ANNO TRICESIMO & TRICESIMO PRIMO

VICTORIÆ REGINÆ.

****

C A P. XLIV.

An Act to amend the Constitution, Practice, and Procedure of the Court of Chancery in *Ireland*.

[15*th July* 1867.]

WHEREAS it is expedient to alter the Constitution and amend the Practice and Course of Proceeding of the High Court of Chancery in *Ireland*, with a view of establishing Uniformity of Practice and Procedure in the Courts of Chancery in *England* and *Ireland*, and to make Provision for the Receipt of Fees of the Court of Chancery in *Ireland* by Stamps, and to give increased Power over Funds in that Court, the Dividends of which have not been dealt with for a certain Period: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited for all Purposes as "The Chancery (*Ireland*) Act, 1867."

Interpretation of Terms.

2. In the Construction and for the Purposes of this Act the following Terms shall have the respective Meanings herein-after

5 Q assigned

assigned to them (if not inconsistent with the Context or Subject Matter); that is to say,

"Her Majesty:" The Expression "Her Majesty" shall mean the Sovereign for the Time being:

"Chancery Court:" The Expressions "Court of Chancery," "Chancery," and "Court" shall mean the Court of Chancery in *Ireland:*

"Lord Chancellor:" The Expression "Lord Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of *Ireland:*

"Master of the Rolls:" The Words "Master of the Rolls" shall mean the Master of the Rolls in *Ireland:*

"Master:" The Word "Master" shall mean Master in Ordinary of the Court of Chancery in *Ireland:*

"Master's Examiner:" The Words "Master's Examiner" shall mean Clerk and Examiner to a Master in Ordinary of the Court of Chancery in *Ireland:*

"Bill of Complaint:" The Words "Bill of Complaint and Bill" shall mean also and include Information:

"Plaintiff:" The Word "Plaintiff" shall include Informant:

"Suit:" The Word "Suit" shall include Cause, Matter, or other Proceeding:

"Affidavit:" The Word "Affidavit" shall include Declaration, Affirmation, and Attestation upon Honour; and the Word "swear" shall include declare, affirm, and attest upon Honour:

"Lunatic:" The Word "Lunatic" shall include Idiots and Persons of unsound Mind, and whether found such by Inquisition or not:

"General Order:" The Words "General Order," "General Order of the Court," shall mean a General Order made in the Manner herein-after provided:

"Agent" and "Town Agent." The Words "Agent" and "Town Agent" shall mean an Agent or Town Agent being a practising Solicitor.

Divisions of Act.

3. This Act shall consist of Five Parts, relating to:—

Part I. The Appointment of a Vice-Chancellor:

Part II. The Abolition of the Office of Master in Ordinary of the Court of Chancery:

Part III. Procedure and Practice:

Part IV. Stamps and Fees:

Part V. Miscellaneous Matters.

PART I.

PART I.

Appointment of a Vice-Chancellor, &c.

Appointment of Vice-Chancellor, &c.

Appointment of Vice-Chancellor.

4. It shall be lawful for Her Majesty to nominate and appoint, by Letters Patent under the Great Seal of *Ireland*, a fit Person, being or having been a Barrister-at-Law of Fifteen Years standing at the least, to be a Judge Assistant to the Lord Chancellor of *Ireland* in the Discharge of the Judicial Functions of his Office, such additional Judge to be called the Vice-Chancellor of *Ireland*: Provided that no Vice-Chancellor appointed under this Act shall during his Tenure of Office be capable of sitting in the House of Commons.

Appointment of Successors of Vice-Chancellor.

5. From Time to Time, when and as any Vacancy shall occur in the Office of the Vice-Chancellor who shall be appointed under this Act, by the Death, Resignation, or Removal from Office of such Vice-Chancellor or his Successor for the Time being, it shall be lawful for Her Majesty, by Letters Patent under the Great Seal of *Ireland*, to appoint a fit Person, being or having been a Barrister-at-Law of Fifteen Years standing at the least, to supply such Vacancy.

Jurisdiction and Powers of Vice-Chancellor.

6. Every such Vice-Chancellor shall have full Power to hear and determine all Suits which are or shall be at any Time depending in the Court of Chancery in *Ireland* as a Court of Equity, or incident to any ministerial Office of the said Court, or which shall have been or shall be submitted to the Jurisdiction of the said Court or of the Lord Chancellor by the special Authority of any Act of Parliament, as the Court shall from Time to Time by any General Order direct; and all Decrees, Orders, and Acts of such Vice-Chancellor so made or done shall be deemed or taken to be respectively, as the Nature of the Case shall require, Decrees, Orders, and Acts of the said Court of Chancery, or of such incident Jurisdiction as aforesaid, or under such special Authority as aforesaid, and shall have Force and Validity and be executed accordingly, subject nevertheless to be afterwards reversed or altered in like Manner as if they were Decrees, Orders, or Acts of the Lord Chancellor or the Master of the Rolls; and no such Decree or Order shall be enrolled until the same shall be signed by the Lord Chancellor.

To sit for Lord Chancellor when required.

7. Every such Vice-Chancellor shall sit for the Lord Chancellor whenever he shall require him so to do.

Rank and Precedence of the Vice-Chancellor.

8. The Vice-Chancellor shall have Rank and Precedence next after the Lord Justice of the Court of Appeal in Chancery in *Ireland*, provided the latter shall not have held the Office of Lord Chancellor

Chancellor of *Ireland;* and in case the Lord Justice of the Court of Appeal for the Time being shall have held the Office of Lord Chancellor of *Ireland*, then the Vice-Chancellor shall have Rank and Precedence next after the Chief Baron of Her Majesty's Court of Exchequer in *Ireland.*

To hold Office during good Behaviour.

9. Every Vice-Chancellor shall hold his Office during his good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Vice-Chancellor from his Office upon an Address of both Houses of Parliament.

Oath of Vice-Chancellor.

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

'I do solemnly and sincerely promise and swear,
'That I will duly and faithfully, and to the best of my Skill and
'Power, execute the Office of Vice-Chancellor of *Ireland.*
'So help me GOD.'

Appointment of Chief Clerks.

11. It shall be lawful for the Master of the Rolls and the Vice-Chancellor for the Time being respectively, with the Approbation of the Lord Chancellor, to appoint One Chief Clerk each, to be respectively attached to the Court of each such Judge and his Successors in Office, for the Purpose of assisting the Judge in Business not of a Judicial Character, and on any Vacancy in such Office of Chief Clerk to supply such Vacancy.

Qualification of Chief Clerks.

12. No Person shall be appointed Chief Clerk to the Master of the Rolls or to the Vice-Chancellor unless he shall have been admitted on the Roll of Solicitors or Attorneys in One of the Superior Courts at *Dublin*, and shall have practised as Solicitor or Attorney for the Period of Ten Years at least immediately preceding his Appointment, or unless he shall have held the Office of Master's Examiner in the Court of Chancery in *Ireland*, or shall have held some other Office or Offices in the Court of Chancery for a Period of Seven Years.

Appointment of Junior Clerks.

13. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively, subject to the Provision herein-after contained as to the Appointment of the First Junior Clerks, to appoint Two Junior Clerks to the Chief Clerk of his Court, and on any Vacancy to supply such Vacancy.

Officers under Act not to take

14. If any Person who shall accept any Office under this Act shall engage in any other Employment whatever whilst he holds such

such Office, or shall receive any Sum of Money or Benefit other than his Salary, and what may be allowed or directed to be taken by him under any Act of Parliament or Order of the said Court, for any Act done or pretended to be done, or any Attendance given or pretended to be given, either with or without the Consent or Direction or pretended Consent or Direction of any Judge of the Court, in relation to or arising out of any Proceeding in his Office or in any Office of or connected with the Court of Chancery, or if such Person, having been a Solicitor or Attorney, shall directly or indirectly receive or secure to himself any continuing Benefit from any Business or Firm in which he may have been engaged previously to his Appointment to such Office, the Person so offending may be removed from his Office by Order of the Lord Chancellor, and if so removed shall be rendered incapable of afterwards holding any Office, Situation, or Employment in the said Court. Fees or Profits, save Salary.

15. Every Solicitor or Attorney who shall be appointed to and shall accept Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the Court of Chancery, and off the Roll of any of Her Majesty's Courts of Record at *Dublin* on which his Name may be. Solicitor accepting Office to cease to be a Solicitor.

16. Every Chief Clerk shall, subject to the Power of Removal herein-after contained, hold his Office on the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State; and it shall be lawful for the Lord Chancellor, with the Concurrence of the Judge to whose Court any Chief Clerk shall be attached, by an Order to remove any such Chief Clerk, without stating any Cause for such Removal. Tenure of Office of Chief Clerk.

17. Every Junior Clerk shall, except in the Cases herein-after specially provided, hold his Office at the Pleasure of the Judge to whose Court he shall be attached. Tenure of Office of Junior Clerk.

18. Subject to the Regulations which shall be prescribed by the General Orders of the Court, the Chief Clerks and Junior Clerks shall be under the Control of the Judge to whose Court they shall respectively be attached, and shall attend at such Places, during such Times, and for such Hours in each Day, and perform such Duties, as such Judge shall from Time to Time direct. Chief and Junior Clerks to be under Control of the Judge.

19. Every Chief Clerk and every Junior Clerk shall be subject and liable to such and the same Obligations, Prohibitions, and Penalties, Chief and Junior Clerks subject to the

same Penalties as are imposed by 4 G. 4. c. 61.

Penalties, so far as the same are not inconsistent with the Provisions of this Act, as are by an Act passed in the Session holden in the Fourth Year of the Reign of King *George* the Fourth enacted with respect to Persons holding any of the Offices in the Court of Chancery therein specified, in the same Manner as if the Enactments therein contained relating to such Officers of the said Court respectively were here repeated in relation to such Chief and Junior Clerk.

Salaries of Chief and Junior Clerks.

20. There shall be paid to every such Chief Clerk, in the first instance, the net yearly Salary of Eight hundred Pounds, to be increased every Year of Service by the net annual Sum of Twenty-five Pounds until the yearly Salary of such Chief Clerk shall amount to the net yearly Salary of One thousand Pounds; and to every such Junior Clerk, in the first instance, the net yearly Salary of Two hundred and fifty Pounds, to be increased in like Manner by the net annual Sum of Ten Pounds until the yearly Salary of each Junior Clerk shall amount to the net yearly Salary of Three hundred and fifty Pounds; and the said Salaries respectively shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid out of the Funds and in the Manner herein-after provided; but no such Increase of Salary shall be made without a Certificate from the Judge to whose Court such Chief or Junior Clerk shall be attached that he has conducted himself in his Office to the entire Satisfaction of such Judge.

Salary of Vice-Chancellor.

21. There shall be paid to the Vice-Chancellor for the Time being the net yearly Salary of Four thousand Pounds, which Salary shall issue and be payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid quarterly on the First Day of *January*, the First Day of *April*, the First Day of *July*, and the First Day of *October* in every Year, by equal Portions, and the first of such Payments, or a proportionate Part thereof, to be computed from the Time of the Appointment of such Vice-Chancellor, shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Vice-Chancellor, such Vice-Chancellor, his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the Time of the Commencement of such Salary, or from the last quarterly Day of Payment thereof, to the Time of such Resignation, Death, or Removal from Office.

22. Her

Retiring Pension to Vice-Chancellor.

22. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Vice-Chancellor, in pursuance of this Act, an Annuity not exceeding Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Vice-Chancellor, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Vice-Chancellor was payable; and the first quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall not exceed in the whole the said Sum of Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence; provided also, that no Annuity granted to any Person having executed the Office of Vice-Chancellor under this Act shall be valid unless such Person shall have continued in the said Office, or in the said Office and the Office of a Judge in One or more of Her Majesty's Superior Courts, or Judge of Her Majesty's Court of Probate in *Ireland*, or Judge of the Landed Estates Court, or of Master in Ordinary of the said Court of Chancery, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Service as Judge in the Superior Courts to count.

23. In calculating the Service of a Vice-Chancellor under this Act, the Number of Years a Vice-Chancellor shall have acted as One of the Judges of the Superior Courts of Law or Equity in *Ireland* shall in all Cases be included, in case the Party holding the Office of Vice-Chancellor shall have acted as such.

24. It

Appointment of Court Keeper, Crier, and Tipstaff.

24. It shall be lawful for the Vice-Chancellor from Time to Time to appoint a Court Keeper, Crier, and Tipstaff, to be attached to his Court, and the Salaries of the Persons so to be appointed shall be of such respective Amounts as the Lord Chancellor and the Commissioners of Her Majesty's Treasury shall in each Case determine; and such Salaries shall be paid to each Person so to be appointed out of the Funds herein-after mentioned.

Appointment of a Chief Clerk and Junior Clerks by Lord Chancellor.

25. If it shall appear to the Lord Chancellor that the Business of his Court shall render it expedient that a Chief Clerk and Junior Clerks should be appointed, to be attached to the Lord Chancellor and his Successors in Office, for the Purpose of assisting the Lord Chancellor in Business not of a Judicial Character and the Suits belonging to his Court, and in any Matters belonging to or reserved for his Jurisdiction, it shall be lawful for the Lord Chancellor, with the Assent of the Commissioners of Her Majesty's Treasury, to appoint One Chief Clerk, having such Qualification as is herein-before prescribed in reference to the Chief Clerks of the Master of the Rolls and Vice-Chancellor respectively, and Two Junior Clerks, and on any Vacancy in such Offices to supply such Vacancy; and every Chief Clerk and Junior Clerk so to be appointed shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like Salaries, Allowances, and Benefits, and shall be subject to the like Obligations, Prohibitions, and Penalties, as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or the Vice-Chancellor, but shall be under the Control of the Lord Chancellor, and shall be removable by an Order of the Lord Chancellor and the Lord Justice of the Court of Appeal, without stating any Cause for such Removal.

Power to appoint additional Chief or Junior Clerks.

26. In case it shall appear to the Lord Chancellor that the State of Business in the Court renders it expedient to appoint an additional Chief Clerk or additional Junior Clerks to the Master of the Rolls and the Vice-Chancellor, or to either of them, it shall be lawful for the Lord Chancellor, with the Consent of the Master of the Rolls and the Vice-Chancellor, or One of them, and subject to the Approbation of the Commissioners of Her Majesty's Treasury, to direct that there shall be attached to the Master of the Rolls and the Vice-Chancellor, or to either of them, as the Case may be, such additional Chief Clerk or additional Junior Clerks as aforesaid; and thereupon it shall be lawful for the Judge to whose Court such Chief Clerk or Junior Clerk shall be attached to appoint in manner aforesaid such additional Chief Clerk or Junior Clerk, as the Case may be, and on any Vacancy in such Office of additional

additional Chief Clerk or Junior Clerks to supply such Vacancy; and every Chief Clerk or Junior Clerk so appointed shall possess the like Qualifications, and shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like Salaries, Allowances, and Benefits, and subject to the like Obligations, Prohibitions, and Penalties, as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or the Vice-Chancellor.

PART II.

PART II.

Masters Abolition.

Masters Abolition.

Office of Master, except that of Receiver Master, abolished.

27. The Office of Master in Ordinary of the said Court of Chancery, except the Office of Receiver Master of the said Court, which shall be maintained for the Performance of certain special Duties, as herein-after provided, shall be and the same is hereby abolished, but reserving and subject to the Execution by the present Masters in Ordinary of the said Court whose Offices are hereby abolished of the Duties herein-after provided for; and until they are released under this Act they shall for the Performance of such Duties continue to have all the Powers conferred upon them by any Act of Parliament, or otherwise vested in them.

Vacancies not to be filled.

