

**FORMS OF PROCEEDINGS  
IN MARITIME CAUSES  
BEFORE THE SHERIFF  
COURTS IN SCOTLAND**

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Forms of Proceedings in Maritime Causes Before the Sheriff Courts in Scotland by Robert Neill

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**ROBERT NEILL**

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BY  
ROBERT NEILL,  
SOLICITOR AND NOTARY PUBLIC, GREENOCK.

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MDCCLXXVIII

# FORMS

IN

## MARITIME PROCEEDINGS.

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Before giving any of the Forms in maritime proceedings, it may be proper to refer, first, to the constitution of the old High Court of Admiralty in Scotland and its powers; and, secondly, to the new Courts to which the powers of the High Court were transferred on its abolition in 1830.

### I.—AS TO THE CONSTITUTION OF THE HIGH COURT, AND ITS POWERS.

1. The High Court of Admiralty was established and had its jurisdiction and powers defined by the Statute 1681, cap. 16, the terms of which were as follows, viz:—"Our Sovereign Lord considering that  
"the clearing and establishing the jurisdiction of the  
"High Admiral of this kingdom will greatly tend to  
"the advancement and encouragement of trade and  
"navigation, Therefore His Majesty, with advice and  
"consent of the estates of Parliament, doth ratify and  
"approve the 15th Act of the twelfth Parliament of



“ King James the Sixth, in the whole heads, clauses,  
 “ and articles of the same ; and decerns and declares  
 “ the High Court of Admiralty to be a sovereign  
 “ judicature in itself, and of its own nature to import  
 “ summar execution ; And statutes and declares,  
 “ That the said high admiral, as he is His Majesty’s  
 “ Lieutenant and Justice-General upon the seas, and  
 “ in all ports, harbours, or creeks of the same, and  
 “ upon fresh waters or navigable rivers below the first  
 “ bridges, or within the flood marks, so far as the  
 “ same does or can at any time extend ; so the said  
 “ High Admiral hath the sole privilege and jurisdic-  
 “ tion in all maritime and seafaring causes foreign  
 “ and domestic, whether civil or criminal, whatever,  
 “ within this realm, and over all persons as they are  
 “ concerned in the same : And prohibits and dis-  
 “ charges all other judges to meddle with the decision  
 “ of any of the said causes in the first instance,  
 “ except the great Admiral and his deputies allenaryly.  
 “ And statutes, ordains, and declares, That it is the  
 “ privilege of the said High Admiral, to cause parties  
 “ become enacted and find caution, not only for com-  
 “ pearance, but for performance of the acts and sen-  
 “ tences of his court ; and that he may punish all  
 “ breakers of his arrestments, and resisters of his  
 “ officers in the execution of his precepts ; and apply  
 “ the fines and americiaments to his own use, conform  
 “ to the laws of the Kingdom : And further statutes

“ and declares, That the High Court of Admiralty is  
 “ a supreme court ; and that the decreets and acts of  
 “ all other inferior courts of admiralty are subject to  
 “ the review and reduction of the said High Court of  
 “ Admiralty. And for the more ready and quick  
 “ dispatch of justice, in maritime and seafaring causes  
 “ foreign and domestic, whether civil or criminal,  
 “ within this realm, and over all persons in so far as  
 “ they are concerned in the same, both to natives  
 “ and strangers, our Sovereign Lord, with advice and  
 “ consent foresaid, prohibits and discharges all advo-  
 “ cations in the foresaid causes from the said Court  
 “ of Admiralty, to the Lords of Session, or any other  
 “ judges whatsoever, in all time coming : and that  
 “ no suspension or other stop to the execution of the  
 “ decreets or acts of the said Court of Admiralty be  
 “ passed by the Lords of Session at any time hereafter  
 “ except by the whole Lords in presentia in time of  
 “ session, and by three of the said Lords in time of  
 “ vacance met together to that effect ; and that if  
 “ any suspensions or stops shall happen to be passed  
 “ in manner foresaid, the same be summarily dis-  
 “ cussed upon a bill, and be privileged and exeemed  
 “ from the ordinary course of the roll ; and if, upon  
 “ discussing thereof, the same shall be found to have  
 “ been unjustly and maliciously raised, that the said  
 “ High Court of Admiralty may, upon the application  
 “ made by the parties concerned, modify and decern

“ the damage they have sustained by the saids sus-  
 “ pensions and stops of execution of their acts and  
 “ decreets, attour the expenses of plea before the  
 “ Lords of Session, which is to be modified by the  
 “ said Lords of Session. As also, His Majesty, with  
 “ the advice and consent foresaid, statutes and ordains,  
 “ That it shall be lawful and competent to the said  
 “ Court of Admiralty to review their own decreets  
 “ and sentences if there be just occasion for the same.  
 “ And His Majesty, with the advice and consent  
 “ foresaid, decerns and declares, That it is the sole  
 “ right and privilege of the High Admiral and his  
 “ deputes, the judges of the High Court of Admiralty,  
 “ to grant passes and safe conducts to all ships : and  
 “ inhibits and discharges all others to grant the same,  
 “ as they will be answerable upon their highest peril.  
 “ And His Majesty, with advice and consent foresaid,  
 “ casses, annuls, and rescinds all and whatsoever  
 “ laws, acts of parliament, or customs, contrary  
 “ to or in any ways inconsistent with this present  
 “ act.”

2. From this period down to the union of England  
 and Scotland, the Admiralty Judge exercised all the  
 above recited powers and jurisdictions ; and as the  
 preservations of the rights and jurisdictions of the  
 Court affected the trade and commerce of the nation,  
 it was provided by statute 5 Anne cap. 8 sect. 1, art.