



Court of Session Act 1825

1825 CHAPTER 120 6 Geo 4

- 33 Questions arising on admissions to be remitted to the Court of Session, &c. Questions which the parties desire to be previously fixed to be remitted. Question, whether point of law to be decided previous to trial, to be settled by the jury court. The interlocutor of the judge subject to review. The decision of the jury court to be final on the question: If the question of law is to be previously decided, the cause to be remitted to the Court of Session, &c. If a question of fact remain, the cause to be sent back to the jury court.**

If after the record shall have been completed in manner already directed as to causes in the Court of Session, the parties shall, by mutual admissions, render any trial of the facts unnecessary, and leave, in the opinion of the jury court or judge thereof, a question merely of law to be determined, the said jury court, or the judge thereof, after having those admissions put upon record, and subscribed by the counsel for the parties, as already directed for causes in the Court of Session, shall forthwith remit the cause to the ordinary in the Court of Session by whom the same was remitted, or to the judge of the High Court of Admiralty, if the cause originated in that court, to be proceeded in and determined by those courts respectively; and if, after the record shall have been completed as above, the parties shall not be agreed upon the facts, so as to bring the cause to a question merely of law, but shall concur in a minute or note to the jury court or judge, requiring that any question of law or relevancy arising out of the pleadings, to be specified in such minute or note, shall be determined before going to trial, the said court or judge, if the request shall appear just or reasonable, shall remit such question to the ordinary by whom the cause was remitted, or to the Court of Admiralty, if the cause shall have originated in that court; and the cause shall afterwards proceed in those courts respectively, for the decision of such question of law or relevancy; but if either of the parties shall, without the concurrence of the other, insist that there is a point of law or relevancy which ought previously to trial to be determined, it shall be competent for such party to move for an order to have the cause remitted to the Court of Session, or Court of Admiralty, if the cause have come from that court, and on such motion it shall by the said jury court, or judge thereof, be determined whether the question raised ought to be decided previous to trial, or left for discussion at the trial, or for decision after verdict; and if such question shall arise before one of the judges of the jury court, he shall have it in his power either to determine the question, or to report it for decision by the whole judges of the jury

Changes to legislation: There are currently no known outstanding effects for the Court of Session Act 1825, Section 33. (See end of Document for details)

court, or a quorum thereof, consisting in all cases of not less than three of such judges; and the decision of the said judge of the jury court in the said matter shall be final and conclusive, if not brought under review of the whole jury court, by motion to that effect, made in the said court, and of which due notice shall be given according to the form of giving notices in that court, within ten days after the interlocutor of the said judge shall be pronounced; and the decision of the jury court, either pronounced on the review of the said judge's interlocutor, or on the cause being by him taken to report, shall be final on that question; and if it shall be ordered by the said judge or jury court that such question ought to be determined previous to trial, the cause shall forthwith be remitted to the ordinary of the Court of Session, by whom the same was remitted to the jury court, or to the judge of the High Court of Admiralty respectively, to have that question determined; and when, in either of the cases now specified, the cause shall be remitted to the Court of Session, or to the judge of the High Court of Admiralty, for their decision on a previous question of law, the said Court of Session, or the judge of the Court of Admiralty, shall proceed to determine the same according to the rules and regulations of those respective courts; the determination of the Court of Session being final in that court, and that of the Court of Admiralty subject, as it now is by law, to the review of the Court of Session; and the determination of such previous question of law or relevancy shall not be open to appeal to the House of Lords without leave expressly granted, reserving the full effect of the objection to the decision in any appeal to be finally taken; and after the determination of such question, the cause may be remitted back to the jury court, to be there finally disposed of; and if there shall remain matter of fact to be ascertained between the parties, the said matter shall be tried by jury, and the parties shall forthwith proceed before the said jury court, or one of the judges thereof, to prepare the issue or issues for trial in manner herein-after directed.

Modifications etc. (not altering text)

- C1** Jurisdiction of Court of Admiralty now exercisable by Court of Session: [Court of Session Act 1830 \(c. 69\), s. 21](#)

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