforesaid, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Heritages purchased, taken, or used

for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Heritages so purchased, taken, or used, or of his, her, or their Guardian or Guardians, to be signified in Writing under their respective Hands, be paid into the Bank of *Scotland*, the Royal Bank of *Scotland*, or the *British* Linen Company, under the Direction and Authority of the Court of Session, in order to be applied in Manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Three Trustees, to be nominated by the Person or Persons making such Option, and approved of by Three or more of the said Trustees, such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties, in order that such principal Money and the Interest arising thereon may be applied in Manner herein-before directed, so far as the Case may be applicable, without obtaining or being required to obtain the Direction and Approbation of the Court of Session.

When less than 20l.

XLIX. Provided always, and be it further enacted by the Authority aforesaid, That where such Money so agreed or awarded to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Heritages so purchased, taken, or used for the Purposes of this Act, as the said Trustees, or any Three or more of them, shall think fit, or then to his, her, or their Guardian or Guardians, and to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not making out Titles, or if Persons cannot be found, Purchase Money to be paid into the Bank;

L. And be it further enacted by the Authority aforesaid, That in case the Person or Persons to whom such Sum or Sums of Money shall be so ordered to be paid as aforesaid shall not be able to make a good Title to the Premises, to the Satisfaction of the said Trustees, or any Three of them, or shall refuse to execute such Conveyance or Conveyances; or in case such Person or Persons to whom such Sum or Sums of Money shall be so ordered to be paid as aforesaid cannot be found; or if the Person or Persons entitled to such Lands, Tenements, or Heritages, be not known or discovered; then and in every such Case it shall be lawful for the said Trustees, or any Three or more of them, to order the said Sum or Sums so awarded to be paid into the Bank of *Scotland*, the Royal Bank of *Scotland*, or the *British* Linen Company, to the Credit of the Parties interested in the said Lands, Tenements, or Heritages [describing them], subject to the Order, Controul, and Disposition of the Court of Session; which said Court, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, shall be and is hereby empowered, in a summary Way of Proceeding, or otherwise, as to the said Court shall seem meet, to order the same to remain in the Hands of the said Banks, or One of them,

subject to the Order of the Court of Session, by Motion or Petition.

or

or to order the same to be laid out and invested in the Public Funds, or to order Distribution thereof, or Payment of the Interest or Dividends thereof, according to the respective Estate or Estates, Title, or Interest of the Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the said Banks respectively, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums, mentioning and specifying for what and for whose Use the same is or are received to such Person or Persons as shall pay any Sum or Sums of Money into the Bank as aforesaid.

Cashier of the Bank to give a Receipt.

Where any Question shall arise touching the Title to Money to be paid, the Person in Possession shall be deemed entitled thereto.

LI. Provided always, and be it further enacted by the Authority aforesaid, That where any Question shall arise touching the Title of any Person to any Money to be paid into such Banks in pursuance of this Act, for the Purchase of any Lands, Tenements, or Heritages, or of any Estate, Right, or Interest in any Lands, Tenements, or Heritages to be purchased in pursuance thereof, or to any Bank Annuities to be purchased with any such Money, or to the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Heritages at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Heritages, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Session; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, or the Capital yielding such Interest, remaining in the Hands of any of the said Banks, shall be paid and applied and disposed of accordingly, unless it shall be made appear to the said Court, that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Heritages, or to some Estate or Interest therein.

The Court may order reasonable Expences of Purchases to to be paid by the Trustees.

LII. Provided also, and be it further enacted by the Authority aforesaid, That where by reason of any Disability or Incapacity of the Person or Persons, or Corporation, entitled to any Lands, Tenements, or Heritages, to be purchased under the Authority of this Act, and the Purchase Money for the same shall be required to be paid into the said Banks, or one of them, by the Order of the said Court, and to be applied in the Purchase of other Lands, Tenements, or Heritages, to be settled to the like Uses in pursuance thereof respectively, it shall be lawful for the said Court to order the Expences of all such Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expences as the Court shall deem reasonable, together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Commissioners, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

LIII. And

Trustees empowered to re-sell Lands.