28. No Vacancy which has already occurred or may hereafter occur in the Office of Master in Ordinary of the said Court, other than that of Receiver Master, shall be filled up; and no Vacancy which has already occurred or may hereafter occur in the Office of Examiner, Assistant Clerk, or Registrar to such Master, other than the Examiner or Assistant Clerk of the Receiver Master, shall be filled up, save in the temporary Manner herein-after provided; and no Vacancy in the Office of Examiner to the Receiver Master shall be filled up otherwise than by the Appointment of One of the Examiners of the Masters whose Office is abolished by this Act, save such of them, if any, as shall be appointed Assistant Registrar as herein-after provided, so long as any such Examiner, save as aforesaid, shall continue to be an Officer of the Court; and no Vacancy in the Office of Assistant Clerk to the Receiver Master shall be filled up otherwise than by the Appointment of One of the Assistant Clerks of the Masters whose Office is abolished by this Act, so long as any such Assistant Clerk shall continue to be an Officer of the Court.

Masters may be released.

29. Whenever in the Judgment of the Lord Chancellor from the State of Business in the said Court any Master whose Office is hereby

hereby abolished can be spared, it shall be lawful for the Lord Chancellor to release such Master from his Duties as such at such Time or Times as to him shall seem meet.

Released Masters to be entitled to Pensions.

30. Each One of the Masters so to be released shall nevertheless continue entitled to receive during his Life, by way of retiring Pension, the full Amount of his Salary as such Master; and the Salaries or retiring Pensions payable to the Masters so to be released shall be payable out of the same Funds, on the Days, and in the same Manner in all respects as their present Salaries.

Power to Masters to summon Parties, &c., and to settle and wind up Proceedings before them.

31. In order as expeditiously as may be to wind up all the Suits which may from Time to Time be depending before or have been referred to any of the Masters whose Office is hereby abolished, it shall be lawful for every such Master, at any Time after the passing of this Act, to summon as he shall deem fit all or any of the Parties to any Suit so depending, or referred, or their Solicitors, and thereupon to proceed with such Suit, and give such Directions and make such Order as he may think necessary for the Purpose of settling and winding up the same; but any such Order shall be subject to be discharged or varied by the Lord Chancellor upon Application made for that Purpose; and the Master shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

Power to Lord Chancellor, upon Master's Report or Certificate, to make Order for Prosecution or final Disposal of any Suit, &c., and for Payment of Costs, &c.

32. In case such Master shall be unable, by reason of the Conduct of Parties or otherwise, to finally dispose of any Suit, he shall be at liberty to dispose of any Part thereof within his Power, and to report or certify on the whole of the Case; and upon such Report or Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Notwithstanding Suit abated or defective, Master may proceed.

33. Upon a Suit in which any Proceeding may from Time to Time be depending before any such Master becoming abated by Death, Marriage, or otherwise, or becoming defective by reason of some Change or Transmission of Interest or Liability, it shall be lawful for such Master, notwithstanding that the Suit has become abated or defective, to summon, as he shall deem fit, all or any of the Parties to the Suit or Proceeding, or their or any of their Solicitors, and to require and obtain from them or any of them such Information as may to him seem necessary or proper respecting the Abatement of the Suit, or respecting the same having become defective,

defective, and the Change or Transmission of Interest or Liability, and respecting the Person or Persons by and against whom the Suit and Proceedings ought to be revived, or the Decree or Order carried on and prosecuted, for which Purpose such Master shall be at liberty to proceed in the Absence of any of the Parties or Solicitors neglecting or refusing to attend to his Summons.

Master may certify Change of Interest.

34. In case such Master shall by the Means aforesaid or otherwise obtain sufficient Information for his Guidance in this Behalf, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability.

Certificate to have effect of Suggestion and Notice.

35. The Master's Certificate shall be filed, and Notice thereof served by and upon such Person as the Master may direct; and the Person so served shall from the Time of such Service being made become a Party to the Suit, and be bound in all respects in the same Manner as if an Order of Revivor or a Supplemental Decree had been made upon a Bill or Cause Petition duly filed for that Purpose.

If Master unable to obtain Information, the Lord Chancellor may dispose of Suit.

36. In case such Master shall not be able to obtain sufficient Information for his Guidance in certifying as aforesaid, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability, and that by reason thereof he is unable to dispose of the Proceeding pending before him in the Suit; upon which Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Master may certify specially any Decision.

37. In any Suit which may from Time to Time be pending before or have been referred to any Master, he shall be at liberty to certify specially any Decision at which he may arrive, or any other Matter relating thereto, in order to obtain a Decision or Direction by or from the Lord Chancellor for his Guidance in the further Proceedings, or to enable any Party to obtain the Opinion of the Court with reference thereto.

In case of Neglect, &c. of Parties or Solicitors, the Solicitor for Minors

38. In the event of the Parties or their Solicitors refusing or neglecting, within a Time to be fixed by the Master, to file or to bring before the Lord Chancellor any such Certificate or Report as aforesaid, or to serve any Order when drawn up as aforesaid, then, by the Direction

and Lunatics may proceed.

Direction of the Master, the Certificate or Report may be filed or brought before the Lord Chancellor, or the Order may be served by the Solicitor for the Time being in the Matter of Minors and Lunatics; and the Lord Chancellor is hereby empowered to order Payment of the Costs and Expenses of the Solicitor in the Matter of Minors and Lunatics out of such of the Funds in the Suit or by such Parties as to him shall seem just; and in case Payment thereof cannot be obtained by any of the Means aforesaid, the same, by the Direction of the Lord Chancellor, may be paid out of the Suitors Fee Fund.

No further References to be made to Masters, but Masters to finish Business at present pending.

39. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven no Reference shall be made to any of the Masters in Ordinary of the said Court, except in Suits pending at the passing of this Act, or in Suits in which, from some previous Reference having been made in some other Suit connected therewith, the Court may think it expedient to make such Reference, and, except in the Case of the Receiver Master, such References as are herein-after directed: Provided always, that the said Receiver Master and the other Masters in Ordinary of the said Court, until they shall have been removed by Resignation, Death, or otherwise, or released from their Duties under this Act, shall prosecute all the Business which on the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven shall be pending before them, and also all the References which shall be made under Decrees, Decretal or other Orders of the Court in Suits commenced before the last-mentioned Day, or which shall be made in relation to such excepted Matters as aforesaid, and the same, if necessary, shall from Time to Time be distributed amongst or prosecuted by the Masters, or such of them as shall then remain, and the said Receiver Master, and his Successors in Office, in such Manner as the Lord Chancellor shall direct; and the Powers and Authorities now vested in them are hereby reserved to them for the Purpose of executing and performing all the Duties, Matters, and Things which may be still referred to them, or which they may be lawfully called upon to perform.

On Retirement of Masters, their Examiners and Clerks to be entitled to retiring Pensions of the same Amount as Salary.

40. Every Person who on the First Day of *April* One thousand eight hundred and sixty-seven held the Office of Examiner or Assistant or other Clerk or Registrar to any of the Masters in Ordinary of the said Court of Chancery whose Office is by this Act abolished shall, upon the Master to whom he shall be such Examiner or Assistant or other Clerk or Registrar being released from the Duties as such Master under the Authority of this Act, or upon the Death or Resignation of any such Master previously

to

to his being so released, continue to be deemed an Officer of the Court of Chancery, and shall hold by the same Tenure, and be entitled to the like Salary and Superannuation Allowance at the least, as if the Master to whose Office he is attached had not resigned or died, and shall, unless or until he shall retire pursuant to the Provisions of the "Court of Chancery (*Ireland*) Regulation Act, 1850," discharge such Duties suitable to his Position as an Officer of the Court in any Office to which he shall be appointed under this Act, or in the Office of Receiver Master or otherwise connected with the Business of the Court, or the Arrangement and Classification of the Records of the said Court, as shall be assigned to him by any General Order of the Court, and every such Examiner or Assistant or other Clerk or Registrar who shall decline to discharge such Duties when called upon to do so shall forfeit any Benefits to which he would be otherwise entitled under this Act.

Appointment of Office of Second Assistant Registrar.

41. There shall be attached to the said Court a Second Assistant Registrar, who shall hold his Office upon the same Terms and with such Powers in all respects as are provided by a Statute passed in the Fourth Year of His late Majesty King *George* the Fourth, intituled *An Act for the better Administration of Justice in the Court of Chancery in* Ireland, in relation to the Principal Registrars of the said Court, and every such Assistant Registrar shall discharge such Duties in connexion with the Business of the said Court as shall be assigned to him by General Order of the Court; and there shall be paid to every such Assistant Registrar the net yearly Salary of Eight hundred Pounds, to be increased every Year of Service by the net annual Sum of Twenty-five Pounds until the net yearly Salary of such Assistant Registrar shall amount to the net yearly Salary of One thousand Pounds, but so that no such Increase shall take place without a Certificate of the Lord Chancellor to the like Effect as is provided in the Case of the Chief and Junior Clerks to be appointed under this Act, which Salary shall be paid free from all Deductions, except in respect of Income Tax; and the Lord Chancellor shall tender to each of the Master's Examiners whose Office is abolished by this Act, according to his Seniority in Office, the Option of accepting the said Office of Assistant Registrar; and if such Master's Examiner shall, for One Month after such Option has been tendered to him, neglect or decline to avail himself thereof, then the Lord Chancellor shall tender the like Option to the Examiner next in succession as aforesaid, and so *toties quoties*; and in case any of the said Examiners shall avail himself of the said Option, the Lord Chancellor shall thereupon appoint such Person to be an Assistant Registrar of the Court pursuant to this Act; and the Court shall have Power, by

Option to Masters Examiners to accept it according to Seniority.

General Orders, to regulate the Distribution of Business among the Officers of the said Masters, and to attach any Officer at present attached to any Master in Ordinary, whose Office is by this Act abolished, to any other Master, and in all respects to prescribe and regulate the Duties of such Officers; and in case all the Masters Examiners shall neglect or decline to avail themselves of the said Option, it shall be lawful for the Lord Chancellor to appoint the Chief Clerk or One of the other Clerks in the Registrar's Office, or some fit or proper Person, having such Qualification as is herein-before prescribed in respect of Persons to be appointed Chief Clerks of the Master of the Rolls and the Vice-Chancellor, to fill the Office of Assistant Registrar of the said Court pursuant to this Act: Provided always, that nothing herein contained shall be deemed to affect the Right of Succession of the Officers in the Registrar's Office, as now established, to any Office existing previous to the passing of this Act, and that from Time to Time when any Vacancy shall occur in the said Office of Assistant Registrar there shall be the like Right of Succession thereto in said Officers as there now is to such existing Offices.

Assistant Registrar.

42. If any Person who shall be first appointed to the Office of Assistant Registrar under this Act shall be an Officer of the Court of Chancery of not less than Fourteen Years Service, it shall be lawful for the Commissioners of Her Majesty's Treasury to direct that he shall, from his said Appointment, be paid the full Salary of One thousand Pounds a Year.

The Master's Registrars and Assistant Clerks to be Three of the Junior Clerks, and to hold during good Behaviour.

43. The Master of the Rolls and the Vice-Chancellor shall appoint as their First Junior Clerks Four of the Persons who, at the Time of the passing of this Act, are Assistant Clerks and Registrars to the Masters whose Offices are by this Act abolished, if willing to accept the same, and in case Four of the said Assistant Clerks and Registrars shall not accept such Junior Clerkships, then the same shall be tendered to the said Assistant Clerks and Registrars in the Order of their Seniority in Office, and any Assistant Clerk or Registrar who thereupon shall refuse to accept said Office shall, notwithstanding anything herein-before contained, forfeit his Right to receive any retiring Allowance under "The Court of Chancery (*Ireland*) Regulation Act, 1850:" Provided always, that every Assistant Clerk and Registrar so becoming a Junior Clerk shall hold his Office by the same Tenure as at present so long as he shall personally attend to the Duties of his Office, but shall be removable by the Lord Chancellor, with the Concurrence of the Judge to whose Court he shall be attached, without stating any Cause for such Removal.

44. Upon

Power to the Lord Chancellor to make temporary Provision for Offices vacated.

44. Upon the Office of Examiner, Assistant Clerk, or Registrar becoming vacant, it shall be lawful for the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to make temporary Provision for the Discharge of the Duties of the Office so vacated, by employing some other Officer or Clerk of the Court of Chancery other than those attached to the Office of the Receiver Master, or, in case there shall be no such Officer or Clerk available for such Employment, by appointing some fit Person to fill such Office, until the Master in whose Office such Vacancy shall occur shall be removed by Resignation, Death, or otherwise, or shall have been released from his Duties under this Act; and every Person so to be employed by the Lord Chancellor shall, so long as he shall be employed, receive such Remuneration as the Lord Chancellor and Lords Commissioners of Her Majesty's Treasury shall fix, and shall be liable to perform the like Duties, and shall be subject to the same Obligations, Prohibitions, and Penalties, as the Officer in whose Place he shall be employed.

Assistant Registrar, Chief and Junior Clerks, to get Superannuations.

45. Every existing Officer of the Court of Chancery who shall be appointed Assistant Registrar or Chief Clerk pursuant to this Act shall be entitled to the like retiring or Superannuation Allowances and upon the same Conditions as are provided for Officers by the Thirty-eighth Section of "The Court of Chancery (*Ireland*) Regulation Act, 1850," and every Assistant Clerk or Registrar who shall be appointed a Junior Clerk pursuant to this Act shall be entitled to the like Superannuation Allowance and upon the same Conditions as are provided by the Thirty-ninth Section of "The Court of Chancery (*Ireland*) Regulation Act, 1850:" Provided always, that the Period during which any such Person shall have served in the said prior Office or Employment shall be taken into account and allowed in estimating the Period at which he shall be entitled to retire from the Office of Assistant Registrar, Chief Clerk, and Junior Clerk pursuant to this Act, and the Amount of the Superannuation Allowance to which he shall be entitled; and every Assistant Registrar, Chief Clerk, and Junior Clerk, and other Person appointed under the Provisions of this Act other than those for whom Provision is herein-before in this Clause made, shall be deemed a Civil Servant of Her Majesty, and shall be entitled to such Superannuation Allowance on Retirement on the same Terms, and subject to the same Conditions, as are provided for Persons in the permanent Civil Service of the State by "The Superannuation Act, 1859."

On Appointment of Masters or Examiners

46. If at any Time hereafter any of the Masters in Ordinary of the said Court whose Office is hereby abolished, or any of their Examiners,

to Office, &c., the retiring Pension under this Act to be regulated by the Salary, &c. of such Office.

Examiners, Assistant Clerks, or Registrars, shall be appointed to and shall accept any Office or Employment under this Act, or connected with any Court of Law or Equity, or under the Crown, or in any Public Department under the Crown, and if the Salary attached to such Office or Employment, or any retiring Pension or Allowance in respect thereof, shall equal or exceed in Amount the retiring Pension or Compensation payable to such Master, Examiner, Assistant Clerk, or Registrar under this Act, such last-mentioned retiring Pension or Compensation shall during the Continuance of such Master, or such Examiner, Assistant Clerk, or Registrar, in such Office or Employment, or so long as he shall be in the Receipt of any retiring Pension or Allowance in respect thereof equal to or greater than his retiring Pension or Compensation under this Act, cease to be payable to such Master, or such Examiner, Assistant Clerk, or Registrar, as the Case may be; and if the Salary attached to such Office, or the retiring Pension or Allowance in respect thereof, shall be less than the Amount of such Master's retiring Pension, or the Compensation payable under this Act to such Examiner, Assistant Clerk, or Registrar, such Salary, retiring Pension, or Compensation under this Act shall be reduced by the Amount of such Salary or of such retiring Pension or Allowance, as the Case may be.

Appropriation of Masters Offices.

47. Such of the Masters Offices as shall not be assigned by the Lord Chancellor as Chambers for the Masters of the Rolls and Vice-Chancellors respectively, under the Provisions herein-after contained, shall be appropriated to such other Purposes connected with the Court of Chancery as the Lord Chancellor may from Time to Time direct.

