Interpretation of terms.

20. The term "sheriff" shall include "sheriff substitute," and the term "dwelling-house" shall include all buildings and tenements of which the whole or any part shall be used for the purpose of human habitation.

CHAP. 109.

An Act to abolish certain Real Actions in the Superior Courts of Common Law in Ireland, and further to amend the Procedure in the said Courts; and for other purposes. [10th August 1870.]

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; (that is to say,)

Commencement of Act.

1. This Act shall commence and take effect on the second day of November one thousand eight hundred and seventy.

Limitation of Act.

2. This Act shall apply to Ireland only.

Short title.

3. This Act may be cited for all purposes as "The Common Law Procedure Amendment Act, Ireland, 1870."

Dower, writ of Right of dower, and Quare impedit abolished as real actions, and to be commenced by writ of summons and plaint.

4. No writ of Right of Dower, or writ of Dower unde nihil habet, and no plaint for freebench or dower in the nature of any such writ, and no Quare impedit, shall be brought after the commencement of this Act in any court whatsoever; but where any such writ, action, or plaint would now lie, either in a superior or any other court, an action may be commenced by "writ of summons and plaint" issuing out of the Superior Courts of Common Law at Dublin, in the same manner as the writ of summons and plaint in an ordinary action, and in such form as the judge of the said courts respectively shall from time to time think fit to order.

Writ and all proceedings thereupon to be same as in ordinary action.

The service of the writ, appearance of the defendant, proceedings in default of appearance, pleadings, judgment, execution, and all other proceedings and costs upon such writ, shall be subject to the rules and practice which the judges of the said courts respectively shall from time to time make and prescribe, and which rules and practice shall be the same, as nearly as may be, as the proceedings in an ordinary action commenced by writ of summons and plaint.

Rules and regulations may be made and writs and proceedings framed for the purposes of this section.

In order to enable the said superior courts and the judges thereof respectively to make rules and regulations, and to frame writs of summons and plaint, and proceedings for the purpose of giving effect to the provisions of this section, the two hundred and thirty-third and two hundred and fortieth sections of "The Common Law Procedure Amendment Act (Ireland), 1853," shall be incorporated with this section, as if those provisions had been severally herein repeated.

In certain cases judge of superior courts may order cause to be tried in civil bill court.

5. Where in any action of contract brought or commenced in any of the superior courts of common law at Dublin the claim endorsed on the summons and plaint does not exceed forty pounds, or where such claim though it originally exceeded forty pounds, is reduced by payment, an admitted set-off, or otherwise, to a sum not exceeding forty pounds, it shall be lawful for the defendant in the action, within eight days from the day upon which the summons and plaint shall have been served upon him, if the whole or part of the demand of the plaintiff be contested, to apply to the court in which the action is brought, or to any judge of the said superior courts in chamber, for an order that such action should be tried in the civil bill court or one of the civil bill courts in which the action might have been commenced; and on the hearing of such application the judge shall, on proof that sufficient notice thereof has been given to the plaintiff or his attorney, unless there be good cause to the contrary, order such action to be tried in such civil bill

court at the sessions to be named in such order, and thereupon the plaintiff shall lodge the original summons and plaint, which, if filed, shall be taken off the file for that purpose and delivered to the plaintiff, and the order with the clerk of the peace of the county mentioned in the order, and the cause and all proceedings therein shall be heard and taken in such civil bill court as if the action had been originally commenced in such court; and the costs of the parties in respect of proceedings subsequent to the order of the judge of the superior court shall be allowed according to the scale of costs in use in the civil bill courts, and the costs of the proceedings previously had in the superior court shall be allowed according to the scale in use in such latter court.

Actions for malicious prosecution, &c. brought in superior courts may be remitted to civil bill court by judge.

6. Any person against whom an action for malicious prosecution, illegal arrest, illegal distress, assault, false imprisonment, libel, slander, seduction, or other action of tort may be brought in any of the superior courts of common law at Dublin may, within eight days from the day upon which the summons and plaint shall have been served upon him, apply to the court in which the action is brought, or to any judge of the said superior courts in chamber, (having previously made and filed in the proper office an affidavit setting forth that the plaintiff has no visible means of paying the costs of the defendant should a verdict not be found for the plaintiff,) for an order that unless the plaintiff shall, within a time to be therein mentioned, give full security for the defendant's costs to the satisfaction of the master of the said court, or satisfy the judge that he has a cause of action fit to be prosecuted in the superior court, all proceedings in the action shall be stayed, or in the event of the plaintiff being unable or unwilling to give such security, or failing to satisfy the judge as aforesaid, that the cause be remitted for trial in the civil bill court of the division of the county in which the defendant usually resides, at the sessions to be named in such order, and on the hearing of such application the judge shall, on proof that sufficient notice thereof has been given to the plaintiff or his attorney, and if he is satisfied of the truth of the statements in such affidavit, make such order accordingly; and where any such cause shall be remitted for trial in manner aforesaid the plaintiff shall lodge the original summons and plaint, which, if filed, shall be taken off the file for that purpose and delivered to the plaintiff, and the order with the clerk of the peace of the county named in the order, and thereupon the said cause shall be deemed to be and shall be within the jurisdiction of the civil bill court named in such order, and the said court shall have all and the same powers and jurisdiction with respect to the said cause as if the same had been originally within the jurisdiction of the said court and had been commenced by process in the said court; and the costs of the parties in respect of the proceedings subsequent to the order of the judge of the superior court shall be allowed according to the scale of costs in use in the civil bill courts, and the costs of the proceedings in the superior court shall be allowed according to the scale in use in such latter court.

Interpretation of terms.

7. In this Act—

The term "clerk of the peace" shall include the acting or deputy clerk of the peace, registrar, or other officer of the county, or recorder's courts lawfully discharging the duties of the clerk either in a county, county of a city, or county of a town:

The word "county" shall include a county of a city, a county of a town, a town, a city, a borough, and a riding of a county.

CHAP. 110.

An Act to provide for the administration of the Law relating to Matrimonial Causes and Matters, and to amend the Law relating to Marriages, in Ireland. [10th August 1870.]

WHEREAS by "The Irish Church Act, 1869," after reciting that it was expedient that the union created by Act of Parliament between the Churches of England and Ireland as then by law established should be dissolved, and that the church of