# CHAPTER 57.

An Act for the constitution of a Supreme Court of Judicature, and for other purposes relating to the better Administration of Justice, in Ireland.

[14th August 1877.]

WHEREAS it is expedient to constitute a Supreme Court of Judicature, and to make provision for the better administration of justice, in Ireland:

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:

*Preliminary.*

Short title.

**1.** This Act may be cited for all purposes as the "Supreme Court of Judicature Act (Ireland), 1877."

Commencement of Act.

**2.** This Act, except where otherwise expressly provided, shall commence and come into operation on the first day of January one thousand eight hundred and seventy-eight.

Interpretation of terms.

**3.** In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several expressions herein-after mentioned shall have, or include, the meanings following; (that is to say,)

"High Court of Chancery" and "Court of Chancery" respectively shall mean the High Court of Chancery in Ireland, and shall include the Lord Chancellor.

"Court of Queen's Bench" shall mean the Court of Queen's Bench in Ireland.

"Court of Common Pleas" shall mean the Court of Common Pleas in Ireland.

"Court of Exchequer" shall mean the Court of Exchequer in Ireland.

"High Court of Admiralty" shall mean the High Court of Admiralty of Ireland.

"Court of Probate" shall mean the Court of Probate in Ireland.

"Court for Matrimonial Causes and Matters" shall mean the Court for Matrimonial Causes and Matters in Ireland.

"Landed Estates Court" shall mean the Landed Estates Court, Ireland.

"Court of Bankruptcy" shall mean the Court of Bankruptcy in Ireland.

"Lord Lieutenant" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being.

"Lord Chancellor" shall mean Lord Chancellor of Ireland, and shall include Lords Commissioners and Lord Keeper of the Great Seal of Ireland.

"The Lord Chief Justice" shall mean the Lord Chief Justice of Ireland.

"Master of the Rolls" shall mean the Master of the Rolls in Ireland.

"Lord Justice of Appeal" shall mean the Lord Justice of Appeal in Chancery in Ireland.

"Vice-Chancellor" shall mean the Vice-Chancellor of Ireland.

"High Court" shall mean Her Majesty's High Court of Justice in Ireland established by this Act.

"Court of Appeal" shall mean Her Majesty's Court of Appeal in Ireland established by this Act.

"The Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them.

"Rules of Court" shall include forms.

"Cause" shall include any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown.

"Suit" shall include action.

"Action" shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court, and shall not include a criminal proceeding by or in the name of the Crown.

"Plaintiff" shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding,

whether the same be taken by cause, action, suit, petition, motion, summons, or otherwise.

"Petitioner" shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant.

"Defendant" shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings.

"Party" shall include every person served with notice of, or attending any proceeding, although not named on the Record.

"Matter" shall include every proceeding in the Court not in a cause.

"Pleading" shall include any petition or summons, and also shall include the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

"Judgment" shall include decree.

"Order" shall include rule.

"Oath" shall include solemn affirmation and statutory declaration.

"Crown cases reserved" shall mean such questions of law reserved in criminal trials as are mentioned in the Act of the eleventh and twelfth years of Her Majesty's reign, chapter seventy-eight.

"Pension" shall include retirement and superannuation allowance.

"Existing" shall mean existing at the time appointed for the commencement of this Act.

"Registration of Voters Acts" shall mean the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine, and all other Acts or parts of Acts relating to the registration or qualification of persons entitled to vote at the election of members to serve in Parliament for Ireland.

"Land" shall have the same meaning as in the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter seventy-two, intituled "An Act to facilitate the sale and transfer of land in Ireland."

"Officers" shall include "clerks."

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## PART I.

*Constitution and Judges of Court of Judicature.*

Union of existing Courts into one Supreme Court of Judicature.

**4.** From and after the time appointed for the commencement of this Act, the several Courts herein-after mentioned, (that is to say,) The High Court of Chancery, the Court of Queen's Bench, the Court of Common Pleas, the Court of Exchequer, the Court of Probate, the Court for Matrimonial Causes and Matters, and the Landed Estates Court, shall be united and consolidated together, and shall constitute, under and subject to the provisions of this Act, one Supreme Court of Judicature in Ireland.

Division of Supreme Court into a Court of original and a Court of appellate jurisdiction.

**5.** The said Supreme Court shall consist of two permanent Divisions, one of which, under the name of "Her Majesty's High Court of Justice in Ireland," shall have and exercise original jurisdiction, with such appellate jurisdiction from inferior Courts as is herein-after mentioned, and the other of which, under the name of "Her Majesty's Court of Appeal in Ireland," shall have and exercise appellate jurisdiction, with such original jurisdiction as herein-after mentioned as may be incident to the determination of any appeal.

Constitution of High Court of Justice in Ireland.

**6.** Her Majesty's High Court of Justice in Ireland shall be constituted as follows:— The first Judges thereof shall be the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, the Vice-Chancellor, the several Puisne Justices of the Courts of Queen's Bench and Common Pleas respectively, the several Junior Barons of the Court of Exchequer, the Judge of the Court of Probate and of the Court for Matrimonial Causes

and Matters, and the Judges of the Landed Estates Court, except such, if any, of the aforesaid Judges as shall be appointed an ordinary Judge of the Court of Appeal.

The Lord Chancellor shall be appointed and shall hold his office in the same manner as heretofore.

Whenever the office of a Judge of the said High Court, other than the Lord Chancellor, shall become vacant, a new Judge may be appointed thereto by Her Majesty by Letters Patent.

All persons to be hereafter appointed to fill the places of the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron, and their successors respectively, shall continue to be appointed to the same respective offices, with the same precedence, and by the same respective titles, and in the same manner respectively as heretofore. Every Judge, other than the Lord Chancellor and the Judges last mentioned, who shall be appointed to fill the place of any Judge of the High Court of Justice, shall be styled in his appointment "Judge of Her Majesty's High Court of Justice in Ireland."

The vacancy now existing in the office of Puisne Justice of the Court of Common Pleas, and any vacancy which may exist at the time of the passing of this Act in the office of Junior Baron of the Court of Exchequer, or in case there be no such vacancy at that time, then the first such vacancy which shall occur after the passing of this Act, shall not be filled up.

Provided always, that when first after the commencement of this Act one of the existing Judges of the Landed Estates Court shall die, resign, or otherwise vacate his office, the vacancy thus occasioned shall not be filled up until a Commission shall have been issued by Her Majesty under Her Royal Sign Manual to ascertain and report whether the business in connexion with the Division of the High Court of Justice (herein-after termed the Chancery Division) makes it requisite that such appointment should be made, nor until the expiration of a period of forty days after the date of such report, if Parliament be then sitting, and if Parliament be not then sitting, until the expiration of a period of forty days after the commencement of the then next Session of Parliament.

All the Judges of the Supreme Court shall be addressed in the manner which is now customary in addressing the Judges of the Superior Courts of Common Law in Ireland, and shall have in all respects, save as in this Act otherwise expressly provided, equal power, authority, and jurisdiction.

The Lord Chancellor for the time being, or in his absence the Lord Chief Justice for the time being, shall be President of the High Court of Justice.

As to Judges of Landed Estates Court.

**7.** The jurisdiction exercised by the Judges of the Landed Estates Court shall continue to be exercised by them, and by the Judges who may from time to time be appointed to succeed them, and, in the case of illness, absence, or other inability of them or either of them to discharge their duties, or of a vacancy in the office of the said Judges or either of them, by any other Judge of the Chancery Division of the High Court.

If the state of business in connexion with their peculiar jurisdiction shall permit, the said Judges shall in addition be bound from time to time to assist in the general business of the Chancery Division.

The existing Judges of the Landed Estates Court, and their successors, shall be Judges of the said Chancery Division, and shall be distinguished as the Land Judges of the said Division. The rules and orders and practice of the Landed Estates Court shall continue to be used in proceedings for the sale or partition of estates, declaration or record of titles, and all other proceedings which would have been within the exclusive cognizance of the Landed Estates Court if this Act had not passed, before the Land Judges, unless and until altered by the Lord Chancellor and the said Judges. The Lord Chancellor and the Land Judges, or either of them, may from time to time alter the rules and orders and practice in all proceedings before the Land Judges, and make new rules and orders for the regulation of such practice and proceedings, and for the distribution of business between the Land Judges. All rules made in pursuance of this section shall be laid before each House of Parliament within such time, and shall be subject to be annulled in such manner, as is in the sixty-ninth section of this Act provided.

There shall be a separate seal for the Land Judges, and conveyances executed with this seal shall have the same force as those executed with the seal of the Landed Estates Court.

As to Judges of Court of Bankruptcy.

**8.** The existing Judges of the Court of Bankruptcy, and their successors in such offices respectively, shall be appointed in the same manner as heretofore, and shall, as to tenure of office, rank, title, patronage, rights, privileges, and powers of appointment and dismissal, salary, pension, jurisdiction, powers, and authority respectively, remain and be in the same condition and be liable to discharge the same duties respectively, and none other, as if this Act had not been passed.

The practice and procedure of the Court of Bankruptcy, and the powers to make rules and orders regulating the same, shall continue and be exercised in the same manner as if this Act had not been passed. The tenure, salaries, pensions, rights, privileges, and duties of the officers of the said Court shall also continue the same as if this Act had not been passed.

Appeals from orders of the Judges of the said Court shall lie to the Court of Appeal constituted by this Act in the same manner and in respect of the same proceedings as heretofore to the Court of Appeal in Chancery, save so far as the procedure on appeals may be altered by any rules or orders to be made in pursuance of this Act. Every order of the Judges of the said Court made on appeal from any order of a chairman may be appealed from to the Court of Appeal constituted by this Act in the same manner as appeals from other orders of the Judges of the said Court.

As to existing Judge of High Court of Admiralty.

**9.** The existing Judge of the High Court of Admiralty shall retain the same jurisdiction, authority, rights of patronage, and of dismissal, rank, and salary as if this Act had not been passed.

Appeals from his orders and decrees shall lie to the Court of Appeal constituted by this Act in the same manner and in respect of the same proceedings as heretofore to the Court of Appeal in Chancery, save so far as the procedure on appeals may be altered by any rules or orders to be made in pursuance of this Act.

When the existing Judge of the High Court of Admiralty shall die, resign, or otherwise vacate his office, no person shall be appointed to succeed him in his said office; and thereupon the High Court of Admiralty in Ireland shall be united and consolidated with the Supreme Court of Judicature in Ireland, and all the jurisdiction vested in and capable of being exercised by the Judge of the said Court of Admiralty, and all causes and proceedings then pending in the said Court, shall be transferred to the High Court of Justice. The jurisdiction theretofore vested in and capable of being exercised by the Judge of the said Court of Admiralty shall thenceforth, and until the vacancy next ensuing after the passing of this Act in the office of the Judge of the Probate and Matrimonial Division herein-after constituted shall be filled up by the appointment of a new Judge, be vested in and may be exercised by such Judge of the High Court appointed to be a Judge since the first day of January one thousand eight hundred and seventy-four, or such Judge of the High Court appointed before that day, and who shall consent thereto, as the Lord Lieutenant shall by order under his hand nominate in that behalf.

The power of nomination conferred by this section upon the Lord Lieutenant may be exercised by him in the manner aforesaid at any time after the passing of this Act, and thereafter from time to time whenever any Judge so nominated by him shall die, or resign, or become incapable of executing the duties so imposed upon him.

In case any Judge appointed before the said first day of January one thousand eight hundred and seventy-four shall be so nominated, he shall be paid for the performance of the duty so imposed upon him such additional salary as the Lord Lieutenant, with the consent of the Treasury, shall appoint.

Upon the filling up of the vacancy next ensuing after the passing of this Act in the office of the Judge of the Probate and Matrimonial Division herein-after constituted by the appointment of a new Judge, all the jurisdiction then vested in any Judge nominated in that behalf by the Lord Lieutenant in pursuance of the preceding provisions of this section shall be transferred to and vested in and may be exercised by such new Judge, and the power of nomination conferred by this section upon the Lord Lieutenant shall

thereupon cease; and all causes and proceedings in Admiralty, whether so transferred or afterwards commenced, shall proceed and be heard before the Judge in whom such Admiralty jurisdiction shall for the time being be vested under the preceding provisions of this section. Until such transfer of jurisdiction to the High Court of Justice as aforesaid the Lord Chancellor, with the concurrence of the Treasury, shall, on vacancy in the offices of the Admiralty Court, make provision for the temporary discharge of the duties of such offices.

Constitution of Court of Appeal.

**10.** Her Majesty's Court of Appeal in Ireland shall be constituted as follows:—There shall be five ex-officio Judges thereof, and two ordinary Judges, who shall from time to time be appointed by Her Majesty. The ex-officio Judges shall be the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer. The first ordinary Judges of the said Court shall be the existing Lord Justice of Appeal in Chancery, and such other person as Her Majesty may be pleased to appoint by Letters Patent; such appointment may be made either before or after the commencement of this Act, and if made before shall take effect from the commencement of this Act, and may be made upon the terms as to salary and otherwise, and subject to the conditions and in the manner provided by the "Chancery Appeal Court (Ireland) Act, 1856," in respect of the office thereby created.

19 & 20 Vict. c. 92.

Besides the said ex-officio Judges and ordinary Judges, it shall be lawful for Her Majesty (if she shall think fit) to appoint, under Her Royal Sign Manual, as additional Judges of the Court of Appeal, any persons who, having held the office of Lord Chancellor or of Chief Justice, Master of the Rolls, Chief Justice of the Common Pleas, or Chief Baron of the Exchequer in Ireland, shall signify in writing their willingness to serve as such additional Judges.

The ordinary and additional Judges of the Court of Appeal shall be styled Lords Justices of Appeal. All the Judges of the said Court shall have in all respects, save as in this Act is otherwise expressly provided, equal power, authority, and jurisdiction.

Whenever the office of an ordinary Judge of the Court of Appeal becomes vacant, a new Judge may be appointed thereto by Her Majesty by Letters Patent, as provided by the "Chancery Appeal Court (Ireland) Act, 1856."

19 & 20 Vict. c. 92.

The Lord Chancellor for the time being shall be President of the Court of Appeal. Except in matters which are by this Act, or by some other Act, specially reserved to the Lord Chancellor, he shall not be bound or required to exercise any of the functions of a Judge of the High Court, or of the Chancery Division of the same, unless he shall, by special order, direct that any matter shall be disposed of by himself, but all such matters shall be disposed of by one of the other Judges of the Chancery Division, and the Lord Chancellor shall in relation to such matters exercise only the functions of a Judge of the Court of Appeal.