Rights and Establishments of the present Masters to continue till released.

48. Nothing herein contained shall prejudice or affect the Title of the present Masters in Ordinary of the said Court whose Offices are hereby abolished to the Salaries payable to them as such Masters unless and until they shall be respectively released under this Act, or the Power of Her Majesty to order a retiring Allowance to any of them who may be or become afflicted with some permanent Infirmity disabling him from the due Execution of his Office, and who shall be desirous of resigning the same, or the Power of the Lord Chancellor to order a retiring Allowance to any of their Examiners and Clerks in the like event; and, subject to the Provisions herein contained, every of the said Masters in Ordinary of the Court, until released under this Act, shall have the same Establishment of Officers whose Salaries and Compensation shall be payable out of the same Funds as the Salaries and Compensations of such Officers are now payable, and all the Expenses attending

attending the Establishment of the Masters Offices shall be paid in like Manner as such Expenses are now paid.

Office of Receiver Master preserved.

49. The Office of Receiver Master shall be maintained for the Discharge of the Duties herein specified, and *Gerald Fitzgibbon* Esquire, the present Receiver Master of the said Court, shall be the Receiver Master of the said Court pursuant to this Act, and the said *Gerald Fitzgibbon* and his Successors in the said Office shall discharge the Duties herein-after specified: Provided always, that nothing in this Act contained shall be held to repeal or affect the Provisions of any Act or Acts, or any Law or Usage, relating to the Appointment, Salary, and retiring Annuities of the said Receiver Master or his Successors in Office, or the Provisions of any Act or Acts relating to the Master's Examiner or Assistant Clerk, or the Establishment or Office of the said Master or his Successors in Office.

Powers of Receiver Master.

50. The said Receiver Master and his Successors in Office shall, subject to any General Orders, continue to have, exercise, and perform all such Authorities, Powers, and Duties as shall upon the said First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven be possessed, exercised, and performed by him, or any other Master in Ordinary of the said Court, with reference to Receivers, Receivers Accounts, and the Management of Estates under Receivers, and all other Matters relating to Receivers, and also all such and such other Authorities, Powers, and Duties as shall on the said First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven be possessed, exercised, and performed by, or shall be or have been imposed or conferred on him, or on any other Master, with respect to the auditing or keeping of any Accounts, or with respect to Inquiries in Lunacy Matters, or the Discharge of any other Duties in relation thereto respectively: Provided always, that nothing in this Act contained shall affect the Power of the said Receiver Master in relation to the winding up of any Suits which on the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven may be pending in his Office.

References to Receiver Master.

51. It shall be lawful for the Lord Chancellor, the Master of the Rolls, the Vice-Chancellor, the Court of Appeal in Chancery, and the Masters to make such References to the said Receiver Master under this Act, and his Successors in Office, in relation to Receivers and the auditing of Accounts, and the Management and letting of Estates, as the Court shall by any General Orders direct, anything in this Act to the contrary notwithstanding.

PART III.

Procedure and Practice.

PART III.

Procedure and Practice.

Repeal of existing Acts and Portions of Acts.

52. From and after the Time appointed for the Commencement of this Part of this Act, the Acts and Parts of Acts mentioned in Schedule (A.) to this present Act shall be and the same are hereby repealed, except in so far as may be necessary for the Purpose of supporting, continuing, or prosecuting any Suit or Proceeding begun before the Time appointed for the Commencement of this Act.

Practice of engrossing Bills on Parchment to be discontinued, and printed Bills to be filed instead.

53. From and after the Time appointed for the Commencement of this Part of this Act, the Practice of engrossing on Parchment Bills of Complaint and of filing such Engrossments shall be discontinued; and the Deputy Keeper of the Rolls shall receive and file a printed Bill of Complaint in lieu of an Engrossment thereof, in the same Manner as he now receives such Engrossment.

Writs of Subpœna to be abolished.

54. The Writ of Subpœna to appear to and answer a Bill of Complaint in the said Court shall be abolished.

Defendant to be served with a printed Bill in lieu of a Writ of Subpœna.

55. In lieu of serving the Defendant to a Bill of Complaint in the said Court with a Writ of Subpœna to appear to and answer the same, the Defendant shall be served with a printed Bill of Complaint, with an Endorsement thereon, in the Form or to the Effect set out in the Schedule (B.) to this Act, with such Variations as Circumstances may require, such printed Bill of Complaint so to be served being previously stamped with a proper Stamp by the Deputy Keeper of the Rolls in *Ireland*, indicating the filing of such Bill of Complaint, and the Date of the filing thereof.

The filing and Service of a printed Bill to have the same Effect as the filing and issuing of a Writ of Subpœna.

56. The filing of a printed Bill of Complaint in the said Court shall have the same Effect as the filing of a Bill of Complaint in the same Court and the issuing of a Subpœna thereon respectively now have, and the Service upon the Defendant of a printed Bill of Complaint so filed, with such Endorsement thereon, so stamped as aforesaid, shall have the same Effect as the Service on him of a Writ of Subpœna now has, and shall entitle the Plaintiff in such Suit to such Remedies for Default of Appearance and otherwise as he is now entitled to in case of due and proper Service of a Subpœna to appear to and answer a Bill of Complaint.

Service of printed Bill.

57. The Service upon any Defendant of a printed Copy of a Bill of Complaint in the said Court shall be effected in the same Manner as Service of a Writ of Subpœna to appear to and answer a Bill of Complaint is now effected, save only that it shall not be necessary to

to produce the original Bill, which will be on the Files of the Court; provided that the Court shall be at liberty to direct substituted Service of such printed Bill in such Manner and in such Cases as it shall think fit.

Written Copies of Bill may be served, in certain Cases.

58. Notwithstanding the Provisions herein-before contained, the Deputy Keeper of the Rolls in *Ireland* may receive and file a written Copy of any Bill of Complaint, praying a Writ of Injunction or a Writ of Ne exeat regno, upon the personal Undertaking of the Plaintiff or his Solicitor to file a printed Copy of such Bill within Fourteen Days, and every Bill of Complaint so filed shall be deemed and taken to have been filed at the Time of filing the written Copy thereof; and a written Copy of any such Bill of Complaint, stamped as aforesaid, and with such Endorsement thereon as aforesaid, may be served on any Defendant thereto, and such Service shall have the same Effect as the Service of a printed Copy.

Plaintiff to deliver printed Copies of Bill at Rate prescribed by General Order.

59. The Plaintiff in any Suit to be commenced by Bill in the said Court after the Time appointed for the Commencement of this Act shall be bound to deliver to the Defendant or his Solicitor, upon Application for the same, such a Number of printed Copies of his Bill of Complaint, upon being paid for the same at such Rate as shall be prescribed by any General Order of the Court.

Provisions as to filing, &c. Prints of original Bill extended to Amendments.

60. Upon the Amendment of any Bill of Complaint to be filed in the said Court after the Time appointed for the Commencement of this Act, the Provisions herein-before contained with respect to filing and serving and delivering printed Copies thereof shall, so far as may be, extend and be applicable to the Bill as amended; provided that where, according to the present Practice of the said Court in relation to Suits commenced by Bill, an Amendment of a Bill may be made without a new Engrossment thereof, or under such other Circumstances as shall be prescribed by any General Order of the Court, a Bill may be wholly or partially amended by written Alterations in the printed Bill of Complaint so to be filed as aforesaid.

In certain Cases a printed Bill may be wholly or partially amended.

Bills of Complaint to contain concise Narratives of material Facts, &c. divided into numbered Paragraphs, but

61. Every Bill of Complaint to be filed in the said Court after the Time appointed for the Commencement of this Act shall contain, as concisely as may be, a Narrative of the material Facts, Matters, and Circumstances upon which the Plaintiff relies, such Narrative being divided into Paragraphs numbered consecutively, and each Paragraph containing, as nearly as may be, a separate and distinct Statement or Allegation, and shall pray specifically

not to contain Interrogatories.

cifically for the Relief which the Plaintiff may conceive himself entitled to, and also for general Relief; but such Bill of Complaint shall not contain any Interrogatories for the Examination of the Defendant.

Next Friend of Infant, &c. in Suit, &c. to sign a written Authority.

62. Before the Name of any Person shall be used in any Suit in the said Court commenced by Bill as next Friend of any Infant, married Woman, or other Party, or as Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Bill or Information.

Interrogatories to be filed in the Office of the Deputy Keeper of the Rolls by the Plaintiff within Time prescribed.

63. Within a Time to be limited by a General Order of the Court in that Behalf, the Plaintiff in any Suit in the said Court commenced by Bill may, if he requires an Answer from any Defendant thereto, file in the Office of the Deputy Keeper of the Rolls in *Ireland* Interrogatories for the Examination of the Defendant or Defendants, or such of them from whom he shall require an Answer, and deliver to the Defendant or Defendants so required to answer, or to his or their Solicitor, a Copy of such Interrogatories, or of such of them as shall be applicable to the particular Defendant or Defendants; and no Defendant shall be called upon or required to put in any Answer to a Bill unless Interrogatories shall have been so filed, and a Copy thereof delivered to him or his Solicitor, within the Time so to be limited, or within such further Time as the Court shall think fit to direct.

Defendant may answer without Leave within Time fixed by a General Order, but after that Time must have Leave.

64. Whether the Plaintiff in any Suit in the said Court commenced by Bill does or does not require any Answer from the Defendant or any One or more of the Defendants to the Bill, such Defendant or Defendants may, without any Leave of the Court, put in an Answer or Demurrer to the Plaintiff's Bill within such Time as shall be fixed by any General Order of the Court in that Behalf; but after that Time a Defendant or Defendants not required to answer the Plaintiff's Bill shall not be at liberty to put in an Answer or Demurrer to the Bill without Leave of the Court; provided that the Power of the Court to grant further Time for answering or demurring to any Bill, upon the Application of any Defendant or Defendants thereto, whether required to answer the Bill or not, shall remain in full Force, and shall not be in anywise prejudiced or affected; provided also, that if the Court shall grant any further Time to any Defendant for answering or demurring to the Bill, the Plaintiff's Right to move for a Decree under the Provisions hereinafter contained shall in the meantime be suspended.

65. The

Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case.

65. The Answer of the Defendant to any Bill of Complaint in the said Court may contain, not only the Answer of the Defendant to the Interrogatories so filed as aforesaid, but such Statements material to the Case as the Defendant may think it necessary or advisable to set forth therein, and such Answer shall also be divided into Paragraphs numbered consecutively, each Paragraph containing as nearly as may be a separate and distinct Statement or Allegation.

Defendant not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend.

66. It shall not be competent to any Defendant in any Suit commenced by Bill in the said Court to take any Objection for Want of Parties to such Suit in any Case to which the Rules next herein-after set forth extend; and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court, and any Law or Practice of the said Court inconsistent therewith shall be and is hereby abrogated and annulled.

Rule 1. Any Residuary Legatee or Next of Kin may, without serving the remaining Residuary Legatees or Next of Kin, have a Decree for the Administration of the Personal Estate of a deceased Person.

Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree for the Administration of the Estate of a deceased Person.

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-residuary Devisee or Co-heir, have the like Decree.

Rule 4. Any One of several Cestuis que Trust under any Deed or Instrument may, without serving any other of such Cestuis que Trust, have a Decree for the Execution of the Trusts of the Deed or Instrument.

Rule 5. In all Cases of Suits for the Protection of Property pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons having the same Interest.

Rule 6. Any Executor, Administrator, or Trustee may obtain a Decree against any One Legatee, Next of Kin, or Cestui que Trust for the Administration of the Estate, or the Execution of the Trusts.

Rule 7. Any Mortgagee or other Incumbrancer on Land may have a Decree for a Foreclosure and Sale, or a Sale of the mortgaged Lands, without serving any other Mortgagee or Incumbrancer, or a Trustee for such Mortgagee or Incumbrancer, unless such Mortgagee, Incumbrancer, or Trustee is

in the actual Possession or Receipt of the Rents and Profits of the mortgaged or incumbered Lands: Provided always, that a Person at whose Suit or for whose Benefit a Receiver or Sequestrator has been appointed or extended, or continues to receive the Rents and Profits of the Lands, shall not be deemed to be in Receipt of such Rents and Profits within the Meaning of this Rule.

Rule 8. In all the above Cases the Court, if it shall think fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Defendant on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question.

Rule 9. In all the above Cases the Persons who, according to the Practice of the Court (previous to the passing of the Court of Chancery (*Ireland*) Regulation Act, 1850), would have been necessary Parties to the Suit, shall be served with Notice of the Decree, and after such Notice they shall, unless Cause be shown to the contrary, within a Time to be limited by a General Order of the Court, be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suit, and they may by an Order of course have Liberty to attend the Proceedings under the Decree; and any Party so served may, within such Time as shall in that Behalf be prescribed by the General Order of the Court, apply to the Court to add to or vary the Decree.

Rule 10. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such Trustees shall represent the Persons beneficially interested under the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to make the Persons beneficially interested under the Trusts Parties to the Suit; but the Court may, upon Consideration of the Matter, on the Hearing, if it shall so think fit, order such Persons or any of them to be made Parties.

Practice of setting down a Cause on Objection for Want of Parties abolished.

67. The Practice of the said Court of setting down a Cause merely on an Objection for Want of Parties to the Suit shall be abolished.

68. The

Plaintiff may, on Expiration of Time for answering, but before Replication, move for a Decree or Decretal Order. Affidavits may be filed.

68. The Plaintiff in any Suit commenced by Bill shall be at liberty, at any Time after the Time allowed to the Defendant for answering the same shall have expired (but before Replication), to move the Court, upon such Notice as shall in that Behalf be prescribed by any General Order of the Court, for such Decree or Decretal Order as he may think himself entitled to; and the Plaintiff and Defendant respectively shall be at liberty to file Affidavits in support of and in opposition to the Motion so to be made, and to use the same on the Hearing of such Motion; and if such Motion shall be made after an Answer filed in the Cause the Answer shall for the Purposes of the Motion be treated as an Affidavit.

Court may refuse such Motion, or make Order for further Prosecution, &c.

69. Upon any such Motion for a Decree or Decretal Order it shall be discretionary with the Court to grant or refuse the Motion, or to make an Order giving such Directions for or with respect to the further Prosecution of the Suit as the Circumstances of the Case may require, and to make such Order as to Costs as it may think right.

Practice of excepting to Bills, Answers, &c. for Impertinence abolished.

Proviso as to Costs.

70. All Exceptions for Insufficiency, and all Objections for Prolixity or Scandal, which according to the existing Practice of the Court in Suits commenced by Bill are determined by the Master of the Court, shall be heard and determined by the Court itself, and the Practice of objecting to Bills, Answers, and other Proceedings in the said Court for Impertinence shall be and the same is hereby abolished: Provided always, that it shall be lawful for the Court to direct the Costs occasioned by any impertinent Matter introduced into any Proceeding in the said Court to be paid by the Party introducing the same, upon Application being made to the Court for that Purpose.

Court may order Defendant to produce Documents, &c. on Oath.

71. It shall be lawful for the Court, upon the Application of the Plaintiff in any Suit commenced by Bill, whether the Defendant may or may not have been required to answer the Bill, or may or may not have been interrogated as to the Possession of Documents, to make an Order for the Production by any Defendant upon Oath of such of the Documents in his Possession or Power relating to Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

In certain Cases Defendant, after Answer, may

72. It shall be lawful for any Defendant in any Suit commenced by Bill (but as to Suits in which the Defendant is required to answer not until after the Defendant shall have put in a sufficient Answer

file Interrogatories for Examination of Plaintiff.

