CAP. CII.

An Act to further amend the Procedure in and to enlarge the Jurisdiction of the Superior Courts of Common Law in *Ireland*. [29th *July* 1856.]

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.

I. This Act may be cited for all Purposes as the "Common Law Procedure Amendment Act (*Ireland*), 1856."

16 & 17 Vict. c. 113 incorporated.

II. This Act and "The Common Law Procedure Amendment Act (*Ireland*), 1853," shall be incorporated and construed together as One Act.

18 & 19 Vict. c. 7., and so much of Section 103. of 17 & 18 Vict. c. 125. as relates to Ireland, repealed.

III. The Act of the Eighteenth and Nineteenth *Victoria*, Chapter Seven, and so much of Section One hundred and three of "The Common Law Procedure Act, 1854," as provides that the Enactments in the said Section enumerated shall apply and extend to every Court of Civil Judicature in *Ireland*, are hereby repealed; provided that such Repeal shall not affect anything duly done or any Liability accruing before the Commencement of this Act, or any Penalty, Forfeiture, or other Punishment incurred or to be incurred in respect of any Offence committed before the Commencement of this Act, or anything required to be done or which may hereafter become necessary to be done to support or continue any Proceeding taken before the Commencement of this Act.

Court or Judge may by Consent, of Parties, try Questions of Fact.

IV. The Parties to any Cause may, by Consent in Writing, signed by them or their Attorneys, as the Case may be, leave the Decision of any Issue of Fact to the Court, provided that the Court, or a Judge, shall, in their or his Discretion, think fit to allow such Trial, or provided the Judges of the Superior Courts of Law at *Dublin* shall, in pursuance of the Power in "The Common Law Procedure Amendment Act (*Ireland*), 1853," contained, make any General Rule or Order dispensing with such Allowance, either in all Cases or any particular Class or Classes of Cases to be defined in such Rule or Order; and such Issue of Fact may thereupon be tried and determined, and Damages assessed where necessary, in open Court, either in Term or Vacation, by any Judge who might otherwise have presided at the Trial thereof by Jury, either with or without the Assistance of any other Judge or Judges of the same Court, or included in the same Commission at the Assizes; and the Verdict of such Judge or Judges shall be of the same Effect as the Verdict of a Jury, save that it shall not be questioned upon the Ground of being against the Weight of Evidence; and the Proceedings upon and after such Trial, as to the Power of the Court or Judge, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury.

Two Judges may sit at the same Time for Trial of Causes pending in the same Court.

V. It shall be lawful for any One of the Judges of any of the Superior Courts at *Dublin*, at the Request of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to try the Causes entered for Trial at Nisi Prius in *Dublin* in any of the Courts, on the same Days on which the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, or any other Judge of the same Court, shall be sitting to try Causes in *Dublin*, so that the Trial of Two Causes may be proceeded with at the same Time; and all Jurors, Witnesses, and other Persons who may have been summoned or required to attend at or for the Trial of any Cause before the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, shall give their Attendance at and for the Trial thereof before such other Judge as may be sitting to try the same by virtue of this Act; and it shall be lawful for the Registrars and other Officers of the Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, as the Case may be, to appoint from Time to Time fit and proper Persons, to be approved by the said Lord Chief Justice, the Chief Justice of the Common Pleas, or Lord Chief Baron, to attend for them and on their Behalf respectively before such Judge; and the Trial of every Cause which shall be so had by virtue of this Act shall, if necessary, be entered of Record, as having been had before the Judge by whom such Cause in fact was tried.

Power to Registrars to appoint fit Persons to attend the Second Judge:

Power to Court or Judge, upon Application,

VI. If it be made appear, at any Time after the issuing of the Writ, to the Satisfaction of the Court or a Judge, upon the Application of either Party, that the Matter in dispute consists wholly or in part of Matters of mere Account which cannot conveniently be tried

in

in the ordinary Way, it shall be lawful for such Court or Judge, upon such Application, if they or he think fit, to decide such Matter in a summary Manner, or to order that such Matter, either wholly or in part, be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County or Riding, upon such Terms, as to Costs and otherwise, as such Court or Judge shall think reasonable; and the Decision or Order of such Court or Judge, or the Award or Certificate of such Referee, shall be enforceable by the same Process as the Finding of a Jury upon the Matter referred.

to direct Arbitration before Trial.

VII. If it shall appear to the Court or a Judge that the Allowance or Disallowance of any particular Item or Items in such Account depends upon a Question of Law fit to be decided by the Court, or upon a Question of Fact fit to be decided by a Jury, or by a Judge, upon the Consent of both Parties, as herein-before provided, it shall be lawful for such Court or Judge to direct a Case to be stated, or an Issue or Issues to be tried; and the Decision of the Court upon such Case, and the Finding of the Jury or Judge upon such Issue or Issues, shall be taken and acted upon by the Arbitrator, Master, or Assistant Barrister, as the Case may be, as conclusive.

Special Case may be stated, and Question of Fact tried.

VIII. It shall be lawful for the Arbitrator, Master, or Assistant Barrister, upon any compulsory Reference under this Act, or upon any Reference by Consent of Parties where the Submission is or may be made a Rule or Order of any of the Superior Courts of Law or Equity at *Dublin*, if he shall think fit, and if it is not provided to the contrary, to state his Award, as to the whole or any Part thereof, in the Form of a Special Case for the Opinion of the Court, and when an Action is referred, Judgment, if so ordered, may be entered according to the Opinion of the Court.

Arbitrator may state Special Case.

IX. If upon the Trial of any Issue of Fact by a Judge under this Act it shall appear to the Judge that the Questions arising thereon involve Matter of Account which cannot conveniently be tried before him, it shall be lawful for him, on the Application of either Party, to order that such Matter of Account be referred to an Arbitrator appointed by the Parties, or to the Master of the Court, or, in Country Causes, to the Assistant Barrister of any County or Riding, upon such Terms, as to Costs and otherwise, as such Judge shall think reasonable; and the Award or Certificate of such Referee shall have the same Effect as herein-before provided as to the Award or Certificate of a Referee before Trial; and it shall be competent for the Judge to proceed to try and dispose of any other Matters in question, not referred, in like Manner as if no Reference had been made.

Power to Judge to direct Arbitration at Time of Trial, when Issues of Fact left to his Decision.

X. The Proceedings upon any such Arbitration or Reference as aforesaid shall, except otherwise directed hereby or by the Submission or Document authorizing the Reference, be conducted in like Manner, and subject to the same Rules and Enactments, as to the Power of the Arbitrator, Master of the Court, or Assistant Barrister, and of the Court, the Attendance of Witnesses, the Production of Documents, enforcing or setting aside the Award, and otherwise, as upon a Reference made by Consent under a Rule of Court or Judge's Order.

Proceedings before and Power of such Arbitrator.