Vacancies by resignation of Judges, and effect of vacancies generally.

**11.** The office of any Judge of the Court of Appeal, or of any Judge of the High Court of Justice, may be vacated by resignation in writing under his hand addressed to the Lord Lieutenant, without any deed of surrender; and the office of any Judge of the said High Court shall be vacated by his being appointed to the office of ordinary Judge of the Court of Appeal. The said Courts respectively shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any Judge.

Qualifications of Judges.

**12.** Any person who has practised for not less than ten years at the Bar of Ireland shall be qualified to be appointed a Judge of the said High Court of Justice; and any person who if this Act had not passed would have been qualified by law to be appointed Lord Justice of the Court of Appeal in Chancery in Ireland, or has been a Judge of the High Court of Justice of not less than one year's standing, shall be qualified to be appointed to the office of ordinary Judge of the said Court of Appeal.

Tenure of office of Judges, and oaths of office.

**13.** Every Judge of the High Court of Justice other than the Lord Chancellor, and every ordinary Judge of the Court of Appeal, shall hold his office for life, subject to a power of removal by Her Majesty on an address presented to Her Majesty by both Houses of Parliament. No Judge of either of the said Courts shall be capable of being elected to or of sitting in the House of Commons. Every Judge of either of the said Courts (other than the Lord Chancellor) when he enters on the execution of his office, shall take, in the

presence of the Lord Chancellor, the oath of allegiance, and judicial oath as defined by the Promissory Oaths Act, 1868. The oaths to be taken by the Lord Chancellor shall be the same as heretofore. No Judge of the High Court of Justice, while he continues such Judge, shall hereafter, unless otherwise provided by Parliament, be appointed to any place of profit under the Crown except on a transfer to another judicial appointment.

Precedence of Judges.

**14.** The ex-officio Judges of the Court of Appeal shall rank in the Supreme Court of Judicature in Ireland in the order of their present respective official precedence. The ordinary Judges of the Court of Appeal shall rank as provided by The Chancery and Common Law Officers (Ireland) Act (1867), and if not entitled to precedence as Peers or Privy Councillors, between themselves according to the priority of their respective appointments.

30 & 31 Vict. c. 129.

The Judges of the High Court of Justice, who are not also Judges of the Court of Appeal, shall rank next after the ordinary Judges of the Court of Appeal, and among themselves (subject to the provisions herein-after contained as to existing Judges) according to the priority of their respective appointments.

Saving of rights and obligations of existing Judges.

**15.** Every existing Judge who is by this Act made a Judge of the High Court of Justice or ordinary Judge of the Court of Appeal shall, as to tenure of office, rank between himself and the other existing Judges, title, patronage, and powers of appointment and dismissal, and all other privileges and disqualifications, and also as to salary and pension, save as is herein provided, remain in the same condition as if this Act had not passed; and, subject to the change effected in their jurisdiction and duties by or in pursuance of the provisions of this Act, every such existing Judge shall be capable of performing and liable to perform all duties which he would have been capable of performing or liable to perform in pursuance of any Act of Parliament, law, or custom, if this Act had not passed.

No Judge, whether of the High Court of Justice or of the Court of Appeal, who was appointed before the first of January one thousand eight hundred and seventy-five, except a Land Judge, shall be required, without his own consent, to act under any Commission of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery, or for the trial of crimes and offences, unless he was so liable by usage or custom at the time of the passing of this Act; but every Judge, whether of the High Court of Justice or of the Court of Appeal, appointed after the said date shall from and after the passing of this Act be capable and bound to act in such Commission if named therein.

Service as a Judge in the High Court of Justice, or as an ordinary Judge in the Court of Appeal, shall, in the case of an existing Judge, for the purpose of determining the length of service entitling such Judge to a pension on his retirement, be deemed to be a continuation of his service in the Court of which he is a Judge at the time of the commencement of this Act.

The provisions of this section shall not apply to the Lord Chancellor.

Provisions for extraordinary duties of Judges of the former Courts.

**16.** If, in any case not expressly provided for by this Act, a liability to any duty, or any authority or power, not incident to the administration of justice in any Court whose jurisdiction is transferred by this Act to the High Court of Justice, shall have been imposed or conferred by any statute, law, or custom upon the Judges or any Judge of any of such Courts, every Judge of the said High Court, except where otherwise expressly directed by this Act, shall be capable of performing and exercising, and shall be liable to perform and empowered to exercise every such duty, authority, and power, in the same manner as if this Act had not passed, and as if he had been duly appointed the successor of a Judge liable to such duty, or possessing such authority or power, before the passing of this Act. Any such duty, authority, or power, imposed or conferred by any statute, law, or custom, in any such case as aforesaid upon the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, or the Lord Chief Baron, shall continue to be performed and exercised by them respectively, and by their respective successors, in the same manner as if this Act had not passed.

Salaries of certain existing Judges.

**17.** From and after the time fixed for the commencement of this Act, there shall be paid to the existing Judges herein-after mentioned the following salaries; that is to say,

To the Master of the Rolls four thousand pounds a year.

To each of the Puisne Justices and Junior Barons three thousand eight hundred pounds a year.

To each of the Land Judges three thousand five hundred pounds a year.

Such salaries shall be instead of the salaries by law payable to such Judges immediately before such commencement, and such salaries shall be paid to such Judges respectively on the same days and in the same manner in every respect as their former salaries; the pension which may be granted to the existing Master of the Rolls shall be such as would be payable to him if this Act had not passed, and the pensions which may be granted to all other existing Judges shall be two thirds of the salaries which, after the commencement of this Act, shall be payable to them respectively.

Salaries of future Judges.

**18.** There shall be paid to Judges appointed after the commencement of this Act the following salaries, which shall in each case include any pension to which the Judge may be entitled in respect of any public office previously filled by him:

To the Lord Chief Justice five thousand pounds a year, and to the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, each, four thousand six hundred pounds a year.

To the Master of the Rolls the salary herein-before directed to be paid to the existing Master of the Rolls.

19 & 20 Vict. c. 92.

To each ordinary Judge of the Court of Appeal such salary as, in pursuance of the "Chancery Appeal Court (Ireland) Act, 1856," might have been assigned for him if he had been appointed under the said Act.

To each of the other Judges of the High Court of Justice the sum of three thousand five hundred pounds a year.

The Chiefs of the Divisions termed in this Act the Queen's Bench, Common Pleas, and Exchequer Divisions, whether appointed before or after the commencement of this Act, and the other Judges of the same Divisions who were appointed before the commencement of this Act, shall not be entitled to any allowance in addition to their salaries in respect of circuit. Every other Judge of the High Court of Justice, or of the Court of Appeal, whether appointed before or after the commencement of this Act, who shall actually go circuit as a Judge, shall be entitled to receive in respect of such circuit one hundred and fifty pounds. This last provision shall apply, immediately on the passing of this Act, to any Judge who, not being a Judge of a Common Law Court, shall be named in the commission and shall actually go circuit.

Any Judge, whether appointed before or after the passing of this Act, who shall be sent as Judge for a winter assizes or special commission, shall be entitled to receive in respect thereof such additional payment, not exceeding the amount allowed for a circuit, as the Lord Lieutenant shall determine; but no Judge shall receive any additional or extra payment in respect of an adjourned assizes: Provided always, that nothing herein contained shall affect such rights to remuneration in respect of any special commission or adjourned assizes as the existing Lord Chief Justice, Chief Justice of the Common Pleas, and Lord Chief Baron possessed before the passing of this Act.

No salary shall be payable to any additional Judge of the Court of Appeal, but nothing in this Act shall in any way prejudice the right of any such additional Judge to any pension to which he may be by law entitled.

Retiring pensions of future Judges of High Court of Justice, and ordinary Judges of Court of Appeal.

**19.** Her Majesty may, by Letters Patent, grant to any Judge of the High Court of Justice other than the Lord Chancellor, and also to any ordinary Judge of the Court of Appeal appointed after the commencement of this Act who has served for fifteen years as a Judge in such Courts, or either of them, or who is disabled by permanent infirmity from the performance of the duties of his office, a pension, by way of annuity, to be continued during his life, of the amount following; (that is to say,)

In the case of the ordinary Judges of the Court of Appeal, the same amount of pension which might have been granted to the Lord Justice of the Court of Appeal in Chancery in Ireland if this Act had not passed:

In the case of the Judges of the High Court of Justice, two thirds of their respective salaries.

**20.** The salaries, allowances, and pensions payable to the Judges of the High Court of Justice and the ordinary Judges of the Court of Appeal respectively under this Act shall be charged on and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or the growing produce thereof. Such salaries and pensions shall grow due from day to day, but shall be payable to the persons entitled thereto, or to their executors or administrators, on the usual quarterly days of payment, or at such other periods in every year as the Treasury may from time to time determine. Salaries and pensions how to be paid.

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## PART II.

### *Jurisdiction and Law.*

**21.** The High Court of Justice shall be a Superior Court of Record, and, subject as in this Act mentioned, there shall be transferred to and vested in the said High Court of Justice, the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, all or any of the Courts following; (that is to say,) Jurisdiction of High Court of Justice.

(1.) The High Court of Chancery as a Common Law Court as well as a Court of Equity, including the jurisdiction of the Master of the Rolls as a Judge or Master of the Court of Chancery, and any jurisdiction exercised by him or the Lord Chancellor in relation to the Court of Chancery as a Common Law Court, and including any jurisdiction of the Masters in Chancery:

(2.) The Court of Queen's Bench:

(3.) The Court of Common Pleas:

(4.) The Court of Exchequer as a Court of Revenue as well as a Common Law Court:

(5.) The Court of Probate:

(6.) The Court for Matrimonial Causes and Matters:

(7.) The Landed Estates Court, including the control and direction of the Record of Title Office of the said Court, and all powers and authorities exercised by the Judges of the said Court, or any of them, under the Record of Title Act, 1865: 28 & 29 Vict. c. 88.

(8.) The Courts created by Commissions of Assize, of Oyer and Terminer, and of Gaol Delivery, or any of such commissions:

The jurisdiction by this Act transferred to the High Court of Justice shall include (subject to the exceptions herein-after contained) the jurisdiction which, at the commencement of this Act, was vested in or capable of being exercised by all or any one or more of the Judges of the said Courts, respectively, sitting in Court or Chambers, or elsewhere, or by any Master of the Court of Chancery, when acting as Judges or a Judge, in pursuance of any statute, law, or custom, and all powers given to any such Court, or to any such Judges or Judge, Masters or Master, by any statute; and also all ministerial powers, duties, and authorities, incident to any and every part of the jurisdictions so transferred.

Provided always, that nothing herein contained shall abridge or alter the jurisdiction conferred by any Act or Acts upon any Judge or Judges, Commissioner or Commissioners, of Assize.

**22.** There shall not be transferred to or vested in the High Court of Justice, by virtue of this Act,— Jurisdiction not transferred to High Court.

(1.) Any appellate jurisdiction of the Court of Appeal in Chancery, or of the same Court sitting as a Court of Appeal from the Court of Probate, the Court for Matrimonial Causes and Matters, the Landed Estates Court, the Court of Bankruptcy, or the High Court of Admiralty:

(2.) Any jurisdiction usually vested in the Lord Chancellor in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind:

(3.) Any jurisdiction vested in the Lord Chancellor in relation to grants of Letters Patent, or the issue of commissions or other writings, to be passed under the Great Seal of Ireland:

(4.) Any jurisdiction exercised by the Lord Chancellor in right of or on behalf of Her Majesty as visitor of any College, or of any charitable or other foundation:

(5.) Any jurisdiction of the Master of the Rolls in relation to records in Dublin or elsewhere in Ireland.

Jurisdiction transferred to Court of Appeal.

**23.** The Court of Appeal shall be a Superior Court of Record, and there shall be transferred to and vested in such Court all jurisdiction and powers of the Courts following; (that is to say,)

(1.) All jurisdiction and powers of the Lord Chancellor and of the Court of Appeal in Chancery, in the exercise of his and its appellate jurisdiction, and of the same Court sitting as a Court of Appeal from the Court of Probate, the Court for Matrimonial Causes and Matters, the Landed Estates Court, the High Court of Admiralty, or the Court of Bankruptcy:

(2.) All jurisdiction and powers of the Court of Exchequer Chamber, including its appellate jurisdiction in appeals under the Registration of Voters Acts:

33 & 34 Vict. c. 46.

(3.) All jurisdiction and powers of the Court for Land Cases Reserved at Dublin under the provisions of the "Landlord and Tenant, Ireland, Act, 1870:"

(4.) Jurisdiction on writs of error in criminal cases on appeal from the Queen's Bench Division of the High Court of Justice.

Appeals from High Court.

**24.** The Court of Appeal shall have jurisdiction and power to hear and determine appeals from any judgment or order, save as herein-after mentioned, of the High Court of Justice, or of any Judges or Judge thereof, subject to the provisions of this Act, and to such rules and orders of Court for regulating the terms and conditions on which such appeals shall be allowed as may be made pursuant to this Act.

For all the purposes of and incidental to the hearing and determination of any appeal within its jurisdiction, and the amendment, execution, and enforcement of any judgment or order made on any such appeal, and for the purpose of every other authority expressly given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority, and jurisdiction by this Act vested in the High Court of Justice.

Transfer of pending business.

**25.** From and after the commencement of this Act the several jurisdictions which by this Act are transferred to and vested in the High Court of Justice and the Court of Appeal respectively shall cease to be exercised, except by the High Court of Justice and the Court of Appeal respectively, as provided by this Act; and no further or other appointment of any Judge to any Court whose jurisdiction is so transferred shall be made except as provided by this Act: Provided, that in all causes, matters, and proceedings whatsoever which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected at the time appointed for the commencement of this Act, such judgment, decree, rule, or order may be given or made, signed, drawn up, passed, entered, or perfected respectively, after the commencement of this Act, in the name of the same Court, and by the same Judges and officers, and generally in the same manner, in all respects as if this Act had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Act; and every judgment, decree, rule, or order of any Court whose jurisdiction is hereby transferred to the High Court of Justice or the Court of Appeal, which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged by the High Court of Justice and the Court of Appeal respectively in the same manner as if it had been a judgment, decree, rule, or order of the said High Court or of the Court of Appeal; and all causes, matters, and proceedings whatsoever, whether civil or criminal, which shall be pending in any of the Courts whose jurisdiction is so transferred as aforesaid at the commencement of this Act, shall be continued as follows; (that is to say,) in the case of proceedings in Error or on Appeal, or of proceedings before the Court of Appeal in Chancery, or in the Court for Land Cases Reserved at Dublin, in and before the Court of Appeal; and as to all other proceedings, in and before the High Court of Justice. The said Courts respectively shall have the same jurisdiction in relation to all such causes, matters, and proceedings as if the same had been commenced in the High Court of Justice, and continued therein (or in the said Court of Appeal, as the case may be),

down to the point at which the transfer takes place; and so far as relates to the form and manner of procedure, such causes, matters, and proceedings, or any of them, may be continued in and before the said Courts respectively, either in the same or the like manner as they would have been continued in the respective Courts from which they shall have been transferred as aforesaid, or according to the ordinary course of the High Court of Justice and the Court of Appeal respectively (so far as the same may be applicable thereto), as the said Courts respectively may think fit to direct.

