ANNO SEXTO

GEORGII IV. REGIS.

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C A P. XXIII.

An Act for the better Regulation of the Sheriff and Stewart and Burgh Courts of *Scotland*.

[20th *May* 1825.]

WHEREAS by an Act made in the Twentieth Year of the Reign of His Majesty King *George* the Second, intituled *An Act for taking away and abolishing the Heritable Juris-* 20 G. 2. c. 43. *dictions in* Scotland, *and making Satisfaction to the Proprietors thereof, and restoring such Jurisdictions to the Crown; and for making more effectual Provision for the Administration of Justice throughout that Part of the United Kingdom, by the King's Courts and Judges there;* the Court of Session in *Scotland* is directed and required to take into their Consideration what Fees they shall judge reasonable to be paid to the Clerks or other Officers officiating in the Circuit Courts, or in the Courts of Sheriffs or Stewarts, in Civil Causes, and regulate the same by One or more Act or Acts of Sederunt, on or before the Twenty-fifth Day of *March* One thousand seven hundred and forty-eight, which shall be binding upon all Parties concerned, unless and until the

the same shall be altered by Act of Parliament; and the Court of Justiciary shall in like Manner take into their Consideration what Fees they shall judge reasonable to be paid to the Clerks or other Officers officiating in the Circuit Courts, or in the Sheriff or Stewart Courts, in Criminal Cases, and shall regulate the same by One or more Acts of Adjournal, on or before the said Twenty-fifth Day of *March*, which shall in like Manner be binding on all Parties concerned, unless or until the same shall be altered by Act of Parliament: And whereas, pursuant to the foresaid Act of His said Majesty King *George* the Second, the Lords of Session, by Act of Sederunt, passed on the Sixteenth Day of *March* One thousand seven hundred and forty-eight, did regulate the Fees payable to the said Officers in Civil Causes; and also the Court of Justiciary in like Manner, by Act of Adjournal passed on the Twenty-first Day of *March* One thousand seven hundred and forty-eight, regulated the Fees payable to the said Officers in Criminal Causes: And whereas no Power was given by the above-recited Act to revise from Time to Time the Fees so regulated, and the same have become in consequence unsuitable: And whereas by a Warrant under the Sign Manual of His Royal Highness the Prince Regent, acting in the Name and on the Behalf of His late Majesty King *George* the Third, dated the Eighth Day of *February* One thousand eight hundred and fifteen, Commissioners were appointed for enquiring into the Duties, Salaries, and Emoluments of the several Officers, Clerks, and Ministers of Justice of the Courts of *Scotland*, and for reporting what Regulations might be fit to establish respecting the same; which Commissioners have accordingly made several Reports, which have been laid before Parliament, and in which it is recommended that certain Regulations with respect to Fees and otherwise should be made in regard to the Sheriff or Stewart Courts in *Scotland;* and it is therefore expedient that Power should be given to the said Court of Sessions and Justiciary, to revise the foresaid Acts of Sederunt and Adjournal respectively, and to amend and regulate the said Fees in the said Sheriff and Stewart Courts, and also in the Burgh Courts in *Scotland:* 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, That Power shall be given to the Court of Session in *Scotland*, and the said Court is hereby directed, required, and empowered, to revise the said Act of Sederunt passed on the said Sixteenth Day of *March* One thousand seven hundred and forty-eight, and of new to take into their Consideration what Fees they shall judge reasonable hereafter to be exacted by the Clerks, or by the Practitioners or Officers in the Courts of Sheriffs and Stewarts, in Civil Causes, and in all the various Departments of Business in use to be exercised by them, or which may be hereafter from Time to Time committed to them, and to regulate the same by One or more Act or Acts of Sederunt to be passed from Time to Time as the Court shall see Cause, the said Court in so doing always taking into Consideration the Report of the said Commissioners herein-before mentioned in that Behalf; and the Court of Justiciary are hereby directed,

Courts of Session and Justiciary to revise Act of Sederunt and Act of Adjournal made in 1748, as to Fees in Sheriffs and Stewarts Courts.

required, and empowered in like Manner to revise the said Act of Adjournal passed on the Twenty-first Day of *March* One thousand seven hundred and forty-eight, and of new to take into their Consideration what Fees they shall judge reasonable hereafter to be paid to the Clerks, Practitioners, or Officers in Sheriffs or Stewarts Courts in Criminal Causes, and to regulate the same, as also the Course of Proceeding in Criminal Causes before the same, by One or more Act or Acts of Adjournal to be passed by them from Time to Time as they shall see Cause; which Fees, as regulated by the said Courts respectively, shall be binding on all Parties concerned, unless or until the same be altered by any new Act or Acts of Sederunt or Adjournal, which the said Court of Session or Court of Justiciary may see proper and necessary to pass in Time coming.

