CHAPTER 35.

An Act to constitute a Special Commission to inquire into the charges and allegations made against certain Members of Parliament and other Persons by the Defendants in the recent trial of an action entitled O'Donnell v. Walter and another. [13th August 1888.]

WHEREAS charges and allegations have been made against certain Members of Parliament and other persons by the defendants in the course of the proceedings in an action, entitled O'Donnell versus Walter and another, and it is expedient that a special commission should be appointed to inquire into the truth of those charges and allegations, and should have such powers as may be necessary for the effectual conducting of the inquiry:

Be it therefore 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, as follows:

Appointment and duties of Special Commissioners.

1.—(1.) The three persons herein-after mentioned, namely, the Right Honourable Sir James Hannen, the Honourable Sir John Charles Day, and the Honourable Sir Archibald Levin Smith, are hereby appointed Commissioners for the purposes of this Act, and are in this Act referred to as the Commissioners.

(2.) The Commissioners shall inquire into and report upon the charges and allegations made against certain Members of Parliament and other persons in the course of the proceedings in an action entitled O'Donnell versus Walter and another.

Powers of Commissioners.

2.—(1.) The Commissioners shall, for the purposes of the inquiry under this Act, have, in addition to the special powers herein-after provided, all such powers, rights, and privileges as are vested in Her Majesty's High Court of Justice, or in any judge thereof, on the occasion of any action, including all powers, rights, and privileges in respect of the following matters:

(i.) the enforcing the attendance of witnesses and examining them on oath, affirmation, or promise and declaration; and

(ii.) the compelling the production of documents; and

(iii.) the punishing persons guilty of contempt; and

(iv.) the issue of a commission or request to examine witnesses abroad;

and a summons signed by one or more of the Commissioners may be substituted for, and shall be equivalent to, any form of process capable of being issued in any action for enforcing the attendance of witnesses or compelling the production of documents.

(2.) A warrant of committal to prison issued for the purpose of enforcing the powers conferred by this section shall be signed by one or more of the Commissioners, and shall specify the prison to which the offender is to be committed.

(3.) The Commissioners may, if they think fit, order that any document or documents in the possession of any party appearing at the inquiry shall be produced for the inspection of any other such party.

Failure to appear.

3. If any person, having been served with a summons under this Act, shall fail to appear according to the tenour of such summons, the Commissioners shall have power to issue a warrant for the arrest of such person.

Punishment for neglect to attend.

4. Any person summoned to attend before the said Commissioners who shall refuse, neglect, or fail to attend in pursuance of any summons, shall, notwithstanding the dissolution of the Commission, be liable to punishment for contempt of the High Court of Justice, on the motion of any person who has appeared at the inquiry before such Commissioners.

Committal of a person shall not be affected by dissolution of Commission.

5. A warrant or order for the arrest, detention, or imprisonment of a person for contempt of the Commissioners shall, notwithstanding the special Commission is dissolved or otherwise determined, be and remain as valid and effectual in all respects as if the special Commission were not so dissolved or otherwise determined, and upon such dissolution or determination all the powers, rights, and privileges of the Commissioners with respect to such warrant or order, and to a person arrested, detained, or imprisoned, or to be arrested, detained, or imprisoned by virtue thereof, shall devolve upon and be exercised by the Queen's Bench Division of the High Court of Justice or a judge thereof; and such contempt, and a proceeding with respect thereto, shall not be in anywise affected by such dissolution or determination of the special Commission.

Power to appear by counsel.

6. The persons implicated in the said charges and allegations, the parties to the said action, and any person authorised by the Commissioners, may appear at the inquiry, and any person so appearing may be represented by counsel or solicitor practising in Great Britain or Ireland. Where it shall appear to the Commissioners that any person affected by any of the said charges or allegations is at any time during the holding of the said inquiry detained or imprisoned, the Commissioners may order the attendance of such person at such inquiry in such manner, for such time, and subject to such conditions as regards bail, or otherwise, as to the Commissioners may seem fit.

Commission may report from time to time.

7. The Commissioners shall have power, if they think fit, to make reports from time to time.

Penalty for false swearing.

8. Every person who, on examination on oath, affirmation, or promise and declaration under this Act, wilfully gives false evidence, shall be liable to the penalties for perjury.

Power to cross-examine, and examination of witnesses.

9. Any person examined as a witness under this Act before the Commissioners, or under a commission to examine witnesses abroad, may be cross-examined on behalf of any other person appearing before the Commissioners. A witness examined under this Act shall not be excused from answering any question put to him on the ground of any privilege or on the ground that the answer thereto may criminate or tend to criminate himself: Provided that no evidence taken under this Act shall be admissible against any person in any civil or criminal proceeding except in the case of a witness accused of having given false evidence in an inquiry under this Act, or of a person accused of having procured, or attempted or conspired to procure, the giving of such evidence.

Indemnity to witnesses.

10.—(1.) Every person examined as a witness under this Act who, in the opinion of the Commissioners, makes a full and true disclosure touching all the matters in respect of which he is examined, shall be entitled to receive a certificate signed by the Commissioners, stating that the witness has, on his examination, made a and full true disclosure as aforesaid.

(2.) If any civil or criminal proceeding is at any time thereafter instituted against any such witness in respect of any matter touching which he has been so examined, the court having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may in its discretion award to the witness such costs as he may be put to in or by reason of the proceeding: Provided that nothing in this section shall be deemed to apply in the case of proceedings for having given false evidence at an inquiry held under this Act, or of having procured, or attempted or conspired to procure, the giving of such evidence.

Short title.

11. This Act may be cited as the Special Commission Act, 1888.

CHAPTER 36.

An Act to amend the Law of Bail in Scotland.

[13th August 1888.]

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, as follows:

Short title and application.

1. This Act may be cited as the Bail (Scotland) Act, 1888, and shall apply to Scotland only.

All crimes to be bailable except murder and treason.

2. The Act passed in the first Parliament of His Majesty King William the Third, intituled "An Act for preventing wrongous imprisonment and undue delay in Trials," so far as the same relates to bail, is hereby repealed, and from and after the passing of this Act all crimes and offences, except murder and treason, shall be bailable, and any magistrate having jurisdiction to try the offence or to commit the accused until liberated in due course of law may henceforth, at his discretion, on the application of any person who has been committed until liberation in due course of law for any crime or offence, except murder or treason, and after opportunity shall have been given to the prosecutor to be heard thereon, admit or refuse to admit such person to bail; and such application shall be disposed of within twenty-four hours after its presentation to the magistrate, failing which the accused shall be forthwith liberated.

Renewal of application for bail. 50 & 51 Vict. c. 35.

3. Where bail is refused before commitment until liberation in due course of law on an application made under section eighteen of the Criminal Procedure (Scotland) Act, 1887, the application for bail may be renewed after such commitment.

Statutory limit of bail abolished.

4. Any magistrate admitting a person to bail shall fix the bail at such an amount as he may consider sufficient to ensure the appearance of such person to answer at all diets to which he may be cited