Rules as to exercise of jurisdiction.

**26.** The jurisdiction by this Act transferred to the High Court of Justice and the Court of Appeal respectively shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by such Rules and Orders of Court as may be made pursuant to this Act; and where no special provision is contained in this Act or in any such Rules or Orders of Court with reference thereto, it shall be exercised as nearly as may be in the same manner as the same might have been exercised by the respective Courts from which such jurisdiction shall have been transferred, or by any of such Courts.

Law and equity to be concurrently administered.

**27.** In every civil cause or matter commenced in the High Court of Justice law and equity shall be administered by the High Court of Justice and the Court of Appeal respectively according to the rules following:

(1.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof, shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purpose, properly instituted before the passing of this Act.

(2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of this Act.

(3.) The said Courts respectively, and every Judge thereof, shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the said Courts respectively, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any Order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same right in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

(4.) The said Courts respectively, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and

liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognised and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.

(5.) No cause or proceeding at any time pending in the High Court of Justice, or before the Court of Appeal, shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Act had not passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as shall be just.

(6.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the Common Law or by any custom, or created by any Statute, in the same manner as the same would have been recognised and given effect to, if this Act had not passed, by any of the Courts whose jurisdiction is hereby transferred to the said High Court of Justice.

(7.) The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act, in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter, so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

**Rules of law upon certain points.**

**28.** And whereas it is expedient to take occasion of the union of the several Courts whose jurisdiction is hereby transferred to the said High Court of Justice to amend and declare the law to be hereafter administered in Ireland as to the matters next herein-after mentioned: Be it enacted as follows:

**Administration of assets of insolvent estates.**

**25 & 26 Vict. c. 89. 30 & 31 Vict. c. 131.**

(1.) In the administration by the Court of the assets of any person who may die after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of any company under the Companies Acts, 1862 and 1867, whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt in Ireland; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for the administration of such estate, or under the

winding up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this Act.

Statutes of Limitation inapplicable to express trusts. 37 & 38 Vict. c. 57.

(2.) No claim of a cestui que trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. This provision, however, is not to affect the enactments contained in the tenth section of the Real Property Limitation Act, 1874, when the same shall come into effect.

Equitable waste.

(3.) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Merger.

(4.) There shall not, after the commencement of this Act, be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Suits for possession of land by mortgagors.

(5.) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee, may sign and cause to be served notices to quit, determine tenancies, or accept surrenders thereof and sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person; and such action, suit, or proceeding shall not be defeated by proof that the legal estate in the lands the possession of which is sought to be recovered, or in respect of which the rents or profits are sought to be recovered, or in respect to which the trespass or other wrong has been committed, is vested in such mortgagee: Provided always, that a mortgagor shall not be at liberty to exercise any of the powers hereby conferred if an express declaration that they shall not be exercised is contained in the mortgage.

Assignment of debts and choses in action.

(6.) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed,) to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor: Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court of Justice under and in conformity with the provisions of the Acts for the relief of trustees.

Stipulations not of the essence of contracts.

(7.) Stipulations in contracts, as to time or otherwise, which would not before the commencement of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have theretofore received in equity.

Injunctions and receivers.

(8.) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it shall appear to the Court to be just or convenient that such order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether

the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

Damages by collisions at sea.

(9.) In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the High Court of Admiralty, so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.

Infants.

(10.) In questions relating to the custody and education of infants the Rules of Equity shall prevail.

Cases of conflict not enumerated.

(11.) Generally, in all matters not herein-before particularly mentioned in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail.

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## PART III.

*Sittings and Distribution of Business.*

Abolition of terms.

**29.** The division of the legal year into terms shall be abolished so far as relates to the administration of justice, and there shall no longer be terms applicable to any sitting or business of the High Court of Justice, or of the Court of Appeal, or of any Commissioners to whom any jurisdiction may be assigned under this Act; but in all other cases in which, under the law now existing, the terms into which the legal year is divided are used as a measure for determining the time at or within which any act is required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority. Subject to Rules of Court, the High Court of Justice, the Court of Appeal, and the Judges thereof respectively, or any such Commissioners as aforesaid, shall have power to sit and act, at any time, and at any place, for the transaction of any part of the business of such Courts respectively, or of such Judges or Commissioners, or for the discharge of any duty which by any Act of Parliament, or otherwise, is required to be discharged during or after term.

Vacation.

**30.** The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, may, before the commencement of this Act, upon any report or recommendation of the Judges by whose advice the Lord Lieutenant is herein-after authorised to make rules before the commencement of this Act, and after the commencement of this Act upon any report or recommendation of the Council of Judges of the Supreme Court herein-after mentioned, with the consent of the Lord Chancellor, from time to time make, revoke, or modify orders regulating the vacations to be observed by the High Court of Justice and the Court of Appeal, and in the offices of the said Courts respectively; and any Order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act, and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act. In the meantime, and subject thereto, the said vacations shall be fixed in the same manner, and by the same authority, as if this Act had not passed.

Sittings in vacation.

**31.** Provision shall be made by Rules of Court for the hearing, in Dublin, during vacation, by Judges of the High Court of Justice and the Judges of the Court of Appeal respectively, of all such applications as may require to be immediately or promptly heard.

Jurisdiction of Judges of High Court on circuit.

**32.** Her Majesty, by commission of assize, or by any other commission, either general or special, may assign to any Judge or Judges of the High Court of Justice or other person or persons usually named in commissions of assize, the duty of trying and determining, within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter depending in the said High Court, or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court; and

any commission so granted by Her Majesty shall be of the same validity as if it were enacted in the body of this Act; and any Commissioner or Commissioners appointed in pursuance of this section shall, when engaged in the exercise of any jurisdiction assigned to him or them in pursuance of this Act, be deemed to constitute a Court of the High Court of Justice; and, subject to any restrictions or conditions imposed by Rules of Court and to the power of transfer, any party to any cause or matter involving the trial of a question or issue of fact, or partly of fact and partly of law, may, with the leave of the Judge or Judges to whom or to whose Division the cause or matter is assigned, require the question or issue to be tried and determined by a Commissioner or Commissioners as aforesaid, or at sittings to be held in Dublin as herein-after in this Act mentioned, and such question or issue shall be tried and determined accordingly.

A cause or matter not involving any question or issue of fact may be tried and determined in like manner with the consent of all the parties thereto.

Sittings for trial by jury in Dublin.

**33.** Subject to Rules of Court, sittings for the trial by jury of causes and questions or issues of fact shall be held in Dublin, and such sittings shall, so far as is reasonably practicable, and subject to vacations, be held continuously throughout the year by as many Judges as the business to be disposed of may render necessary. Any Judge of the High Court of Justice sitting for the trial of causes and issues in Dublin, at any place heretofore accustomed, or to be hereafter determined by Rules of Court, shall be deemed to constitute a Court of the High Court of Justice. Subject to Rules of Court, the plaintiff shall, in the document by which each cause shall be commenced, name the county or place in which he proposes that the cause shall be tried or proceeding shall take place, but the Court or a Judge may, in their or his discretion, direct the same to be tried in any other county or place; and, so far as shall be reasonably consistent with the convenient and speedy discharge of the business, every issue and question of fact to be submitted to a jury shall be tried in the county or place where the cause of action shall have arisen. Any order of a Judge as to the place of trial of any such issue or question may be discharged or varied by a Divisional Court.

Whenever application shall be made for leave to serve any document by which a cause may be commenced upon a defendant resident out of the jurisdiction of the Supreme Court, whether by serving such defendant personally or by substituting service upon another person for him, the Court or Judge to whom such application shall be made shall have regard to the amount or value of the claim or property affected, and to the comparative cost and convenience of proceedings in Ireland, or in the place of the defendant's residence; and no such leave shall be granted without an affidavit stating the particulars necessary for enabling the Court or Judge to exercise a due discretion in the manner aforesaid.

Divisions of the High Court of Justice.

**34.** For the more convenient despatch of business in the High Court of Justice (but not so as to prevent any Judge from sitting whenever required in any Divisional Court, or for any Judge of a different Division from his own), there shall be in the said High Court five Divisions consisting of such Judges respectively as herein-after mentioned. Such five divisions shall respectively include, immediately on the commencement of this Act, the several Judges following; (that is to say,)

(1.) One Division shall consist of The Lord Chancellor, who shall be President thereof, The Master of the Rolls, The Vice-Chancellor and the Judges of the Landed Estates Court;

(2.) One other Division shall consist of The Lord Chief Justice, who shall be President thereof, and the other Judges of the Court of Queen's Bench;

(3.) One other Division shall consist of The Lord Chief Justice of the Common Pleas, who shall be President thereof, and the other Judges of the Court of Common Pleas;

(4.) One other Division shall consist of The Lord Chief Baron of the Exchequer, who shall be President thereof, and the other Barons of the Court of Exchequer;

(5.) One other Division shall consist of the Judge of the Courts of Probate and for Matrimonial Causes and Matters.

The said five Divisions shall be called respectively the Chancery Division, the Queen's Bench Division, the Common Pleas Division, the Exchequer Division, and the Probate and Matrimonial Division; after the Admiralty jurisdiction shall, under the provisions in that behalf herein-before contained, have become vested in the Judge of the Probate and Matrimonial Division, such Division shall be called "the Probate, Matrimonial, and Admiralty Division."

The Queen's Bench, Common Pleas, and Exchequer Divisions shall consist of the number of Judges following and no more, viz.:

The Queen's Bench Division of four Judges;

The Common Pleas Division of three Judges;

The Exchequer Division (from and after the next vacancy in the office of one of the Junior Barons) of three Judges; and

The Probate and Matrimonial Division shall have one Judge.

Any vacancy at the time of the commencement of this Act in the office of Judge of any Court the jurisdiction of which is by this Act transferred to the High Court of Justice or the Court of Appeal, if such office be continued by this Act, may be supplied by the appointment of a new Judge in his place in the same manner as if a vacancy in such office had occurred after the commencement of this Act.

Save as by this Act expressly provided, any Judge of any of the said Divisions may be transferred by Her Majesty, under Her Royal Sign Manual, from one to another of the said Divisions; provided, that in the case of an existing Judge, such transfer shall not be without his own consent.

Upon any vacancy happening among the Judges of the said High Court, the Judge appointed to fill such vacancy shall, subject to the provisions of this Act, and to any Rules of Court which may be made pursuant thereto, become a member of the Division to which the Judge whose place has become vacant belonged, and shall succeed to the duties of such Judge.

Rules of Court to provide for distribution of business.

**35.** All causes and matters which may be commenced in, or which shall be transferred by this Act to, the High Court of Justice, shall be distributed among the several Divisions and Judges of the said High Court in such manner as may from time to time be determined by any Rules of Court, or Orders of Transfer, to be made under the authority of this Act; and in the meantime, and subject thereto, all such causes and matters shall be assigned to the said Divisions respectively in the manner herein-after provided. In distributing the general business between the Queen's Bench, Common Pleas, and Exchequer Divisions, regard shall be had to any special jurisdiction vested in them respectively so as to apportion the business fairly between them.

Assignment of certain business to particular Divisions of High Court, subject to rules.

**36.** There shall be assigned (subject as aforesaid) to the Chancery Division of the said Court:

(1.) All causes and matters pending in the Court of Chancery at the commencement of this Act:

(2.) All causes and matters to be commenced after the commencement of this Act under any Act of Parliament by which exclusive jurisdiction in respect to such causes or matters has been given to the Court of Chancery, or to any Judges or Judge thereof respectively:

(3.) All matters pending in the Landed Estates Court at the commencement of this Act:

(4.) All matters which would have been within the exclusive cognizance of the Landed Estates Court, or of any Judge or Judges thereof, if this Act had not passed:

(5.) All causes and matters for any of the following purposes:

The administration of the estates of deceased persons;

The dissolution of partnerships, or the taking of partnership or other accounts;

The redemption or foreclosure of mortgages;

The raising of portions, or other charges on land;

The sale and distribution of the proceeds of property subject to any lien or charge;

The execution of trusts, charitable or private;
The rectification, or setting aside, or cancellation of deeds or other written instruments;
The specific performance of contracts between vendors and purchasers of land, including contracts for leases, and also the specific performance of any other contracts in respect of which a Court of Equity decrees performance;
The partition or sale of real estates, including chattels real;
The wardship of infants and the care of infants estates.

All causes and matters included under the heads above numbered (3) and (4) shall be assigned to the Land Judges of the Chancery Division.

There shall be assigned (subject as aforesaid) to the Queen's Bench Division of the said Court:

(1.) All causes and matters, civil and criminal, pending in the Court of Queen's Bench at the commencement of this Act:

(2.) All causes and matters, civil and criminal, which would have been within the exclusive cognizance of the Court of Queen's Bench in the exercise of its original jurisdiction if this Act had not passed.

There shall be assigned (subject as aforesaid) to the Common Pleas Division of the said Court:

(1.) All causes and matters pending in the Court of Common Pleas at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Common Pleas if this Act had not passed.

Provided always, that if and whenever the said Division shall be engaged in the hearing or despatch of any business relating to a parliamentary election which would have been within the exclusive cognizance of the Court of Common Pleas, but only so long as there shall be but three Judges of the Common Pleas Division, the junior Puisne Judge for the time being of the Queen's Bench Division shall be empowered and bound to attend and take part in the hearing and despatch by the Common Pleas Division of such business, and shall, for all the purposes of such business, be a fourth member of the Common Pleas Division.

There shall be assigned (subject as aforesaid) to the Exchequer Division of the said Court:

(1.) All causes and matters pending in the Court of Exchequer at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Exchequer, either as a Court of Revenue or as a Common Law Court, if this Act had not passed.