Court of Session to frame Regulations as to abridging Extracts, and for the Consignation of Money.

II. And be it enacted, That the said Court of Session shall and they are hereby authorized and required to frame, or to cause to be framed, proper and suitable Regulations for abridging the Forms of Extract of the Decrees of the said Sheriff and Stewart Courts, and also for Consignation in a public Bank or Banking Company of Monies received by the Sheriff or Stewart Clerk, or any other Person, by reason of any Proceeding in any such Sheriff or Stewart Court, regard being always had to the Forms for Extract prescribed by an Act passed in the Fiftieth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for abridging the Form of extracting Decrees of the Court of Session in* Scotland, *and for the Regulation of certain Parts of the Proceedings of that Court:* Provided always, that during the Lifetime of any Person at present holding for Life the Office of Clerk in any such Court, or so long as any such Clerk shall hold his Office, whose Emoluments may be affected by any such Regulations or Table of Fees, no such Clerk shall be bound to accept the same in lieu of the Fees or Emoluments to which he is now legally entitled, unless he thinks fit so to do; and all such Regulations and Fees so to be framed and settled, shall be established in such Manner as to be postponed during the Lifetime of any such Clerk, or so long as he shall hold the same, unless such Clerk shall at any Time agree to accept the Fees so to be settled and fixed, as appertaining to his Office, in lieu of the Fees and Emoluments to which such Clerk is now legally entitled, in which Case he shall thereafter be bound and obliged to accept the same. 50 G.3. c.112.

Five Sheriffs to be appointed to report Regulations:

III. And for the better accomplishing the Purposes aforesaid, be it enacted, That so soon as conveniently may be after the passing of this Act, the said Court of Session shall, and the said Court is hereby directed and required to appoint, by a Commission, duly executed by that Court, Five Sheriffs Depute, for the Purpose of reporting to the said Court, and to the said Court of Justiciary respectively, such Regulations and such Tables of Fees in the several Sheriff or Stewart Courts in *Scotland*, as in their Opinion ought to be established therein; the said Court in so doing taking

taking into Consideration the Reports of the said Commissioners in that Behalf.

Whereupon Regulations to be established by Act of Sederunt.

IV. And be it enacted, That after a Report or Reports shall be made by the said Five Sheriffs to the said Court of Session and Court of Justiciary respectively, as to the several Matters and Things upon which they shall be directed to report, it shall and may be lawful for the said Courts, or either of them, if they think fit, to require Explanations or Information relative to any Part of such Report or Reports, and to have Conferences thereupon with the said Sheriffs; and after being well and ripely advised in that Behalf, and after having afforded an Opportunity for all Persons interested to be heard if they think fit, and also His Majesty's Advocate in behalf of the Public, it shall and may be lawful for the said Court of Session, by any Act or Acts of Sederunt, to make and establish Rules and Regulations, and a Table of Fees for each of the said Sheriff or Stewart Courts in Civil Causes, and the several Persons holding Offices and discharging Duties therein, or Persons practising before the same, with respect to all or any of the Matters and Things aforesaid; and in like Manner it shall and may be lawful for the Court of Justiciary, by any Act or Acts of Adjournal, to make and establish such Rules and Regulations, and a Table of Fees for each of the said Sheriff and Stewart Courts in Criminal Causes, and the several Persons holding Offices or discharging Duties therein in such Cases, and all Persons practising before the same therein.

Copy of such Act to be transmitted to the Secretary of State, and laid before Parliament.