XI. In the Case of any such Arbitration or Reference as aforesaid the Court or a Judge shall have Power at any Time, and from Time to Time, to remit the Matters referred, or any or either of them, to the Re-consideration and Re-determination of the said Arbitrator or Referee, upon such Terms, as to Costs and otherwise, as to the said Court or Judge may seem proper.

Power to Judge to send back Matters for Re-consideration to Arbitrator.

XII. All Applications to set aside any Award made on a compulsory Reference under this Act shall and may be made within the first Seven Days of the Term next following the Publication of the Award to the Parties, whether made in Vacation or Term; and if no such Application is made, or if no Rule is granted thereon, or if any Rule granted thereon is afterwards discharged, such Award shall be final between the Parties.

Applications to set aside the Award.

XIII. Any Award made on a compulsory Reference under this Act, may, by Authority of a Judge, on such Terms as to him may seem reasonable, be enforced at any Time after Seven Days from the Time of Publication, notwithstanding that the Time for moving to set it aside has not elapsed.

Enforcing of Awards within Period for setting them aside.

 XIV. Whenever

If Action commenced by One Party after all have agreed to Arbitration, Court or Judge may stay Proceedings.

XIV. Whenever the Parties to any Deed or Instrument in Writing to be hereafter made or executed, or any of them, shall agree that any then existing or future Differences between them or any of them shall be referred to Arbitration, and any One or more of the Parties so agreeing, or any Person or Persons claiming through or under him or them, shall nevertheless commence any Action at Law or Suit in Equity against the other Party or Parties, or any of them, or against any Person or Persons claiming through or under him or them in respect of the Matters so agreed to be referred, or any of them, it shall be lawful for the Court in which the Action or Suit is brought, or a Judge thereof, on Application by the Defendant or Defendants, or any of them, before Appearance and Defence or Answer, upon being satisfied that no sufficient Reason exists why such Matters cannot be or ought not to be referred to Arbitration according to such Agreement as aforesaid, and that the Defendant was at the Time of the bringing of such Action or Suit and still is ready and willing to join and concur in all Acts necessary and proper for causing such Matters so to be decided by Arbitration, to make a Rule or Order staying all Proceedings in such Action or Suit, on such Terms, as to Costs and otherwise, as to such Court or Judge may seem fit: Provided always, that any such Rule or Order may at any Time afterwards be discharged or varied as Justice may require.

On Failure of Parties to appoint Arbitrators, the Judge may appoint an Arbitrator, Umpire, or Third Arbitrator.

XV. If in any Case of Arbitration the Document authorizing the Reference provide that the Reference shall be to a single Arbitrator, and all the Parties do not, after Differences have arisen, concur in the Appointment of an Arbitrator; or if any appointed Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of such Document do not show that it was intended that such Vacancy should not be supplied, and the Parties do not concur in appointing a new one; or if, where the Parties or Two Arbitrators are at liberty to appoint an Umpire or Third Arbitrator, such Parties or Arbitrators do not appoint an Umpire or Third Arbitrator; or if any appointed Umpire or Third Arbitrator refuse to act, or become incapable of acting or die, and the Terms of the Document authorizing the Reference do not show that it was intended that such a Vacancy should not be supplied, and the Parties or Arbitrators respectively do not appoint a new one; then in every such Instance any Party may serve the remaining Parties or the Arbitrators, as the Case may be, with a written Notice to appoint an Arbitrator, Umpire, or Third Arbitrator respectively; and if within Seven clear Days after such Notice shall have been served no Arbitrator, Umpire, or Third Arbitrator be appointed, it shall be lawful for the Court or any Judge of any of the Superior Courts of Law or Equity at *Dublin*, upon the Application of the Party having served such Notice as aforesaid, to appoint an Arbitrator, Umpire, or Third Arbitrator, as the Case may be, and such Arbitrator, Umpire, and Third Arbitrator respectively shall have the like Power to act in the Reference and make an Award as if he had been appointed by Consent of all Parties.

When Reference is to Two Arbitrators, and One Party fail to appoint, the other Party may appoint Arbitrator to act alone.

XVI. When the Reference is or is intended to be to Two Arbitrators, One appointed by each Party, it shall be lawful for either Party, in the Case of the Death, Refusal to act, or Incapacity of any Arbitrator appointed by him, to substitute a new Arbitrator, unless the Document authorizing the Reference show that it was intended that the Vacancy should not be supplied; and if on such a Reference One Party fail to appoint an Arbitrator, either originally or by way of Substitution as aforesaid, for Seven clear Days after the other Party shall have appointed an Arbitrator, and shall have served the Party so failing to appoint with Notice in Writing to make the Appointment, the Party who has appointed an Arbitrator may appoint such Arbitrator to act as sole Arbitrator in the Reference, and an Award made by him shall be binding on both Parties as if the Appointment had been by Consent; provided, however, that the Court or a Judge may revoke such Appointment on such Terms as shall seem just.

When Reference is to Two Arbitrators they may appoint an Umpire.

XVII. When the Reference is to Two Arbitrators, and the Terms of the Document authorizing it do not show that it was intended that there should not be an Umpire, or provide otherwise for the Appointment of an Umpire, the Two Arbitrators may appoint an Umpire at any Time within the Period during which they have Power to make an Award, unless they be called upon by Notice as aforesaid to make the Appointment sooner.

Award to be made in Three Months, unless

XVIII. The Arbitrator acting under any such Document or compulsory Order of Reference as aforesaid, or under any Order referring the Award back, shall make his Award under

under his Hand, and (unless such Document or Order respectively shall contain a different Limit of Time) within Three Months after he shall have been appointed, and shall have entered on the Reference, or shall have been called upon to act by a Notice in Writing from any Party, but the Parties may by Consent in Writing enlarge the Term for making the Award; and it shall be lawful for the Court of which such Submission, Document, or Order is or may be made a Rule or Order, or for any Judge thereof, for good Cause to be stated in the Rule or Order for Enlargement, from Time to Time to enlarge the Term for making the Award; and if no Period be stated for the Enlargement in such Consent or Order for Enlargement, it shall be deemed to be an Enlargement for One Month; and in any Case where an Umpire shall have been appointed, it shall be lawful for him to enter on the Reference in lieu of the Arbitrators, if the latter shall have allowed their Time or their extended Time to expire without making an Award, or shall have delivered to any Party or to the Umpire a Notice in Writing stating that they cannot agree.

Parties or Court enlarge the Time.

