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C A P. XIV.

An Act to explain and amend Two Acts relating to Trial by Jury in *Scotland*. [8th *June* 1837.]

WHEREAS by an Act passed in the Fifty-fifth Year of the Reign of His Majesty King *George* the Third, intituled *An Act to facilitate the Administration of Justice in that* 55 G. 3. c. 42. *Part of the United Kingdom called* Scotland *by the extending Trial by Jury to Civil Causes*, it is enacted, 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 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 further Proceedings, either by directing a new Trial to be had, or otherwise, as the Case may require: And whereas by an Act passed in the Fifty-ninth Year of the Reign of His said Majesty King *George* the Third, intituled *An Act to amend an Act passed in the Fifty-fifth Year of the Reign of His present Majesty, intituled 'An Act to facilitate the Administration of Justice in 'that Part of the United Kingdom called* Scotland *by extending Trial 'by Jury to Civil Causes,'* it is 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 Exceptions: And whereas Doubts have arisen whether, according to the Enactments herein-before recited, the Court of Appeal is not authorized in Cases coming before it upon Bills of Exceptions to order another or new Trial, although such Court of Appeal should be of Opinion that the Exception is not to be allowed; and it is expedient that such Doubts should be removed: Be it therefore 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, and it is hereby enacted, That henceforth in all Cases in which any Bill of Exceptions is brought before the Court of Session, or carried by Appeal to the House of Lords, it shall not be competent to the Court of Session or to the House of Lords in pronouncing Judgment on such Bill of Exceptions to make any Order or to pronounce any Judgment ordering a new Trial, unless the said Court or House of Lords shall be of Opinion that the Exception is to be allowed; and that in all Cases of Bills of Exceptions in which it shall be the Opinion of the said Court or House of Lords that the Law directed at the Trial, or the Determination to receive or reject Evidence and excepted to, is correct,

59 G. 3. c. 35.

On Bills of Exceptions, the Court of Session or House of Lords not authorized to order a new Trial unless they are of Opinion that Exceptions

correct, the said Court or House of Lords shall make an Order that the Bill of Exceptions shall be disallowed, and that the Verdict found by the Jury shall be carried into effect by a Judgment pronounced thereon for the Party in whose Favour the said Verdict was found; any thing in the said recited Acts, or in any other Act of Parliament, to the contrary notwithstanding. should be allowed.

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