Years of the Reign of Her present Majesty, Chapter Fifty-one, when the Holding is of the Crown, or the executing a Charge of Horning against Superiors, when the Holding is of a Subject, and recording a Copy of such Note and an Abstract of such Draft Charter, or such Charge, in the Register of Abbreviates of Adjudications, shall be held in all Time coming as the proper Diligence for the Purpose aforesaid.

Securities for Cash Accounts or Credits.

VII. It shall be lawful for any Person possessed of Lands or other Heritable Property, and desiring to pledge the same in Security of any Sums paid or Balances arising or which may arise upon Cash Accounts or Credits, or by way of Relief to any Persons who may become bound with him for the Payment of such Sums or Balances, although paid or arising posterior to the Date of the infeftment, to grant Heritable Securities accordingly upon his Lands or other Heritable Property, containing Procuratory of Resignation and Precept of Sasine, for infefting any Bank or Bankers or other Persons who shall agree to give such Cash Accounts or Credits or for infefting such Persons as shall become Cautioners for him, or jointly bound with him in such Cash Accounts or Credits: Provided always, that the Principal and Interest which may become due upon such Cash Accounts or Credits shall be limited to a certain definite Sum, to be specified in the Security, such definite Sum not exceeding the Amount of the Principal Sum, and Three Years Interest thereon at the Rate of Five Pounds *per Centum:* Provided also, that it shall be lawful for the Person to whom any such Cash Account or Credit is granted to operate upon the same by drawing out and paying in such Sums from Time to Time as the Parties shall settle between themselves, and that the Sasines or Infeftments taken upon such Heritable Securities shall be equally valid and effectual as if the whole Sums advanced upon such Cash Account or Credit had been paid prior to the Date of the Sasine or Infeftment taken thereon, and that any such Heritable Security shall remain and subsist to the Extent of the Sum limited, or any lesser Sum, until the Cash Account or Credit is finally closed, and the Balance paid up and discharged, and the Sasine or Infeftment renounced.

CAP. XCII.

An Act to constitute a Court of Appeal in Chancery, and to amend the Law relating to Appeals from the Incumbered Estates Court in *Ireland*.

[29th *July* 1856.]

'WHEREAS it is expedient to constitute a Court of Appeal in Chancery, and it is also 'expedient to enable the said Court of Appeal to determine all Appeals from the 'Court of the Commissioners for the Sale and Transfer of Incumbered Estates in *Ireland* 'which may now be made to the Privy Council.' 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:

Short Title.

I. This Act may be cited for all Purposes as the "Chancery Appeal Court (*Ireland*) Act, 1856."

Interpretation of Terms.

II. In the Construction of this Act "Chancery" and "Court" shall mean the Court of Chancery in *Ireland*, and "Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of *Ireland*; "Suit" shall include Cause, Cause Petition, and Petition Matter.

Appointment of Judge of Court of Appeal.

III. It shall be lawful for Her Majesty from Time to Time, by Letters Patent under the Great Seal of *Ireland*, to nominate and appoint a fit Person who shall have exercised the Office of High Chancellor of *Ireland*, or who shall have practised at the Bar for not less than Fifteen Years, to be a Judge of the Court of Appeal in Chancery, and every Judge so nominated and appointed shall hold his Office during good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such last-mentioned Judge from his Office upon an Address of both Houses of Parliament.

IV. The

Court of Appeal.

IV. The Chancellor, together with such Judge for the Time being appointed under this Act, shall form the Court of Appeal in Chancery, and the Secretaries, Registrars, and other Officers appointed to attend the Chancellor shall attend the said Court of Appeal and the respective Judges thereof, as Circumstances shall require and the Chancellor shall direct.

Title and Rank of Judge of Appeal Court.

V. The said Judge shall be styled "Lord Justice of the Court of Appeal in Chancery in *Ireland*," and shall as such have Rank and Precedence next after the Lord Chief Baron of the Court of Exchequer in *Ireland*; provided, however, that if the said Judge shall have exercised the Office of High Chancellor of *Ireland* he shall rank next after the Chancellor for the Time being.

Oath of Office.

VI. Every Judge so appointed shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

'I do solemnly and sincerely promise and swear, That I will duly and faithfully, and to the best of my Skill and Power, execute the Office of Lord Justice of the Court of Appeal in Chancery. So help me GOD.'