Answer to the Bill), and without filing any Cross Bill of Discovery, to file in the Office of the Deputy Keeper of the Rolls in *Ireland* Interrogatories for the Examination of the Plaintiff, to which shall be prefixed a concise Statement of the Subjects on which a Discovery is sought, and to deliver a Copy of such Interrogatories to the Plaintiff or his Solicitor; and such Plaintiff shall be bound to answer such Interrogatories, in like Manner as if the same had been contained in a Bill of Discovery filed by the Defendant against him on the Day when such Interrogatories shall have been filed, and as if the Defendant to such Bill of Discovery had on the same Day duly appeared; and the Practice of the Court with reference to excepting to Answers for Insufficiency or Objections for Scandal shall extend and be applicable to Answers put in to such Interrogatories: Provided always, that in determining the Materiality or Relevancy of any such Answer, or of any Exception or Objection thereto, the Court is to have Regard to the Statements contained in the original Bill, and in the Answer which may have been put in thereto by the Defendant exhibiting such Interrogatories for the Examination of the Plaintiff: Provided also, that a Defendant, if he shall think fit so to do, may exhibit a Cross Bill of Discovery against the Plaintiff, instead of filing Interrogatories for his Examination.

Defendant may exhibit a Cross Bill instead of filing Interrogatories.

Upon Application of Defendant, after Answer, Plaintiff may be required to produce Documents on Oath.

73. It shall be lawful for the Court, upon the Application of any Defendant in any Suit commenced by Bill, but as to Suits in which the Defendant is required to answer the Plaintiff's Bill not until after he has put in a full and sufficient Answer to the Bill, unless the Court shall make any Order to the contrary, to make an Order for the Production by the Plaintiff in such Suit, on Oath, of such of the Documents in his Possession or Power relating to the Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

Practice of issuing Commissions to take Answers, &c. within the Jurisdiction of the Court abolished.

74. The Practice of the said Court of issuing Commissions to take Answers, Disclaimers, and Examinations in Causes and Matters pending in the said Court shall, with respect to Answers, Disclaimers, and Examinations taken within the Jurisdiction of the Court, be and the same is hereby abolished; and any such Answer, Disclaimer, or Examination may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

Masters Extraordinary to cease to be so styled,

75. The Persons now styled Masters Extraordinary in Chancery shall cease to be so styled, and they, and all Persons hereafter appointed by the Lord Chancellor to execute the like Duties in *Ireland*,

Ireland, shall be designated "Commissioners to administer Oaths in Chancery in *Ireland*," and shall possess and exercise all such Powers and discharge all such Duties as now appertain to the Office of Master Extraordinary in Chancery by virtue of any Statute or Order of the Court of Chancery or of the Lord Chancellor, or Usage in that Behalf, or otherwise. and to be designated Commissioners.

76. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors within Ten Miles from the Four Courts, *Dublin*, to administer Oaths and take Affidavits in Chancery, and to possess all such other Powers and discharge all such other Duties as aforesaid; and such Persons shall be styled "*Dublin* Commissioners to administer Oaths in Chancery," and they shall be entitled to charge and take a Fee of One Shilling and Sixpence for every Oath administered and for every Affidavit taken by them, subject to any General Order of the Court varying or annulling the same. Power to appoint Solicitors residing within Ten Miles of Dublin as Commissioners to take Oaths.

77. From and after the Time appointed for the Commencement of this Act it shall and may be lawful for the Clerk of Affidavits and Clerk of Recognizances in Chancery for the Time being, and they are hereby authorized and required, to administer Oaths and take Affidavits in Chancery: Provided always, that such Clerks shall not be required, except under a special Order of the Court, to go out of their respective Offices to administer the said Oaths or take the said Affidavits, and that when any such Clerk shall be required by any Order of the Court to attend out of his said Office for the Purposes aforesaid, the Charge for every such Attendance, together with the Rate of his Travelling Expenses, if any, shall be expressed in such Order of the Court; and that it shall and may be lawful for such Clerk to receive such Sum for his Attendance, and also such Rate of Travelling Expenses, as shall be expressed in such Order of the Court, and no other or greater Sum. Clerk of Affidavits and Clerk of Recognizances may administer Oaths and take Affirmations.

78. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors in the *Isle of Man* and in the *Channel Islands*, or any of them, to administer Oaths and take Affidavits, and to possess all such other Powers and discharge all such other Duties as aforesaid, and such Persons shall be styled "Commissioners to administer Oaths in Chancery," with the Addition of the Words "for the *Isle of Man*," or "for the *Channel Islands*," as the Case may be, and they shall be entitled to charge and take the same Fees as the said Commissioners to administer Oaths in Chancery. Commissioners may be appointed to administer Oaths for the Isle of Man and the Channel Islands.

79. The

Commissioners Appointment to bear a Chancery Stamp of 1*l.* in lieu of other Charges.

79. The Fiat or Document by which any such Commissioners as aforesaid shall be appointed shall bear a Chancery Fund Stamp of One Pound, but no other Charge or Fee shall be made or be payable in respect of such Appointment, or of anything requisite to be done in order to perfect the same; and it shall not be necessary that any such Appointment should be published in the *Dublin Gazette*.

Nothing to lessen the Power of the Lord Chancellor. References to Masters Extraordinary in Acts to apply to Commissioners.

80. Nothing herein contained shall abridge or lessen the Power of the Lord Chancellor, as it now exists, to appoint fit Persons to administer Oaths, and take Affidavits in Chancery, or to regulate the Fees to be taken by them, and where any Act of Parliament refers to the Masters Extraordinary in Chancery, or to their Powers or Duties, the Reference shall be held to apply to and include the Commissioners herein-before mentioned, or to their Powers or Duties, as the Case may be: Provided that Solicitors and Attornies of not less than Five Years Standing shall be preferred for such Appointments if otherwise suited thereto.

Answers, Affidavits, &c. in Chancery, how to be sworn and taken in England, Scotland, the Channel Islands, &c.

81. All Answers, Disclaimers, Examinations, and Affidavits in Causes or Matters depending in the High Court of Chancery in *Ireland*, and also Acknowledgments required for the Purpose of enrolling any Deed in the said Court, 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 authorized 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 said Court of Chancery 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, or other Documents to be used in the said Court.

Penalty for falsely swearing, &c.

82. All Persons swearing before any Person authorized by this Act to administer Oaths and take Affidavits shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing contained therein as if the Matter sworn had been sworn before any Court or Person now by Law authorized to administer Oaths and take Declarations, Affirmations, or Attestations upon Honour.

83. If

83. If any Person shall forge the Signature or the Official Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person lawfully authorized to administer Oaths under this Act, or shall tender in Evidence any Answer, Disclaimer, Examination, Affidavit, or other Judicial or Official Document with a false or counterfeit Signature or Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person authorized as aforesaid, attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled *An Act to facilitate the Admission in Evidence of certain Official and other Documents.*

Penalty for forging Signature or Seal of Judge, &c. empowered to administer Oaths under this Act.

84. Answers, Disclaimers, Examinations, and Affidavits, whether taken by Commission out of the Jurisdiction of the said Court or otherwise, may be filed without the Oath of a Messenger, and any Alterations made thereon previously to the taking thereof shall be authenticated according to the Practice now in use with respect to Affidavits.

Answers to be filed without Oath of Messenger.

85. In Suits in the said Court commenced by Bill, where Notice of Motion for a Decree or Decretal Order shall not have been given, or, having been given, where a Decree or Decretal Order shall not have been made thereon, Issue shall be joined by filing a Replication in the Form given in Schedule (B.) to this Act, or in such other Form as shall be prescribed by a General Order of the Court; and where a Defendant shall not have been required to answer and shall not have answered the Plaintiff's Bill, he shall be considered to have traversed the Case made by the Bill.

Issue may be joined by filing Replication.

86. Where a Defendant to a Suit in the said Court commenced by Bill shall not have been required to answer the Bill, and shall not have answered the same, such Defendant shall be at liberty to move to dismiss the Bill for Want of Prosecution at such Times, and under such Circumstances, and subject to such Restrictions as shall be in that Behalf prescribed by any General Order of the Court.

Defendant not having been required to answer and not answering may move for Dismissal of Bill for Want of Prosecution.

87. The Mode of examining Witnesses in Suits in the said Court commenced by Bill, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, shall, from and after the Time appointed for the Commencement of this Act, be abolished: Provided always, that

Practice of Court as to Mode of examining Witnesses abolished. Court may order particular Wit-

nesses to be examined upon Interrogatories.

that the Court may, in any Suit commenced by Bill, if it shall think fit, order any particular Witness or Witnesses within the Jurisdiction of the said Court, or any Witness or Witnesses out of the Jurisdiction of the said Court, to be examined upon Interrogatories in the Mode now practised in the said Court in such Suits; and that with respect to such Witness or Witnesses the Practice of the said Court in such Suits in relation to the Examination of Witnesses shall continue in full Force, save only as far as the same may be varied by any General Order of the Court in that Behalf, or by any Order of the Court with reference to any particular Case.

Judge may, upon Application, order that the Evidence as to certain Facts or Issues shall be taken viva voce at the Hearing.

88. When any Cause commenced by Bill shall be at issue, the Plaintiff or any Defendant may, within such Time as shall be fixed by a General Order of the Court, apply by Summons, to be served upon the opposite Party, for an Order that the Evidence in Chief as to any Facts or Issues, such Facts or Issues to be distinctly and concisely stated in the Summons, may be taken *vivâ voce* at the Hearing of the Cause; and that the Judge may make an Order that the Evidence in Chief as to such Facts and Issues, or any of them, shall be taken *vivâ voce* at the Hearing accordingly; and the Facts and Issues as to which any such Order shall direct that the Evidence in Chief shall be taken *vivâ voce* at the Hearing shall be distinctly specified in such Order; but in case the Judge shall be satisfied that such Application is unreasonable, or made for the Purpose of Delay, Oppression, or Vexation, he may refuse to make any such Order; and where any such Order shall have been made the Examination in Chief as well as the Cross-examination and Re-examination shall be taken before the Court at the Hearing as to the Facts and Issues specified in such Order.

Evidence as to Facts not included in such Order as in last Section to be taken by Affidavit or Examination before the Examiner.

89. No Affidavit nor any Evidence taken before an Examiner shall be admissible at the Hearing of any such Cause as mentioned in the last preceding Section in respect of any Fact or Issue which shall be included in any Order directing Evidence in Chief to be taken *vivâ voce* at the Hearing, but, except as to the Facts or Issues included in such Order, each Party in a Cause in which Issue is joined shall be at liberty to verify his Case either wholly or partially by Affidavit, or wholly or partially by the oral Examination of Witnesses *ex parte* before the Examiner of the Court, or an Examiner to be specially appointed by the Court or Judge.

Any Party in a Cause may by Subpœna require

90. Each Party shall be at liberty to sue out of the Office of the Clerk of Appearances and Writs Writs of Subpœna ad testificandum and Duces tecum to compel the Attendance at the Hearing of

Witnesses

Witnesses whom he may desire to produce on any Issue or Matter of Fact included in such Order as is mentioned in the Eighty-ninth Section of this Act.

Attendance of any Witness at the Hearing.

91. Any Party in any Suit depending in the Court shall be at liberty to sue out a Writ of Subpœna ad testificandum or Duces tecum to compel the Attendance of any Witness before an Examiner of the said Court, or before an Examiner specially appointed as aforesaid, and examine such Witness orally for the Purpose of using his Evidence upon any Motion, Petition, or other Proceeding before the Court; and every such Witness shall be bound to attend for Examination and shall be examined in like Manner as he would be bound to attend and be examined with a view to the Hearing of a Cause in which Issue is joined.

Any Party in a Suit may by Subpœna require Attendance of any Witness before an Examiner.

92. Except as herein-after provided, all Examinations taken by the Examiners of the Court, or by any special Examiner, for the Purpose of being used at the Hearing of a Cause in which Issue is joined, shall be taken *ex parte*, the Examiner being furnished by the Plaintiff with a Copy of the Bill and Answer, if any, in the Cause; and no Person shall have a Right to be present at the taking of such Examination except the Party producing the Witness, his Counsel, Solicitor, and Agents; and every Deposition taken upon such Examination shall be deemed to be an Affidavit; and the Examiner, before transmitting the same to the Office of the Clerk of Affidavits, to be filed as herein-after provided, shall mark the same as taken *ex parte*.

Examination before the Examiner to be ex parte.

93. Every Witness, whether a Party or not, who has made an Affidavit to be used at the Hearing of a Cause in which Issue is joined, or who has been examined *ex parte* before an Examiner with a view to such Hearing, and also every Person, whether a Party or not, who has made an Affidavit to be used upon any Motion, Petition, or other Proceeding before the said Court, shall be subject to oral Cross-examination by any opposite Party, either before the Court, or, in the Cases herein-after provided, before an Examiner, and after such Cross-examination may be re-examined orally by or on behalf of the Party by whom such Affidavit has been filed or Witness examined; and such Witness shall be bound to attend before the Court or such Examiner, to be so cross-examined and re-examined, upon being served with a Writ of Subpœna ad testificandum or Duces tecum; and the Party by whom or on whose Behalf such Affidavit shall have been filed or Witness examined shall be bound to produce such Deponent or Witness before the Court or Examiner, as the Case may be, to be so cross-examined and re-examined, upon due

Witnesses by Affidavits or who have been examined ex parte before the Examiner may be cross-examined and re-examined.

And the Party filing their Affidavits or producing

them bound to produce them for this Purpose.

due and proper Notice for that Purpose being served upon such Party or his Solicitor; and unless such Deponent or Witness be produced accordingly such Affidavit or Examination shall not be used as Evidence, unless by special Leave of the Court: Provided always, that the Party required to produce such Deponent or Witness shall be entitled to demand the reasonable Expenses of the said Deponent or Witness, in the first instance, if not already paid to such Deponent or Witness, from the Party requiring such Production, but such Expenses shall ultimately be borne as the Court shall direct: Provided also, that upon the Hearing of any Motion, Petition, or other Proceeding the Court shall always have a discretionary Power of acting upon such Evidence as may be before it, and of making such Interim Orders, or otherwise, as may appear necessary to meet the Justice of the Case.

In Causes in which Issue is joined Cross-examination to be before the Court at the Hearing.

94. Except as herein-after provided, no Cross-examination of any Deponent or Witness, or of any Party, to be used at the Hearing of a Cause in which Issue is joined, shall be taken otherwise than before the Court at the Hearing.

Parties may, by written Consent, agree that Examination, Cross-examination, and Re-examination of Witnesses shall take place before the Examiner.

95. If at any Time after Issue joined the Parties shall, by Writing signed by them or their respective Solicitors, and filed at the Office of the Deputy Keeper of the Rolls, agree that the oral Examination in Chief, Cross-examination, and Re-examination of any Witness or Witnesses (whether a Party or Parties or not), or the Cross-examination and Re-examination of any Person or Persons who shall have made an Affidavit or Affidavits, or who shall have been examined *ex parte* before an Examiner, shall be taken before the Examiner of the Court or a special Examiner, such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, may be taken accordingly, and shall be conducted in the Manner herein-after provided.

Power to the Court or Judge in certain Cases to direct Examination and Cross-examination to take place before the Examiner.

96. The Court or the Judge may direct that the oral Examination, Cross-examination, and Re-examination of any Witness (whether a Party or not), or the Cross-examination and Re-examination of any Person who has been examined *ex parte* before an Examiner or made an Affidavit, shall be taken before an Examiner of the Court or a special Examiner, in case it shall appear to the Court or Judge that, owing to the Age, Infirmity, or Absence out of the Jurisdiction of such Witness or Person, or for any other Cause which to the Judge shall appear sufficient, it is expedient that such Direction should be given.

97. In

In Cases provided for by the last Two Sections the Examination in Chief, Cross-examination,and Re-examination to take place before the same Examiner.