There shall be assigned (subject as aforesaid) to the Probate and Matrimonial Division of the said Court:

(1.) All causes and matters pending in the Court of Probate, or in the Court for Matrimonial Causes and Matters, at the commencement of this Act:

(2.) All causes and matters which would have been within the exclusive cognizance of the Court of Probate, or of the Court for Matrimonial Causes and Matters, if this Act had not passed.

Provision as to option for any Plaintiff (subject to rules) to choose in what Division he will sue.

**37.** Subject to any Rules of Court, and to the provisions herein-before contained, and to the power of transfer, every person by whom any cause or matter may be commenced in the said High Court of Justice shall assign such cause or matter to one of the Divisions of the said High Court as he may think fit by marking the document by which the same is commenced with the name of such Division, and giving notice thereof to the proper officer of the Court: Provided that—

(1.) All interlocutory and other steps and proceedings in or before the said High Court, in any cause or matter subsequent to the commencement thereof, shall be taken (subject to any Rules of Court and to the power of transfer) in the Division of the said High Court to which such cause or matter is for the time being attached; and

(2.) If any plaintiff or petitioner shall at any time assign his cause or matter to any Division of the said High Court to which according to the Rules of Court or the provisions herein-before contained the same ought not to be assigned, the Court, or any Judge of such Division, upon being informed thereof, may, on a summary application, at any stage of the cause or matter, direct the same to be transferred to the Division of the said Court to which according to such rules or provisions the same ought to have been assigned, or he may, if he think it expedient so to do, retain the same in the Division in which the same was commenced; and all steps and proceedings whatsoever taken by the plaintiff or petitioner, or by any other party in any such cause or matter, and all orders made therein by the Court or any Judge thereof before any such transfer, shall be valid and effectual to all intents and purposes in the same manner as if the same respectively had been taken and made in the proper Division of the said Court to which such cause or matter ought to have been assigned; and

(3.) Every testamentary or matrimonial proceeding shall be commenced in the Probate and Matrimonial Division, and addressed to the Judge of that Division for the time being:

(4.) Every proceeding in any other matter within the exclusive jurisdiction of the Landed Estates Court before the passing or under the provisions of this Act shall be commenced in the Chancery Division and addressed to the Land Judges of that Division.

Power of transfer.

**38.** Any cause or matter may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred, by such authority and in such manner as Rules of Court may direct, from one Division or Judge of the High Court of Justice to any other Division or Judge thereof, or may by the like authority be retained in the Division in which the same was commenced, although such may not be the proper Division to which the same cause or matter ought in the first instance to have been assigned.

Directions as to procedure before Land Judges.

**39.** Every application to appoint a receiver over land, when such land is the subject of a proceeding before the Land Judges, shall be made to the Land Judge to whom such proceeding is attached. In any proceeding before a Land Judge, the Judge shall decide all controversies and questions as to the validity or effect of any deed, instrument, or contract affecting land, or any charge or incumbrance thereon, or as to the construction or effect of any devise or bequest of any estate or interest in or of any charge or incumbrance upon land, which it may be necessary to decide for the purpose of such proceeding, including the validity or effect of any lease or instrument of tenancy affecting land requisite to be ascertained for the due settlement of a rental; and shall take accounts of and administer the assets of any deceased person whenever it may be necessary for a distribution of the purchase money of any land sold before him, provided there shall not be then depending before any of the Judges of the High Court a suit for the administration of such assets; and it shall not be necessary to institute any other cause or matter for any of such purposes. The procedure in such cases shall be settled by Rules of Court, to be made by the Lord Chancellor, with the Land Judges, or either of them, and any person, whether already a party to the proceeding or not, who shall have been duly served with notice in writing pursuant to any Rule of Court or order of the Court shall thenceforth be deemed a party to such cause or matter with the same rights in respect of his claim or defence as if he had duly sued or been sued in a suit instituted for the purpose of deciding any such question or controversy.

Application to extend receiver shall be made by summary motion to a Land Judge, unless otherwise ordered by Judge.

**40.** When a receiver is appointed over land, either by a Land Judge or by any other Judge of the High Court of Justice having power to appoint the same, it shall not be necessary for any party claiming to be entitled to or interested in the rents of the lands over which the receiver shall have been appointed to file any bill or institute any other cause or proceedings to have the receiver extended to his claim, but such party may apply, by summary motion, to a Land Judge to have the receiver extended to his claim; and, on the hearing of such application, the Judge may either grant the application or order a bill

to be filed, or other proceeding to be instituted for the purpose of ascertaining the rights of the party applying, and the costs of a suit, cause, or other proceeding, the object of which shall be the taking an account on foot of any mortgage or other security affecting land, and the extension of a receiver already appointed to the matter of said suit, cause, or other proceeding, shall not be allowed, unless such suit, cause, or other proceeding shall have been commenced by direction of one of the Land Judges.

Sittings in Dublin and on circuits.

**41.** Subject to any arrangements which may be from time to time made by agreement between the Judges of the said High Court, the sittings for trials by jury in Dublin, and the sittings of Judges of the said High Court under Commissions of Assize, Oyer and Terminer, and Gaol Delivery, shall be held by or before Judges of the Queen's Bench, Common Pleas, or Exchequer Division of the said High Court; provided that it shall be lawful for Her Majesty, if she shall think fit, to include in any such commission any Ordinary Judge of the Court of Appeal, or any Judge of the Chancery Division appointed after the first of January one thousand eight hundred and seventy-five, or any of Her Majesty's Serjeants-at-Law, or Counsel learned in the law, who, for the purposes of such Commission, shall have all the power, authority, and jurisdiction of a Judge of the said High Court. And any person not a Judge of the High Court who shall be sent as a Commissary shall be paid the same amount and in the same manner as such person would have been paid if before the passing of this Act he had been sent as a Commissary, and if he shall be sent in place of a Judge, who, under the provisions of this Act, was bound to go circuit without payment in respect thereof in addition to his salary, then one hundred and fifty pounds shall be deducted from the salary of such Judge: Provided also, that, any law or custom to the contrary, it shall not be necessary in any commission for the trial of crimes and offences in the county of the city and county of Dublin to nominate more than one Judge to preside, nor for more than one Judge to preside under any commission existing at the commencement of this Act.

Provisions of 21 & 22 Vict. c. 27., and of 25 & 26 Vict. c. 46., to apply to this Act.

**42.** All the provisions with reference to the assessment of the amount of damages, or the trial of questions of fact, by or before the High Court of Chancery in Ireland, which are contained in "The Chancery Amendment Act, 1858," or "The Chancery Regulation (Ireland) Act, 1862," shall apply to the assessment of damages and the determination of questions of fact by or before the Chancery Division of the High Court as constituted by this Act, or any judge thereof, anything in this Act to the contrary notwithstanding.

Rota of Judges for election petitions. 31 & 32 Vict. c. 49.

**43.** The Judges to be placed on the rota for the trial of election petitions for Ireland in each year, under the provisions of the "Parliamentary Elections Act, 1868," shall be selected out of the Judges of the Queen's Bench, Common Pleas, and Exchequer Divisions of the High Court of Justice in such manner as may be provided by any Rules of Court to be made for that purpose; and in the meantime, and subject thereto, shall be selected out of the Judges of the said Queen's Bench, Common Pleas, and Exchequer Divisions of the said High Court, by the Judges of such Divisions respectively, as if such Divisions had been named instead of the Courts of Queen's Bench, Common Pleas, and Exchequer respectively, in such last-mentioned Act: Provided that the Judges who, at the commencement of this Act, shall be the Judges upon the rota for the trial of such petitions during the then current year shall continue upon such rota for the same period, and in the same manner, as if this Act had not passed.

Powers of one or more Judges not constituting a Divisional Court

**44.** Any Judge of the High Court of Justice may, subject to any Rules of Court, exercise in Court or in Chambers all or any part of the jurisdiction by this Act vested in the said High Court in all such causes and matters, and in all such proceedings in any causes or matters, as before the passing of this Act might have been heard in Court or in Chambers respectively by a single Judge of any of the Courts whose jurisdiction is hereby transferred to the said High Court, or as may be directed or authorised to be so heard by any Rules of Court to be hereafter made. In all such cases, any Judge sitting in Court shall be deemed to constitute a Court.

Divisional Courts of the

**45.** Such causes and matters as are not proper to be heard by a single Judge shall be heard by Divisional Courts of the said High Court of Justice, which shall for that purpose

High Court of Justice.

exercise all or any part of the jurisdiction of the said High Court. Any number of such Divisional Courts may sit at the same time. A Divisional Court of the said High Court of Justice shall be constituted by two or more of the Judges thereof. Every Judge of the said High Court shall be qualified and empowered to sit in any of such Divisional Courts. The President of every such Divisional Court of the High Court of Justice shall be the senior Judge of those present, according to the order of their precedence under this Act.

Divisional Courts for business of Queen's Bench, Common Pleas, and Exchequer Divisions.

**46.** Subject to any Rules of Court, and in the meantime until such Rules shall be made, all such business belonging to the Queen's Bench, Common Pleas, and Exchequer Divisions respectively of the said High Court, as, according to the practice now existing in the Superior Courts of Common Law in Ireland, would have been proper to be transacted or disposed of by the Court sitting in Banco if this Act had not passed, may be transacted and disposed of by Divisional Courts, which shall, as far as may be found practicable and convenient, include one or more Judge or Judges attached to the particular Division of the said Court to which the cause or matter out of which such business arises has been assigned; and it shall be the duty of every Judge of such last-mentioned Division, and also of every other Judge of the High Court who shall not for the time being be occupied in the transaction of any business specially assigned to him, or in the business of any other Divisional Court, to take part, if required, in the sittings of such Divisional Courts as may from time to time be necessary for the transaction of the business assigned to the said Queen's Bench, Common Pleas, and Exchequer Divisions respectively; and all such arrangements as may be necessary or proper for that purpose, or for constituting or holding any Divisional Courts of the said High Court of Justice for any other purpose authorised by this Act, and also for the proper transaction of that part of the business of the said Queen's Bench, Common Pleas, and Exchequer Divisions respectively, which ought to be transacted by one or more Judges not sitting in a Divisional Court, shall be made from time to time under the direction and superintendence of the Judges of the said High Court of Justice, and in case of difference among them, in such manner as the majority of the said Judges, with the concurrence of either the Lord Chancellor or the Lord Chief Justice, shall determine.

Distribution of business among the Judges of the Chancery and Probate Divisions of the High Court.

**47.** Subject to any Rules of Court, and in the meantime until such Rules shall be made, all business arising out of any cause or matter assigned to the Chancery Division of the said High Court, or out of any testamentary or matrimonial cause or proceeding assigned to the Probate and Matrimonial Division, shall be transacted and disposed of in the first instance by one Judge only, as has been heretofore accustomed in the Court of Chancery, the Court of Probate, and the Court for Matrimonial Causes and Matters respectively; and every cause or matter which, at the commencement of this Act, may be depending in the Court of Chancery, the Court of Probate, the Court for Matrimonial Causes and Matters, and the Landed Estates Court respectively, shall (subject to the power of transfer) be assigned to the same Judge in or to whose Court the same may have been depending or attached at the commencement of this Act; and every cause or matter which, after the commencement of this Act, may be commenced in the Chancery Division of the said High Court shall be assigned to one of the Judges thereof in the same manner as heretofore: Provided that (subject to any Rules of Court, and to the power of transfer) all causes and matters which, if this Act had not passed, would have been within the exclusive cognizance of the Court of Probate or the Court for Matrimonial Causes and Matters shall be assigned to the Judge of the Probate and Matrimonial Division for the time being, and all matters within the exclusive jurisdiction of the Landed Estates Court shall be assigned to the Land Judges.

Cases and points may be reserved for or directed to be argued before Divisional Courts or Courts of Appeal.

**48.** Subject to any Rules of Court, any Judge of the said High Court, sitting in the exercise of its jurisdiction elsewhere than in a Divisional Court, may reserve any case, or any point in a case, for the consideration of a Divisional Court, or may direct any case, or point in a case, to be argued before any such Court; and any such Court shall have power to hear and determine any such case or point so reserved or so directed to be argued:

Provided that nothing in this Act, or in any rule made under its provisions, shall take

away or prejudice the right of any party to any action to have questions of fact tried by a jury in such cases as he might heretofore of right have so required, nor upon any trial before a jury to have the issues for trial by jury submitted and left by the Judge to the jury before whom the same shall come for trial, with a proper and complete direction to the jury upon the law and as to the evidence applicable to such issues: Provided also, that such right may be enforced by motion in the High Court of Justice, or by motion in the Court of Appeal founded upon an exception entered upon or annexed to the record.

Land cases reserved. 33 & 34 Vict. c. 46.

**49.** From and after the commencement of this Act, any person aggrieved by any decision or order upon any question of law, made by any Judge or Judges of Assize under the Landlord and Tenant (Ireland) Act, 1870, or in the case of the county or the county of the city of Dublin, made by the Judges mentioned in that Act in that behalf, may require the Judge or Judges making such decision or order to reserve such question of law by way of case stated for the consideration of the Court of Appeal; and the same shall thereupon be reserved accordingly in such manner and form as shall be prescribed by rules made in pursuance of the thirty-first section of the said Act.

Provision for Crown cases reserved.

**50.** The jurisdiction and authorities in relation to questions of law arising in criminal trials which are now vested in the Justices of either Bench and the Barons of the Exchequer by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter seventy-eight, intituled "An Act for the further amendment of the administration of the Criminal Law," or any Act amending the same, shall and may be exercised after the commencement of this Act by the Judges of the High Court of Justice, or five of them at the least, of whom the Lord Chief Justice, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, or one of such Chiefs at least, shall be part. The determination of any such question by the Judges of the said High Court in manner aforesaid shall be final and without appeal; and no appeal shall lie from any judgment of the said High Court in any criminal cause or matter, save for some error of law apparent upon the record, as to which no question shall have been reserved for the consideration of the said Judges under the said Act of the eleventh and twelfth years of Her Majesty's reign.

Motions for new trials to be heard by Divisional Courts.

**51.** In proceedings in the Queen's Bench, Common Pleas, and Exchequer Divisions respectively, every motion for a new trial of any cause or matter on which a verdict has been found by a jury, or by a Judge without a jury, and every motion in arrest of judgment, or to enter judgment non obstante veredicto, or to enter a verdict for plaintiff or defendant, or to enter a nonsuit, or to reduce damages, shall be heard before a Divisional Court; and no appeal shall lie from any judgment founded upon and applying any verdict unless a motion has been made or other proceeding taken before a Divisional Court to set aside or reverse such verdict, or the judgment, if any, founded thereon, in which case an appeal shall lie to the Court of Appeal from the decision of the Divisional Court upon such motion or other proceeding.