Appeals from Master of Rolls to Court of Appeal.

VII. From and after the First Day of *January* One thousand eight hundred and fifty-seven all Decisions, Decrees, or Orders which shall thereafter be pronounced by the Master of the Rolls in any Suit shall be subject to Appeal to the said Court of Appeal; and it shall not be lawful to appeal to the Chancellor alone in relation to such Decisions, Decrees, or Orders as aforesaid, anything herein contained, or any Law or Usage to the contrary notwithstanding; and from and after the said First Day of *January* One thousand eight hundred and fifty-seven all Rehearings of Decisions, Decrees, or Orders made or to be made by the Chancellor shall be heard and determined by the said Court of Appeal: Provided, that nothing herein contained in relation to the said Court of Appeal shall apply to Appeals from Decisions, Decrees, or Orders of the Master of the Rolls pronounced antecedently to the said First Day of *January* One thousand eight hundred and fifty-seven, or to Appeals from the Masters, but such Appeals may be preferred as if the Provisions of this Act relating to the said Court of Appeal had not passed.

Powers and Jurisdiction of Court of Appeal.

VIII. From and after the First Day of *January* One thousand eight hundred and fifty-seven all the Jurisdiction of the Court which is now possessed and exercised, or which but for the passing of this Act would be possessed and exercised, by the Chancellor in Chancery, in relation to Appeals from the Master of the Rolls or such Rehearings as aforesaid, and all Powers, Authorities, and Duties, as well ministerial as judicial, incident to such Jurisdiction, now exercised and performed by the Chancellor, shall be then exercised and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act.

The Jurisdiction of Chancellor transferred to Court of Appeal in relation to Appeals.

IX. Where under any Act of Parliament any Jurisdiction is vested in the Chancellor, or any Power, Authority, or Duty is to be exercised or performed by the Chancellor, and under the Directions of any Act or by any Usage such Power, Authority, or Duty is or ought to be exercised or performed by the Chancellor acting judicially in the Court, all Orders made or to be made by the Chancellor in exercise of such Jurisdiction, Power, Authority, or Duty shall be subject to Appeal, and all such Jurisdiction, Power, Authority, and Duty, and the ministerial Powers and Authorities incident thereto or consequent thereupon, which are now exercised and performed by the Chancellor, shall from and after the said First Day of *January* One thousand eight hundred and fifty-seven be had, exercised, and performed by the said Court of Appeal in relation to Appeals and Rehearings under this Act: Provided always, that, save as regards Appeals and Rehearings under this Act, the Chancellor shall and may, whilst sitting alone, have and exercise the like Jurisdictions, Powers, and Authorities as might have been exercised by the Chancellor if no Court of Appeal in Chancery had been created by and no Judge of Appeals in Chancery had been appointed under this Act.

Appeals from the Incumbered Estates Court

X. All Appeals which by Section Fifty-one of the Act of the Twelfth and Thirteenth *Victoria*, Chapter Seventy-seven, or any Act amending or continuing the same, are authorized

shall be to Court of Appeal.

rized to be made from the Orders of the Commissioners or Commissioner for the Sale and Transfer of Incumbered Estates to the Privy Council in *Ireland*, shall from and after the said First Day of *January* One thousand eight hundred and fifty-seven be made to the Court of Appeal, and from and after the said First Day of *January* One thousand eight hundred and fifty-seven, it shall not be lawful to make such Appeals to the Privy Council; and the Court of Appeal in Chancery shall have the same Power of hearing and determining such Appeals as is by the said Act of the Twelfth and Thirteenth *Victoria*, or any Act amending or continuing the same, given to the Privy Council, and the Costs of such Appeals shall be in the Discretion of the Court of Appeal.

Appeals to be brought within Three Months, unless special Leave obtained.

XI. Appeals and Rehearings under this Act to the said Court of Appeal may be brought without Leave of the Court at any Time within the Period of Three Months from the Time when the Decision, Decree, or Order complained of was made or shall have taken place, anything in Section Thirty of the Court of Chancery (*Ireland*) Regulation Act, 1850, to the contrary notwithstanding, but that after the Expiration of the Period aforesaid no such Appeal or Rehearing shall be brought unless with the special Leave of the Court.