97. In all such Cases as are provided for in the last Two preceding Sections the Examination in Chief, Cross-examination, and Re-examination, or the Cross-examination and Re-examination, of any such Witness or Person as therein respectively mentioned, shall be taken before the same Examiner or special Examiner, or his Successor in Office; and the Cross-examination of every Witness or Person examined in chief shall immediately follow his Examination in Chief; and such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, as the Case may be, shall take place in the Presence of the Parties, their Counsel, Solicitors, or Agents, and shall be conducted as nearly as may be in the Mode now in use in Courts of Common Law with respect to a Witness about to go abroad, and not expected to be present at the Trial of a Cause.

How Evidence to be taken in Suits to perpetuate Testimony.

98. In Suits to perpetuate Testimony Evidence shall continue to be taken according to the now existing Practice in Cases of Bills filed to perpetuate Testimony.

Depositions to be taken down in Writing, and read over to the Witness, who shall sign the same, but if he refuse to sign Examiner may, and state any special Matter he may think fit.

99. The Depositions taken upon any such oral Examination, Cross-examination, and Re-examination as aforesaid before an Examiner shall be taken down in Writing by the Examiner, not ordinarily by Question and Answer, but in the Form of a Narrative, and in the First Person, and when completed shall be read over to the Witness, and signed by him: Provided always, that in case the Witness shall refuse to sign the said Depositions, then the Examiner shall sign the same, and such Examiner may, upon all Examinations, state any special Matter to the Court as he shall think fit; provided also, that it shall be in the Discretion of the Examiner to put down any particular Question or Answer, if there should appear any special Reason for doing so; and any Question or Questions which may be objected to shall be noticed or referred to by the Examiner in or upon the Depositions, and he shall state his Opinion thereon to the Counsel, Solicitors, or Parties, and shall refer to such Statement on the Face of the Depositions, but he shall not have Power to decide upon the Materiality or Relevancy of any Question or Questions; and the Court shall have Power to deal with the Costs of immaterial or irrelevant Depositions as may be just.

If Parties refuse to be sworn or to answer any lawful Questions, the same Course to be pursued as is now adopted.

100. If any Person produced as a Witness before any such Examiner shall refuse to be sworn or to answer any lawful Question put to him by the Examiner or by either of the Parties, or by his or their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is now pursued in the Case of a Witness produced for Examination before an Examiner of the Court

Court upon written Interrogatories, and refusing to be sworn or to answer some lawful Question: Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer or Objection of the Witness thereto, shall be taken down by the Examiner, and transmitted by him to the Office of the Clerk of Affidavits of the Court, to be there filed, and the Validity of such Demurrer or Objection shall be decided by the Court; and the Costs of and occasioned by such Demurrer or Objection shall be in the Discretion of the Court.

Proviso as to Witness demurring to Questions.

Re-examination of Witness to follow Cross-examination.

101. The Re-examination of a Witness shall in all Cases follow his Cross-examination, and shall not, except by Consent or special Order of the Court, be delayed to a future Time.

Original Depositions to be transmitted to the Office of the Clerk of Affidavits.

102. When the Examination or Cross-examination and Re-examination of Witnesses before any Examiner shall have been concluded, the original Depositions, authenticated by the Signature of such Examiner, shall be transmitted by him to the Office of the Clerk of Affidavits, to be there filed; and any Person may have a Copy thereof, or of any Part or Portion thereof, upon Payment for the same, at such Time and in such Manner as shall be provided by any General Order of the Court in that Behalf.

Commission for Examination of Witnesses dispensed with, and Examiner empowered to administer Oaths.

103. It shall not be necessary to sue out any Commission for the Examination of any Witnesses within the Jurisdiction of the Court; and any Examiner appointed by any Order of the Court shall have the like Power of administering Oaths as Commissioners now have under Commissions issued by the Court for the Examination of Witnesses.

Affidavits to be divided into Paragraphs numbered.

104. Every Affidavit to be used in the Court shall be taken in the First Person and be divided into Paragraphs, and every Paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct Portion of the Subject; and every Affidavit to be used at the Hearing of a Cause in which Issue is joined shall, unless the Court or Judge shall otherwise permit or direct, be prepared in the Form of Answers to Interrogatories directed to the Facts or Issues to be proved, and consecutively numbered and set out at the Head of such Affidavit, and the Answers thereto shall be in distinct Paragraphs numbered in corresponding Numbers; but all such Affidavits shall be prepared and sworn in all other respects as other Affidavits used in the Court.

105. Except

Closing Evidence, Cross-examination, and Re-examination.

105. Except as to Facts or Issues included in any such Order as mentioned in the Eighty-ninth Section of this Act, and except as to the Cross-examination and Re-examination of Witnesses at the Hearing, the Evidence at both Sides to be used at the Hearing of a Cause in which Issue is joined shall be closed within such Time as shall in that Behalf be prescribed by any General Order of the Court, but with Power to the Court to enlarge such Period as it may think fit; and after the Time fixed for closing the Evidence, no further Evidence, whether oral or by Affidavit, shall be receivable without special Leave of the Court previously obtained for that Purpose.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs.

106. Upon the Hearing of any Cause commenced by Bill and depending in the Court, the Court, if it shall see fit so to do, may require the Production and oral Examination before itself of any Witness or Party in the Cause, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit.

Evidence subsequent to Hearing to be taken as Court shall prescribe.

107. In Cases where it shall be necessary for any Party to any Cause depending in the Court to go into Evidence subsequently to the Hearing of such Cause, such Evidence shall be taken in such Manner as shall be prescribed in a General Order of the Court.

Power for Court, notwithstanding any Rule, &c. to the contrary, to receive Proof by Affidavit.

108. Notwithstanding any Rule or Practice to the contrary, it shall be lawful for the Court, at the Hearing of any Cause or at a Hearing for any further Directions therein, to receive Proof by Affidavit of all proper Parties being before the Court, and of all such Matters as are necessary to be proved for enabling the Court to order Payment of any Monies belonging to any married Woman, and of all such other Matters not directly in issue in the Cause as in the Opinion of the Court may safely and properly be so proved.

Deeds and Documents referred to in Pleadings to be produced on Hearings, Motions, and other Proceedings.

109. Where any Deed or Document, or any Record, or any Portion thereof respectively, shall be relied on in any Pleading, the said Deed or Document, or the Copy of such Record, shall be produced upon every Hearing, or Motion, or other Proceeding in the said Suit, unless its Non-production can be satisfactorily excused; and in default thereof it shall be lawful for the Court or Judge before whom such Hearing, Motion, or other Proceeding shall take place to exclude the Party so in default from all Benefit or Advantage of the said Deed, Document, or Record, and to make such Order for the Postponement of such Hearing, Motion, or other Proceeding, and the Payment of the Costs occasioned by such Postponement, as shall seem to be just; and in the event of such

Deed or Document, or the Copy of such Record, being produced, it shall be lawful for the Court or Judge to direct the same to be entered upon the Decree or Order of the Court to be made upon such Hearing, Motion, or other Proceeding, and to make such consequential Order in relation to Costs as to them or him shall seem fit.

Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one.

110. If in any Suit before the Court it shall appear to the Court that any deceased Person who was interested in the Matters in question has no legal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing the Estate of such deceased Person, or to appoint some Person to represent such Estate for all the Purposes of the Suit or other Proceeding, on such Notice to such Person or Persons, if any, as the Court shall think fit, either specially, or generally by public Advertisements; and the Order so made by the Court, and any Orders consequent thereon, shall bind the Estate of such deceased Person in the same Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal personal Representative had been a Party to the Suit or Proceeding, and had duly appeared and submitted his Rights and Interests to the Protection of the Court.

Power to Persons interested in Questions cognizable in Court of Chancery to state Special Cases for the Opinion of the Court.

111. It shall be lawful for Persons interested or claiming to be interested in any Question cognizable in the Court as to the Construction of any Act of Parliament, Will, Deed, or other Instrument in Writing, or any Article, Clause, Matter, or Thing therein contained, or as to the Title or Evidence of Title to any Real or Personal Estate contracted to be sold or otherwise dealt with, or as to the Parties to or the Form of any Deed or Instrument for carrying any such Contract into effect, or as to any other Matter falling within the original Jurisdiction of the Court as a Court of Equity, or made subject to the Jurisdiction or Authority of the Court by any Statute, not being One of the Statutes relating to Bankrupts, and including among such Persons all Lunatics, married Women, and Infants, in the Manner and under the Restrictions herein-after contained, to concur in stating such Question in the Form of a Special Case for the Opinion of the said Court, and it shall also be lawful for all Executors, Administrators, and Trustees to concur in such Case.

How Lunatic may concur.

112. The Committee of the Estate of any Lunatic interested or claiming to be interested in any such Question as aforesaid may, after having been authorized in that Behalf by the Lord Chancellor,

concur

concur in such Case in his own Name and in the Name and on the Behalf of the Lunatic.

How married Women may concur.

113. A Husband interested or claiming to be interested in right of his Wife in any such Question as aforesaid may concur in such Case in his own Name and in the Name of his Wife where the Wife has no Claim to any Interest distinct from her Husband, and a married Woman having or claiming any Interest in any such Question as aforesaid distinct from her Husband may in her own Right concur in such Case, provided that her Husband also concurs therein.

How Infant may concur.

114. The Guardian of any Infant interested or claiming to be interested in any such Question as aforesaid may concur in such Case in the Name and on the Behalf of the Infant, unless such Guardian has an Interest in such Question adverse to the Interest of the Infant therein.

How Special Guardian to be appointed for a Lunatic not found such by Commission and for Infant may concur.

115. It shall be lawful for the Court, by Order to be made in the Matter of any Lunatic not found such by Inquisition, or in the Matter of any Infant, upon the Application of any Person on the Behalf of such Lunatic, or upon the Application of such Infant, by Motion or Petition, to appoint any Person shown by Affidavit to be a fit Person, and to have no Interest adverse to the Interest of the Lunatic or Infant, to be the Special Guardian of such Lunatic or Infant for the Purpose of concurring in such Case in the Name and on behalf of the Lunatic or Infant, and any such Person so appointed may lawfully so concur: Provided always, that it shall be lawful for the Court to require Notice of such Application to be given to such Person, if any, as the Court shall think fit.

Order to appoint Special Guardian of an Infant may be discharged by Court, if made without Notice.

116. In any Case in which any such Order as aforesaid shall have been made by the Court in the Matter of any Infant without Notice to the Guardian of the Infant, it shall be lawful for the said Court, if it shall think fit so to do, to discharge such Order, upon the Application of such Guardian, by Motion or Petition; and the Court, if it shall think fit, may thereupon appoint some other fit Person to be the Special Guardian of such Infant for the Purpose of such Special Case, and may also give such Directions as may be necessary for substituting in such Special Case either the Name of the Guardian so applying, or of the Special Guardian so appointed, in lieu of the Name of the Special Guardian so displaced: Provided always, that the Discharge of any Order appointing a Special Guardian shall not invalidate anything which shall in the meantime

meantime have been done by such Special Guardian, unless the Court shall, upon Notice to all Parties, specially so direct.

How such Special Cases to be intituled.

117. Every such Special Case shall be intituled as a Cause between some or One of the Parties interested or claiming to be interested as Plaintiffs or Plaintiff, and the others or other of them as Defendants or Defendant; and in the Title to such Cases Lunatics and Infants shall be described as such, and their Committees, Guardians, or Special Guardians named; and where in any such Case a married Woman is named as a Plaintiff and her Husband as a Defendant thereto, a next Friend of such married Woman shall be named in the Title to such Case.

Form of Special Case.

118. Every such Special Case shall concisely state such Facts and Documents as may be necessary to enable the Court to decide the Question raised thereby, and upon the Hearing of such Case the Court and the Parties shall be at liberty to refer to the whole Contents of such Documents, and the Court shall be at liberty to draw from the Facts and Documents stated in any such Special Case any Inference which the Court might have drawn therefrom if proved in a Cause.

Special Case to state how Guardian constituted, and the Concurrence of married Woman.

119. Every such Special Case to which an Infant or a Lunatic is a Party by his Guardian or Special Guardian shall also state how such Guardian or Special Guardian was constituted; and where any married Woman having or claiming any Interest distinct from her Husband is a Party to such Case, it shall be stated therein that she concurs in such Case in her own Right.

Special Cases to be signed by Counsel and filed, and Appearances to be entered.

120. Every such Special Case shall be signed by Counsel for all Parties, and shall be filed in the same Manner as Bills are filed, and the Defendants may appear thereto in the same Manner as Defendants appear to Bills; and no Defendant shall be required to take an attested Copy of a Special Case, but an attested Copy thereof shall be taken by the Plaintiff.

After a Special Case filed, Parties to be bound by Statements after Defendants have appeared, except married Women, Infants, and Lunatics,

121. After a Special Case shall have been filed, and the Defendants shall have appeared thereto, all the Parties to such Special Case shall be subject to the Jurisdiction of the Court, in the same Manner as if the Plaintiff in the Special Case had filed a Bill against the Parties named as Defendants thereto, and such Defendants had appeared to such Bill; and upon the Special Case being filed, and Appearances entered thereto as aforesaid, all Parties to such Special Case, other than married Women, Infants, and Lunatics, shall for the Purposes of such Special Case be bound by the Statements

ments therein; and all married Women, Infants, and Lunatics made Parties to a Special Case shall for the Purposes of such Special Case be bound by the Statements therein, when and not before Leave shall have been given by the Court to set down such Special Case in manner herein-after provided.

who are not to be bound till Leave given by Court to set it down.

122. So soon as all the Defendants shall have appeared to the Special Case the same may, subject to the Provisions herein-after contained, be set down for Hearing, and Subpœnas to hear Judgment issued and served according to the Practice of the said Court.

How Case to be set down for Hearing.

123. When any married Woman, Infant, or Lunatic is Party to a Special Case, Application may be made to the Court for Leave to set down the same, of which Application Notice shall be given to every Party to such Case in whom, as Executor, Administrator, or Trustee, any Property in question therein is or is alleged to be vested in trust for or for the Benefit of such married Woman, Infant, or Lunatic, and also, if such Application be not made by or on behalf of such married Woman, Infant, or Lunatic, to such married Woman and her Husband, or to such Infant, or to such Lunatic and his Committee, if any, as the Case may be; and upon the Hearing of such Application the Court may give Leave to set down such Case, if it shall be of opinion that it is proper that the Question raised therein shall be determined thereon, and shall be satisfied by Affidavit or other sufficient Evidence that the Statements contained therein, so far as the same affect the Interest of such married Woman, Infant, or Lunatic, are true, but otherwise may refuse such Application: Provided always, that in case the Court, upon the Hearing of such Application, shall be of opinion that it is proper that the Question raised in such Case shall be determined thereon, but shall not be satisfied that the Statements contained therein, so far as they affect the Interest of such married Woman, Infant, or Lunatic, are true, it shall be lawful for the Court to direct such Inquiries as to the Court shall seem proper, and upon further Application being made to give or refuse Leave to set down such Case, as to the Court shall seem fit.

When a married Woman, Infant, or Lunatic is a Party, Application to be made to the Court for Leave to set the Case down.

124. It shall be lawful for the Court, upon the Hearing of any such Special Case as aforesaid, to determine the Questions raised therein, or any of them, and by Decree to declare its Opinion thereon, and, so far as the Case shall admit of the same, upon the Right involved therein, without proceeding to administer any Relief consequent upon such Declaration; and every such Declaration of the Court contained in any such Decree shall have the same Force

Upon Hearing, Court to determine Question and make Declaration.

and Effect as such Declaration would have had, and shall be binding to the same Extent as such Declaration would have been if contained in a Decree made in a Suit between the same Parties instituted by Bill: Provided always, that if upon the Hearing of such Special Case as aforesaid the Court shall be of opinion that the Questions raised thereby, or any of them, cannot properly be decided upon such Case, the Court may refuse to decide the same.