V. Provided always, and be it enacted, That a Copy of every such Act of Sederunt and Act of Adjournal, together with every Regulation and Table of Fees to which it may or shall refer, shall be transmitted by the Lord President of the Court of Session and Lord Justice Clerk respectively, to His Majesty's Secretary of State for the Home Department, who shall cause a Copy thereof to be laid before each House of Parliament, at or immediately after the Commencement of the then next Session thereof; and after the Expiration of Three Calendar Months after the First Day of such Session, every such Act of Sederunt or Act of Adjournal, and Regulation and Table of Fees established thereby, shall become in force; and thereafter every such Fee shall, according to the Terms of such Act of Sederunt or Act of Adjournal, be and be deemed and taken to be a legal Fee, and payable and receivable as such in the Manner therein directed, and no other Fee shall be held to be legal or payable in any Case whatsoever; regard being always had to the Provision herein-before made with respect to any Clerk in any of the said Courts holding his Office for Life, and without Prejudice nevertheless to the Payment of any Fee specially established by any Act or Acts of Parliament, as applicable to any particular Charge or Description of Causes to which any such Act shall or may relate.

Sheriff Clerk to discharge his Duties in Person.

VI. And be it enacted, That every Person who has been appointed since the First Day of *August* One thousand eight hundred and fourteen, or who shall hereafter be appointed a Clerk in the said

Sheriff or Stewart Courts, shall discharge the Duties of the said Office personally.

Regulations to extend to Burgh Courts.

VII. And be it further enacted, That every such Act of Sederunt, and every such Act of Adjournal, and the Regulations thereby made, and the Table of Fees thereby established for the said Sheriff and Stewart Courts, shall apply to and receive Effect in the Courts of Royal Burghs in *Scotland*, equally as in the Sheriff and Stewart Courts in *Scotland*; and the same shall extend to every Person holding any Office, or discharging any Duty, or practising before any such Burgh Court: Provided always, that the present Clerks of Royal Burghs shall have the same Option in regard to accepting such Table of Fees, which is declared by this Act to be competent to Sheriff and Stewart Clerks.

Present Clerks of Burghs to have the Option of Acceptance.

Copies of Acts of Sederunt and Adjournal to be transmitted to Sheriff and Burgh Courts.

VIII. And for the better Guidance of all Parties concerned, be it enacted, That so soon as any Act of Sederunt or Act of Adjournal shall have been transmitted to the Secretary of State for the Home Department, as before directed, the Lord President and the Lord Justice Clerk respectively shall cause a Copy of every such Act of Sederunt or Act of Adjournal to be transmitted to the Sheriff or Stewart of every County and Stewartry, and to the Magistrates of every Royal Burgh in *Scotland*.

Qualification of Sheriffs or Stewarts Substitute.

IX. And be it further enacted, That from and after the passing of this Act no Person shall be appointed a Sheriff or Stewart Substitute of any County or Stewartry in *Scotland*, who shall not be an Advocate of Three Years standing at the least, or a Clerk to His Majesty's Signet, or a Solicitor before the Supreme Courts in *Scotland*, or a Procurator admitted to practise before a Sheriff Court in *Scotland*, and who shall not have been admitted to practise as such Clerk to the Signet, Solicitor, or Procurator, for at least Three Years previous to his Appointment; and that no Commission appointing any such Person a Sheriff or Stewart Substitute shall be valid, or enable any such Person to do any Act by virtue thereof, unless and until there shall be annexed thereto a Certificate under the Hands of the Lord President of the Court of Session, and the Lord Justice Clerk, bearing, that such Person is duly qualified, and capable to discharge the Duties of the said Office, which Certificate, after due Enquiry made, the said Lord President and Lord Justice Clerk are hereby required either to grant or to refuse.

Sheriffs or Stewarts Substitute not to act as Procurator before any in their County Court, or be in Partnership with any Person so practising.

X. And be it further enacted, That in addition to the Disqualification to which Sheriffs and Stewarts Substitute are subject by an Act passed in the Twenty-first Year of the Reign of His late Majesty, intituled *An Act for the more effectual Trial of High Treason and Misprision of High Treason in the Highlands of* Scotland, *and for abrogating the Practice of taking down the Evidence in Writing in certain Criminal Prosecutions, and for making some further Regulations relating to Sheriffs Depute or Stewarts Depute and their Substitutes; and for other Purposes therein mentioned*, no Sheriff or Stewart Substitute

Substitute shall act directly or indirectly as a Procurator before any Court in the County or Stewartry of which he is Sheriff or Stewart Substitute, or shall be in Partnership with any Person so practising.

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