Court of Appeal and Master of Rolls may have Assistance of Common Law Judge.

XII. It shall be lawful for the said Court of Appeal, and for the Master of the Rolls, and for each of the said Jurisdictions, to sit, with the Assistance of any Judge of Her Majesty's Courts of Common Law in *Ireland*, upon the Request of the Chancellor, if any such Common Law Judge shall find it convenient to attend upon such Request; and any such Common Law Judge so attending the said Court of Appeal shall, as regards the Matters heard before the said Court, be deemed a Judge of the said Court of Appeal.

Decision of Majority of Judges of Court of Appeal to bind.

XIII. The Decision of the Majority of the Judges of the Court of Appeal, including such Judge so attending as aforesaid, shall be taken and deemed to be the Decision of the said Court; and if the Judges of the Court be equally divided in Opinion on any Matter brought before the Court by way of Appeal, or reheard, the Decree or Order appealed from or reheard shall be taken and deemed to be affirmed by the Court of Appeal.

Final Appeal to House of Lords.

XIV. All Decisions, Decrees, or Orders of the Court of Appeal, whether on Appeals in Chancery or from the said Commissioners, shall be subject to Appeal to the House of Lords in the Cases and under the Conditions in and under which the like Decisions, Decrees, or Orders of the Chancellor would have been subject to such Appeal if this Act had not been passed.

In the Absence of Judge of Appeal, Chancellor may exercise Jurisdiction.

XV. All the Jurisdiction, Powers, and Authorities of the said Court of Appeal may, in the unavoidable Absence of such Judge of Appeal to be appointed under this Act, be exercised by the Chancellor sitting alone, or with such Common Law Judge as aforesaid at such Court of Appeal.

The Chancellor to regulate Business of Court.

XVI. The Chancellor shall fix the Times at which the Judge of the said Court of Appeal appointed under this Act shall sit with the Chancellor, and generally make such Regulations as to him may seem proper for regulating the Business of the said Court of Appeal, and for the Attendance of a Registrar of the said Court of Chancery at the Sittings of the said Court of Appeal.

Saving of Powers of Chancellor.

XVII. Nothing herein contained shall affect any of the Powers, Duties, or Authorities attached to the Office of Chancellor, or exercised by the Chancellor as Keeper of the Great Seal of *Ireland* (except the Powers, Authorities, and Duties which are exercised and performed by him in relation to the Appeals and Rehearings to which this Act relates), or shall create any Right of Appeal, or affect the Powers, Authorities, and Duties of the Chancellor at the Common Law or Petty Bag Side of the Court, or in relation to Bankruptcy, or under the Laws or Statutes relating to Bankrupts and Bankruptcy, or under and by virtue of any Appointment under the Sign Manual of the Crown, as having the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind, or in relation to Letters Patent, Grants, or Writings passed or to be passed under the Great Seal of *Ireland*, or the Revocation of such Letters Patent, Grants, or Writings, or the Powers and Authorities of the Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or to the Powers of the Chancellor of Appointment to or Removal from or otherwise

otherwise in relation to Offices in the Court or other Offices, save as herein specially provided.

If Chancellor or Master of Rolls prevented from sitting, Judge of Appeal Court may sit for him.

XVIII. And in case the Chancellor or Master of the Rolls shall be prevented by Illness or otherwise from sitting at any Time when according to ordinary Course his Court would be open, or if the State of Business of the Court or other Circumstances should render it expedient and proper, the Chancellor may, by Writing under his Hand, from Time to Time, as often as Occasion may require, authorize the Judge of the said Court of Appeal to sit for the hearing and determining of Causes and Matters; and the Judge sitting under such Authority as aforesaid shall have all the Power, Authority, and Jurisdiction of the Lord Chancellor and Master of the Rolls for the hearing and determining of Causes and Matters, and may, for the Purpose of disposing of any Cause or Matter which has been partly heard by him, continue such his Sittings, notwithstanding the Chancellor or Master of the Rolls in whose Stead he has partly heard such Cause or Matter may also be sitting for the hearing of other Causes or Matters; and all Decree and Orders made by such Judge in pursuance of such Authority shall be of the same Effect and Validity, and subject to Revision and Appeal, in the same Manner in all respects as if made by the Chancellor or Master of the Rolls, as the Case may be.

Salary of Judge of Appeal Court.