Proviso that Court may refuse to decide.

Protection to be afforded to Trustees by Declaration.

125. Every Executor, Administrator, Trustee, or other Person making any Payment or doing any Act in conformity with the Declaration contained in any Decree made upon a Special Case, shall in all respects be as fully and effectually protected and indemnified by such Declaration as if such Payment had been made or Act done under or in pursuance of the express Order of the said Court made in a Suit between the same Parties instituted by Bill, save only as to any Rights or Claims of any Person in respect of Matters not determined by such Declaration.

The Court may suspend the acting upon Declaration.

126. Where any Person shall be desirous to appeal from the Decision on such Special Case, it shall be lawful for the Court, upon Application for that Purpose, either at the Time of the Decree upon such Special Case being made or at any Time afterwards, and upon such Conditions, if any, as the Court shall think fit, to order that the Declaration contained in such Decree shall not be acted upon for such Time as the Court shall think just.

Special Case to be a Lis pendens, and may be registered.

127. The filing of a Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, shall be taken to be a Lis pendens, and may be registered under the Provisions of an Act made and passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled *An Act for the Protection of Purchasers against Judgments, Crown Debts, Lis pendens, Commission of Bankruptcy, and for providing One Office for registering all Judgments in* Ireland, *and for amending the Laws in* Ireland *respecting Bankrupts and Limitations of Actions*, in like Manner as any other Lis pendens in a Court of Equity may now be so registered, and, unless and until so registered, shall not bind a Purchaser or Mortgagee without express Notice thereof.

Mode of identifying Documents, and Court may order Production.

128. Any Documents referred to in a Special Case, and any Copies thereof or Extracts therefrom, identified by the Signature of the Solicitors for all Parties, or of the Town Agents of such Solicitors, may be produced and read at the Hearing of such Case, without

without further Proof; and it shall be lawful for the said Court at any Time after the filing of the Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, to order any Document which may be admitted thereby to be in the Possession of any Party to such Case to be deposited and produced in such Manner and for such Purposes as the Court shall think fit.

Power to Master of the Rolls and Vice-Chancellors to sit at Chambers for the Despatch of Business, &c.

129. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven it shall be lawful for the Master of the Rolls and the Vice-Chancellor for the Time being and they are hereby required to sit at Chambers for the Despatch of such Part of the Business of the Court as can, without Detriment to the public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions hereinafter in that Behalf specified or referred to; and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

Lord Chancellor to cause Chambers to be provided for Master of the Rolls and Vice-Chancellor.

130. The Chamber Business of the Master of the Rolls and of the Vice-Chancellor respectively shall be carried on in conjunction with his Court Business; and it shall be lawful for the Lord Chancellor to cause Chambers to be provided for each of them for that Purpose until Courts, with proper Rooms attached, can be provided for them.

Judges to have same Power and Jurisdiction as in open Court.

131. The Master of the Rolls and the Vice-Chancellor respectively, when sitting in Chambers, shall have the same Power and Jurisdiction in respect of the Business to be brought before them as if they were respectively sitting in open Court.

Orders made at Chambers to be drawn up by Judges Clerks.

132. Orders made by the Master of the Rolls and the Vice-Chancellor respectively, when sitting in Chambers, shall ordinarily be drawn up and signed by their respective Chief Clerks.

Orders made at Chambers to have same Force as Orders of Court, &c.

133. All Orders of the Master of the Rolls or of the Vice-Chancellor, made at Chambers, shall have the Force and Effect of Orders of the Court of Chancery, and such Orders may be signed and enrolled in like Manner.

Business to be disposed of in Chambers by the Judges.

134. The Business to be disposed of by the Master of the Rolls and the Vice-Chancellor respectively while sitting at Chambers shall consist of such Matters as the Judge shall from Time to Time think may be more conveniently disposed of in Chambers than in open Court, or as may from Time to Time be directed by any General Order of the Court.

135. It

Judges may adjourn from open Court to Chambers, and vice versâ, the Consideration of any Matter.

135. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively when sitting in open Court to adjourn for Consideration in Chambers any Matter which, in the Opinion of such Judge, may be more conveniently disposed of in Chambers, or, when sitting in Chambers, to direct any Matter to be heard in open Court which he may think ought to be so heard.

Proceedings before Judges at Chambers to be by Summons.

136. The Mode of Proceeding before the Master of the Rolls and Vice-Chancellor respectively at Chambers shall be by Summons, and shall be regulated according to such Form and in such Manner as shall be prescribed by a General Order of the Court.

Power to the Judges to direct what Matters, &c. shall be heard and investigated by themselves, and what by their Chief Clerks.

Right to Suitor to bring any Point before the Judge.

137. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven the Master of the Rolls and the Vice-Chancellor respectively shall have the sole Power (subject to any General Orders to be made on the Subject) to order what Business not of a Judicial Character shall be investigated by and before their respective Chief Clerks, either with or without their Direction, during their Progress, and particularly, if the Judge shall so direct, his Chief Clerk shall take Accounts and make such Inquiries as have usually been prosecuted before the Examiners of the present Masters; and the Judge shall give such Aid and Directions in every or any such Account or Inquiry as he may think proper, but subject nevertheless to the Right herein-after provided for the Suitor to bring any particular Point before the Judge himself.

Power to Chief Clerks to issue Advertisements and Summonses, to administer Oaths, &c., as the Judge shall direct.

138. Each Chief Clerk shall, for the Purpose of any Proceedings directed by the Master of the Rolls or the Vice-Chancellor to be taken before him, have full Power to issue Advertisements, to summon Parties and Witnesses, to administer Oaths, to take Affidavits and Acknowledgments, other than Acknowledgments by married Women, to receive Affirmations, and, when so directed by the Judge to whose Court he is attached, to examine Parties and Witnesses either upon Interrogatories or *vivâ voce*, as such Judge shall direct, but only as to Matters of Account or formal Matters, and not as to any controverted Questions of Fact upon which the Decision of the Judge shall be required.

Parties, &c. not attending liable to Process of Contempt and to Penalties for false swearing, &c.

139. Parties and Witnesses so summoned shall be bound to attend in pursuance of any such Summons, and shall be liable to Process of Contempt, in like Manner as Parties or Witnesses are now liable thereto in case of Disobedience to any Order of the Court, or in case of Default in Attendance, in pursuance of any Order of the Court, or of any Writ of Subpœna ad testificandum; and

and all Persons swearing or affirming before any such Chief Clerk shall be liable to all such Penalties, Punishments, and Consequences for any wilful or corrupt false swearing or affirming contained therein as if the Matters sworn or affirmed had been sworn and affirmed before any Person now by Law authorized to administer Oaths, to take Affidavits, and to receive Affirmations.

Result of Proceedings before Chief Clerk to be embodied in Form of short Certificate, &c.

140. The Directions to be given by the Master of the Rolls or the Vice-Chancellor for or touching any Proceedings before his Chief Clerk shall require no particular Form, but the Result of such Proceeding shall be stated in the Shape of a short Certificate to the Judge, and shall not be embodied in a formal Report, unless in any Case the Judge shall see fit so to direct; and when the Judge shall approve of such Certificate or Report he shall sign the same in testimony of his adopting the same.

No Exceptions to lie to Certificate, &c.

Parties at liberty to take Opinion of Judge upon any particular Point.

141. No Exceptions shall lie to any Certificate or Report of the Chief Clerk, although signed and adopted by the Judge, but any Party shall, either during the Proceedings before such Chief Clerk, or within such Time after such Proceedings shall have been concluded, and before the Certificate or Report shall have been signed and adopted, as the Court shall by any General Order direct, be at liberty to take the Opinion of the Judge upon any particular Point or Matter arising in the course of the Proceedings, or upon the Result of the whole Proceeding when it is brought by the Chief Clerk to a Conclusion.

Certificate, &c. signed and adopted by Judge binding on all Parties, unless discharged or varied.

142. When any Certificate or Report of the Chief Clerk shall have been signed and adopted by the Judge, the same shall be filed in like Manner as Reports are now filed, and shall thenceforth be binding on all the Parties to the Proceedings, unless discharged or varied, either at Chamber or in open Court, according to the Nature of the Case, upon Application by Summons or Motion within such Time as shall be prescribed in that Behalf by any General Order of the Court; and nothing herein contained shall prejudice or affect the Power of the Court at any Time to open any such Certificate or Report, upon the same or the like Grounds as any Report of a Master of the said Court which has been absolutely confirmed may now be opened.

All Powers possessed by Masters to be exercised by Judges.

143. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven all or any of the Powers, Authorities, and Jurisdiction given to the Masters in Ordinary of the said Court by any Act or Acts then in force may be exercised by the Master of the Rolls and the Vice-Chancellor respectively.

144. From

Power to Judges to exercise the Powers given by Sections 31 to 38 inclusive of this Act, and to dispose of any Cause, &c. in open Court.

144. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven the Powers given to the Masters in Ordinary of the said Court and to the Court by Sections 31, 32, 33, 34, 35, 36, 37, and 38 of this Act may be exercised by the Master of the Rolls and Vice-Chancellor respectively with respect to Causes, Matters, and Things which may be depending before them respectively in Chambers; and if and when any such Judge shall be of opinion that any Cause, Matter, or Thing so depending ought to be finally disposed of, unless the Parties or some of them can show good Cause to the contrary, he shall direct the same to stand in his Paper in open Court, giving such Notice thereof, if any, as he shall deem right, and proceed to dispose thereof accordingly.

Court or Judge, on Application of Executors or Administrators, may by Order of Course direct an Account of Debts and Liabilities to be taken.

145. And whereas it is expedient to provide Means for enabling Executors or Administrators of deceased Parties to ascertain whether there are any outstanding Debts or Liabilities affecting the Personal Estates of such Persons, without the Delay and Expense of Suits to administer such Estates: Be it therefore enacted, That upon the Application of the Executors or Administrators of any deceased Person at any Time after Probate or Letters of Administration shall have been granted, it shall be lawful for the Court or Judge, upon a Summons in the Form used for originating Proceedings at Chambers, by an Order in the Form or to the Effect set forth in the Schedule (B.) to this Act, with such Variations as Circumstances may require, to direct that an Account shall be taken of the Debts and Liabilities affecting the Personal Estate of such deceased Person; and after any such Order shall have been made the Court or Judge may, on the Application of the Executors or Administrators, restrain or suspend, until the Account directed by such Order shall have been taken, any Proceedings at Law against such Executors or Administrators by any Person having or claiming to have any Demand upon the Estate of the Deceased, upon such Terms and Conditions, if any, as to the Court or Judge shall seem just; and the Judge in taking an Account of the Debts and Liabilities pursuant to such Order shall, on the Application of the Executors or Administrators, be at liberty to direct that the Particulars only of any Claim or Claims which may be brought in pursuance of any such Order shall be certified by his Chief Clerk, without any Adjudication thereon; and any Notices for Creditors to come in which may be published in pursuance of any such Order shall have the same Force and Effect as if such Notices had been given by the Executors or Administrators in pursuance of the Twenty-ninth Section of the Act of the Twenty-second and Twenty-third Years of *Victoria*, Chapter Thirty-five: Provided always,

always, that no such Order shall be made pending any Proceedings to administer the Estate of such Person; and that in case at any Time after the making of such Order any Decree or Order for administering the Estate of such deceased Person shall be made, it shall be lawful for the said Court by such Decree or Order to stay or suspend the Proceedings under such Order of Course on such Terms and Conditions, if any, as to the said Court shall seem just.

Certificate of Chief Clerk may be objected to by Application to the Court or Judge, of which Notice shall be given.

146. It shall be lawful for any Person who may have come in under any such Order, and claim to be a Creditor upon the Estate of the deceased Person, or to have any Demand upon such Estate by reason of any Liability, and whose Debt or Claim may not have been wholly allowed by the Chief Clerk, to apply to the Court or Judge, in such Manner and within such Time as shall be provided by a General Order of the Court, to have such Claim allowed, either wholly or partially; and it shall be lawful for the said Executors or Administrators, and for any Creditor of the deceased Person who may be authorized by special Leave of the Court or Judge so to do, to apply to the Court or Judge to have any Debt or Claim allowed which has been disallowed by the Chief Clerk, either wholly or partially; but, save as to any Debt or Claim as to which any such Notice as aforesaid may have been given, the Certificate or Report of the Chief Clerk shall, upon the filing of the Certificate or Report, be absolute: Provided always, that upon the Hearing of any such Application as aforesaid the Court or Judge may either dismiss such Application, or may order the Debt or Claim to which such Application relates to be allowed or disallowed, as the Case may be, and either wholly or partially, or may direct further Inquiry or further Proceedings, by way of Action or otherwise, touching such Debt or Claim, and after such Inquiry or Proceedings may deal with such Debt or Claim as to the Court or Judge shall seem just.

Proceeding of the Court on such Application.

If Debts or certain Liabilities allowed, and not paid or provided for Order may be made for, Payment of Accounts.

147. In case any Debt or any certain Liability shall have been allowed as aforesaid, and shall not, within such Time as shall be prescribed by a General Order of the Court, be paid or provided for by Appropriation to the Satisfaction of the Person who has established such Liability, it shall be lawful for the Court or Judge, by Order, to be made in case of any Debt remaining due upon the Application of the Person to whom the Debt remains due, and on Notice to the Executors or Administrators, and in case of any certain Liability remaining unprovided for by Appropriation upon the Application of the Person by whom such Liability has been established, or of the Executors or Administrators, and on Notice by the Party applying to the other of them, to order Payment of the Debts

Debts which may have been allowed and remain unpaid, and to provide for the certain Liabilities which may have been allowed and remain unprovided for, in like Manner as the same could or might have been paid or provided for in a Suit for that Purpose instituted by Bill, or to direct an Account to be taken of the Debts and certain Liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual Accounts of the Personal Estate of the deceased Person, with all usual and proper Directions; and every such Order shall have the same Force and Effect and shall be prosecuted and carried on in like Manner as a Decree in a Creditor's Suit instituted by Bill.

Court or Judge, on Application of Executors or Administrators, may direct Appropriation of Money to answer contingent Liability.

148. In case any contingent Liability shall be duly allowed as aforesaid, it shall be lawful for the Court or Judge, by Order, to be made upon the Application of the Executors or Administrators, on Notice to the Person who may have established such contingent Liability, to order such Sum of Money, Part of the Estate of the deceased Person, as to the Court or Judge shall seem just, to be set apart and appropriated for answering such contingent Liability, and to give such Directions as the Court or Judge shall think fit touching the Payment of such Sum of Money into Court, and the Investment thereof, and the Payment, Application, or Accumulation of the Interest or Dividends thereof in the meantime and until the same shall be required to answer such Liability, and when such Liability shall be ascertained or determined, to give such Directions as to the Payment of such Sum out of Court as the Court or Judge shall deem right: Provided always, that no Order to be made as aforesaid shall in any Manner bind the Assets so appropriated as against the Persons entitled to the Estate of the Deceased, subject to the contingent Liability; and any Person interested in such appropriated Assets may apply to the Court touching the same as he may be advised.

Court may restrain Proceedings against Executors or Administrators.

149. After the filing of such Certificate or Report as aforesaid it shall be lawful for the Court or Judge, upon the Application of the Executors or Administrators of the Deceased, by Order, to restrain by Injunction any Proceedings at Law against them by any Person having or claiming to have any Demand upon the Estate of the Deceased by reason of any Debt or Liability, other than the Persons who may have established contingent Liabilities under the said Order for which no Appropriation may have been made.