What orders shall not be subject to appeal.

**52.** No order made by the High Court of Justice or any Judge thereof, by the consent of parties, or as to costs only, being costs which by law are left to the discretion of the Court, shall be subject to any appeal, unless by leave of the Court or Judge making such order.

Costs.

**53.** Subject to the provisions of this Act and of Rules of Court, the costs of and incident to every proceeding in the High Court of Justice and Court of Appeal respectively shall be in the discretion of the Court, but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the rules hitherto acted on in Courts of Equity: Provided, that (subject to all existing enactments limiting, regulating, or affecting the costs payable in any action by reference to the amount recovered therein), the costs of every action, question, and issue tried by a jury shall follow the event, unless, upon application made, the Judge, at the trial or the Court shall for special cause shown and mentioned in the order otherwise direct; and any order of a Judge as to such costs may be discharged or varied by a Divisional Court: And provided also, that in all actions for

libel where the jury shall give damages under forty shillings, the plaintiff shall not be entitled to more costs than damages.

Where in any proceeding in the High Court of Justice or Court of Appeal the costs of any party to the proceeding are ordered to be paid or borne by another party to the proceeding, or by a fund or estate, those costs shall, if the Court so directs, include, in addition to the costs now allowed on taxation as between party and party, all or any other costs, charges, and expenses reasonably incurred for the purposes of the proceeding; but this enactment shall not apply to any proceeding for the recovery of a penalty.

As to discharging orders made in Chambers.

**54.** Every order made by a Judge of the said High Court in Chambers, except orders made in the exercise of his discretion as to costs in cases where under the provisions of the next preceding section a right of appeal is not expressly given, may be set aside or discharged upon notice by any Divisional Court, or by the Judge sitting in Court, according to the course and practice of the Division of the High Court to which the particular cause or matter in which such order is made may be assigned; and no appeal shall lie from any such order, to set aside or discharge which no such motion has been made, unless by special leave of the Judge by whom such order was made, or of the Court of Appeal.

Provision for absence or vacancy in the office of a Judge.

**55.** In case in the Chancery Division of the High Court of Justice from the amount of business, or in any Division of the said Court from the absence of a Judge or Judges through illness, it shall be found expedient that some or one of the Ordinary Judges of the Court of Appeal appointed after the passing of this Act should assist in transacting the business of such Division, it shall be lawful for them and him so to do; and while so sitting and acting such Judge or Judges shall have all the power, jurisdiction, and authority of a Judge or Judges of the said High Court of Justice.

Power of a single Judge in Court of Appeal.

**56.** Every appeal to the Court of Appeal shall, where the subject-matter of the appeal is a final order, decree, or judgment, be heard before not less than three Judges of the said Court sitting together, and shall, when the subject-matter of the appeal is an interlocutory order, decree, or judgment, be heard before not less than two Judges of the said Court sitting together.

Any doubt which may arise as to what decrees, orders, or judgments are final, and what are interlocutory, shall be determined by the Court of Appeal.

Any direction incidental to a proceeding in appeal, not involving the hearing of such decrees, judgments, or orders, final or interlocutory, as aforesaid, may be given by a single Judge of the Court of Appeal, and a single Judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit; but every such order made by a single Judge may be discharged or varied by the Court of Appeal.

Constitution of Court of Appeal when hearing appeals.

**57.** No Judge of the said Court of Appeal shall sit as a Judge on the hearing of an appeal from any judgment or order made in a cause or matter heard by himself either sitting alone or with other Judges.

Arrangements for business of Court of Appeal.

**58.** All such arrangements as may be necessary or proper for the transaction of the business from time to time pending before the Court of Appeal shall be made by and under the direction of the President and the other Judges of the said Court of Appeal.

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## PART IV.

### *Trial and Procedure.*

Assessors.

**59.** Subject to any Rules of Court and to such right as may now exist to have particular cases submitted to the verdict of a jury, the High Court or the Court of Appeal may, in any civil cause or matter as aforesaid in which it may think expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors. The remuneration, if any, to be paid to such assessors shall be determined by the Court.

Provisions as to arbitration, &c. 19 & 20 Vict. c. 102. 33 & 34 Vict. c. 109.

**60.** The provisions contained in the sections of "The Common Law Procedure Act (Ireland), 1856," in reference to arbitration, shall apply to the High Court of Justice and the several Divisions thereof, and the Judges of the same respectively, in the same manner as formerly to the Superior Courts of Common Law and the Judges of the same respectively. The powers conferred by the fifth and sixth sections of "The Common Law Procedure Act (Ireland), 1870," upon the Superior Courts of Common Law and the Judges of the same respectively shall apply to the High Court of Justice, the Divisions of the same, and the Judges of such Divisions respectively, in the same manner as formerly to the Superior Courts of Common Law and the Judges of the same respectively.

The provisions contained in the said last-mentioned sections, enabling actions to be remitted to the Civil Bill Courts, shall apply to ejectments for non-payment of rent commenced or pending in the High Court of Justice where the same shall be within the jurisdiction of the Civil Bill Courts. Such powers to be exercised upon such application and in such manner as shall be provided by general Rules of Court.

Provision as to making of Rules of Court before or after the commencement of the Act.

**61.** The Lord Lieutenant may at any time after the passing and before the commencement of this Act, by Order in Council, made upon the recommendation of the Lord Chancellor, the Lord Justice of Appeal, the Chief Justice, the Master of the Rolls, the Chief Justice of the Common Pleas, and the Chief Baron, or any three of them, and of the other Judges of the several Courts intended to be united and consolidated by this Act, or of a majority of such other Judges, make rules, to be styled Rules of Court, for carrying this Act into effect, and in particular for all or any of the following matters; that is to say,

(1.) For regulating the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers; and

(2.) For regulating the pleading, practice, and procedure in the High Court of Justice and Court of Appeal, including all matters connected with writs, forms of actions, parties to actions, evidence, and mode and place of trial, and for the reporting by a competent shorthand writer of the evidence in all cases of trials by jury whenever it may be expedient or desirable to do so; and

(3.) Generally, for regulating any matters relating to the practice and procedure of the said Courts respectively, or to the duties of the officers thereof, or of the Supreme Court, or to the costs of proceedings therein (including the costs to be allowed to solicitors of the Supreme Court in respect of business transacted in or before any of such Courts or the offices thereof, or the fees, remuneration, and expenses to be allowed to witnesses, or the fees to be payable to or receivable by sheriffs for the discharge of any duties under this Act or in obedience to the order of the Supreme Court, or any Division or Master thereof), or relating to the conduct of civil or criminal business coming within the cognizance of the said Courts respectively, for which provision is not expressly made by this Act; and

(4.) For regulating the sittings of Judges in Chambers, the issuing and hearing of summonses, and the allowance or disallowance of the expense of the attendance of counsel upon such hearings, and, generally, for the efficient despatch of Chamber business under the provisions of this Act; and

(5.) For prescribing, regulating, or doing anything which under this Act may be prescribed, regulated, or done by Rules of Court.

From and after the commencement of this Act, the Lord Lieutenant may at any time, with the concurrence of a majority of the Judges of the Supreme Court present at any meeting for that purpose held (of which majority the Lord Chancellor shall be one), by Order in Council alter and annul any Rules of Court for the time being in force, and have and exercise the same power of making Rules of Court as is by this section vested in the Lord Lieutenant, on the recommendation of the Judges herein-before specified, before the commencement of this Act.

In making, altering, or annulling Rules of Court in pursuance of this Act, regard shall be had to the Rules of Court for the time being in force under the provisions of the Supreme Court of Judicature Acts, 1873 and 1875, so as that the pleading, practice, 36 & 37 Vict. c. 66. 38 & 39 Vict. c. 77.

and procedure in the High Court of Justice and Court of Appeal respectively constituted by this Act shall, so far as may be practicable and convenient, having regard to the difference of the laws and circumstances of the two countries, be the same as the pleading, practice, and procedure in the High Court of Justice and Court of Appeal respectively constituted by the said Acts.

All Rules of Court made in pursuance of this part of this Act shall be laid before each House of Parliament within such time and shall be subject to be annulled in such manner as is in this Act provided.

All Rules of Court made in pursuance of this part of this Act, if made before the commencement of this Act, shall, from and after the commencement of this Act, and if made after the commencement of this Act, shall, from and after the time when they come into operation, regulate all matters to which they extend, until annulled or altered in pursuance of this Act.

The powers to make Rules of Court contained in this section are not to affect special provisions in this Act enabling rules to be made in particular instances.

The Rules contained in the schedule to this Act (which shall be read and taken as part of this Act) shall come into operation immediately on the commencement of this Act, and as to all matters to which they extend shall thenceforth regulate the proceedings in the High Court of Justice and the Court of Appeal respectively, unless and until, by the authority herein provided in that behalf, any of them may be altered or varied; but such Rules, and also all Rules to be made before the commencement of this Act as herein mentioned, shall, for all the purposes of this Act, be Rules of Court capable of being annulled or altered by the same authority by which any other Rules of Court may be made, altered, or annulled after the commencement of this Act.

Circuits and assizes.

**62.** The Lord Lieutenant may from time to time, after the commencement of this Act, by Order in Council, re-arrange the circuits or reduce their number, and direct what counties and towns shall be upon each circuit. All Orders in Council made in pursuance of this section shall be laid before each House of Parliament within such time and shall be subject to be annulled in such manner as is in this Act provided.

Winter assizes. 39 & 40 Vict. c. 57.

**63.** "The Winter Assizes Act, 1876," (excepting section 5,) shall from and after the passing of this Act extend to Ireland, and all the powers thereby vested as to England in Her Majesty shall as to Ireland be vested in and may be exercised by the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, and every Order of the Lord Lieutenant in Council made in pursuance of the said Act, and published in the Dublin Gazette, shall have the like effect in Ireland as an Order in Council made in pursuance of the said Act would have in England, and provision may be made by such Order for the hearing and despatch at any winter assizes as well of criminal business as also of such civil business as may be by such Order prescribed.

Rules of Courts of Probate and for Matrimonial Causes to be Rules of the High Court.

**64.** All Rules and Orders of Court which shall be in force in the Court of Probate and the Court for Matrimonial Causes and Matters respectively at the time of the commencement of this Act, except so far as they shall by Rules of Court be expressly varied, shall remain and be in force in the High Court of Justice and in the Court of Appeal respectively in the same manner in all respects as if they had been Rules of Court under this Act.

Criminal procedure, subject to future rules, to remain unaltered.

**65.** Subject to any Rules of Court to be made under and by virtue of this Act, the practice and procedure in all criminal causes and matters whatsoever in the High Court of Justice, including the practice and procedure with respect to Crown cases reserved, shall be the same as the practice and procedure in similar causes and matters before the passing of this Act.

In cases on the Crown side of the Queen's Bench Division a writ of error to the House of Lords may issue in like manner, and subject to like conditions and permission, and in respect of like proceedings, as such writ would have issued from the Court of Queen's Bench if this Act had not been passed.

**66.** Nothing in this Act, or in any Rules of Court to be made by virtue hereof, save so far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the rules of evidence, or the law relating to jurymen or juries. Act not to affect rules of evidence.

**67.** Save as by this Act or by any Rules of Court may be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in any of the Courts whose jurisdiction is hereby transferred to the said High Court, and to the said Court of Appeal, respectively, under or by virtue of any law, custom, general orders, or rules whatsoever, and which are not inconsistent with this Act or any Rules of Court, may continue to be used and practised in the said High Court of Justice, and the said Court of Appeal, respectively, in such and the like cases, and for such and the like purposes, as those to which they would have been applicable in the respective Courts of which the jurisdiction is so transferred if this Act had not passed. Saving of existing procedure of Courts when not inconsistent with this Act or rules.

**68.** Where any provisions in respect of the practice or procedure of any Courts, the jurisdiction of which is transferred by this Act to the High Court of Justice or the Court of Appeal, are contained in any Act of Parliament, Rules of Court may be made for modifying such provisions to any extent that may be deemed necessary for adapting the same to the High Court of Justice and the Court of Appeal. Additional power as to regulation of practice and procedure by Rules of Court.

Any provisions relating to the payment, transfer, or deposit into, or in, or out of any Court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure.

**69.** Every general rule, Order in Council, rule of Court, and general order required by this Act to be laid before each House of Parliament, shall be so laid within forty days next after it is made, if Parliament is then sitting, or if not, within forty days after the commencement of the then next ensuing session; and if an address is presented to Her Majesty by either House of Parliament, within the next subsequent one hundred days on which the said House shall have sat, praying that any such rule or order may be annulled, Her Majesty may thereupon by Order in Council annul the same, and the rule or order so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same. Orders and rules to be laid before Parliament, and may be annulled on address from either House.

**70.** A Council of the Judges of the Supreme Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lord Chancellor, with the concurrence of the Lord Chief Justice, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the High Court of Justice or the said Court of Appeal, or in any other Court from which any appeal lies to the said High Court or any Judge thereof, or to the Court of Appeal; and they shall report annually to the Chief Secretary to the Lord Lieutenant of Ireland what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provisions, (if any,) which cannot be carried into effect without the authority of Parliament, it would be expedient to make for the better administration of justice. An Extraordinary Council of the said Judges may also at any time be convened by the Lord Chancellor. Councils of Judges to consider procedure and administration of justice

**71.** All Acts of Parliament relating to the several Courts and Judges whose jurisdiction is hereby transferred to the High Court of Justice and the Court of Appeal respectively, or wherein any of such Courts or Judges are mentioned or referred to, shall be construed and take effect, so far as relates to anything done or to be done after the commencement of this Act, as if the High Court of Justice or the Court of Appeal, and the Judges thereof, respectively, as the case may be, had been named therein instead of such Courts or Judges whose jurisdiction is so transferred respectively; and in all cases not hereby expressly provided for in which, under any such Act, the concurrence or the advice or consent of Acts of Parliament relating to former Courts to be read as applying to Courts under this Act.

the Judge or any Judges, or of any number of the Judges, of any one or more of the Courts whose jurisdiction is hereby transferred to the High Court of Justice is made necessary to the exercise of any power or authority capable of being exercised after the commencement of this Act, such power or authority may be exercised by and with the concurrence, advice, or consent of the same or a like number of Judges of the High Court of Justice: Provided always, that any provisions of such Acts inconsistent with the provisions of this Act shall be and the same are hereby repealed.

