

ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

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CAP. LXXIX.

An Act to facilitate and simplify Procedure in the Court of Justiciary in *Scotland*.

[31st *August* 1848.]

WHEREAS it is expedient that the Procedure in the Court of Justiciary in *Scotland* should be simplified and amended: Be it enacted, by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful to use printed Copies, or Copies partly printed and partly written, of all Indictments and Criminal Letters before the High Court of Justiciary and Circuit Courts of Justiciary in *Scotland*, as the principal or Record Copies of such Writs, instead of the written Copies thereof heretofore used for that Purpose: Provided always, that such printed or partly printed and partly written Copies shall be authenticated, in the Case of Indictments, by the Subscription of Her Majesty's Advocate or of One of his Deputes, and in the Case of Criminal Letters, by the Subscription of One of the Clerks of Court, according to the present Practice.

Printed, instead of written, Copies of Indictments, &c. may be used as Record Copies.

Printed Copies to be authenticated.

II. And whereas Letters of Diligence for citing Parties, Witnesses, and Assizers are issued as a Matter of Course at the Instance of Her Majesty's

Letters of Diligence to be issued by the Clerk on

Exhibition of Indictment, and Roll or Minute Book of the same to be kept by the Clerk.

Majesty's Advocate, and according to the present Practice such Letters, both in the High Court and Circuit Courts of Justiciary, proceed on Bills the Deliverances on which require to be subscribed by One of the Judges of the said Court, which Proceeding is unnecessary and inconvenient: Be it enacted, That such Bills shall hereafter be dispensed with, and such Letters of Diligence, in Cases before both the High Court and Circuit Courts of Justiciary, shall be issued by the Clerk of Court to Her Majesty's Advocate, on Exhibition of the Indictment on which such Letters of Diligence are required to be raised, or a Copy thereof, signed by the Crown Agent for the Time being; and it shall not be necessary that such Letters pass the Signet of the said Court: Provided always, that a Roll or Minute Book of all such Letters of Diligence, whether issued for the High Court or Circuit Courts of Justiciary, shall be kept by the Clerk of Justiciary.

Deliverances on Bills to be signed by Clerk of Justiciary instead of One of the Judges.

Bills or Petitions, &c. under Act of Scottish Parliament, 1701, c. 6. to remain as at present.

III. And be it enacted, That all Deliverances on Bills for Criminal Letters, Letters of Supplement, Lawburrows, Horning, and Caption, and on all ordinary Bills passing of course or without Opposition, shall be signed by One of the Clerks of Court instead of by One of the Judges, as at present, and the Signature of such Clerk shall be as effectual for passing such Bills as if they had been subscribed according to the present Practice: Provided always, that Bills or Petitions for Letters of Intimation or Liberation under an Act of the *Scottish* Parliament passed in the Year One thousand seven hundred and one, intituled *An Act for preventing wrongous Imprisonment, and against undue Delay in Trials*, shall remain as at present, and shall be presented to and disposed of by One of the Judges, or by the Court, according to the present Practice.

One List of Assize sufficient for all Trials at the same Diet i the High Court of Justiciary.

IV. And be it enacted, That when in the High Court of Justiciary more than One Case shall be set down for Trial at One and the same Diet, it shall not be necessary to lodge in Court more than One List of Assize, and such List shall be authenticated by the Signature of a Judge of the said Court, and shall bear and be held to be a List of Assize for the Trial of all Parties cited to that particular Diet; and the Persons included in such List shall be summoned to pass generally upon the Assize of all the accused Parties cited to such Diet, and One general Execution of Citation only shall be returned against them; and a Copy of such List, certified by One of the Clerks of Court, shall have the like Effect, for all Purposes for which such List may be required, as the principal List of Assize authenticated as aforesaid.

One List sufficient for each Circuit Court.

V. And be it enacted, That in Proceedings before the Circuit Courts of Justiciary One List of Assize for each District or Circuit Court, authenticated by the Signature of One of the Judges of the said Court, shall in like Manner be sufficient; and a Copy thereof, certified by One of the Clerks of Court, shall have the like Effect for all Purposes for which such List may be required as the principal List of Assize authenticated as aforesaid.

Service of Writs and Warrants.