LIII. And whereas the said Trustees may purchase Lands to be made use of for the Purposes of this Act, and it may happen that the whole thereof may not be required for the Purposes of this Act, and it may in such Case become necessary to re-sell the same; be it therefore further enacted by the Authority aforesaid, That it shall be lawful for the said Trustees, by Deed under the Hands of any Three or more of them, to grant and convey, by way of absolute Sale, for a Consideration in Money, such Lands, Tenements, or Heritages, or any such Part or Parts thereof as shall not be wanted for the Purposes of this Act; and all such Conveyances from the said Trustees shall be valid and effectual, any Thing in this Act contained, or any other Law, Statute, or Custom to the contrary thereof in anywise notwithstanding; and upon Payment of the Money which shall arise by Sale or Sales of such Lands, Tenements, and Heritages, it shall and may be lawful for the said Trustees to sign and give Receipts for the Money for which the same shall be sold, which Receipt shall be sufficient Discharges to any Person or Persons for the Purchase Money for which such Lands or Buildings shall be so sold, or for so much thereof as in such Receipts shall be acknowledged or expressed to be received; and such Person or Persons shall not afterwards be answerable or accountable for any Loss, Misapplication, or Non-application of such Purchase Money, or any Part thereof: Provided always, that the said Trustees, before they shall sell and dispose of such Lands, Tenements, or Heritages, shall first offer to re-sell the same to the Person or Persons from whom they shall have purchased the same, or would have been then entitled to in case the same had not been purchased by the said Trustees, the Price at which the same shall be re-sold being, at the Option of the said Persons, either the Price paid by the said Trustees, or a Price for the same adjusted and settled by a Jury in like Manner as the Price for any Land to be taken in pursuance of this Act, as herein-before directed to be settled in case of Difference or Dispute as to the Value thereof; and if such Person or Persons shall not agree, or shall refuse to re-purchase the same, it shall and may be lawful to and for any Person or Persons, not interested in the Premises, to make an Affidavit, to be sworn before One of His Majesty's Justices of the Peace for the County where such Lands shall be situate, stating that such Offer was made by or on behalf of the said Trustees, and that such Person or Persons did not agree, or refused to purchase such Lands or Buildings, as the Case may be; and such Affidavit shall in all Courts be sufficient Evidence and Proof that such Offer was made, and not agreed to or refused.

Repeal and Saving Clause.

LIV. And be it further enacted by the Authority aforesaid, That the several Powers, Authorities, Directions, and Regulations, and all other Matters and Things enacted in the aforesaid Act of the Fifty-fifth Year of the Reign of His present Majesty, excepting in so far as the same are by this Act altered, varied, amended, annulled, or repealed, shall be and the same are hereby continued in force, in as full and ample Manner as if the same were repeated and re-enacted in this Act, and made a Part thereof; and that nothing herein contained shall extend or be construed to extend, except as herein enacted, to diminish or invalidate the binding Force and Effect of the Rules and Regu-

lations made under the Authority of the herein-before mentioned Act of the Fifty-fifth Year of the Reign of His present Majesty, or the Orders, Directions, or Judgments of the Courts acting under the Authority of the same.

Provisions of recited Act respecting Reports to Parliament repealed.

LV. And whereas it is provided by the said Act of the Fifty-fifth Year of the Reign of His present Majesty, that regular Returns should be made, to both Houses of Parliament, of all Proceedings under the said Act, and that Reports should be made of the Number of Issues directed to and tried in the Jury Court: And whereas it is no longer necessary to continue the said Provisions; be it enacted by the Authority aforesaid, That all the Provisions contained in the said Act, respecting the said Returns and Report to Parliament, shall be and the same are hereby repealed.

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