XIX. When any Award made on any such Submission, Document, or Order of Reference as aforesaid directs that Possession of any Lands or Tenements capable of being the Subject of an Action of Ejectment shall be delivered to any Party, either forthwith or at any future Time, or that any such Party is entitled to the Possession of any such Lands or Tenements, it shall be lawful for the Court of which the Document authorizing the Reference is or is made a Rule or Order to order any Party to the Reference who shall be in possession of any such Lands or Tenements, or any Person in possession of the same claiming under or put in possession by him since the making of the Document authorizing the Reference, to deliver Possession of the same to the Party entitled thereto, pursuant to the Award, and such Rule or Order to deliver Possession shall have the Effect of a Judgment in Ejectment against every such Party or Person named in it, and Execution may issue, and Possession shall be delivered by the Sheriff as on a Judgment in Ejectment.

Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.

XX. Every Agreement or Submission to Arbitration by Consent, whether by Deed or Instrument in Writing not under Seal, may be made a Rule of any One of the Superior Courts of Law or Equity at *Dublin*, on the Application of any Party thereto, unless such Agreement or Submission contain Words purporting that the Parties intend that it should not be made a Rule of Court; and if in any such Agreement or Submission it is provided that the same shall or may be made a Rule of One in particular of such Superior Courts, it may be made a Rule of that Court only; and if when there is no such Provision a Case be stated in the Award for the Opinion of One of the Superior Courts, and such Court be specified in the Award, and the Document authorizing the Reference have not, before the Publication of the Award to the Parties, been made a Rule of Court, such Document may be made a Rule only of the Court specified in the Award; and when in any Case the Document authorizing the Reference is or has been made a Rule or Order of any One of such Superior Courts, no other of such Courts shall have any Jurisdiction to entertain any Motion respecting the Arbitration or Award.

Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.

XXI. Upon the Trial of any Cause the Addresses to the Jury shall be regulated as follows: The Party who begins, or his Counsel, shall be allowed, in the event of his Opponent not announcing at the Close of the Case of the Party who begins his Intention to adduce Evidence, to address the Jury a Second Time at the Close of such Case, for the Purpose of summing up the Evidence; and the Party on the other Side, or his Counsel, shall be allowed to open the Case, and also to sum up the Evidence (if any); and the Right to reply shall be the same as at present.

As to Addresses of Council to Juries on Trials of Causes.

XXII. It shall be lawful for the Court or Judge, at the Trial of any Cause, where they or he may deem it right for the Purposes of Justice, to order an Adjournment for such Time, and subject to such Terms and Conditions as to Costs, and otherwise, as they or he may think fit.

Power to Court or Judge to adjourn Trials.

XXIII. If any Person called as a Witness, or required or desiring to make an Affidavit or Deposition, shall refuse or be unwilling from alleged conscientious Motives to be sworn, it shall be lawful for the Court or Judge or other presiding Officer, or Person qualified to take Affidavits or Depositions, upon being satisfied of the Sincerity of such Objection, to permit

Affirmation instead of Oath in certain Cases.

permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following; *videlicet*,

'I *A.B.* do solemnly, sincerely, and truly affirm and declare, That the taking of any Oath is, according to my Religious Belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare,' *&c.*

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

Persons making a false Affirmation to be subject to the same Punishment as for Perjury.

XXIV. If any Person making such solemn Affirmation or Declaration shall wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

How far a Party may discredit his own Witness.

XXV. A Party producing a Witness shall not be allowed to impeach his Credit by general Evidence of bad Character, but he may, in case the Witness shall in the Opinion of the Judge prove adverse, contradict him by other Evidence, or, by Leave of the Judge, prove that he has made at other Times a Statement inconsistent with his present Testimony; but before such last-mentioned Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

Proof of contradictory Statements of adverse Witness.

XXVI. If a Witness, upon Cross-examination as to a former Statement made by him relative to the Subject Matter of the Cause, and inconsistent with his present Testimony, does not distinctly admit that he has made such Statement, Proof may be given that he did in fact make it; but before such Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

Cross-examination as to previous Statements in Writing.

XXVII. A Witness may be cross-examined as to previous Statements made by him in Writing, or reduced into Writing, relative to the Subject Matter of the Cause, without such Writing being shown to him; but if it is intended to contradict such Witness by the Writing, his Attention must, before such contradictory Proof can be given, be called to those Parts of the Writing which are to be used for the Purpose of so contradicting him: Provided always, that it shall be competent for the Judge, at any Time during the Trial, to require the Production of the Writing, for his Inspection, and he may thereupon make such Use of it for the Purposes of the Trial as he shall think fit.

Proof of previous Conviction of a Witness may be given.

XXVIII. A Witness in any Cause may be questioned as to whether he has been convicted of any Felony or Misdemeanor, and, upon being so questioned, if he either denies the Fact, or refuses to answer, it shall be lawful for the opposite Party to prove such Conviction; and a Certificate containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for such Offence, purporting to be signed by the Clerk of the Court or other Officer having the Custody of the Records of the Court where the Offender was convicted, or by the Deputy of such Clerk or Officer, (for which Certificate a Fee of Five Shillings and no more shall be demanded or taken,) shall upon Proof of the Identity of the Person, be sufficient Evidence of the said Conviction, without Proof of the Signature or official Character of the Person appearing to have signed the same.

Attesting Witness need not be called, except in certain Cases.

XXIX. It shall not be necessary to prove by the attesting Witness any Instrument to the Validity of which Attestation is not requisite; and such Instrument may be proved by Admission, or otherwise, as if there had been no attesting Witness thereto.

Comparison of disputed Writing.

XXX. Comparison of a disputed Writing with any Writing proved to the Satisfaction of the Judge to be genuine shall be permitted to be made by Witnesses; and such Writings, and the Evidence of Witnesses respecting the same, may be submitted to the Court and Jury as Evidence of the Genuineness, or otherwise, of the Writing in dispute.

XXXI. In

Certified Copy of Will to be sufficient Evidence.

XXXI. In any Action at Law or Suit in Equity where, according to the existing Law, it would be necessary to produce and prove an original Will or other Testamentary Instrument in order to establish a Devise or other Testamentary Disposition, Probate, or Letters of Administration of such Will or other Testamentary Instrument, or a Copy thereof purporting to be certified as a true Copy by some Officer of the Testamentary Court in which the same shall have been lodged, shall be sufficient Evidence of such Will or other Testamentary Instrument and its Contents; provided that the Party intending to produce such Probate, Letters of Administration, or Copy shall have given Seven Days Notice of such his Intention to the opposite Party, and unless the Party receiving such Notice shall, within Three Days thereafter, by a counter Notice, require the Production and Proof of the original Will or other Testamentary Instrument.

Court or Judge may on Application order certain Documents to be taken as sufficient Evidence of Will, &c.

XXXII. Provided always, That in case any such counter Notice shall be served, it shall be lawful for the Party intending to produce such Probate, Letters of Administration, or Copy, to apply to the Court or a Judge for an Order that such Probate, Letters of Administration, or Copy shall be deemed and taken as sufficient Evidence of such Will or other Testamentary Instrument, and its Contents, and thereupon the Court or Judge may make such Order in relation thereto as may be fit, and the said Court or Judge may thereupon determine by whom the Costs of such Application shall be paid, and upon what Terms, if any, such Will or other Testamentary Document shall be produced.