XIX. It shall be lawful for Her Majesty to direct that there shall be paid to the Judge of Appeal to be appointed under this Act a Salary not exceeding One thousand Pounds, in case such Judge shall be in the Receipt of any Salary or Pension as exercising or having exercised a Judicial Office in any of the Superior Courts of Law, Equity, or in the Court of Prerogative, and over and above and without Prejudice to any such Salary or Pension; and in case the Person to be appointed Judge of the Court of Appeal under this Act shall not be in the Receipt of any such Salary or Pension, such Person, on being appointed by Letters Patent under this Act, shall be entitled to and shall be paid the net yearly Salary of Four thousand Pounds, which Salaries of One thousand Pounds or Four thousand Pounds, as the Case may be, shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and shall be free from all Deductions, Abatements, and Taxes, except the Income Tax, and shall be paid quarterly on the usual quarterly Days, by equal Portions, and the First of such Payments, or a proportionate Part thereof to be computed from the Time of the Appointment of such Judge of Appeal, shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Judge of Appeal, such Judge of Appeal, or his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the Time of the Commencement or from the last quarterly Day of Payment thereof to the Time of such Resignation, Death, or Removal from Office.

Retiring Pension to Vice-Chancellor.

XX. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Judge of Appeal, in pursuance of this Act, who shall not be in receipt of any such Pension, an Annuity not exceeding Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Judge of Appeal, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland;* and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Judge of Appeal was payable; and the first quarterly Payment or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on each of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part

Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence; provided also, that no Annuity granted to any Person having executed the Office of Judge of Appeal under this Act shall be valid unless such Person shall have continued in the said Office, or in other Judicial Office as aforesaid, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Increased Powers of making General Orders expedient.

XXI. 'Whereas it is expedient that the Court should have increased Powers of making 'General Orders to reform and regulate its Procedure and Practice, with a view to Economy, 'Simplicity, and Expedition, and that the existing Law as to the Mode of making General 'Orders of the Court should be amended:' Be it therefore enacted, That the Act of the Fourteenth and Fifteenth *Victoria*, Chapter Fifteen, intituled *An Act to amend the Court of Chancery*, Ireland, *Regulation Act*, 1850, is hereby repealed, save as to anything done or Proceeding commenced under the same.

14 & 15 Vict. c. 15. repealed, save as to anything done, &c.

Existing Orders to continue in force.

XXII. All General Orders of the Court or Masters in force at the passing of this Act shall continue in force unless altered by or inconsistent with the General Orders to be made under this Act.

General Orders how to be made.

XXIII. The Power of making, rescinding, and varying General Orders in relation to all Proceedings in the Court, and to all Business to be transacted by the Court and the Judges and Officers of the Court, shall be deemed to be a Power at all Times appertaining and incidental to the Jurisdiction of the Court, and such Power shall be exerciseable by the Chancellor, by and with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, anything in any Act or Acts prescribing a different Method of making such General Orders to the contrary notwithstanding, and shall be exerciseable as well in relation to all Matters now falling within the Jurisdiction of the Court as to all Matters which may hereafter be brought within such Jurisdiction.

Court empowered to make General Orders for certain Purposes.

XXIV. In addition and without Prejudice to the Power which the Court now has of making General Orders in relation to any Matters within its Jurisdiction, the Court may, in manner aforesaid, make, rescind, and vary General Orders for regulating the Times and Form and Mode of Procedure, the Division and Distribution of Business, the Formalities to be observed upon Transfers and Sales of Stock and Payments and Investments of Cash, the Lodgment of Deeds and Papers, the Substitution of or dispensing with Service of Notices or Process upon any Person, the Examination of Witnesses and Parties, the Examination, Cross-examination and Re-examination of Persons making Affidavits to be used in any Cause or Matter, for determining the necessary Parties to any Cause or Matter, and for regulating the Employment of Conveyancing or other Counsel, Valuators, Surveyors, Engineers, Accountants, Merchants, Actuaries, and other skilled Persons, and the Costs, Fees, and Allowances to be paid or allowed to Solicitors or other Persons, and for ensuring the Despatch of Business by requiring Returns of the State thereof from any Judge or Officer or otherwise, and for transferring the Conduct of Proceedings, and for allowing Proceedings to be taken or Acts done, notwithstanding the proper Time for taking or doing the same may have elapsed, and for enlarging the Time for any such Act, and for supplying Omissions or correcting Errors in Proceedings, and for regulating the Security to be given by Receivers, or altering the existing Mode of giving such Security, and substituting any new Mode, either generally or as regards particular Cases, and for regulating the Appointment and Remuneration of Receivers, and the Management of Estates under Receivers, and in relation to any other Matter or Thing whatsoever incident to the Business of the Court, whether of the Kind herein-before specified or not; and such Orders shall take effect at such Time as may be therein specified, or, in default of such Specification, from the Time of the making thereof.