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## PART V.

### *Officers and Offices.*

Transfer of existing staff of officers to Court of Judicature.

**72.** The Receiver Master and the Accountant-General in Chancery, and the Masters in the Courts of Common Law, the Clerk of the Crown and Hanaper, the Clerk of the Crown of the Court of Queen's Bench, and the Taxing Masters, Secretaries, Registrars, Clerk of Records and Writs, Examiner in the Court of Chancery, Registrar of the consolidated Nisi Prius Court, Clerks of the Rules and Pleadings and Record Assistants, Chief and other Clerks, Commissioners to take oaths or affidavits, or the acknowledgment of deeds by married women, Stamp Distributors, Messengers, Court and Office Keepers, Hall Porters, Tipstaves, Criers, and other officers and assistants at the time of the commencement of this Act attached to any Court or Judge whose jurisdiction is hereby transferred to the High Court, or to the Court of Appeal, and also all Registrars, Clerks, officers, and other persons at the time of the commencement of this Act engaged in the preparation of commissions or writs, or in the registration of judgments or any other ministerial duties in aid of or connected with any Court the jurisdiction of which is hereby transferred to the said Courts respectively, also all persons who were officers of or connected with the late Masters of the Court of Chancery, or their offices, shall, from and after the commencement of this Act, be attached to the Supreme Court of Judicature consisting of the High Court of Justice and the Court of Appeal.

The officers so attached shall have the same rank and hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed; any such officer who is removable by the Court to which he is now attached shall be removable by the Court or Division to which he shall be attached under this Act, or by the majority of the Judges thereof, for the same causes as heretofore.

Provided, however, that the existing Third Assistant in the Writ and Seal Office and the existing Clerk of Errors shall not be entitled to the benefit of this provision, and shall cease to be officers of the High Court upon an order of the Lord Chancellor to that effect without being entitled to compensation.

The existing Registrars, Assistant Registrars, and Clerks to the Registrars in the Chancery Registrars office, and also the existing officers of the three law courts, shall, so long as they continue officers of the Courts, retain any right of succession secured to them by Act of Parliament, so as to entitle those who are thus secured in their respective offices, or in any substituted offices, to the succession to appointments with similar or analogous duties and with equivalent salaries.

All officers who at the time of the commencement of this Act shall be attached to the Court of Chancery, or any Judge or Master thereof, shall be attached to the Chancery Division of the High Court of Justice; all officers who at the time of the commencement of this Act shall be attached to the Landed Estates Court, or the Judges thereof, shall be attached to the Land Judges of the Chancery Division; all officers who at the time of the commencement of this Act shall be attached to the Court of Queen's Bench shall be attached to the Queen's Bench Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of Common Pleas shall be attached to the Common Pleas Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of

Exchequer shall be attached to the Exchequer Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of Probate and the Court for Matrimonial Causes and Matters shall be attached to the Probate and Matrimonial Division of the said High Court.

All clerks and other officers attached to any existing Judge who under the provisions of this Act shall become a Judge of the High Court of Justice or of the Court of Appeal shall continue attached to such Judge, and shall perform the same duties as those which they have hitherto performed, or duties analogous thereto, and shall have the same rank, and hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed.

The distribution of business among the officers so attached to the said respective Divisions, the duties to be discharged by them, and any re-arrangement connected therewith, shall be regulated, controlled, and directed by Rules of Court.

If the services of any existing officer attached in manner aforesaid to a Division shall not be required in the Division to which he is attached, it shall be lawful for the Lord Chancellor, with the concurrence of the other Presidents of Divisions, or two of them, by order, to transfer such officer to some other office of the High Court of Justice, or some Division thereof, subject, however, to the conditions herein-after imposed as to the nature of the duties he is to perform.

The following offices shall at dates to be fixed by the Lord Chancellor, with the concurrence of the Treasury, but within two years from the commencement of this Act, be consolidated in manner following: the Taxing Offices of the Common Law Courts and of the Landed Estates Court with the Taxing Office of the Court of Chancery, so as to have but one Taxing Office for the Supreme Court and the several Courts and Divisions thereof; the Office of Accountant in the Landed Estates Court with the Office of Accountant-General in the Court of Chancery, so as to have but one accounting department for the Supreme Court and all Courts and Divisions thereof; the Writ and Seal Office of the Law Courts with the Record and Writ Office in Chancery, so as to have but one office out of which all writs and summonses to commence proceedings in the High Court or any Division thereof may issue, and in which the records of all proceedings therein may be preserved; and the Notice Office of the Landed Estates Court with the Notice Office of the Court of Chancery.

Subject to the provisions in this Act as to tenure and salary of existing officers, and as to the discharge by them of analogous duties only, the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one, with the concurrence of the Treasury, may, by order, consolidate any other offices of the Courts whose jurisdiction is hereby transferred to the Supreme Court in any cases where the union of the existing Courts into one Supreme Court shall render it no longer necessary or expedient to retain such offices separate.

The distribution of business in the offices so united and consolidated, and the duties to be discharged by the officers thereof, shall be regulated and directed by Rules of Court.

All other officers and persons (if any) hereby attached to the Supreme Court, for the regulation of whose duties provision has not been herein-before made, shall have their duties defined by the Lord Chancellor.

An existing officer hereby attached to the Supreme Court or any Court or Division thereof shall not be required to discharge any duties which are not either the same as or similar or analogous to those which he performed immediately before the commencement of this Act; and in case of question as to the duties proposed to be imposed upon an officer being similar or analogous, the Lord Chancellor shall decide, having regard to the rank and position previously held by such officer.

The Lord Chancellor may, with the consent of the Treasury, increase the salary of any officer who is by this Act attached to the Supreme Court, or any Court, Division, or Judge thereof, and whose duties are increased by reason of the passing of this Act.

In case it shall appear to the Lord Chancellor that, by reason of the consolidation or abolition of offices under the provisions of this Act, the continuance of the services of any officer holding during good behaviour, or during good behaviour subject to removal for

cause by some Court or Judge, is unnecessary, the Lord Chancellor may, with the concurrence of the Treasury, make arrangements for the release of such officer from his duties, and thereupon it shall be in the power of the Treasury to award to such officer such compensation as, having regard to his period of service, to the tenure of the office held by him, the Treasury shall consider just and reasonable: Provided always, where such officer shall have served for any period not exceeding fifteen years, the annual amount so to be awarded shall not be more than one half of the salary and emoluments of the office held by him, and for each year of completed service exceeding fifteen years there shall be awarded in addition one thirtieth part of the salary and emoluments of the office, but in no case shall the sum awarded exceed three fourth parts of the salary and emoluments of such office: Provided also, that in addition to any compensation to be awarded under the foregoing provisions the Lord Chancellor, with the concurrence of the Treasury, may award to any officer having by statute any right of succession to a position of higher rank and emolument such further compensation in respect of such right as, having regard to the circumstances of the case and to the amount awarded under the foregoing provisions, shall appear just and reasonable: Provided also, that no such officer appointed before the passing of this Act shall be so released without his consent.

In every case in which the compensation awarded under such special circumstances affecting the tenure or position of an officer as are above referred to shall exceed the amount which might be awarded under the provisions of the seventh section of the Superannuation Act, 1859, without a special minute being laid before Parliament, the compensation shall be awarded by special minute of the Treasury, stating the reasons for it, and a copy of the minute shall be laid before Parliament within fourteen days of the date of the minute, if Parliament be then sitting, or if not, then within fourteen days of its next meeting.

22 Vict. c. 26.

Any existing officer attached to any existing Court or Judge whose jurisdiction is abolished or transferred by this Act, and whose emoluments or statutory rights of promotion or succession are affected by the passing of this Act, shall be entitled to prefer a claim to the Treasury; and the Treasury, if it shall consider his claim to be established, shall have power to award to him such sum, either by way of compensation or as an addition to his salary, as it thinks just, having regard to the tenure of office by such officer and to the other circumstances of the case.

Appointment of future officers of Supreme Court.

**73.** Subject to the provisions in this Act contained as to existing officers of the Courts whose jurisdiction is hereby transferred to the Supreme Court, the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one, with the concurrence of the Treasury, shall, within two years from the commencement of the Act, determine what officers, clerks, or other persons holding subordinate positions, requisite for the permanent organisation of the official staff of the Supreme Court, and every Court and Division thereof, shall be retained or employed; and may, with the like concurrence, abolish any unnecessary office, or reduce, or in case of additional duties increase, the salary of an office, or alter the designation or duties thereof, notwithstanding that the patronage thereof may be vested in an existing Judge: Provided always, that if and when under the provisions of this Act any office shall be abolished to which any junior officer shall have by statute a direct or qualified right of succession, such compensation shall be given to such last-mentioned officer in respect of the loss of such right of succession as to the Lord Chancellor, with the concurrence of the Treasury, shall seem just.

When a vacancy occurs in any office after the passing of this Act, an appointment shall not be made thereto for the period of one month without the assent of the Lord Chancellor given with the concurrence of the Treasury; and further the Lord Chancellor may, with the concurrence of the Treasury, suspend the making any appointment to such office for any period not later than the first day of December one thousand eight hundred and seventy-nine, and may, if it be necessary, make provision in such manner as he thinks fit for the temporary discharge in the meantime of the duties of such office.

Subject to the provisions of this Act preserving their patronage to existing Judges, all

offices which may not be abolished in manner aforesaid shall continue, and shall when vacant be filled up in manner following:

All junior clerkships in the High Court of Justice shall be filled up by open competition, but this provision shall not apply to any person holding any office or clerkship at the time of the passing of this Act.

The Lord Chancellor shall, with the concurrence of the Civil Service Commissioners, make regulations as to the qualification of candidates, and the subjects of examination.

All officers attached to the High Court, or the Chancery Division thereof, who have been heretofore appointed by the Master of the Rolls or Vice-Chancellor, save those appointed by competition as aforesaid, shall continue, while so attached, to be appointed by the Master of the Rolls and Vice-Chancellor and their successors respectively in the same manner and on the same conditions and occasions as heretofore.

All officers of the Chancery Division attached to the Land Judges, heretofore appointed by such Judges, or who under the provisions of this Act shall be attached to the Land Judges, save those appointed by competition as aforesaid, shall be appointed by them with such approval as heretofore.

All other officers attached to the Divisions of the High Court shall, save those appointed by competition as aforesaid, be appointed for each such Division by the President thereof.

All officers attached to any Judge shall be appointed by the Judge to whom they are attached.

Subject to these provisions, all officers assigned to perform duties with respect to the Supreme Court of Judicature generally, or attached to the High Court of Justice generally, or the Court of Appeal, and all Commissioners to take oaths or affidavits in the Supreme Court, and all officers for whose appointment other provision is not expressly made in this section, shall be appointed by the Lord Chancellor.

Provided, however, that all officers attached to the Supreme Court of Judicature, or to the High Court, or to any Division or Judge thereof, who have been heretofore appointed by the Lord Lieutenant, shall not be appointed without the approval of the Lord Lieutenant.

Any statutable power existing at the passing of this Act to enable any officer or officers of any Court to appoint to any office, or to employ any persons in duties appertaining to any office, is hereby repealed, and the right of appointing to such offices, if they shall be continued, shall vest, in the case of offices attached to Divisions, in the Presidents of the Divisions, and in all other cases in the Lord Chancellor, but no vacancy in any of such offices shall be filled without the concurrence of the Treasury. Nothing herein contained shall affect or be taken as affecting the right of appointment at present vested in the district registrars of the Court of Probate, under the Act twentieth and twenty-first Victoria, chapter seventy-nine, section one hundred and fourteen.

Any qualification required for appointment to any office by any statute in force at the commencement of this Act shall continue.

Any officer of the Supreme Court of Judicature, or of the Court of Appeal, or of the High Court, or of any Division or Judge thereof (other than such officers attached to the person of a Judge as are removable by him at his pleasure) may be removed by the person having the right of appointment to the office held by him, with the approval of the Lord Chancellor, for reasons to be assigned in the order of removal.

The authority of the Supreme Court of Judicature, and of the Court of Appeal and of the High Court of Justice, over all or any of the officers attached to the said Courts, or any of them generally, with respect to any duties to be discharged by such officers respectively, may be exercised by the Lord Chancellor, and over the officers attached to any Division of the High Court by the President of such Division, with respect to any duties to be discharged by them respectively.

Powers of commissioners to administer oaths.

**74.** Every person who is or shall be authorised to administer oaths in any of the Courts whose jurisdiction is hereby transferred to the High Court of Justice shall be a commissioner to administer oaths in all causes and matters whatsoever which may from time

to time be depending in the said High Court or in the Court of Appeal; and every such commissioner, if a solicitor, is hereby authorised to exercise his functions as such commissioner in any part of Ireland without regard to any limit of place specified in his commission. And all answers, disclaimers, examinations, and affidavits in causes or matters depending in any of the Courts whose jurisdiction is hereby transferred to the High Court of Justice or Court of Appeal, or in the said High Court of Justice or Court of Appeal, and also acknowledgments required for the purpose of enrolling any deed in any of the said Courts, or affidavits to memorials for the purpose of registering deeds in Ireland, shall and may be sworn and taken in England or Scotland, or the Isle of Man, or the Channel Islands, or in any colony, island, plantation, or place under the dominion of Her Majesty in foreign parts, before any judge, court, notary public, or person lawfully authorised to administer oaths in such country, colony, island, plantation, or place respectively, or before any of Her Majesty's consuls or vice consuls in any foreign parts out of Her Majesty's dominions; and the Judges and other officers of the several Divisions of the said High Court or Court of Appeal, and also the Registrar and other officers of the Office for the Registry of Deeds in Ireland shall take judicial notice of the seal or signature, as the case may be, of any such court, judge, notary public, person, consul, or vice consul attached, appended, or subscribed to any such answers, disclaimers, examinations, and affidavits, acknowledgments, memorials, or other documents to be used in the said High Court, or in any of the Divisions thereof, or in the Court of Appeal, or in the Office for the Registry of Deeds in Ireland.

Receiver Master.