As to Costs of Proof of Will.

XXXIII. In every Case in which, after the Notices mentioned in the last Section, the original Will or other Testamentary Instrument shall be produced and proved, it shall be lawful for the Court or Judge before whom such Evidence shall be given to direct by which of the Parties the Costs thereof shall be paid.

Provision as to Documents produced at Trial and not sufficiently stamped.

XXXIV. Upon the Production of any Document as Evidence at the Trial of any Cause, it shall be the Duty of the Officer of the Court whose Duty it is to read such Document to call the Attention of the Judge to any Omission or Insufficiency of the Stamp; and the Document, if unstamped, or not sufficiently stamped, shall not be received in Evidence until the whole, or (as the Case may be) the Deficiency of the Stamp Duty, and the Penalty required by Statute, together with the additional Penalty of One Pound, shall have been paid.

Officer of the Court to receive the Duty and Penalties and pay them over to the Inland Revenue.

XXXV. Such Officer of the Court shall, upon Payment to him of the whole or (as the Case may be) of the Deficiency of the Stamp Duty payable upon or in respect of such Document, and of the Penalty required by Statute, and of the additional Penalty of One Pound, give a Receipt for the Amount of the Duty or Deficiency which the Judge shall determine to be payable, and also of the Penalty, and thereupon such Document shall be admissible in Evidence, saving all just Exceptions on other Grounds; and an Entry of the Fact of such Payment and of the Amount thereof shall be made in a Book kept by such Officer; and such Officer shall, at the End of each Sittings or Assizes (as the Case may be), duly make a Return to the Commissioners of the Inland Revenue of the Monies, if any, which he has so received by way of Duty or Penalty, distinguishing between such Monies, and stating the Name of the Cause and of the Parties from whom he received such Monies, and the Date, if any, and Description of the Document, for the Purpose of identifying the same; and he shall pay over the said Monies to the Receiver General of the Inland Revenue, or to such Person as the said Commissioners shall appoint or authorize to receive the same; and in case such Officer shall neglect or refuse to furnish such Account, or to pay over any of the Monies so received by him as aforesaid, he shall be liable to be proceeded against in the Manner directed by the Eighth Section of an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled *An Act to repeal certain Stamp Duties, and to grant others in lieu thereof, and to amend the Laws relating to the Stamp Duties;* and the said Commissioners shall, upon Request, and Production of the Receipt herein-before mentioned, cause such Documents to be stamped with the proper Stamp or Stamps in respect of the Sums so paid as aforesaid: Provided always, that the aforesaid Enactment shall not extend to any Document which cannot now be stamped after the Execution thereof on Payment of the Duty and a Penalty.

If Officer neglect to pay over Monies he shall be proceeded against as directed by 13 & 14 Vict. c. 97.

XXXVI. No

No Document to require a Stamp.

XXXVI. No Document made or required under the Provisions of this Act shall be liable to any Stamp Duty.

No new Trial for ruling as to Sufficiency of Stamp.

XXXVII. No new Trial shall be granted by reason of the Ruling of any Judge that the Stamp upon any Document is sufficient, or that the Document does not require a Stamp.

Error may be brought on a Special Case.

XXXVIII. Error may be brought upon a Judgment upon a Special Case stated under this Act in any Award in the same Manner as upon a Judgment upon a Special Verdict, unless the Parties agree to the contrary; and the Proceedings for bringing such Special Case before the Court of Error shall, as nearly as may be, be the same as in the Case of a Special Verdict; and the Court of Error shall either affirm the Judgment or give the same Judgment as ought to have been given in the Court in which it was originally decided, the said Court of Error being required to draw any Inferences of Fact from the Facts stated in such Special Case which the Court where it was originally decided ought to have drawn.

Grounds for new Trial to be stated.

XXXIX. In every Rule Nisi for a new Trial, or to enter a Verdict or Nonsuit, the Grounds upon which such Rule shall have been granted shall be shortly stated therein.

If Rule Nisi refused Party may appeal.

XL. In all Cases of Rules to enter a Verdict or Nonsuit upon a Point reserved at the Trial, if the Rule to show Cause be refused or granted and then discharged or made absolute, the Party decided against may appeal.

Appeal upon Rule discharged or absolute.

XLI. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute, the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused, or, when granted, being discharged or made absolute, as the Case may be, or, provided the Court in its Discretion think fit that an Appeal should be allowed; provided, that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, no such Appeal shall be allowed.

As to Courts of Appeal.

XLII. The Court of Exchequer Chamber and the House of Lords shall be Courts of Appeal for the Purposes of this Act.

Notice of Appeal.

XLIII. No Appeal shall be allowed unless Notice thereof be given in Writing to the opposite Party or his Attorney, and to the Master of the Court, within Four Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge.

Bail.

XLIV. Notice of Appeal shall be a Stay of Execution, provided Bail to pay the Sum recovered and Costs, or to pay Costs where the Appellant was Plaintiff below, be given, in like Manner and to the same Amount as Bail in Error, within Eight Days after the Decision complained of, or before Execution delivered to the Sheriff.

Form of Appeal.

XLV. The Appeal herein-before mentioned shall be upon a Case to be stated by the Parties (and in case of Difference, to be settled by the Court or a Judge of the Court appealed from), in which Case shall be set forth so much of the Pleadings, Evidence, and the Ruling or Judgment objected to, as may be necessary to raise the Question for the Decision of the Court of Appeal.

Rule Nisi granted on Appeal, how disposed of.

XLVI. When the Appeal is from the Refusal of the Court below to grant a Rule to show Cause, and the Court of Appeal grant such Rule, such Rule shall be argued and disposed of in the Court of Appeal.

Court of Appeal to give Judgment of Court below.

XLVII. The Court of Appeal shall give such Judgment as ought to have been given in the Court below; and all such further Proceedings may be taken thereupon as if the Judgment had been given by the Court in which the Record originated.

Powers of Court of Appeal as to Costs, &c.

XLVIII. The Court of Appeal shall have Power to adjudge Payment of Costs, and to order Restitution, and they shall have the same Powers as the Court in which the Record originated in respect of awarding Process and otherwise.

XLIX. Upon

Error upon Award of Trial de novo.

XLIX. Upon an Award of a Trial *de novo* by any One of the Superior Courts, or the Court of Exchequer Chamber, upon Matter appearing upon the Record, Error may at once be brought; and if the Judgment in such or any other Case be affirmed in Error, it shall be lawful for the Court of Error to adjudge Costs to the Defendant in Error.

Payment of Costs upon new Trial on Matter of Fact.

