ANNO SEXTO

# GEORGII IV. REGIS.

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## C A P. LXVI.

An Act for explaining and amending an Act of the Sixth Year of the Reign of Her Majesty Queen *Anne*, intituled *An Act to make further Provision for electing and summoning Sixteen Peers of* Scotland *to sit in the House of Peers in the Parliament of* Great Britain, *and for trying Peers for Offences committed in* Scotland, *and for the further regulating of Voters in Elections of Members to serve in Parliament*, so far as relates to the Trial of Peers for Offences committed in *Scotland*.

[22d *June* 1825.]

WHEREAS by an Act passed in the Fifth Year of the Reign of Her Majesty Queen *Anne*, intituled *An Act for an Union of the Two Kingdoms of* England *and* Scotland, it is enacted, that all Peers of *Scotland* should be Peers of *Great Britain*, and should, as such, be tried as Peers of *England* were tried antecedent to such Union: And whereas by another Act, passed in the Thirty-ninth and Fortieth Years of the Reign of His late Majesty King

**Act of Union recited.**
**5 Ann. c. 8.**

39 & 40 G. 3. c. 67. *George* the Third, intituled *An Act for the Union of* Great Britain *and* Ireland, it is enacted, that all Peers of *Ireland* should be Peers of the United Kingdom of *Great Britain* and *Ireland*, and should, as such, be tried in the same Manner as Peers of *Great Britain* were tried antecedent to such Union (except as therein is excepted): And whereas by an Act passed in the Sixth Year of the Reign of Her

6 Ann. c. 23. recited. Majesty Queen *Anne*, intituled *An Act to make further Provision for electing and summoning Sixteen Peers of* Scotland *to sit in the House of Peers in the Parliament of* Great Britain, *and for trying Peers for Offences committed in* Scotland, *and for the further regulating of Voters in Elections of Members to serve in Parliament*, it is provided, that for the Trial of any Peer who may have committed the Crimes therein mentioned, in *Scotland*, a Commission may issue under the Great Seal of *Great Britain*, directed to Persons to be therein named, constituting them Justices, to enquire by the Oaths of good and lawful Men of such County or Counties as may be named therein, of all Treasons, Misprisions of Treason, Murders, and other Felonies committed in such County by a Peer or Peers of *Great Britain*, which Inquisition shall be taken and proceeded upon in the same Method as any Inquisition found before Justices of Oyer and Terminer in *England*, whereby any Peer is indicted for any such Offence: And whereas Doubts are entertained in regard to the true Import of said Provision, and it is expedient that such Doubts should be removed, and that the said Act passed in the Sixth Year of the Reign of Her Majesty Queen *Anne* should be explained and amended; be it therefore enacted and declared 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 the Crimes on account of which a Commission in Terms of the said last-mentioned Act may issue, and of which such Commission may enquire, when committed in *Scotland* by any Peer or Peers, shall be, All Treasons, Misprisions of Treason, Murders, and other Crimes which infer a Capital Punishment by the Law of *Scotland*; and all Felonies and other Crimes, for which, if committed in *England*, a Peer of the United Kingdom would be tried by his Peers: And it shall not be lawful for the Court of Justiciary, or any other Court in *Scotland*, to take Cognizance of any of the aforesaid Crimes; but such Courts shall and may try all other Crimes committed by Peers in *Scotland*, if otherwise competent to try such Crimes by the Law of *Scotland*.

Crimes on account of which a Commission may issue, pursuant to 6 Ann. c. 23.

Provision as to Indictment.

II. And be it enacted and declared, That the Indictment to be presented to the good and lawful Men under the Commission described in the said Act of Queen *Anne*, shall in all respects be such as is competent in the Court of Justiciary according to the Law and Practice of *Scotland*, excepting only that no Notice shall be therein taken of the Court before which the Peer accused is to be tried.

Copy of Indictment with List of

III. And be it enacted and declared, That when such Indictment shall have been found by good and lawful Men under such Commis-

sion as aforesaid, a Copy of the said Indictment, having annexed to it a List of all the Witnesses by whom the same is to be proved, shall be delivered to the Peer accused, in Presence of Two or more credible Witnesses, at least Fifteen free Days previous to the Commencement of the Trial of the said Peer on such Indictment; and all Writings and Articles libelled on, shall be lodged in the Office of the Clerk of the Parliaments, in due Time previous to the Commencement of any such Trial as aforesaid, so as the Peer accused may have an Opportunity of seeing the same.