**75.** After the passing of this Act no successor to the existing Receiver Master shall be appointed; and it shall be lawful for the Lord Lieutenant, with the consent of the Lord Chancellor, to release the existing Receiver Master from the further discharge of his duties in the same manner, and upon the same terms, as the Lord Chancellor was empowered to release the other Masters by the Chancery (Ireland) Act, 1867; and upon the death, resignation, or release of such existing Receiver Master, the powers and duties in Lunacy matters vested in and performed by the Receiver Master, other than those connected with the management of land, shall be exercised and performed by the Lord Chancellor and the officers attached to him according to the course of procedure in the Chancellor's court and offices; and the powers and duties vested in and performed by such Receiver Master in reference to the management of landed estates, and the supervision and control of receivers over the same, shall be exercised by the Land Judges, and all matters and business which shall be then pending in the office of such Receiver Master in reference to receivers appointed over any estate by or in pursuance of any order of the Court of Chancery, or any of the Judges or Masters thereof, or of the Lord Chancellor entrusted by the Queen's Sign Manual with jurisdiction in Lunacy, and the accounting of such receivers, and the letting and management of the estates over which any such receiver shall have been appointed, shall be thereupon transferred to the said Land Judges, and shall thenceforth, subject to any Rules of Court to be made by the Lord Chancellor, with the concurrence of the Land Judges or either of them, be prosecuted and conducted before such Judges or one of them in the same manner as the same would have been prosecuted or conducted before the Receiver Master if this Act had not been passed; and all matters and business, other than as aforesaid and other than the audit of public accounts, which shall be then pending in the office of such Receiver Master shall, subject to Rules of Court and to the power of transfer, be distributed among the Judges of the Chancery Division of the said High Court as the Lord Chancellor, with the concurrence of any two of the Judges of the said Division, shall direct.

30 & 31 Vict. c. 44.

Any references to appoint receivers over land which may be made by any Judge of the High Court of Justice, including the Lord Chancellor entrusted in Lunacy as aforesaid, after the death, resignation, or release of said Receiver Master, shall be made to the said Land Judges, or one of them, and the accounting of the receivers appointed either under such references or by the Land Judges themselves, or by any other Judge, and the control of such receivers, and the management of the estates over which they shall be appointed, shall be exercised by the Land Judges.

Provided always, that nothing herein contained shall prevent any Judge, or the

Lord Chancellor intrusted in Lunacy as aforesaid, from himself appointing a receiver over land, or over personal estate other than land, in any case in which he shall think it expedient to do so; and in any such case the Judge may, if he shall think it expedient, and in all cases in which he shall appoint a receiver over personal estate other than land he shall, by order direct that all subsequent proceedings with regard to such receiver shall be taken in his own Court, and thereupon all such proceedings shall be taken before such Judge or his officers.

Appeals from any orders made by the said Land Judges with regard to any matters connected with receivers or the management of land shall lie to the Court of Appeal and not to the Court or Judge by whom reference to them to appoint or take the accounts of a receiver shall have been made, and no order so made shall require to be confirmed by such last-mentioned Court or Judge.

Subject to any Rules of Court, and unless the Court or Judge by whom any such reference shall be made shall otherwise order, all sums of money received by any receiver shall, after payment of or providing for the necessary outgoings of and allowances in respect of the estate over which he shall be so appointed, be lodged to the credit of the cause or matter in which the reference to the Land Judges shall have been made, or shall be paid by said receiver according to the orders of the Judge to whom such cause or matter is attached.

The jurisdiction to audit certain public accounts (including accounts of the Commissioners of Charitable Donations and Bequests in Ireland), and every other jurisdiction (if any) not in reference to causes, matters, or proceedings in Chancery, now vested in the Receiver Master, shall (unless the Lord Lieutenant in Council shall otherwise direct), after the death, resignation, or release of the existing Receiver Master, vest in and be exercised by the Local Government Board for Ireland. It shall be lawful for the Lord Lieutenant in Council at any time and from time to time after the passing of this Act to make such rules and regulations as to the Lord Lieutenant in Council shall seem fit for providing for the complete, proper, and efficient exercise by the Local Government Board, or by such other authority or authorities, or person or persons as by the Lord Lieutenant in Council may be appointed in that behalf, of the jurisdiction or jurisdictions aforesaid.

The officers connected with the office of the Receiver Master shall (subject to the provisions herein-after contained) be transferred and attached to the Land Judges, and the said officers shall be employed in duties similar or analogous to those which they at present discharge, and they shall hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, and such salaries and pensions shall be chargeable upon and payable out of the same funds, as if this Act had not been passed.

Notwithstanding anything herein-before provided, it shall be lawful for the Lord Lieutenant in Council to transfer and attach to the Local Government Board, or to any other authority or person appointed to exercise any jurisdiction now vested in the Receiver Master, any of the said officers heretofore engaged in the performance of duties connected with any jurisdiction which shall, under or in pursuance of this Act, be vested in such Board, authority, or person, and to require any of the said officers to perform such duties connected with the said jurisdiction, and similar or analogous to those which they at present perform, in such manner, and subject to such authority and control, as the Lord Lieutenant in Council may prescribe, and also to require any of the officers hereby transferred and attached to the Land Judges to give assistance, by the discharge of any duties similar or analogous to those which they at present discharge, to the Local Government Board, or any other authority or person exercising any jurisdiction which shall under or in pursuance of this Act be vested in such Board, authority, or person, at such times, in such manner, and subject to such control and conditions as the Lord Lieutenant in Council may prescribe.

Provided also, that all the powers relating to existing officers of the Courts, and to the reorganization and new arrangement of offices herein contained, shall also apply to the officers of the Receiver Master.

General orders shall be made by the Lord Chancellor with the concurrence of the Land Judges, or either of them, to regulate the practice and procedure connected with the matters the subject of this section.

The duties imposed upon the Land Judges by this section (so long as there shall be two such Judges) shall be discharged by the junior Judge for the time being; and in distributing the other business of the Land Judges between them, regard shall be had to this provision.

The Lord Lieutenant, with the consent of the Lord Chancellor, may, if he shall think fit, before the commencement of this Act, exercise the powers by this section conferred with respect to the release of the Receiver Master from the further discharge of his duties, and in such case, or in case of vacancy in the office before the commencement of this Act, the several provisions in this section contained shall take effect, and such of the same as relate to the Land Judges shall be applicable and shall apply to the Judges of the Landed Estates Court, and such as relate to the Judges of the Chancery Division shall be applicable and shall apply to the Judges of the Court of Chancery.

Salaries and pensions of officers.

**76.** There shall be paid to every salaried officer appointed in pursuance of this Act such salary out of moneys provided by Parliament as may be determined by the Treasury with the concurrence of the Lord Chancellor.

An officer attached to the person of a Judge shall not be entitled to any pension or compensation in respect of his retirement from or the abolition of his office except so far as he may be entitled thereto independently of this Act; but every other officer to be hereafter appointed in pursuance of this part of this Act, and whose whole time shall be devoted to the duties of his office, shall be deemed to be employed in the permanent Civil Service of Her Majesty, and shall be entitled as such to a pension or compensation in the same manner, and upon the same terms and conditions, as the other permanent civil servants of Her Majesty are entitled to pension or compensation.

Clerks of Assize and Nisi Prius.

**77.** Clerks of Assize and Nisi Prius on circuit and at winter assizes may be appointed and paid in the same manner as heretofore. Clerks of Nisi Prius in Dublin may be appointed by the existing Chief Judges of the Queen's Bench, Common Pleas, and Exchequer Divisions, and shall be paid as heretofore; but such right of appointment shall not be continued to their successors, and other provisions shall be made for the discharge of the duties now discharged by such clerks under the provisions of this Act relating to future offices of the High Court.

Solicitors and attorneys.

**78.** From and after the commencement of this Act, all persons admitted as solicitors, attorneys, or proctors of or by law empowered to practise in any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or the Court of Appeal, shall be called Solicitors of the Court of Judicature, and shall be entitled to the same privileges and be subject to the same obligations, so far as circumstances will permit, as if this Act had not passed; and all persons who from time to time, if this Act had not passed, would have been entitled to be admitted as solicitors, attorneys, or proctors of or been by law empowered to practise in any such Courts, shall be entitled to be admitted and to be called Solicitors of the Court of Judicature and shall be admitted by the Lord Chancellor, and shall, so far as circumstances will permit, be entitled as such solicitors to the same privileges and be subject to the same obligations as if this Act had not passed.

Any solicitors, attorneys, or proctors to whom this section applies shall be deemed to be officers of the Court of Judicature; and that Court, and the High Court of Justice, and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of Her Majesty's superior courts of law or equity might previously to the passing of this Act have exercised in respect of any solicitor or attorney admitted to practise therein.

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## PART VI.

### *Jurisdiction of Inferior Courts.*

Rules of law to apply to inferior courts.

**79.** The several rules of law enacted and declared by this Act shall be in force and receive effect in all Courts whatsoever in Ireland, so far as the matters to which such

Rules relate shall be respectively cognizable by such Courts. And Rules of Court as to pleading, practice, and procedure, empowered to be made by Order in Council as hereinbefore provided, shall be applicable to Recorders Local Courts of Record in Ireland, or to such one or more of them, and to such extent and in such manner only as the said Order may direct.

## PART VII.

### *Miscellaneous Provisions.*

Transfer of books and papers to Court of Judicature.

**80.** All books, documents, papers, and chattels in the possession of any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or to the Court of Appeal, or of any officer or person attached to any such Court, as such officer, or by reason of his being so attached, shall be transferred to the Supreme Court of Judicature, and shall be dealt with by such officer or person in such manner as the High Court of Justice or the Court of Appeal may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Court making such order.

Savings as to circuits, &c.

**81.** This Act, except as herein is expressly directed, shall not, unless or until other commissions are issued in pursuance thereof, affect the circuits of the Judges or the issue of any Commissions of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or other commissions for the discharge of civil or criminal business on circuit or otherwise, or any patronage vested in any Judges going circuit, or the position, salaries, or duties of any officers transferred to the Court of Judicature who are now officers of the Courts of Common Law in Ireland, and who perform duties in relation to either the civil or criminal business transacted on circuit.

Saving as to Lord Chancellor.

**82.** This Act, except so far as herein is expressly directed, shall not affect the office of Lord Chancellor, nor the rank, salary, or pension attached to such office; and the officers in the Lunacy Department, and the officers personally attached to or connected with the Lord Chancellor, shall continue attached to him in the same manner as if this Act had not passed; and all duties which any officer of the Court of Chancery may now be required to perform in aid of any duty whatsoever of the Lord Chancellor may in like manner be required to be performed by such officer when transferred to the Court of Judicature, and by his successors. It shall be in the power of the Lord Chancellor, with the concurrence of the Treasury, to abolish or alter the duties and designation of any offices whether in the Lunacy Department or attached to himself, and to fix the salaries of such as shall be retained, but so that no existing officer holding office during good behaviour shall receive a less salary than heretofore, or hold office otherwise than he did before.

Provisions as to Great Seal being in commission.

**83.** When the Great Seal of Ireland is in commission, the Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act, save that as to the Presidency of the Court of Appeal, and the appointment or approval of officers, or the sanction to any order for the removal of officers, or any other act to which the concurrence or presence of the Lord Chancellor is hereby made necessary, the powers given to the Lord Chancellor by this Act may be exercised by the Senior Lord Commissioner for the time being.

## PART VIII.

### *Court Fees.*

Fixing and collection of fees in High Court and Court of Appeal.

**84.** The Lord Chancellor, with the advice and consent of the other Presidents of the Divisions of the High Court, or any one of them, and with the concurrence of the Treasury, may, either before or after the commencement of this Act, by order, fix the fees and percentages to be taken in the High Court of Justice or in the Court of Appeal, or any office connected therewith, or by any officer of those Courts or the Lord Chancellor or other Judge of those Courts, which officer is paid wholly or partly out of public moneys, and may from time to time by order increase, reduce, or abolish all or any of such fees and

per-centages, and appoint new fees and per-centages to be taken in the said Courts or offices or any of them, cr by any such officer as aforesaid.

All such fees and per-centages shall (save as otherwise directed by the order) be paid into the receipt of Her Majesty's Exchequer and be carried to the Consolidated Fund, and with respect thereto the following rules shall be observed:

(1.) The fees and per-centages shall (except so far as the order may otherwise direct) be taken by stamps, and if not taken by stamps shall be taken, applied, accounted for, and paid over in such manner as may be directed by this order:

(2.) Such stamps shall be impressed or adhesive, as the Treasury may from time to time direct:

(3.) The Treasury, with the concurrence of the Lord Chancellor, may from time to time make such rules as may seem fit for publishing the amount of the fees and regulating the use of such stamps, and for prescribing the application thereof to documents from time to time in use or required to be used for the purposes of such stamps, and for ensuring the proper cancellation of adhesive stamps, and for keeping accounts of such stamps:

(4.) Any document which ought to bear a stamp in pursuance of this Act, or any order made thereunder, shall not be received, filed, used, or admitted in evidence unless and until it is properly stamped within the time prescribed by the rules under this section regulating the use of stamps, but if any such document shall, through mistake or inadvertence, be received, filed, or used without being properly stamped, the Lord Chancellor or the court may, if he or it shall think fit, order that the same be stamped as in such order may be directed; and on such document being stamped accordingly, the same, and every proceeding relating thereto, shall be as valid as if such document had been properly stamped in the first instance; provided that no document shall be stamped as aforesaid contrary to the provisions of any other Act of Parliament for the time being in force, nor without payment of any penalty prescribed by any such Act:

(5.) The Commissioners of Inland Revenue shall keep such separate accounts of all money received in respect of stamps under this Act, and under any orders made in pursuance thereof, as the Treasury may from time to time direct, and, subject to the deduction of any expenses incurred by those Commissioners in the execution of this section, the money so received shall, under the direction of the Treasury, be carried to and form part of the Consolidated Fund:

(6.) Any person who forges or counterfeits any such stamp, or uses any such stamp knowing the same to be forged or counterfeit, or to have been previously cancelled or used, shall be guilty of forgery, and be liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment with or without hard labour for a term not exceeding two years.

An order under this section may abolish any existing fees and per-centages which may be taken in the said courts or offices or any of them, or by the said officers or any of them, but subject to the provisions of any order made in pursuance of this section, the existing fees and per-centages shall continue to be taken and accounted for in the existing manner. All orders made in pursuance of this section shall be laid before each House of Parliament within such time and shall be subject to be annulled in such manner as is in this Act provided.

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## PART IX.

### *Unclaimed Dividends in Bankruptcy.*

Amendment of the Irish Bankrupt and Insolvent Act, 1857, with respect to the unclaimed dividend account.

20 & 21 Vict. c. 60.