L. When a new Trial is granted on the Ground that the Verdict was against Evidence, the Costs of the First Trial shall abide the Event, unless the Court shall otherwise order.

Power to Court or Judge to direct oral Examination of Witnesses.

LI. Upon the Hearing of any Motion it shall be lawful for the Court or Judge, at their or his Discretion, and upon such Terms as they or he shall think reasonable, from Time to Time to order such Documents as they or he may think fit to be produced, and such Witnesses as they or he may think necessary to appear, and be examined *vivâ voce*, either before such Court or Judge, or before the Master, and upon hearing such Evidence, or reading the Report of such Master, to make such Rule or Order as may be just.

Proceedings before and upon such Examination.

3 & 4 Vict. c. 105.

LII. The Court or Judge may by such Rule or Order, or any subsequent Rule or Order, command the Attendance of the Witnesses named therein, for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order; and such Rule or Order shall be proceeded upon in the same Manner, and shall have the same Force and Effect, as a Rule of the Court under the Act of the Third and Fourth *Victoria*, Chapter One hundred and five; and it shall be lawful for the Court or Judge, or Master to adjourn the Examination from Time to Time as Occasion may require; and the Proceedings upon such Examination shall be conducted, and the Depositions taken down, as nearly as may be, in the Mode now in use with respect to the *vivâ voce* Examination of Witnesses under the last-mentioned Act.

Examination of Person who refuses to make an Affidavit.

LIII. Any Party to any Action, Suit, or other Civil Proceeding in any of the Superior Courts, requiring the Affidavit of a Person who refuses to make an Affidavit, may apply by Notice for an Order to such Person to appear and be examined upon Oath before a Judge or Master as to the Matters concerning which he has refused to make an Affidavit; and the Court or Judge may make such Order for the Attendance of such Person before the Judge or Master appointed to take such Examination, for the Purpose of being examined as aforesaid, and for the Production of any Writings or Documents to be mentioned in such Order, and may therein impose such Terms as to such Examination, and the Costs of the Application and Proceedings thereon, as shall appear just.

Proceedings upon Order for Examination as under 3 & 4 Vict. c. 105.

LIV. Such Order shall be proceeded upon in like Manner as an Order made under the herein-before mentioned Act of the Third and Fourth *Victoria*, Chapter One hundred and five, and the Examination thereon shall be conducted, and the Depositions taken down and returned, as nearly as may be, in the Mode now used on *vivâ voce* Examinations under the said Act of Parliament.

Power to Court or Judge to order Production of Documents.

LV. Upon the Application of either Party to any Action, Suit, or other Civil Proceeding in any of the Superior Courts, upon an Affidavit by such Party of his Belief that any Document, to the Production of which he is entitled for the Purpose of Discovery or otherwise, is in the Possession or Power of the opposite Party, it shall be lawful for the Court or Judge to order that the Party against whom such Application is made, or if such Party is a Body Corporate that some Officer to be named of such Body Corporate, shall answer on Affidavit, stating what Documents he or they has or have in his or their Possession or Power relating to the Matters in dispute, or what he knows as to the Custody they or any of them are in, and whether he or they objects or object (and if so, on what Grounds,) to the Production of such as are in his or their Possession or Power; and upon such Affidavit being made the Court or Judge may make such further Order thereon as shall be just.

Power to deliver written Interrogatories to opposite Party.

LVI. In all Causes in any of the Superior Courts, by Order of the Court or a Judge, the Plaintiff may, with the Writ of Summons and Plaint, and the Defendant may, with the Appearance and Defence, or either of them, by Leave of the Court or a Judge, may, at any other Time, deliver to the opposite Party or his Attorney (provided such Party, if not a Body Corporate, would be liable to be called and examined as a Witness upon such Matter) Interrogatories

Interrogatories in Writing upon any Matter as to which Discovery may be sought, and require such Party, or in the Case of a Body Corporate any of the Officers of such Body Corporate, within Ten Days, to answer the Questions in Writing by Affidavit, to be sworn and filed in the ordinary Way; and any Party or Officer omitting, without just Cause, sufficiently to answer all Questions as to which a Discovery may be sought within the above Time, or such extended Time as the Court or a Judge shall allow, shall be deemed to have committed a Contempt of the Court, and shall be liable to be proceeded against accordingly.

Affidavits by Party proposing to interrogate, and his Attorney.

LVII. The Application for such Order shall be made upon an Affidavit of the Party proposing to interrogate, and his Attorney or Agent, or, in the Case of a Body Corporate, of their Attorney or Agent, stating that the Deponents or Deponent believe or believes that the Party proposing to interrogate, whether Plaintiff or Defendant, will derive material Benefit in the Cause from the Discovery which he seeks, that there is a good Cause of Action or Defence upon the Merits, and, if the Application be made on the Part of the Defendant, that the Discovery is not sought for the Purpose of Delay; provided that where it shall happen, from unavoidable Circumstances, that the Plaintiff or Defendant cannot join in such Affidavit, the Court or Judge may allow and order that the Interrogatories may be delivered without such Affidavit.

Oral Examination of Parties, when to be allowed.

LVIII. In case of Omission, without just Cause, to answer sufficiently such written Interrogatories, the Court or a Judge may direct an oral Examination of the interrogated Party, as to such Points as shall appear fit, before a Judge or the Master; and the Court or Judge may, by such Rule or Order, or any subsequent Rule or Order, command the Attendance of such Party or Parties before the Person appointed to take such Examination, for the Purpose of being orally examined as aforesaid, or the Production of any Writings or other Documents to be mentioned in such Rule or Order, and may impose therein such Terms as to such Examination, and the Costs of the Application, and of the Proceedings thereon, and otherwise, as to such Court or Judge shall seem just.

Proceedings upon such Rule or Order.

LIX. Such Rule or Order shall have the same Force and Effect, and may be proceeded upon in like Manner, as an Order made under the said herein-before mentioned Act of the Third and Fourth *Victoria*, Chapter One hundred and five.

Depositions upon such Examinations to be returned to Master's Office.

LX. Whenever, by virtue of this Act, an Examination of any Witness or Witnesses has been taken before a Judge of One of the said Superior Courts, or before the Master, the Depositions shall be returned to and kept in the Master's Office of the Court in which the Proceedings are pending; and Office Copies of such Depositions may be given out, and the Depositions may be otherwise used, in the same Manner as in the Case of Depositions taken under the herein-before mentioned Act of the Third and Fourth *Victoria*, Chapter One hundred and five.

Examiner may make Report to the Court.

LXI. It shall be lawful for every Judge or Master named in any such Rule or Order as aforesaid for taking Examinations under this Act, and he is hereby required, to make, if need be, a special Report to the Court in which such Proceedings are pending touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

Costs of Rule and Examination to be in the Discretion of the Court.