General Orders to be laid before Parliament.

XXV. Such General Orders shall be laid before Parliament within the Time and subject to the Provisions in all respects in that Behalf specified and contained in the "Court of Chancery

Chancery, *Ireland*, Regulation Act, 1850," in relation to the General Orders to be made by the Chancellor, with the Assistance of the Master of the Rolls, under that Act.

Forms of Proceeding may be settled.

XXVI. The Chancellor may, with the Advice and Assistance of the Master of the Rolls and the Judge of Appeal, or of either of them, from Time to Time frame and cause to be printed and circulated Forms of Proceedings and Documents in relation to the Business of the Court, and may direct any Proceedings or Documents to be printed and made available for the Use of all Parties interested.

Part of Section 16. of 13 & 14 Vict. c. 89. repealed.

After 1st Jan. 1857, Masters may make Orders for Money.

XXVII. So much of Section Sixteen of the "Court of Chancery, *Ireland*, Regulation Act, 1850," as provides that the Master, in Cases within the said Section, shall not make Orders for the Distribution or Payment of any Share of Money, shall from the First Day of *January* One thousand eight hundred and fifty-seven be repealed, and from and after the said First Day of *January* One thousand eight hundred and fifty-seven the Masters shall in all Cases to which the said Section applies have and exercise the Jurisdiction by the said Section conferred upon them, without any such Restriction as aforesaid.

Deficiency of Suitors Fee Fund to be supplied from Consolidated Fund.

XXVIII. In case the Account now standing to the Credit of the Accountant General of the Court in the Books of the Bank of *Ireland*, termed the Suitors Fee Fund Account, should be inadequate to the Payment of the Charges now chargeable thereon, the Amount of such Charges beyond what can be so satisfied thereout shall be charged and chargeable and paid and payable upon and out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland* by way of Advance in aid of the said Suitors Fee Fund Account: Provided always, that the said Sums which shall be so advanced out of the Consolidated Fund in aid of the Suitors Fee Fund Account shall become and remain a Charge thereon in favour of the Crown, so far as the same will extend, after Payment of prior Charges, and the same shall be repaid to the proper Officers of Her Majesty's Exchequer, to be carried to the Credit of the Consolidated Fund, at such Times and in such Manner as the Lord High Treasurer or the Commissioners of Her Majesty's Treasury shall order and direct.

CAP. XCIII.

An Act to constitute all legally qualified Persons in *Scotland* Commissioners of Supply without being named in an Act of Supply. [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:

Persons qualified for Commissioners of Supply to be such.

I. All Persons, being Males and of full Age, qualified in Terms of the Nineteenth Section of the Act of the Seventeenth and Eighteenth Years of Queen *Victoria*, Chapter Ninety-one, "for the Valuation of Lands and Heritages in *Scotland*," otherwise than by Nomination *ex officio*, for acting as Commissioners of Supply in any County in *Scotland*, shall, without being named in an Act of Supply, be Commissioners of Supply of such County while so qualified, and shall as such be entitled and have Power to vote and act as freely and to the like Effect as if they had been so named.

Valuation Rolls under 17 & 18 Vict. c. 91. to be Evidence.

II. For the Purpose of making up the List of Commissioners of Supply after mentioned, the last completed Valuation Roll of the County, made up under the Provisions of the said recited Act, shall be *primâ facie* Evidence that every Person entered thereon as the Proprietor of any Lands and Heritages within such County is the Proprietor, in Terms of the Act, of such Lands and Heritages, and shall further be conclusive Evidence that the same are of the yearly Value, in Terms of the said Act, set forth as their yearly Value in such Roll: Provided always, that where any Lessee shall have been entered on the said Valua-