Protection to be afforded to

150. In case no Debt or Liability, or no Debt or Liability other than a contingent Liability, shall have been allowed as aforesaid,

or

or in case any Debt or Liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by Appropriation as aforesaid, all Payments made by the Executors or Administrators, or any of them, on account of the Estate of the deceased Person, and all Dispositions of such Assets made by them or any of them on account of such Estate, shall, as against all Persons having or claiming to have any Demand upon such Estate by reason of any Debt or Liability, other than Persons who may have established under the said Order any contingent Liability for which no such Appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a Decree of the Court: Provided always, that nothing herein contained shall in any Manner affect or prejudice the Rights of any Creditor or other Person having any Demand or Claim upon the Estate of the Deceased against any Assets so paid or disposed of, or against the Persons to whom such Payment or Disposition may have been made, or against any Assets appropriated under the Provisions of this Act, and the Appropriation of which, if made under a Decree of the said Court in a Suit to which he was not a Party, would not have been binding upon him.

Executors and Administrators.

151. It shall be lawful for any Person claiming to be a Creditor, or a specific, pecuniary, or residuary Legatee, or the Next of Kin, or some or One of the Next of Kin of a deceased Person, to apply for and obtain as of course, without Bill filed or any other preliminary Proceedings, a Summons from the Master of the Rolls or the Vice-Chancellor, requiring the Executor or Administrator, as the Case may be, of such deceased Person, to attend before him at Chambers, for the Purpose of showing Cause why an Order for the Administration of the Personal Estate of the Deceased should not be granted; and upon Proof by Affidavit of the due Service of such Summons, or on the Appearance in Person or by his Solicitor or Counsel of such Executor or Administrator, and upon Proof by Affidavit of such other Matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his Discretion he shall think fit so to do, to make the usual Order for the Administration of the Estate of the Deceased, with such Variations, if any, as the Circumstances of the Case may require; and the Order so made shall have the Force and Effect of a Decree to the like Effect made on the Hearing of a Cause between the same Parties; provided that such Judge shall have full discretionary Power to grant or refuse such Order, or to give any special Directions touching the Carriage or Execution of such Order, and in the Case of Applications for any such Order by Two or more different Persons or Classes of Persons, to grant the same to such One or more of the Claimants, or of the Classes

Creditor, &c. may summon Executor, &c. to show Cause why an Order for Administration of Personal Estate should not be granted.

Power to Judge to order Administration of such Estate.

Classes of Claimants, as he may think fit; and, if the Judge shall think proper, the Carriage of the Order may subsequently be given to such Party interested, and upon such Terms as the Judge may direct.

Copy of Summons to be filed in the Office of the Deputy Keeper of the Rolls.

152. A Duplicate or Copy of such Summons shall, previously to the Service thereof, be filed in the Office of the Deputy Keeper of the Rolls; and no Service thereof upon any Executor or Administrator shall be of any Validity unless the Copy so served shall be stamped with a Stamp of such Office indicating the filing thereof; and such Summons may be registered under the Provisions of the Act mentioned in the 128th Section of this present Act; and the filing and Registration of such Summons shall have the same Effect with respect to Lis pendens as the filing and Registration of a Bill.

Creditor, &c. may obtain an Order for Administration of Real Estate.

153. It shall be lawful for any Person claiming to be a Creditor of any deceased Person, or interested under his Will, to apply for and obtain in a summary Way, in the Manner herein-before provided with respect to the Personal Estate of a deceased Person, an Order for the Administration of the Real Estate of a deceased Person where the whole of the Real Estate so sought to be administered is by Devise vested in Trustees who are by the Will empowered to sell such Real Estate, and authorized to give Receipts for the Rents and Profits thereof, and for the Produce of the Sale of such Real Estate, or where the Real Estate of such Person is otherwise liable to be sold for Payment of the Demand of the Person so applying; and all the Provisions herein-before contained with respect to the Application for such Order at the Suit of a Creditor in relation to the Personal Estate of a deceased Person, and consequent thereon, shall extend and be applicable to an Application for such Order as last herein-before mentioned with respect to Real Estate; and such Application and Proceeding may be combined with an Application and Proceeding for the Administration of the Personal Estate of the same Person where it is necessary or proper that such Real and Personal Estate shall be administered together.

Suit not to be dismissed for Misjoinder of Plaintiffs, but Court may modify its Decree according to special Circumstances.

154. No Suit in the Court commenced by Bill shall be dismissed by reason only of the Misjoinder of Persons as Plaintiffs therein; but whenever it shall appear to the Court that, notwithstanding the Conflict of Interest in the Co-plaintiffs, or the Want of Interest in some of the Plaintiffs, or the Existence of some Ground of Defence affecting some or One of the Plaintiffs, the Plaintiffs, or some or One of them, are or is entitled to Relief, the Court shall have

have Power to grant such Relief, and to modify its Decree, according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at the Hearing, before such Amendments are made, to treat any One or more of the Plaintiffs as if he or they was or were a Defendant or Defendants in the Suit, and the remaining or other Plaintiff or Plaintiffs was or were only Plaintiff or Plaintiffs on the Record; and where there is a Misjoinder of Plaintiffs, and the Plaintiff having an Interest shall have died, leaving a Plaintiff on the Record without an Interest, the Court may, at the Hearing of the Cause, order the Cause to stand revived as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and to give such Directions as to Costs or otherwise as may appear just and expedient.

No Suit to be objected to because only declaratory Order sought.

155. No Suit in the Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby, and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief.

Court may decide between some of the Parties without making others interested Parties to the Suit.

156. It shall be lawful for the Court to adjudicate on Questions arising between Parties, notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other Instrument, without making the other Parties interested in the Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be executed under the Direction of the Court, and without taking the Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question or Questions may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent or collusive, or for some other Reason ought not to be entertained, it shall have Power to refuse to make the Order prayed. Proviso.

In case of Abatement, &c. of Suit, an Order may be made, which shall have the same Effect as a Bill of Revivor.

157. Upon any Suit in the said Court commenced by Bill becoming abated by Death, Marriage, or otherwise, or defective by reason of some Change or Transmission of Interest or Liability, it shall not be necessary to exhibit any Bill of Revivor or Supplemental Bill in order to obtain the usual Order to revive such Suit, or the usual or necessary Decree or Order to carry on the Proceedings; but an Order to the Effect of the usual Order to revive or of the

the usual Supplemental Decree may be obtained as of course upon an Allegation of the Abatement of such Suit, or of the same having become defective, and of the Change or Transmission of Interest or Liability; and an Order so obtained, when served upon the Party or Parties who according to the present Practice of the Court would be Defendant or Defendants to the Bill of Revivor or Supplemental Bill, shall from the Time of such Service be binding on such Party or Parties in the same Manner in every respect as if such Order had been regularly obtained according to the existing Practice of the said Court; and such Party or Parties shall thenceforth become a Party or Parties to the Suit, and shall be bound to enter an Appearance thereto in the Office of the Clerk of Appearances and Writs within such Time and in like Manner as if he or they had been duly served with Process to appear to a Bill of Revivor or Supplemental Bill filed against him: Provided that it shall be open to the Party or Parties so served, within such Time after Service as shall be in that Behalf prescribed by any General Order of the Court, to apply to the Court by Motion or Petition to discharge such Order on any Ground which would have been open to him on a Bill of Revivor or Supplemental Bill, stating the previous Proceedings in the Suit, and the alleged Change or Transmission of Interest or Liability, and praying the usual Relief consequent thereon: Provided also, that if any Party so served shall be under any Disability other than Coverture, such Order shall be of no Force or Effect as against such Party until a Guardian or Guardians ad litem shall have been duly appointed for such Party, and such Time shall have elapsed thereafter as shall be prescribed by any General Order of the Court in that Behalf.

New Facts, &c. after Commencement of Suit to be introduced as Amendments to Bill, &c.

158. It shall not be necessary to exhibit any Supplemental Bill in the Court for the Purpose only of stating or putting in issue Facts or Circumstances which may have occurred after the Institution of any Suit, but such Facts or Circumstances may be introduced by way of Amendment into the original Bill of Complaint in the Suit if the Cause is otherwise in such a State as to allow of an Amendment being made in the Bill, and if not the Plaintiff shall be at liberty to state such Facts or Circumstances on the Record in such Manner and subject to such Rules and Regulations with respect to the Proof thereof, and the affording the Defendant Leave and Opportunity of answering and meeting the same, as shall in that Behalf be prescribed by any General Order of the Court.

Where Account required to be taken, Court may

159. It shall be lawful for the Court in any Case where any Account is required to be taken to give such special Directions, if any, as it may think fit, with respect to the Mode in which the Account

Account should be taken or vouched, and such special Directions may be given either by the Decree or Order directing such Account, or by any subsequent Order or Orders, upon its appearing to the Court that the Circumstances of the Case are such as to require such special Directions; and particularly it shall be lawful for the Court, in Cases where it shall think fit so to do, to direct that in taking the Account the Books of Account in which the Accounts required to be taken have been kept, or any of them, shall be taken as *primâ facie* Evidence of the Truth of the Matters therein contained, with Liberty to the Parties interested to take such Objections thereto as they may be advised.

give special Directions as to the Mode of taking same.

160. Where any Real or Personal Property shall form the Subject of any Proceedings in the Court of Chancery, and the Court shall be satisfied that the same will be more than sufficient to answer all the Claims thereon which ought to be provided for in such Suit, it shall be lawful for the said Court, at any Time after the Commencement of such Proceedings, to allow to the Parties interested therein, or any One or more of them, the whole or Part of the annual Income of such Real Property, or a Part of such Personal Property, or a Part or the whole of the Income thereof, up to such Time as the said Court shall direct, and for that Purpose to make such Orders as may appear to the said Court necessary or expedient.

Where Real or Personal Property is the Subject of Proceedings, Court may allow to Parties Part or the whole of the annual Income.

161. Upon Application by Motion or Petition to the Court in any Suit depending therein for an Injunction or a Receiver, or to dissolve an Injunction, or discharge an Order appointing a Receiver, the Answer of the Defendant shall, for the Purpose of Evidence on such Motion or Petition, be regarded merely as an Affidavit of the Defendant, and Affidavits may be received and read in opposition thereto.

Answer of Defendant on Motion for Injunction, or Receiver, &c. to be regarded as an Affidavit.

162. It shall be lawful for the Court, in such Way as they may think fit, to obtain the Assistance of Accountants, Merchants, Engineers, Actuaries, or other scientific Persons, the better to enable such Court to determine any Matter at issue in any Cause or Proceeding, and to act upon the Certificate of such Persons.

Power to obtain the Assistance of Accountants, Merchants, &c.

163. The Allowances in respect of Fees to such Accountants, Merchants, Engineers, Actuaries, and other scientific Persons shall be regulated by the Taxing Master of the Court, subject to an Appeal to the Court to which the Cause or Matter shall be attached, whose Decision shall be final.

Taxing Master to regulate Fees to Accountants, &c., subject to Appeal.

164. In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the Court shall by Mistake

In case Directions as to Practice,

&c. not followed, Court may make Order and award Costs.

Mistake of Parties fail to be followed in any Suit, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs as such Court shall direct, to make such Order giving effect to and rectifying such Proceedings as may be justified by the Merits of the Case.

Costs may be taxed, notwithstanding the Death of Person to whom they are awarded.

165. When by any Decree or Order Costs shall be ordered to be paid to any Person, and the Person to whom such Costs shall be ordered to be paid shall die before such Costs shall have been taxed or the Amount thereof ascertained, such Costs may be taxed and ascertained by the Taxing Master, notwithstanding the Death of such Person, on the Application of his personal Representative.

Costs may be taxed notwithstanding Death of Person by whom they are payable.

166. When by any Decree or Order Costs shall be ordered to be paid by any Person, and in consequence of the Death of such Person such Costs cannot, according to the existing Law or Practice, be taxed or ascertained, it shall be lawful for the Court, on the Application of the Person entitled to such Costs, to direct the Taxing Master to tax and ascertain the same, upon Service of a Summons upon the personal Representative of the Person by whom such Costs have been ordered to be paid, or such Person as the Court shall appoint to represent the Estate of such deceased Person.

Summons to tax to be served in ordinary Way.

167. Summonses to tax Costs, pursuant to the Two last preceding Sections of this Act, shall be served in like Manner as ordinary Summonses issued by the Taxing Master, or in such Manner as the Taxing Master shall by any Writing to be signed by him direct.

Taxing Master may proceed ex parte.

168. The Taxing Master may proceed *ex parte* with such Taxation, in case the Person served with such Summons shall not, by himself or his Solicitor, attend pursuant thereto.

Taxed Costs may be recovered.

169. All Costs taxed and ascertained under the Provisions of this Act may be recovered in like Manner as if the same had been taxed and ascertained in the Lifetime of the Person to whom or by whom the same shall have been awarded to be paid, or of the Person in consequence of whose Death the same could not, according to the existing Law or Practice, have been taxed or ascertained, any Law or Practice to the contrary notwithstanding.

Court of Chancery may summarily restrain the Bank of Ireland, &c. from per-

170. On and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven it shall be lawful for the said Court of Chancery, upon the Application of any Party interested, by Motion or Petition in a summary Way, without Bill filed, to restrain the Governor and Company of the Bank of *Ireland*, or any other public Company in *Ireland*, whether incorporated

incorporated or not, from permitting the Transfer of any Stock in the Public Funds or any Stock or Shares in any public Company which may be standing in the Name or Names of any Person or Persons or Body Politic or Corporate in the Books of the Governor and Company of the Bank of *Ireland* or in the Books of any such public Company, or from paying any Dividend or Dividends due or to become due thereon: Every Order of the said Court of Chancery upon such Motion or Petition as aforesaid shall specify the Amount of the Stock or the particular Shares to be affected thereby, and the Name or Names of the Person or Persons, Body Politic or Corporate, in which the same shall be standing: Provided always, that the said Court of Chancery shall have full Power, upon the Application of any Party interested, to discharge or vary such Order and to award such Costs upon such Application as to the said Court shall seem fit.

mitting Transfer of Stock, &c.

171. On and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven it shall be lawful for any Person claiming any Interest in any Government Stock transferable at the Bank of *Ireland*, standing in the Name or Names of any Person or Persons, or Body Politic or Corporate, in the Books of the Governor and Company of the Bank of *Ireland*, to sue out of the Office of the Clerk of Appearances and Writs a statutory Writ of Injunction, in the Form set forth in the Schedule (B.) to this Act, to restrain the Bank from permitting the Transfer of the said Stock or the Payment of the Dividends thereof, and the same shall be served upon the Secretary of the Bank within Four Days after the issuing of the same, or else the same shall be void, and Notice of the sueing out and Service of such Writ shall be given by the Person sueing out the same immediately after the Service thereof to the Person or Persons or the proper Officer of the Corporation in whose Name or Names the said Stock shall be standing.

Persons claiming Government Stock standing in the Name of another may sue out Writ of Injunction to restrain the Transfer.

172. From and after the Service of the said Writ as herein-before provided it shall not be lawful for the said Governor and Company to permit the said Stock to be transferred or to pay the Dividends thereof until the said Writ shall have been discharged or shall have lapsed as herein-after provided.

After Service of Writ Bank not to permit Transfers or Payment of Dividends.

173. It shall be lawful for the Person, Persons, or Corporation in whose Name or Names the said Stock shall be standing, or any other Person interested therein or in the Dividends thereof, to apply to the Court in a summary Way to discharge the said Writ, which the Court shall have Power to do, and to award such Costs upon such Application as to the Court shall seem fit, and the said

Application to Court to discharge such Writ.

said Writ may be discharged by an Order for that Purpose made in any Suit or other Proceeding, if the Court shall think fit.

Persons interested in Stock may, notwithstanding such Writ, request Transfer to be made; whereupon Bank to notify such Request to Parties by whom Writ sued out.