LXII. The Costs of every Application for any Rule or Order to be made for the Examination of Witnesses by virtue of this Act, and of the Rule or Order and Proceedings thereon, shall be in the Discretion of the Court or Judge by whom such Rule or Order is made.

Judge may order an Attachment of Debts.

LXIII. It shall be lawful for a Judge, upon the *ex-parte* Application of a Judgment Creditor, and upon Affidavit by himself or his Attorney stating that Judgment has been recovered, and that it is still unsatisfied, and to what Amount, and that any other Person is indebted to the Judgment Debtor, and is within the Jurisdiction, to order that all Debts owing or accruing from such Third Person (herein-after called the Garnishee) to the Judgment

Judgment Debtor shall be attached to answer the Judgment Debt; and by the same or any subsequent Order it may be ordered that the Garnishee shall appear before the Judge or Master, as such Judge shall appoint, to show Cause why he should not pay the Judgment Creditor the Debt due from him to the Judgment Debtor, or so much thereof as may be sufficient to satisfy the Judgment Debt.

Order for Attachment to bind Debts.

LXIV. Service of an Order that Debts due or accruing to the Judgment Debtor shall be attached, or Notice thereof to the Garnishee, in such Manner as the Judge shall direct, shall bind such Debts in his Hands.

Proceedings to levy Amount due from Garnishee to Judgment Debtor.

LXV. If the Garnishee does not forthwith pay into Court the Amount due from him to the Judgment Debtor, or an Amount equal to the Judgment Debt, and does not dispute the Debt due or claimed to be due from him to the Judgment Debtor, or if he does not appear upon Summons, then the Court or a Judge may order Execution to issue, and it may be sued forth accordingly, without any previous Writ or Process, to levy the Amount due from such Garnishee towards Satisfaction of the Judgment Debt.

Judge may allow Judgment Creditor to sue Garnishee.

LXVI. If the Garnishee disputes his Liability, the Court or a Judge, instead of making an Order that Execution shall issue, may order that the Judgment Creditor shall be at liberty to proceed against the Garnishee by Writ, calling upon him to show Cause why there should not be Execution against him for the alleged Debt, or for the Amount due to the Judgment Debtor, if less than the Judgment Debt, and for Costs of Suit; and the Proceedings upon such Suit shall be the same, as nearly as may be, as upon a Writ of Revivor issued under "The Common Law Procedure Act Amendment Act, *Ireland*, 1853."

Discharge of Garnishee.

LXVII. Payment made by or Execution levied upon the Garnishee under any such Proceeding as aforesaid shall be a valid Discharge to him as against the Judgment Debtor to the Amount paid or levied, although such Proceeding may be set aside or the Judgment reversed.

Attachment Book to be kept by the Masters of each Court.

LXVIII. In each of the Superior Courts there shall be kept at the Master's Office a Debt Attachment Book, and in such Book Entries shall be made of the Attachment and Proceedings thereon, with Names, Dates, and Statements of the Amount recovered, and otherwise; and the Mode of keeping such Books shall be the same in all the Courts; and Copies of any Entries made therein may be taken by any Person, upon Application to the Master.

As to Costs of Application for Attachment, &c.

LXIX. The Costs of any Application for an Attachment of Debt under this Act, and of any Proceedings arising from or incidental to such Application, shall be in the Discretion of the Court or a Judge.

Action for Mandamus to enforce the Performance of Duties.

LXX. The Plaintiff in any Action in any of the Superior Courts, except Replevin and Ejectment, may claim in the Writ of Summons and Plaint, either together with any other Demand which may now be enforced in such Action or separately, a Writ of Mandamus commanding the Defendant to fulfil any Duty in the Fulfilment of which the Plaintiff is personally interested.

Declaration in Action for Mandamus.

LXXI. The Writ of Summons and Plaint in such Action shall set forth sufficient Grounds upon which such Claim is founded, and shall set forth that the Plaintiff is personally interested therein, and that he sustains or may sustain Damage by the Nonperformance of such Duty, and that Performance thereof has been demanded by him, and refused or neglected.

Proceedings upon Claim for Mandamus.

LXXII. The Pleadings and other Proceedings in any Action in which a Writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and Costs shall be recoverable by either Party, as in an ordinary personal Action.

Judgment and Execution.

LXXIII. In case Judgment shall be given for the Plaintiff that a Mandamus do issue, it shall be lawful for the Court in which such Judgment is given, if it shall see fit, besides issuing Execution in the ordinary Way for the Costs and Damages, also to issue a peremptory

Writ of Mandamus to the Defendant, commanding him forthwith to perform the Duty to be enforced.

Form of peremptory Writ.

LXXIV. The Writ need not recite the Writ of Summons and Plaint, or other Proceedings, or the Matter therein stated, but shall simply command the Performance of the Duty, and in other respects shall be in the Form of an ordinary Writ of Execution, except that it shall be directed to the Party and not to the Sheriff, and may be issued in Term or Vacation, and returnable forthwith; and no Return thereto, except that of Compliance, shall be allowed, but Time to return it may, upon sufficient Grounds, be allowed by the Court or a Judge, either with or without Terms.

Effect of Mandamus, and Proceedings to enforce it.

LXXV. The Writ of Mandamus so issued as aforesaid shall have the same Force and Effect as a peremptory Writ of Mandamus issued out of the Court of Queen's Bench, and in case of Disobedience may be enforced by Attachment.

The Court may order the Act required to be done to be done at the Expense of the Defendant.

LXXVI. The Court or a Judge may, upon Application by the Plaintiff, besides or instead of proceeding against the disobedient Party by Attachment, direct that the Act required to be done may be done by the Plaintiff, or some other Person appointed by the Court, at the Expense of the Defendant; and upon the Act being done the Amount of such Expense may be ascertained by the Court, either by Writ of Inquiry or Reference to the Master, as the Court or a Judge may order; and the Court may order Payment of the Amount of such Expenses and Costs, and enforce Payment thereof by Execution.

Prerogative Writ of Mandamus preserved.

LXXVII. Nothing herein contained shall take away the Jurisdiction of the Court of Queen's Bench to grant Writs of Mandamus; nor shall any Writ of Mandamus issued out of that Court be invalid by reason of the Right of the Prosecutor to proceed by Action for Mandamus under this Act.

Proceedings for Prerogative Writ of Mandamus accelerated.

LXXVIII. Upon Application by Motion for any Writ of Mandamus in the Court of Queen's Bench, the Rule may in all Cases be absolute in the first instance, if the Court shall think fit; and the Writ may bear Teste on the Day of its issuing and may be made returnable forthwith, whether in Term or in Vacation, but Time may be allowed to return it, by the Court or a Judge, either with or without Terms.

Proceedings on Prerogative Writ of Mandamus.

