ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

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C A P. XXVII.

An Act to amend the Course of Procedure in the High Court of Chancery, the Court of Chancery in *Ireland*, and the Court of Chancery of the County Palatine of *Lancaster*. [28th *June* 1858.]

WHEREAS it is expedient to amend further the Practice and Course of Proceeding in the High Court of Chancery, the Court of Chancery in *Ireland*, and the Court of Chancery of the County Palatine of *Lancaster*: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. This Act shall commence and take effect from and after the First Day of *November* One thousand eight hundred and fifty-eight, and may be cited and referred to as "The Chancery Amendment Act, 1858."

Commencement of Act.

Short Title.

II. In all Cases in which the Court of Chancery has Jurisdiction to entertain an Application for an Injunction against a Breach of any Covenant, Contract, or Agreement, or against the Commission or Continuance of any wrongful Act, or for the specific Performance of any Covenant, Contract, or Agreement, it shall be lawful for the same Court, if it shall think fit, to award Damages to the Party injured, either in addition to or in substitution for such Injunction or specific Performance, and such Damages may be assessed in such Manner as the Court shall direct.

Power to Court of Chancery to award Damages in certain Cases.

III. It shall be lawful for the Court of Chancery, if it shall think fit, to cause the Amount of such Damages in any Case to be assessed or any Question of Fact arising in any Suit or Proceeding to be tried

Damages may be assessed or Question of

Fact arising in any Suit may be tried by a Jury before the Court itself.

by a Special or Common Jury before the Court itself; and the Court of Chancery may make all such Rules and Orders upon the Sheriff or any other Person for procuring the Attendance of a Special or Common Jury, for such Assessment of Damages or the Trial of such Question of Fact, as may be made by any of the Superior Courts of Common Law at *Westminster*, and may also make any other Orders which to the Court of Chancery may seem requisite; and every such Jury shall consist of Persons possessing the Qualifications, and shall be struck, summoned, balloted for, and called in like Manner, as if such Jury were a Jury for the Trial of any Cause in any of the said Superior Courts; and every Juryman so summoned shall be entitled to the same Rights and subject to the same Duties and Liabilities as if he had been duly summoned for the Trial of any such Cause in any of the said Superior Courts; and every Party to any such Proceeding shall be entitled to the same Rights as to Challenge and otherwise as if he were a Party to any such Cause; and generally for all Purposes of or auxiliary to the Assessment of Damages or the Trial of Questions of Fact by a Jury before the Court itself, and in respect of new Trials, the Court of Chancery shall have the same Jurisdiction, Powers, and Authority in all respects as belong to any Superior Court of Common Law, or to any Judge thereof for the like Purposes; provided that from any Order made by the Court on an Application made for a new Trial there shall be the same Right of Appeal as from any other Order of the Court.

Questions ordered to be tried by Jury to be reduced into Writing.

IV. Any Question of Fact and any Question as to the Amount of Damages which shall be so ordered to be tried by a Jury before the Court itself shall be reduced into Writing in such Form as the Court shall direct, and at the Trial the Jury shall be sworn to try the said Question, and a true Verdict to give thereon according to the Evidence; and upon every such Trial the Court of Chancery shall have the same Powers, Jurisdiction, and Authority as belong to any Judge of any of the said Superior Courts sitting at Nisi Prius.

Damages may be assessed or Questions of Fact tried before the Court itself without a Jury.

V. It shall also be lawful for the Court of Chancery, if it shall think fit, to cause the Amount of such Damages in any Case to be assessed, or any Question of Fact arising in any Suit or Proceeding to be tried before the Court itself without a Jury, and to cause the Evidence on the Trial of that Question to be taken by the oral Examination of Witnesses and other Proofs in open Court; and any Question of Fact, and any Question as to the Amount of Damages which shall be so ordered to be tried before the Court itself, shall be reduced into Writing in such Form as the Court shall direct; and the Verdict of the Judge shall be of the same Effect as the Verdict of a Jury under this Act; and the Proceedings upon and after such Trial, as to the Power of the Court, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury under this Act: Provided, that, in the Case of a Trial under this Section, any Person may apply for a new

new Trial, either to the Judge before whom the Trial was had, or to the Court of Appeal in Chancery.

Damages may be assessed by a Jury before any Judge of one of the Superior Courts of Common Law at Nisi Prius, or before the Sheriff of any County or City.