VI. And whereas it is in many Cases difficult and expensive to have Indictments, Criminal Letters, and other Writs served or executed by Macers

Macers of Court or Messengers-at-Arms, according to the present Practice: Be it enacted, That it shall be lawful to serve all Indictments, Criminal Letters, and other Writs, and to execute all Writs and Warrants issuing furth of the Court of Justiciary in *Scotland*, either by a Macer of Court or a Messenger-at-Arms, or by any Sheriff Officer or Steward's Officer of the County or Stewartry within which such Service or Execution shall be made.

Record Copies of Proceedings, instead of being transcribed in Books of Adjournal, may be inserted therein, &c.

VII. And whereas it is inconvenient and unnecessary to transcribe the whole Proceedings in the Court of Justiciary in the Records of Court called the Books of Adjournal: Be it enacted, That the Record Copies of Criminal Libels brought before the said Court, and the Record Copies of all printed Proceedings in the said Court, shall, instead of being transcribed into the Books of Adjournal, as at present, be inserted in the said Books either at their proper Place in the Body of such Books, or at the End of the Volume wherein the relative Procedure is recorded, in which Case they shall be distinctly referred to as so appended; and in so far as the said Books of Adjournal may not be completed at the passing of this Act, the same may be completed by the Insertion of the Record Copies of the said Libels and Proceedings as herein directed; and the Books of Adjournal so made up and completed shall be and be taken to be and be used as the Books of Adjournal of the said Court.

Books not completed at passing of this Act may be completed by Insertion of Record Copies.

Judges holding Circuit Courts at Glasgow may sit and act separately, and Proceedings to be held good.

VIII. And whereas, owing to the Increase of Population within the Counties of *Lanark* and *Renfrew*, and to the consequent Increase in the Number of Trials brought before the Circuit Courts of Justiciary held at *Glasgow*, it is expedient to make Provision for the greater Despatch of Business in these Courts: Be it enacted, That it shall be lawful for the Two Judges holding the said Courts to sit in separate Court Rooms, and to perform separately the Duties and despatch the Business of the said Courts, or such Part thereof as it may be desirable so to perform; and each of the said Judges so sitting apart shall possess all the Powers which would belong to the said Judges sitting and judging together, and all the Proceedings of the said Judges, whether sitting separately or together, shall be held as Proceedings in the Circuit Court of Justiciary for the District of *Glasgow*.

In Criminal Trials before Courts of Justiciary, the Panel to state Objections to Relevancy of Libel, which shall be disposed of by the Court.

IX. And be it enacted, That in Criminal Trials before the Courts of Justiciary in *Scotland* the Panel shall be called upon to state any Objection he may have to the Relevancy of the Libel, and such Relevancy shall be disposed of by the Court before he is called upon to plead; and in case the Libel shall be found relevant the same shall be read, unless such reading shall be dispensed with by the Panel; and the Panel shall then be called upon to plead to the Libel, and in case he shall plead Guilty the Court shall proceed to pass Sentence, and in case he shall plead Not guilty the Court shall remit him, with the Libel as found relevant, to the Knowledge of an Assize, and the Case shall be otherwise proceeded with in ordinary Form.

Power for Court to alter Forms of Interlocutors

X. And be it enacted and declared, That it shall be in the Power of the Court of Justiciary in *Scotland*, by an Act or Acts of Adjournal or otherwise, to alter the Forms of Interlocutors and Sentences at present

and Sentences at present in use, and substitute others.

present in use in that Court, and to substitute others in their Place, in shorter or more convenient Form, and such new Forms of Interlocutors and Sentences shall have the same Force, Operation, and Effect in all respects as the Forms of Interlocutors and Sentences at present in use in place of which they may be substituted.

Power to Court to make Acts of Adjournal.

XI. And be it enacted, That it shall be lawful for the said Court of Justiciary, and the said Court is hereby required from Time to Time, to make all such Rules and Regulations, by Act or Acts of Adjournal, as may be necessary for carrying out the Purposes and accomplishing the Objects of this Act: Provided always, that Copies of all such Acts of Adjournal shall, within Fourteen Days after the making thereof, be laid before both Houses of Parliament, if Parliament shall be then sitting, and if not, within Fourteen Days after the Commencement of the then next Session.

Laws, &c. inconsistent with this Act repealed.

XII. And be it enacted, That all Laws, Statutes, Regulations, and Usages inconsistent or at variance with the Provisions of this Act shall be and the same are hereby repealed: Provided always, that the same shall continue in force in all other respects whatsoever.

Act may be amended, &c.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

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