174. The Person or Persons or Corporation in whose Name or Names the said Stock shall be standing, or the Executors or Administrators of such Person or Persons, may by himself or themselves, or some Person on their or his Behalf, in Writing, request the said Governor and Company to permit the said Stock to be transferred or pay the said Dividends, notwithstanding such Writ, and the said Governor and Company shall thereupon notify in Writing to the Person who has sued out such Writ that such Request has been made, and unless such Person shall within Eight Days after such Notification obtain and serve upon the said Governor and Company a Writ of Injunction, issued by Order of the Court upon Motion or Petition in some Suit or Matter then pending, the said statutory Writ shall at the Expiration of the said Eight Days be deemed to have lapsed, and the said Governor and Company may thereupon permit the said Stock to be transferred and the said Dividends to be paid as if the same had not been issued.

Pending Suits to be prosecuted according to present Practice.

175. Notwithstanding anything herein-before contained, all Suits which on the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven shall be pending in the said Court, and all Suits commenced before the last-mentioned Day which shall after that Day be continued or prosecuted in the Court, shall be so conducted, continued, or prosecuted in the same Manner and according to the same Practice as if this Act had not passed: Provided always, that it shall be lawful for the Lord Chancellor, by an Order to be made upon Motion or Petition in any particular Suit, to direct that the whole or any Part of the further Proceedings in such Suit shall thenceforth be continued, carried on, and prosecuted according to the Practice in force for the Conduct of Suits commenced after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven.

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect.

176. The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls, the Lord Justice of the Court of Appeal in Chancery, and the Vice-Chancellor, or any Two 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 Forms and Course of Procedure, and the Mode of taking Evidence in Suits, 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 the Solicitors of the said Court in respect to such Matters, and the Costs of any Proceedings under or in pursuance of this Act, including

including the fixing of a higher and lower Scale of Costs, Fees, and Allowances according to the Nature of such Proceedings, and the Amount involved, and for altering, if necessary, 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 be and take effect as General Orders of the said Court: Provided always, that in making such General Orders regard shall be had to establishing and preserving, so far as may be, Uniformity of Practice and Procedure in the Courts of Chancery in *England* and *Ireland*.

Such General Rules and Orders to be laid before Parliament.

177. All such General Orders as aforesaid 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 General Orders have been laid before such Houses of Parliament, resolve that the whole or any Part of such General 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.

PART IV.

PART IV.

Fees and Stamps.

Fees and Stamps.

Power to the Court, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to vary, &c. the Chancery Fund Duties payable under 4 G. 4. c. 78.

178. Whereas the Alterations in the Practice and Course of Procedure in the said Court will affect the Duties at present levied in respect of Proceedings in the said Court under the Name of Chancery Fund Duties, and in pursuance of the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to grant additional Stamp Duties on certain Proceedings in the Court of Chancery and in the Equity Side of the Court of Exchequer in* Ireland, and it is essential that Power should be given to the Court, with the Consent of the Lords Commissioners of Her Majesty's Treasury, to modify such Duties, so as to adapt the same to the Practice and Course of Procedure to be introduced pursuant to this Act: Be it enacted, That it shall be lawful for the Court, by any General Orders to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties now payable in relation to Proceedings in the said Court, and to substitute One or more Duty or Duties in lieu thereof, and to regulate the Fees to be paid in all the Offices of the said Court, and the Court shall have

full Power by any such General Orders, with like Consent, from Time to Time to vary, reduce, or abolish any such Duties or Fees as aforesaid, anything in any Act or Acts relating to such Duties or Fees to the contrary notwithstanding.

Fees now payable in respect of Proceedings in Court, and accounted for to the Treasury, to be added to the Chancery Fund Duties.

179. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven the Fees now payable in relation to Proceedings in the Court of Chancery in *Ireland*, and which are received in Money, and accounted for to Her Majesty's Treasury, shall be no longer received in Money, but shall be added to "The Chancery Fund" Duties at present payable in respect of such Proceedings, and such Fees shall be subject to be varied, reduced, or abolished in the Manner heretofore provided in respect of such Chancery Fund Duties; and all the Provisions at present in force in relation to the Collection and accounting for the said Chancery Fund Duties shall apply to he Collection and accounting for the said Fees.

Fees which are now accounted for to Suitors Fee Fund to be henceforth received by Stamps.

180. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven the Fees in relation to Proceedings in the said Court now received in Money, and which are accounted for with the Accountant General of the Court of Chancery in *Ireland*, for the Credit of the Account called the Suitors Fee Fund Account, shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable, and to be called "Chancery Fee Fund Stamp;" and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any General Order or Orders be directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings; and all Sums received in respect of such Chancery Fee Fund Stamps shall be collected and paid over in manner herein-after provided.

No Officer hereafter to receive Fees for his own Use, but all Officers to be paid by Salary.

181. From and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven no Officer of the Court of Chancery shall be entitled to receive and retain for his own Use any Fee or Reward whatsoever; and all Officers of the Court of Chancery and of the Judges thereof now entitled to receive and retain any Fees or other Payments for their own Use which by virtue of this Act they will cease so to receive after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven shall while they continue to hold their respective Offices receive, in lieu of all Fees or other Payments whatsoever now received

by

by or paid or payable to them for their own Use, such Salary as, having regard to the Emoluments heretofore received by them and to the Nature and Tenure of such Offices, the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury shall think just; and every such Officer shall in respect of the Salaries so fixed be in the same Position as regards his Superannuation Allowance as if such Fees continued to be payable; and upon the present Holders of such Offices respectively ceasing to hold the same the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, shall fix the Salaries to be thereafter received in respect thereof with reference to the Nature and Duties of such Offices respectively.

Officers to continue to receive Fees until Lord Chancellor shall otherwise direct, and pay them into the Suitors Fee Fund.

182. It shall be lawful for all Officers of the Court of Chancery and of the Judges thereof, heretofore entitled to receive any Fees or Emoluments for their own Use, and for their Successors in their respective Offices, and their several and respective Clerks or Agents, to continue to receive and take all and every the Fees and Emoluments which have been accustomed to be paid to them until the Lord Chancellor shall by any Order or Orders otherwise direct; and all such Fees shall no longer be received in Money, but by such Stamps as are herein provided, and all Sums received in respect of such Stamps shall be accounted for as herein provided; and the Salaries of such Officers shall thenceforth be payable out of such Monies as shall be provided by Parliament for that Purpose.

Power to vary Fees.

183. It shall be lawful for the Court by any General Orders to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties, Chancery Fee Fund Stamps, into which such Fees as aforesaid may be commuted under this Act, and to substitute One or more Fee or Fees, Stamp or Stamps, in lieu thereof, and to direct that all or any of such Fees or Stamps shall from a Day to be named in such Orders and thenceforth be collected.

The Commissioners of Inland Revenue to carry General Orders relating to Fees and Stamps into effect.

184. The Commissioners of Inland Revenue shall from Time to Time give the necessary Directions for carrying the Provisions of the Act and of every General Order of the Court made in pursuance thereof into effect, and shall provide everything that shall be necessary for that Purpose, and shall do or cause to be done everything that shall be necessary for the Receipt and Collection of the Money to be paid for such Stamps; and the said Commissioners shall cause separate and distinct Accounts to be kept of all Sums of Money received or collected by them for such Chancery Fee Fund Stamps, and the Money so received shall, under the Direction of the Commissioners

sioners of Her Majesty's Treasury, be carried into and shall form Part of the Consolidated Fund.

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps.

185. It shall be lawful for the Commissioners of Inland Revenue from Time to Time to make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which, through Mistake or Inadvertence, may have been improperly or unnecessarily used; and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on the Sale of Stamps of the like Kind.

Commissioners to have Powers in 5 & 6 Vict. c. 82.

186. For the Purpose of raising, levying, and collecting the Stamps and other Duties made payable by this Act, the Commissioners of Inland Revenue shall have and be vested with all the Powers and Authorities of the said Act of the Fifth and Sixth *Victoria*, Chapter Eighty-two, and the Acts therein recited or referred to; and the several Provisions of the said Acts (so far as the same are not inconsistent with this Act) shall be applicable to the Stamps and other Duties to be collected and raised under this Act, and shall be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relative thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.

No Document to be received or used unless stamped.

187. No Document which by any such General Orders as aforesaid shall be required to have a Stamp impressed thereon or affixed thereto shall be received or filed, or be used in relation to any Proceeding in the Court of Chancery, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto; and thereupon when a Stamp shall have been impressed on such Document or affixed thereto in compliance with any such Order, such Document, and every Proceeding in reference thereto,

thereto, shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed.

188. If any Officer of the Court of Chancery or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, every such Officer or Person so offending shall be dismissed from his Office or Employment, if the Lord Chancellor shall think fit so to order.

Acts and General Orders shall apply to reduced Fees.

189. When any of the Fees now payable shall be reduced as aforesaid, the Provisions of all Acts and General Orders relating to the original Fees, save where inconsistent with this Act or the General Orders, shall apply to such reduced Fees.

Act not to extend to Fees in Bankruptcy.

190. Nothing in this Act contained shall apply to the Stamp Duties or Fees payable in the Bankrupt Court, or to abolish the Stamp Duties or Fees relating to Commissions of Bankruptcy.

PART V.

Miscellaneous.

PART V.

Miscellaneous.

Salaries to be payable out of Monies to be provided by Parliament.

191. Except as herein otherwise provided, all Salaries and Compensation under this Act shall grow due from Day to Day; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, or if any Person entitled to such Allowance shall die, the Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive a proportionable Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment; and all Salaries, Pensions, Compensations, and Superannuations, whether already granted or to be granted, and all other Expenses in the Court of Chancery (other than the Salaries and Pensions of the Lord Chancellor, the Lord Justice of Appeal, the Master of the Rolls, the Vice-Chancellor, and the Masters), shall be paid out of Monies to be voted by Parliament for that Purpose; and the Amount of all Fees (other than Fees received by Officers for their own Benefit until the Lord Chancellor shall otherwise direct), as well as the Income of all Suitors Fee or other Funds, shall be accounted for

for and paid into the Exchequer in such Manner as the Lords Commissioners of Her Majesty's Treasury may direct.

Dividends of Funds which have not been dealt with for Ten Years may be transferred to the Suitors Fee Fund Account.

192. On the First Day of *October* next after the passing of this Act, and on the same Day in each succeeding Year, an Investigation shall be made into the several Accounts standing in the Name of the said Accountant General to the Credit of any Cause or Matter the Dividends of which shall not have been dealt with for Ten Years or upwards prior to such Time, otherwise than by the Investment of Dividends, and the Lord Chancellor, if and when he shall be of opinion that it is not probable that any Claim will be made for the same, may make Orders for the Investment of the Cash on any such Accounts and for the Appropriation of the future Dividends to accrue due on the Stock for the Time being on any such Accounts, or such Part of such Dividends as he shall be of opinion may safely and properly be so appropriated by carrying the same over to the Credit of the Account in the Books of the Accountant General called the "Suitors Fee Fund Account;" and such Dividends, when so carried over, shall thereupon become Part of the Fund standing to such Account.

Rights of Suitors to Stock or Dividends transferred not to be affected, but to be satisfied out of the Suitors Fee Fund.

193. The Right of any Suitor of the said Court to the Stock the Dividends of which shall be appropriated by any such Order or Orders as aforesaid, or to the Dividends so directed to be appropriated, shall not be in anywise prejudiced or affected by such Order or Orders, or by such Appropriation in pursuance thereof as aforesaid, but the Claims of such Suitor or Suitors shall be made good and satisfied out of the Fund standing to the Credit of the Accounts called the Suitors Fee Fund Account and the Suitors Unclaimed Dividend Account, or either of them, by virtue of any Order or Orders to be from Time to Time made by the said Court for that Purpose.

Power to Parties ordered to invest in Transfer Stock, to employ any licensed Stock Broker.

194. It shall be lawful for the Party or Parties in any Suit who shall be ordered to invest any Money in the Purchase of the Stocks, Funds, or Annuities transferable at the Bank of *Ireland*, or to transfer for Sale or otherwise any of the said Stocks, Funds, or Annuities, to employ any One of the licensed Stock Brokers, being a Member of the Stock Exchange in *Dublin*, to make such Investment and Transfer.

Commencement of the Act.

195. This Act shall commence and take effect from and after the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven, save as to Part I. and Clause 176, which shall commence and take effect from the First of *August* One thousand eight hundred and sixty-seven, provided that such General Orders as aforesaid shall not be made to take effect before the First Day of *Michaelmas* Term One thousand eight hundred and sixty-seven.

SCHE-

SCHEDULES.

SCHEDULE (A.) REFERRED TO BY THE FOREGOING ACT.

13 & 14 Victoria, c. 89. ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32.

23 & 24 Victoria, c. 38. s. 14.

SCHEDULE (B.) REFERRED TO BY THE FOREGOING ACT.

Form of Endorsement on Bill of Complaint.

Victoria R.

To the within-named Defendant, *C.D.*, greeting:

We command you ["and every of you," *where there is more than One Defendant*], that within Eight Days after Service hereof on you, exclusive of the Day of such Service, you cause an Appearance to be entered for you in Our High Court of Chancery to the within Bill of Complaint of the within-named *A.B.*, and that you observe what Our said Court shall direct. Witness Ourselves at Dublin, the Day of in the Year of Our Reign.

NOTE.—If you fail to comply with the above Directions you will be liable to be arrested and imprisoned.

Appearances are to be entered at the Office of the Clerk of Appearances and Writs, Four Courts, Dublin.

Form of Replication.

Between *A.B.*, Plaintiff,

and

C.D., *E.F.*, *G.H.*, &c., Defendants.

The Plaintiff in this Cause hereby joins Issue with the Defendant [*all the Defendants who have answered, or who have not been required to answer and have not answered the Bill*], and will hear the Cause upon Bill and Answer against the Defendant *E.F.* [*all the Defendants against whom the Cause is to be heard on Bill and Answer*], and on Order to take the Bill as confessed against the Defendant *G.H.* [*as the Case may be*].

Form

Form of Order for Administration of Personal Estate.

[Date.]

In the Matter of *A.B.*, late of in the County of Banker [*or as the Case may be*], deceased.

Upon the Application of *C.D.*, the Executor of the Will, *or* Administrator of the Effects of the above-named *C.D.*, and reading the Probate of the said Will or Letters of Administration of the Effects of the said *A.B.* granted on the Day of to the said *C.D.*, and an Affidavit of the said *C.D.* that no Proceedings are pending to administer the Estate of the said *A.B.*, this Court doth order that an Account be taken of the Debts and Liabilities affecting the Personal Estate of the said *A.B.*: And in taking such Account Debts are to be distinguished from Liabilities, and Liabilities certain from Liabilities contingent; and the Personal Estate of the said *A.B.* is to be applied in Payment and Satisfaction of such Debts and Liabilities of the said *A.B.* in a due Course of Administration; and any of the Parties are to be at liberty to apply to the Court as there shall be Occasion.

Form of Statutory Writ of Injunction to restrain the Transfer of Stock or Payment of Dividends.

Victoria, &c.

To the Governor and Company of the Bank of Ireland.

We command you, that after the Service of this Writ on you you do not permit the Sum of [*insert Amount and Description of Stock*], now standing in your Books in the Name of [*here state Person or Persons in whose Name or Names the Stock is standing*], to be transferred, or the Dividend that is now due or to accrue due thereon to be paid, until you shall be served with an Order of Our Court of Chancery in Ireland to the contrary, or until this Writ shall be discharged by an Order of Our said Court to be made in any Cause or Matter, or until the Lapse of Eight clear Days after a written Request by the said [*the Person or Persons in whose Name or Names the Stock is standing*], his Executors, Administrators, or Assigns, or some Person on their or his Behalf, to permit such Transfer to be made or Payment received.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1867.