Witnesses to be served, and all Writings and Articles libelled on to be lodged with the Clerk of Parliament.

IV. And be it enacted and declared, That when an Indictment shall be found by good and lawful Men, under such Commission as aforesaid, then upon the Application of the Prosecutor, or of the Peer against whom the same may have been found, to the Lord High Chancellor, or Keeper of the Great Seal of the United Kingdom, or Commissioners for the keeping of the said Great Seal, for the Time being, the Lord Chancellor or Lord Keeper or Commissioners shall award His Majesty's Writ of Certiorari, under the Great Seal, directed to the Justices acting under the Commission aforesaid, commanding them or any of them to certify such Indictment into the High Court of Parliament, or Court of the Lord High Steward; and it shall be competent to adopt the same Means for bringing forward such Indictment to Trial, and for securing the Attendance of the Peer accused at the first and all subsequent Sittings of the said Court, as would be lawful in the Case of an Indictment having been found against a Peer for a Crime committed in *England*, and returned into the High Court of Parliament, or Court of the said Lord High Steward.

When Indictment found, Writ of Certiorari to issue to certify the same to the High Court of Parliament, &c.

V. And be it enacted and declared, That the Relevancy of the Indictment, the Evidence in support of it, and the Proof in exculpation of the Accused, together with the Punishment to be awarded, and the Power of the Prosecutor to restrict the Pains of Law, and every other Point involving Matter of Law, shall be judged of in the High Court of Parliament, and in the Court of the Lord High Steward, according to the Law of *Scotland*; and the same Forms of Proceeding, in so far as may be, shall be observed on occasion of such Trials, as are established by the Law and Practice of *Scotland*, and are observed in Trials of Indictments before the High Court of Justiciary.

The Law of Scotland to be observed.

VI. And be it enacted, That the Lord President of the Court of Session in *Scotland*, the Lord Justice Clerk, and any other Judges of the Court of Session in *Scotland*, shall, when summoned by His Majesty, attend on occasion of the Trial of any such Indictment before the High Court of Parliament, or Court of the Lord High Steward; and such Judges shall be received and placed in the said Courts respectively, with the Judges of *England*, in Manner and Form following, that is to say, the Lord President of the Court of Session in *Scotland* and the Lord Justice Clerk shall sit and be placed after the Lord Chief Baron of the Court of Exchequer in *England*, and the other Judges of the Court of Session in *Scotland* shall sit and be placed

Provision for Attendance of Scotch Judges.

placed after the other Judges of His Majesty's several Courts in *Westminster Hall*, according to their Order.

Provision where Indictment found not relevant.

VII. And be it enacted and declared, That in the Event of the Indictment being found not relevant, or otherwise dismissed by the High Court of Parliament, or by the Court of the Lord High Steward, it shall and may be lawful for the said Courts respectively, on Application by the Prosecutor to that effect, to grant Warrant to commit such Peer to Prison, until liberated in due Course of Law; or if they shall see Cause, it shall and may be lawful to admit him to Bail, under such Penalty as they may deem proper, to appear and answer to any Indictment which may be preferred against him within Six Months thereafter, for the Crime or Crimes with which such Peer stood charged in *Scotland* at the Time when Proceedings before the Commission commenced as aforesaid; or such Peer may be otherwise dealt with, as the said Court may respectively determine: Provided always, that such Peer shall be entitled to his Liberation from Prison without Bail, if an Indictment shall not be found against him as aforesaid, under the Provisions of this Act, and served upon such Peer within the Space of Thirty Days from the Date of such Warrant of Commitment.

Provision for Bail.