LXXIX. The Provisions of "The Common Law Procedure Amendment Act (*Ireland*), 1853," and of this Act, so far as they are applicable, shall apply to the Pleadings and Proceedings upon a Prerogative Writ of Mandamus issued by the Court of Queen's Bench, but subject to any General Rules which the said Court may make, and which it is hereby empowered to make in relation thereto.

Specific Delivery of Chattels.

LXXX. The Court or a Judge shall have Power, if they or he see fit so to do, upon the Application of the Plaintiff in any Action for the Detention of any Chattel, to order that Execution shall issue for the Return of the Chattel detained, without giving the Defendant the Option of retaining such Chattel upon paying the Value assessed, and that if the said Chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his Lands and Chattels in the said Sheriff's Bailiwick till the Defendant render such Chattel, or, at the Option of the Plaintiff, that he cause to be made of the Defendant's Goods the assessed Value of such Chattel; provided that the Plaintiff shall, either by the same or a separate Writ of Execution, be entitled to have made of the Defendant's Goods the Damages, Costs, and Interest in such Action.

Claim of Writ of Injunction.

LXXXI. In all Cases of Breach of Contract or other Injury, where the Party injured is entitled to maintain and has brought an Action, he may, in like Case and Manner as hereinbefore provided with respect to Mandamus, claim a Writ of Injunction against the Repetition or Continuance of such Breach of Contract or other Injury, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating the same Property or Right; and he may also in the same Action include a Claim for Damages or other Redress.

Form of Writ of Summons

LXXXII. The Writ of Summons and Plaint in such Action shall be in the same Form as the Writ of Summons and Plaint in any personal Action; but on every such Writ and Copy

Copy thereof there shall be endorsed a Notice that in default of Appearance the Plaintiff may, besides proceeding to Judgment and Execution for Damages and Costs, apply for and obtain a Writ of Injunction. and Endorsement thereon.

LXXXIII. The Proceedings in such Action shall be the same, as nearly as may be, and subject to the like Control, as the Proceedings in an Action to obtain a Mandamus under the Provisions herein-before contained; and in such Action Judgment may be given that the Writ of Injunction do or do not issue, as Justice may require; and in case of Disobedience such Writ of Injunction may be enforced by Attachment by the Court or by a Judge. Form of Proceedings and of Judgment.

LXXXIV. It shall be lawful for the Plaintiff, at any Time after the Commencement of the Action, and whether before or after Judgment, to apply *ex parte* to the Court or a Judge for a Writ of Injunction to restrain the Defendant in such Action from the Repetition or Continuance of the wrongful Act or Breach of Contract complained of, or the Committal of any Breach of Contract or Injury of a like kind, arising out of the same Contract, or relating to the same Property or Right; and such Writ may be granted or denied by the Court or Judge, upon such Terms as to the Duration of the Writ, keeping an Account, giving Security, or otherwise, as to such Court or Judge shall seem reasonable and just, and in case of Disobedience such Writ may be enforced by Attachment: Provided always, that any Order for a Writ of Injunction made by a Judge, or any Writ issued by virtue thereof, may be discharged or varied or set aside by the Court, on Application made thereto by any Party dissatisfied with such Order. Writ of Injunction may be applied for at any Stage of the Cause.

LXXXV. It shall be lawful for the Defendant in any Action, and for the Plaintiff in any Action for Replevin of Goods, in any of the Superior Courts, in which, if Judgment were obtained, he would be entitled to Relief against such Judgment on equitable Grounds, to plead the Facts which entitle him to such Relief, and the said Courts are hereby empowered to receive such Pleading, provided that such Pleading shall begin with the Words "For Defence on equitable Grounds," or Words to the like Effect. Equitable Defence may be pleaded.

LXXXVI. Any such Matter which, if it arose before or during the Time for pleading, would be an Answer to the Action if pleaded, may, if it arise after the Lapse of the Period during which it could be pleaded, be set up by way of Auditâ querelâ, or in such other Manner as the Judges may by any General Rules or Orders direct. Equitable Defence after Judgment.

LXXXVII. It shall be lawful for the Court or a Judge to permit any of the Parties to reply in answer to any Pleading of the opposite Facts which avoid such Pleading upon equitable Grounds, provided that such Reply shall begin with the Words "For Replication on equitable Grounds," or Words to the like Effect. Equitable Replication.

LXXXVIII. If it shall appear to the Court or a Judge that any such equitable Pleading cannot be dealt with by a Court of Law so as to do Justice between the Parties, it shall be lawful for such Court or Judge to order the same to be struck out, on such Terms, as to Costs and otherwise, as may seem reasonable. Court or Judge may strike out equitable Plea or Replication.

LXXXIX. It shall and may be lawful for any of the Superior Courts of Common Law in *Ireland*, in any Action of Ejectment on the Title to be commenced after the passing of this Act, to make an Order directing temporary Bars to be waived and the real Title tried in such Ejectment, in any Case in which it shall be made appear to the Satisfaction of such Court that a Decree or Decretal Order to the same Effect would be pronounced by the Court of Chancery upon a Bill or Cause Petition filed for the Purpose of having temporary Bars waived, but upon such Terms or Conditions as to said Court shall seem just. Superior Courts of Common Law may in Action of Ejectment order real Title to be tried in such Ejectment.

XC. In case of any Action founded upon a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Court or a Judge to order that the Loss of such Instrument shall not be set up, provided an Indemnity is given, to the Satisfaction of the Court, Judge, or Master, against the Claims of any other Person upon such negotiable Instrument. Actions on lost Instruments.

XCI. The Superior Courts or any Judge thereof may, upon summary Application, by Rule or Order, exercise such and the like Jurisdiction as may, under Section 514 of the Merchant Shipping Act, 1854, be exercised by any Court of Equity. Jurisdiction under 17 & 18 Vict. c. 104.

XCII. Any

Penalty on giving false Evidence.

XCII. Any Person who shall, upon any Examination upon Oath or Affirmation, or in any Affidavit in Proceedings under this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

Power to compel Continuance or Abandonment of Action in case of Death of Parties.

XCIII. Where an Action would, but for the Provisions of "The Common Law Procedure Amendment Act (*Ireland*), 1853," have abated by reason of the Death of either Party, and in which the Proceedings may be revived and continued under that Act, the Defendant or Person against whom the Action may be so continued may apply by Notice to compel the Plaintiff, or Person entitled to proceed with the Action in the Room of the Plaintiff, to proceed according to the Provisions of the said Act within such Time as the Court or Judge shall order; and in default of such Proceeding the Defendant or other Person against whom the Action may be so continued as aforesaid shall be entitled to enter a Suggestion of such Default, and of the representative Character of the Person by or against whom the Action may be proceeded with, as the Case may be, and to have Judgment for the Costs of the Action and Suggestion against the Plaintiff, or against the Person entitled to proceed in his Room, as the Case may be, and in the latter Case to be levied of the Goods of the Testator or Intestate.