VI. It shall also be lawful for the Court of Chancery, in any Case in which it shall think fit so to do, to cause the Amount of such Damages to be assessed by a Jury before any Judge of one of the Superior Courts of Common Law at Nisi Prius, or at the Assizes, or before the Sheriff of any County or City, and for that Purpose to issue a Precept to the Sheriff of such County or City as the Court of Chancery shall think fit, or where the Sheriff is interested then to the Coroner, requiring him to return, summon, and impanel a Common or Special Jury for the Purpose aforesaid, in like Manner as is done in Cases of Writs of Inquiry at Common Law, which are to be executed before a Judge or before the Sheriff; and the Court of Chancery shall have Power to set aside the Verdict or Inquisition on such Inquiry, and to direct a new Inquiry, in such Manner and on such Terms as the Court shall think fit.

Where Parties are competent to make Admissions, any Party may call on any other Party to admit Documents.

VII. In any Case in which all Parties to a Suit are competent to make Admissions, any Party may call on any other Party by Notice to admit any Document, saving all just Exceptions; and in case of Refusal or Neglect to admit, the Cost of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless the Court shall certify that the Refusal to admit was reasonable; and no Costs of proving any Document shall be allowed unless such Notice be given, except in Cases where the Omission to give the Notice is, in the Opinion of the Taxing Master, a saving of Expense.

Sections 1, 2, 3, 4, 5, 6, and 7 of this Act to extend to Court of Chancery in Ireland.

VIII. Sections I., II., III., IV., V., VI., and VII. of this Act shall extend to and all the Powers therein contained may be exercised by the Court of Chancery in *Ireland* in all Suits and Proceedings within its Jurisdiction, and the Court may, for the Purposes of this Act, make such Rules and Orders upon the Sheriff, or any other Person, for procuring the Attendance of a Jury as may be made by any of the Superior Courts of Common Law at *Dublin*.

Lord Chancellor, &c. in Ireland may make Rules for Procedure and for regulating Fees.

IX. The Lord Chancellor of Ireland, with the Advice and Assistance of the Master of the Rolls and the Lord Justice of Appeal in *Ireland*, or either of them, may and they are hereby required from Time to Time to make General Rules and Orders for carrying the Purposes of this Act into effect as regards the Court of Chancery in *Ireland*, and for regulating the Times and Forms and Mode of Procedure, and generally the Practice of the said Court in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers of the said Court and Solicitors thereof in respect to such Matters, and so far as may be found expedient for altering the Course of Proceeding herein-before prescribed in respect to the Matters to which this Act relates or any of them, and such Rules and Orders may from Time to Time be rescinded or altered by

by the like Authority, and all such Rules and Orders shall take effect as General Orders of the said Court.

Sections 1, 2, 3, 4, 5, 6, and 7 of this Act to extend to Court of Chancery of County Palatine of Lancaster.

X. Sections I., II., III., IV., V., VI., and VII. of this Act shall extend to and all the Powers therein contained may be exercised by the Court of Chancery of the County Palatine of *Lancaster* within the Jurisdiction of the said Court; and the Chancellor of the Duchy and County Palatine of *Lancaster*, with the Advice and Assistance of the Lords Justices of the Court of Appeal in the High Court of Chancery, or one of them, and of the Vice Chancellor of the County Palatine, may and they are hereby required from Time to Time to make such General Rules and Orders as may be necessary for assimilating the Procedure and Practice of the Palatine Court in respect of the Matters aforesaid to those of the High Court of Chancery, and for regulating the Fees and Allowances in respect thereof.

Lord Chancellor, &c. may make Rules for Procedure and for regulating Fees.

XI. The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice Chancellors, or any Three of them, may, and they are hereby required, from Time to Time to make General Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the said Court, in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers of the said Court and Solicitors thereof in respect to such Matters, and so far as may be found expedient for altering the Course of Proceeding herein-before prescribed in respect to the Matters to which this Act relates, or any of them, and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority, and all such Rules and Orders shall take effect as General Orders of the said Court.

Rules and Orders to be laid before Parliament.

XII. All General Rules and Orders made in pursuance of the Powers contained in this Act shall, immediately after the making and issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or, if Parliament be not then sitting, within Five Days after the next Meeting thereof: Provided always, that if either of the Houses of Parliament shall, by any Resolution passed within Thirty-six Days after such Rules or Orders have been laid before such Houses of Parliament, resolve that the whole or any Part of such Rules or Orders ought not to continue in force, in such Case the whole, or such Part thereof as shall be so included in such Resolution, shall from and after such Resolution cease to be binding.

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