VIII. And be it enacted and declared, That when any Peer charged with a Crime shall be committed to Prison in *Scotland* till liberated in due Course of Law, he shall be entitled to apply to the Lords Commissioners of Justiciary, or to the Sheriff within whose County such Peer may be incarcerated, to be admitted to Bail in Terms of an Act passed in the *Scottish* Parliament in the Year One thousand seven hundred and one, intituled *Act for preventing wrongous Imprisonment, and against undue Delays in Tryals;* and it shall be competent to the said Lords of Justiciary, or any One of them, and to the said Sheriff, to cognosce how far the Crime with which such Peer is charged is Capital or not, and to modify the Bail in Terms of the said Act, having regard to an Act passed in the Thirty-ninth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to extend the Bail to be given in Cases of Criminal Information in that Part of* Great Britain *called* Scotland: Provided always, that if the Crime shall be found to be bailable, the Peer so applying shall find sufficient Caution, in Terms of the said Act, One thousand seven hundred and one, that he shall appear and answer to any Indictment which shall be exhibited against him for the Crime or Offence wherewith he is charged, in any Court competent to try the said Crime, including therein the High Court of Parliament and the Court of the Lord High Steward; and this at any Time within Twelve Months if before the High Court of Parliament or the Court of the Lord High Steward, and Six Months if before any Court in *Scotland.*

39 G. 3. c. 49.

Provision where Crime not bailable, or where Bail shall not be found.

IX. And be it enacted and declared, That when a Peer charged with any of the aforesaid Crimes, competent only to be tried by the High Court of Parliament or Court of the Lord High Steward, shall be detained in Prison in consequence of the said Crime not being bailable,

or

or in consequence of such Peer being unable or unwilling to find the Bail modified as aforesaid, it shall be competent to such Peer to apply for and obtain Letters of Intimation, in Terms of the aforesaid Act, One thousand seven hundred and one, requiring His Majesty's Advocate or Procurator Fiscal, or Party appearing by the Warrant to be concerned, to fix a Diet for the Trial of such Peer, within Sixty Days after the Intimation; provided always, that the issuing of such Commission as that provided by the aforesaid Act passed in the Reign of Her Majesty Queen *Anne*, shall be held equivalent to the fixing a Diet for Trial in Terms of the said Act, One thousand seven hundred and one: And it is hereby provided and enacted, That if such Commission shall not have been issued before the Expiry of the Sixty Days aforesaid, such Peer having so given Intimation as aforesaid, shall be discharged and set at Liberty without Delay, and he shall not be afterwards apprehended on account of the same Crime, unless an Indictment shall have been previously found against him under a Commission issued in Terms of the aforesaid Act passed in the Reign of Her Majesty Queen *Anne*.

Peer not entitled to any other Privileges of Act 1701.

X. And be it enacted and declared, That a Peer charged with any of the foresaid Crimes, competent only to be tried before the High Court of Parliament, or the Court of the Lord High Steward, shall not be entitled to any other of the Privileges provided by the said Act passed in the *Scottish* Parliament in the Year One thousand seven hundred and one, in so far as regards the Liberation of such Peer from Prison, or his Right to force on his Trial, or to have the same prosecuted to a final Sentence.

Provision when Persons on Trial are found not to be Peers.

XI. And it is further provided and declared, That if any Person shall represent himself to be a Peer, and shall thereupon be proceeded against in Terms of this Act, and in the Course of such Proceedings it shall be found that such Person is not a Peer, then and in such Case every such Person, after being so found not to be a Peer, shall and may be proceeded against thereafter in such and the same Manner as if such Person had not applied for Letters of Intimation under the said Act passed in the Year One thousand seven hundred and one.

Act to extend to Peeresses.

XII. And be it enacted and declared, That the Provisions of this Act shall apply to all Peeresses in their own Right, to all Wives of Peers, and to all Widows of Peers not married to Commoners, who shall commit Crimes in *Scotland*.

Act not to extend to Peers of Ireland being Members of House of Commons.

XIII. And be it enacted and declared, That the Provisions of this Act shall not apply to any Peer of *Ireland*, being a Member of the House of Commons, so long as such Peer shall continue to be a Member of that House of Parliament.

Exception as to Treason.

XIV. And be it enacted and declared, That nothing herein provided shall alter or affect any Act passed or Law in force in regard to the Trial of Peers for the Crimes of High Treason or Misprision of Treason.

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