

ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

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CAP. XLVI.

An Act for the better Regulation in certain Cases of the Procedure in the High Court of Chancery in *Ireland*. [17th *July* 1862.]

WHEREAS the High Court of Chancery in *Ireland* has Power in certain Cases to refuse or postpone the Application of Remedies within its Jurisdiction until Questions of Law and Fact on which the Title to such Remedies depends have been determined or ascertained in One of Her Majesty's Courts of Common Law: And whereas it is expedient that the said Power should no longer exist, and that in all such Cases every Question of Law and of Fact, cognizable in a Court of Common Law, arising in the said Court of Chancery, on which the Right of any Party to any equitable Relief or Remedy depends, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, should be determined by or before the said Court itself: And whereas by "The Chancery Regulation Act, 1862," passed in this present Session, Provision has been made for the better Regulation in such Cases of the Procedure in the Court of Chancery in *England* by taking away such Power, and providing for the Determination of such Questions in the Court itself, and it is expedient that similar

Provisions should be made for the Court of Chancery in *Ireland:* Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited and referred to as "The Chancery Regulation (*Ireland*) Act, 1862."

Interpretation of Terms.

2. The Words "High Court of Chancery," "Court of Chancery," and "Court," when used in this Act, shall mean and include the Lord Chancellor, the Master of the Rolls, and any Master in Chancery, or any Judge or Judges by whom any Cause, Cause Petition, or Matter depending in the Court of Chancery in *Ireland* may, by the Law and Practice of that Court, be now or at any Time hereafter heard.

Court shall determine every Question of Law and Fact incident to the Relief sought.

3. In all Cases in which any Relief or Remedy within the Jurisdiction of the Court of Chancery in *Ireland* is or shall be sought in any Cause, Cause Petition, or Matter instituted or pending in that Court, and whether the Title to such Relief or Remedy be or be not incident to or dependent upon a legal Right, every Question of Law or Fact cognizable in a Court of Common Law, on the Determination of which the Title to such Relief or Remedy depends, shall be determined by or before the same Court.

Where Questions of Fact may be more conveniently tried at Assizes, Issues may be directed.

4. Provided always, That whenever it shall appear to the Court that any Question of Fact may be more conveniently tried by a Jury at the Assizes, or at any Sitting in the County of *Dublin* or in the County of the City of *Dublin* for the Trial of Issues in the Superior Courts of Common Law, it shall be lawful for such Court, notwithstanding anything in this Act contained, to direct an Issue to try any Question of Fact at the Assizes to be held in and for any County where the same may be conveniently tried, or at any such Sitting for the Trial of Issues in the County or City of *Dublin* as aforesaid; and (subject to such General Orders, if any, as may hereafter be made in relation thereto,) the Practice hitherto existing in such Court in reference to the Trial of Issues shall prevail in reference to the Trial of any Issues directed under this Proviso.

Provisions of 21 & 22 Vict. c. 27. to apply to this Act.

5. All the Provisions with reference to the Trial of Questions of Fact by or before the High Court of Chancery in *Ireland*, which are contained in "The Chancery Amendment Act, 1858," shall apply to the Determination of Questions of Fact by or before the said Court under this Act.

6. Pro-

Proviso in Cases where Object of Suit to recover or defend Possession of Land under a legal Title.

6. Provided also, That in all Cases in which the Object of any Suit in Equity shall be to recover or to defend the Possession of Land under a legal Title, or under a Title which would have been legal but for the Existence of some outstanding Term, Lease, or Mortgage (and whether Mesne Profits or Damages shall or shall not also be sought in such Suit), such Relief only shall be given in Equity as would have been proper according to the Rules and Practice of the Court if this Act had not passed; and nothing in this Act shall make it necessary for a Court of Equity to grant Relief in any Suit concerning any Matter as to which a Court of Common Law has concurrent Jurisdiction, if it shall appear to the Court that such Matter has been improperly brought into Equity, and that the same ought to have been left to the sole Determination of a Court of Common Law.

Court of Chancery may sit with Assistance of Common Law Judge.

7. Nothing in this Act contained shall alter or affect the Power of the High Court of Chancery, or the Court of Appeal in Chancery in *Ireland*, to sit with the Assistance of a Judge of any of Her Majesty's Courts of Common Law.

Act not to affect general Practice of Court.

8. Nothing in this Act contained shall, except in the Cases and to the Extent herein-before specially provided, be deemed in any Manner to vary, alter, or affect the Law, Practice, or Procedure of the High Court of Chancery in *Ireland* as to any Cause, Cause Petition, or Suit or Matter depending in that Court or the Hearing or Disposal of the same; and in Cases to which the Provisions of this Act apply all Orders and Decrees made by the Court, whether involving the Determination of a legal Right or otherwise, shall be subject to Re-hearing or Appeal in all respects as any other Decrees or Orders of the Court may now be re-heard or appealed from, subject to the Rules and Regulations as to Re-hearing and Appeal which may from Time to Time be applicable to such Decrees and Orders respectively.

Commencement of Act.

9. This Act shall commence and take effect from and after the First Day of *November* One thousand eight hundred and sixty-two.

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