**85.** From and after the passing of this Act, sections eighty-four and two hundred and ninety-seven of the Irish Bankrupt and Insolvent Act, 1857, shall be and the same are hereby repealed, and the following provisions shall thereupon be in force and have effect:

As soon as may be after the passing of this Act, the Governor and Company of the Bank of Ireland shall, upon an order of the Lord Chancellor to be made in that behalf, transfer to the account of the Commissioners for the Reduction of the National Debt at the Bank of England all Government securities standing in the books of the Bank of

Ireland at the time of the passing of this Act to the credit of an account called "the Unclaimed Dividend Account" under the Irish Bankruptcy and Insolvent Act, 1857.

As soon as the said Government securities have been so transferred, the Treasury shall by warrant direct the Governor and Company of the Bank of England to cancel such securities in their books.

The cash standing in the books of the Bank of Ireland at the time of the passing of this Act to the credit of an account called "the Unclaimed Dividend Account" under the Irish Bankrupt and Insolvent Act, 1857, or so much of the same as shall be determined by the Treasury, and all dividends and all moneys the produce of any bankrupt, arranging debtors, or insolvent estate, which shall from time to time after the passing of this Act be paid into or transferred to the credit of the "Unclaimed Dividend Account" under the provisions of section two hundred and ninety-five of the Irish Bankrupt and Insolvent Act, 1857, and which have remained unclaimed for a period of not less than five years from the time on which the same have been respectively paid into or transferred to the said account, shall be from time to time paid to the account of the Commissioners for the Reduction of the National Debt in such manner as the Treasury may direct. The Commissioners for the Reduction of the National Debt shall apply all cash transferred to their account in pursuance of this section in reduction of the National Debt in the same manner as the moneys issued to them under the Sinking Fund Act, 1875. 38 & 39 Vict. c. 45.

Where any Court having jurisdiction in the matter of Bankruptcy is satisfied that any person claiming is entitled to any dividend or other payment out of the moneys carried to the account of the said Commissioners under the provisions of this section, such Court may order payment of the same in like manner as it might have done if the same had not been carried to the said last-mentioned account. In case the moneys standing to the credit of the said Unclaimed Dividend Account shall at any time be insufficient to meet the payments to be made out of the same, the Treasury shall issue out of the Consolidated Fund, or out of the growing produce thereof, such sum as may appear to them to be necessary to provide for the said payments.

All salaries, allowances, damages, costs, and expenses before the passing of this Act charged on and payable out of the said Unclaimed Dividend Account, or the interest and profit arising therefrom, shall, from and after the passing of this Act, be paid out of moneys to be provided by Parliament for such purpose.

## PART X.

### *Final Appeal.*

Final appeal to the House of Lords.

**86.** All decisions, judgments, decrees, or orders of the Court of Appeal 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, judgments, or orders of the Court of Appeal in Chancery in Ireland, or of the Court of Exchequer Chamber in Ireland, would have been subject to appeal to the House of Lords or to the Queen in Council if this Act had not been passed, or as may be directed by any Act of Parliament affecting the appellate jurisdiction of the House of Lords, or any powers therein contained.

Except as herein-before provided with respect to error in certain cases on the Crown side of the Queen's Bench Division, error or appeal from any judgment, decree, or order, subsequent to the commencement of this Act, of the High Court of Justice, or any Division or Judge thereof, or of the Courts of Admiralty or Bankruptcy, or any Judge of the same respectively, may be brought only to the Court of Appeal constituted by this Act, and not directly to the House of Lords or Queen in Council, any previous law or usage to the contrary notwithstanding.

Nothing in this Act shall prejudice any right existing at the commencement of this Act to prosecute any pending writ of error or appeal, or to bring error or appeal to the House of Lords, or to the Queen in Council, from any prior judgment or order of any Court whose jurisdiction is hereby transferred to the High Court of Justice or to the Court of Appeal.

## SCHEDULE.

The following are the rules referred to in the sixty-first section of this Act:—

### *Form of Action and Summons.*

(Form of action in High Court.)

1. All actions which have hitherto been commenced by writ of summons and plaint in the Superior Courts of Common Law in Ireland, and all suits which have hitherto been commenced by bill or information in the High Court of Chancery, shall be instituted in the High Court of Justice by a proceeding to be called an action.

All other proceedings in and applications to the High Court may, subject to Rules of Court, be taken and made in the same manner as they would have been taken and made in any Court in which any proceeding or application of the like kind could have been taken or made if this Act had not passed.

### *Writ of Summons.*

(Actions to be commenced by writ.)

2. Every action in the High Court shall be commenced by a writ of summons which shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, and which shall specify the Division of the High Court to which it is intended that the action should be assigned.

3. Every writ of summons and the indorsement thereon may be in one of the forms herein-after referred to, and any costs incurred by the use of any more prolix or other forms of writs or of indorsements thereon than the forms herein-after referred to shall be borne by the party using the same unless the court shall otherwise prescribe.

4. Every writ of summons and also every other writ shall bear date on the day on which the same shall be issued, and shall be tested in the name of the Lord Chancellor, or, if the office of Lord Chancellor shall be vacant, in the name of the Lord Chief Justice of Ireland.

5. The indorsement of claim shall be made on every writ of summons before it is issued.

6. In the indorsement it shall not be essential to set forth the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself entitled. The plaintiff may, by leave of the Court or Judge, amend such indorsement so as to extend it to any other cause of action or any additional remedy or relief. If none of the forms herein-after referred to shall be applicable to the case, such other similarly concise form may be used as the nature of the case may require.

7. Writs of summons shall be prepared by the plaintiff or his solicitor in such manner as shall be directed by rules, and shall be sealed by the proper officer, and shall thereupon be deemed to be issued.

8. The plaintiff or his solicitor shall, on presenting any writ of summons for sealing, leave with the officer a copy of such writ, and all the indorsements thereon, and such copy shall be signed by or for the solicitor leaving the same, or by the plaintiff himself if he sues in person.

9. The officer receiving such copy shall file the same, and an entry of the filing thereof shall be made in a book to be called the Cause Book, in such manner as shall be directed by rules.

10. Except as otherwise provided by this Act, all writs of summons shall be served in the same manner respectively as process from the Court whose jurisdiction is transferred to the High Court might have been served if this Act had not been passed, and the High Court shall have the same power of directing substitution of service, or that any service already made should be deemed good, or that notice should be substituted for service, as might have been exercised by the said Courts respectively if this Act had not been passed.

11. Service of a writ of summons to recover possession of land may be made in the same manner as a summons and plaint in ejectment might have been served if this Act had not been passed.

### *Interpleader.*

12. The procedure and practice used before the passing of this Act with respect to interpleader by Courts of Common Law in Ireland shall apply to all the Divisions of the High Court of Justice, and the application by a defendant shall be made at any time after being served with a writ of summons and before delivering a defence.

### *Appearance.*

13. The defendant shall be bound to appear to the writ of summons at such time and in such manner as may be directed by rules.

14. It shall not be necessary for the defendant on entering an appearance to any writ of summons to file any defence or answer thereto. He shall enter an appearance by delivering to the proper officer a memorandum in writing, dated on the day of delivering the same, and containing the name of the defendant's solicitor, or stating that the defendant defends in person.

The solicitor of a defendant appearing by a solicitor shall state in such memorandum his registered residence.

A defendant appearing in person shall state in such memorandum his address, and a place to be called his address for service, which shall be in Ireland.

15. If the memorandum does not contain such address it shall not be received; and if any such address shall be illusory or fictitious, the appearance may be set aside by the Court or a Judge, on the application of the plaintiff.

16. Upon receipt of a memorandum of appearance, the officer shall forthwith enter the appearance in the Cause Book.

17. Any person not named as a defendant in a writ of summons for the recovery of land may, by leave of the Court or Judge, appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or his tenant.

18. Any person appearing to defend an action for the recovery of land as landlord, in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord.

*Parties.*

19. No action shall be defeated by reason of the misjoinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The Court or Judge may, at any stage of the proceedings, either upon or without the application of either party, in the manner prescribed by rules, and on such terms as may appear to the Court or a Judge to be just, order that the name or names of any party or parties, whether as plaintiffs or as defendants, improperly joined be struck out, and that the name or names of any party or parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent thereto. All parties whose names are so added as defendants shall be served with a summons or notice in such manner as may be prescribed by rules or by any special order, and the proceedings as against them shall be deemed to have begun only on the service of such summons or notice.

20. When there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorised by the Court to defend in such action, on behalf or for the benefit of all parties so interested.

*Pleading.*

21. Unless the defendant in an action at the time of his appearance shall state that he does not require the delivery of a statement of complaint, the plaintiff shall, within such time and in such manner as may be directed by rules, deliver to the defendant after his appearance a statement of his complaint and of the relief or remedy to which he claims to be entitled. The defendant shall, within such time and in such manner as may be directed as aforesaid, deliver to the plaintiff a statement of his defence, set-off, or counter-claim (if any), and the plaintiff shall in like manner deliver a statement of his reply (if any) to such defence, set-off, or counter-claim. Such statements shall be as brief as the nature of the case will admit, and the Court in adjusting the costs of the action shall inquire at the instance of any party into any unnecessary prolixity, and order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

22. A defendant in an action may set off or set up by way of counter-claim against the claims of the plaintiff any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a statement of claim in a cross action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim. But the Court or Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof.

23. Every pleading shall, unless when otherwise provided by rules, contain as concisely as may be, a statement of the material facts on which the party pleading relies, but not the evidence by which they are to be proved, such statement being divided into paragraphs numbered consecutively, and each paragraph containing, as nearly as may be, a separate allegation. Dates, sums, and numbers shall be expressed in figures, and not in words. Signature of counsel shall not be necessary.

24. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and may also ask for general relief; and the same rule shall apply to any counter-claim made or relief claimed by the defendant in his statement of defence. If the plaintiff's claim be for discovery only, the plaintiff's claim shall show it.

25. It shall not be sufficient for a defendant, unless where otherwise provided by rules, in his defence to deny generally the facts alleged by the statement of claim, or for a plaintiff in his reply to deny generally the facts alleged in a defence by a way of counter-claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth.

26. When a contract is alleged in any pleading, a bare denial of the contract by the opposite party shall be construed only as a denial of the making of the contract in fact, and not of its legality or its sufficiency in law, whether with reference to the Statute of Frauds, or otherwise.

27. Where in any action it appears to a Judge that the statement of claim or defence or reply does not sufficiently define the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by the Judge.

28. The Court or a Judge may, at any stage of the proceedings, allow either party to alter his statement of claim or defence or reply, or may order to be struck out or amended any matter in such statements respectively which may be scandalous or which may tend to prejudice, embarrass, or delay the fair trial of the action, and all such amendments shall be made as may be necessary for the purpose of determining the real questions or question in controversy between the parties; and all parties shall have also such further powers of amendment as may be prescribed by rules.

29. A demurrer to any statement may be filed in such manner and form as may be prescribed by rules.

30. Where any action is brought to recover a debt or damages, any defendant may, at any time after service of the writ, and before or at the time of delivering his defence, or by leave of the Court or a Judge at any later time, pay into Court a sum of money by way of satisfaction or amends. Payment into Court shall be pleaded in the defence, and the claim or cause of action in respect of which such payment shall be made shall be specified therein.

31. The parties may, as may be directed by rules, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court.

*New Trial Motions.*

32. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence unless, in the opinion of the Court to which the application is made, some substantial wrong or miscarriage has been thereby occasioned in the trial of the action; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, the Court may give final judgment as to part thereof, and direct a new trial as to the other part only, and a new trial may be ordered on any question in an action, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question.

*Appeals.*

33. All appeals to the Court of Appeal shall be by way of re-hearing, and shall be brought by notice of motion in a summary way, and no petition, case, or other formal proceeding other than such notice of motion shall be necessary. The appellant may by such notice of motion appeal from the whole or any part of any judgment or order, and the notice of motion shall state whether the whole or part only of such judgment or order is complained of, and in the latter case shall specify such part.

34. The notice of appeal shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court of Appeal may direct notice of the appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may seem just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties. Any notice of appeal may be amended at any time as to the Court of Appeal may seem fit.

35. The Court of Appeal shall have all the powers and duties as to amendment and otherwise of the Court of First Instance, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or hearing of any cause or matter upon the merits, such further evidence (save as to matters subsequent as aforesaid) shall be admitted on special grounds only, and not without special leave of the Court. The Court of Appeal shall have power to give any judgment and make any order which

ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the said Court, notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The Court of Appeal shall have power to make such order as to the whole or any part of the costs of the appeal as may seem just.

36. It shall not under any circumstances be necessary for a respondent to give notice of motion by way of cross appeal, but if a respondent intends upon the hearing of the appeal to contend that the decision of the court below should be varied, he shall, within such time as may be prescribed by rules, give notice of such intention to any parties who may be affected by such contention. The omission to give such notice shall not diminish the powers conferred by the Act upon the Court of Appeal, but may in the discretion of the Court be ground for an adjournment of the appeal, or for a special order as to costs.

37. The forms of writs and pleadings referred to in these rules are the forms prescribed in the several appendices to "The Supreme Court of Judicature Act, 1875."

*Exceptions from the Rules.*

38. Nothing in these rules shall affect the practice or procedure in any of the following causes or matters:

Criminal proceedings.
Proceedings on the Crown side of the Queen's Bench Division.
Proceedings on the Revenue side of the Exchequer Division.
Proceedings in the Probate and Matrimonial Division.
Proceedings before the Land Judges of the Chancery Division.

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## CHAPTER 58.

### An Act to continue for one year the Police (Expenses) Act, 1875.

[14th August 1877.]

WHEREAS by the Police (Expenses) Act, 1875, it is enacted that so much of any Act as limits the amount authorised to be contributed by the Commissioners of Her Majesty's Treasury out of moneys provided by Parliament towards the expenses of any police force in Great Britain to a particular amount, or a particular proportion of any annual sum or charge specified in such Act, shall, during the continuance of that Act, be repealed, and it was further enacted that that Act should continue in force until the first day of September one thousand eight hundred and seventy-six: 38 & 39 Vict. c. 48.

And whereas by the Police (Expenses) Continuance Act, 1876, the said Act was continued in force until the first day of September one thousand eight hundred and seventy-seven: 39 & 40 Vict. c. 64.

And whereas it is expedient that the said Act should be further continued for a period of one year:

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; (that is to say,)

**1.** This Act may be cited as The Police (Expenses) Continuance Act, 1877. Short title.

**2.** The Police (Expenses) Act, 1875, shall continue in force till the first day of September one thousand eight hundred and seventy-eight. Continuance of Act till 1st Sept. 1878.

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