Effect of a Judgment in Ejectment.

XCIV. A Judgment in an Action of Ejectment under the Common Law Procedure Amendment Act (*Ireland*), 1853, shall have no greater Effect than a Judgment in an Ejectment before the passing of an Act made in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of the Queen, Chapter Eighteen.

Claimant in a Second Ejectment for the same Premises against the same Defendant may be ordered to give Security for Costs.

XCV. If any Person shall bring an Action of Ejectment after a prior Action of Ejectment for the same Premises has been or shall have been unsuccessfully brought by such Person, or by any Person through or under whom he claims, against the same Defendant, or against any Person through or under whom he defends, the Court or a Judge may, on the Application of the Defendant, at any Time order that the Plaintiff shall give to the Defendant Security for the Payment of the Defendant's Costs, and that all further Proceedings in the Cause shall be stayed until such Security be given, whether the prior Action has been or shall have been disposed of by Discontinuance, or by Nonsuit, or by Judgment for the Defendant.

Courts may appoint Sittings.

XCVI. Section CCXXXIX. of "The Common Law Procedure Amendment Act (*Ireland*), 1853," is hereby repealed, and the Superior Courts may appoint and hold Sittings either in Banc, or for the Trial of Issues in Fact by Judge or Jury, and the Court of Error in the Exchequer Chamber may hold its Sittings, at any Time or Times, whether in Term or Vacation, not being between the First of *August* and the Twentieth of *October*.

Limitation of Costs in certain Cases.

XCVII. If in any Action of Contract brought after the Commencement of this Act in the Superior Courts (save for Breach of Promise of Marriage), when the Parties reside within the Jurisdiction of the Civil Bill Court of the County in which the Cause of Action has arisen, the Plaintiff shall recover, exclusive of Costs, a Sum less than Twenty Pounds, or in any Action for any Wrong or Injury disconnected with Contract (not being for Replevin, Slander, Libel, Malicious Prosecution, Seduction, or Criminal Conversation,) a Sum not exceeding Five Pounds, the Plaintiff in any such Action shall not be entitled to any Costs, unless at the Trial of such Cause the Judge shall certify on the Back of the Record, either that the Case was one which could not have been tried in the Civil Bill Court, or that, although within the Jurisdiction of the Civil Bill Court, it nevertheless was a fit Case to be tried in One of such Superior Courts, or (in case there shall be no Trial) unless the Court or a Judge shall on Motion make an Order to the like Effect; and in case there shall be no such Certificate or Order it shall not be necessary to enter any Suggestion on the Record to deprive such Plaintiff of Costs.

Certain Sections of this Act to apply to every Civil Court in Ireland.

XCVIII. The Enactments contained in Sections 14, 22, and 90 of this Act shall apply and extend to every Court of Civil Judicature in *Ireland*, and the Enactments contained in Sections 23, 24, 25, 26, 27, 28, 29, 30, 34, 35, 36, and 92 shall apply and extend to all Courts of Judicature, as well Criminal as all others, and to all Persons having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence.

XCIX. In

XCIX. In all Cases within Sections Ninety-eight and One hundred and one of the Common Law Procedure Amendment Act (*Ireland*), 1853, it shall not be necessary to obtain any Direction of the Court or a Judge that the Amount for which final Judgment shall be marked shall be ascertained by the Master, but it shall be lawful for the Master without any such Direction to ascertain such Amount, and the Proceedings for that Purpose shall be in all respects as if a Direction to the Master by the Court or a Judge had in pursuance of the said Sections been made; and it shall be lawful for the Court or a Judge, in any Case in which the Venue shall be laid elsewhere than in the County or County of the City of *Dublin*, instead of a Writ of Inquiry to the Sheriff to ascertain the Amount of Damages, to direct that the Amount for which final Judgment shall be marked shall be ascertained by the Master, and thereupon such Proceedings shall be had as if the Case had been within Section One hundred and one of the Common Law Procedure Amendment Act (*Ireland*), 1853, and a Direction to the Master under the said Section had been obtained, provided that the Jury shall be a Jury of the County of the City of *Dublin*, and shall be summoned accordingly.

Master may proceed under Sections 98. and 101. of 16 & 17 Vict. c. 113. without Order of Court.

Court may direct Master to hold Inquiries when Venue not in Dublin.

C. In case the Plaintiff in Replevin shall neglect to file the Summons and Plaint, or Copy thereof, within Ten Days after Service, unless the Time shall have been extended, or to proceed to Trial within One Term from that in which or the Vacation of which the Defence or other subsequent Proceeding is filed, the Defendant may proceed to enter such Rules as are in Sections Thirty-eight and One hundred and six of the Common Law Procedure Amendment Act (*Ireland*), 1853, in Cases of such Default respectively provided.

Provision in case Plaintiff in Replevin shall delay to file the Summons and Plaint and proceed to Trial.

CI. In all Actions for a Replevin of a Distress made for Rent, when the Amount of Rent in arrear at the Time of making such Distress shall have been ascertained as provided by Section Two hundred and thirty of the Common Law Procedure Amendment Act (*Ireland*), 1853, the Defendant shall have Judgment and Execution to recover against the Plaintiff the Arrears of Rent, whether the Value of the Goods and Chattels distrained shall amount to so much or not, anything in the said Act to the contrary notwithstanding.

Judgment in Replevin for Amount of Arrears.

CII. In all Cases where Money shall have been lodged in Court in lieu of Security for Costs, and the Party lodging shall become entitled to be repaid the said Money or any Part thereof, such Party may, without any Rule or Order for that Purpose, apply to the Master of the Court to draw on the Bank of *Ireland* in favour of such Party or his Attorney upon Record for such Money or such Part thereof, and the said Master, on being satisfied by Affidavit or otherwise that the Party applying is so entitled to be repaid, shall thereupon draw accordingly.

Master may draw for Money lodged as Security for Costs.

CIII. The Provisions of this Act shall come into operation on the First Day of *October* in the Year of our Lord One thousand eight hundred and fifty-six.

Commencement of Act.

CAP. CIII.

An Act to make better Provision for the Removal of Nuisances, Regulation of Lodging Houses, and the Health of Towns in *Scotland*. [29th *July* 1856.]

'WHEREAS the Provisions of "The Nuisances Removal and Diseases Prevention Act, 1848," amended by "The Nuisances Removal and Diseases Prevention Amendment Act, 1849," are defective, and it is expedient to repeal the said Acts, so far as relates to *Scotland*, and to substitute other Provisions more effectual in that Behalf, and also to make Provision for the Supervision and Regulation of Common Lodging Houses and for the Health of Towns in *Scotland*:' 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:

11 & 12 Vict. c. 123. 12 & 13 Vict. c. 111.

I. This