CHAPTER 29.

An Act to amend the Acts relating to the County Courts in Ireland, and to make better provision for Appeals under the said Acts. [24th July 1882.]

A.D. 1882.

WHEREAS it is expedient to amend the law and procedure regulating appeals from county courts 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:

Application of Act.

1. This Act shall extend to Ireland only.

Short title.

2. This Act may be cited as the County Court Amendment (Ireland) Act, 1882.

Interpretation of terms.

3. The terms "county court judge," "clerk of the peace," "civil bill court," "county," and "borough" in this Act shall have the same meaning as is provided by the fortieth and forty-first Victoria, chapter fifty-six.

Any person dissatisfied with any adjudication may appeal to the judge of assize, who is hereby authorised to hear and determine the same.

4. Any person dissatisfied with any decree, dismiss, or order, whether adverse to him or in his favour, pronounced by any county court judge, in the exercise by him of any jurisdiction at law under the several Acts conferring jurisdiction on county or civil bill courts in Ireland, may, in manner herein provided, appeal therefrom to the judge of assize for the respective counties in which such decree, dismiss, or order shall have been made or pronounced; and such judge of assize is hereby empowered and required to hear such suit or matter, and to make such decree or order thereon, and issue such execution in all respects as is empowered by the several statutes in that behalf by the said county court judges to be awarded, and the said judge of assize may upon any such appeal adjourn or remit the suit or matter back to the county

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court judge with such declarations or directions as he shall think proper, and may upon said appeal make such order with reference to the costs thereof as he shall think fit. Nothing contained in this section shall apply to any suit or matter instituted under the equitable jurisdiction vested in the county courts by the County Officers and Courts (Ireland) Act, 1877, as amended by this Act.

40 & 41 Vict. c 56.

Appeal to be by notice served within four clear days after close of sitting of civil bill court.

5. Every appeal under this Act shall be by notice signed by the party appealing or his solicitor in the form or to the like effect in the schedule to this Act annexed. Such notice shall be lodged with the clerk of the peace and shall be served within four clear days from the close of the sitting of the county court for the hearing of civil bills at which the decree or adjudication appealed from shall have been made, and shall be to the next assize to be held after the said period. Service of such notice shall be effected on the opposing party or his solicitor personally, or by leaving same at their or either of their residences with a clerk, servant, wife, or child, or other person therein over the age of sixteen years; and proof of such service shall be by affidavit made before any justice of the peace, which he is hereby empowered to take, or before the clerk of the peace; and on such proof being given the clerk of the peace shall enter the same for hearing before the judge of assize, and such entry shall be prima facie proof of due service thereof before such judge of assize.

Proof of service by affidavit.

Notice of appeal shall be a stay of execution in case a recognizance be entered into as provided herein, or the amount lodged.

6. A notice of appeal shall be a stay of execution, provided a recognizance with sufficient sureties conditioned to pay the sum recovered and costs, or costs awarded in case no sum is recovered if a defendant appealing, or to pay the costs awarded where the appellant was a plaintiff in the county court, and to pay the costs of the appeal in case the adjudication appealed from was in favour of the party appealing, be entered into within the said period of four clear days before the clerk of the peace or any justice of the peace of the county, or in case the party appealing desire to dispense with a recognizance by lodgment within the like period of the amount of said sums respectively with the clerk of the peace, who shall retain the same and dispose thereof as he shall be directed by the judge of assize; and the recognizance herein provided may be in the Form 31, Schedule C. of the fourteenth and fifteenth Victoria, chapter fifty-seven, or to the like effect, and with such variation as is by this Act provided; and the reception of such recognizance by the clerk of the peace shall be conclusive evidence

Reception of recognizance by clerk of

that the several provisions herein enacted in reference thereto have been complied with, and in case any such recognizance shall have been taken by any justice of the peace, the same shall be returned to the clerk of the peace within two days after same shall have been taken or acknowledged: Provided always, that nothing herein contained shall affect the provisions of the sixty-ninth section of the twenty-third and twenty-fourth Victoria, chapter one hundred and fifty-four.

peace conclusive evidence that the provisions in reference thereto complied with.

7. Appeals in civil bill cases from the Recorder of Dublin shall be to the court to which such appeals lie at the time of the passing of this Act, but in other respects shall be regulated by the enactments contained in this Act.

Appeal from Recorder of Dublin.

8. In case any decree, dismiss, or adjudication, notwithstanding notice of appeal and of the entry into such recognizance or of the making of such lodgment as is herein provided, shall be executed, the party so executing the same or continuing in possession of any goods thereafter shall be deemed to be a trespasser, and may be proceeded against accordingly.

Execution after notice of entering into recognizance to render party a trespasser.

9. From and after the passing of this Act sections one hundred and twenty seven, one hundred and twenty-eight, one hundred and twenty-nine, and one hundred and thirty of the fourteenth and fifteenth Victoria, chapter fifty-seven, are hereby repealed; and it is hereby further enacted that every decree, dismiss, or adjudication made under section one hundred and fifty of the fourteenth and fifteenth Victoria, chapter fifty-seven, may be appealed from as in this Act provided. The fifty-fifth section of the County Officers and Courts (Ireland) Act, 1877, is hereby repealed.

Repeal and re-enactment of certain statutable provisions.

10. The several civil bill courts in Ireland shall, in addition to the jurisdiction now possessed by them, have and exercise all the power and authority of the High Court of Chancery in the suits and matters herein-after mentioned, that is to say, where the subject thereof shall not exceed in amount or value, so far as it consists of personalty, five hundred pounds, and so far as it consists of lands, shall not exceed the annual value of thirty pounds; (that is to say,)

Extension of existing jurisdiction of county courts under 40 & 41 Vict. c. 56. s. 33.

(*a.*) In suits by executors or administrators for the administration of assets;

(*b.*) In suits for the setting aside, cancelling, or reforming any deed, agreement, assurance, or conveyance of any property on the ground of fraud or mistake.

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Appeals under jurisdiction conferred by foregoing section.

11. Every order or adjudication made under the jurisdiction conferred by the foregoing section of this Act shall be subject to appeal as is provided by Part II. of the County Officers and Courts (Ireland) Act, 1877.

Not to affect appeals under 33 & 34 Vict. c. 46. 44 & 45 Vict. c. 49.

12. Nothing in this Act shall be deemed to include any appeal brought under the provisions of the Landlord and Tenant (Ireland) Act, 1870, or the Land Law (Ireland) Act, 1881, and appeals thereunder shall be brought in manner and to the court provided by the forty-seventh section of the Land Law (Ireland) Act, 1881.

SCHEDULE.

NOTICE OF APPEAL.

Notice of appeal.

Division of County of County Court.

Plaintiff
Defendant

TAKE NOTICE that I hereby appeal against the (*here state whether decree, order, dismiss, as the case may be,*) herein to the next going judge of assize in and for the county of .

Dated this day of

(Signed)

To the Clerk of the Peace, The (Plaintiff *or* Defendant, *as the case may be,*) and his Solicitor.

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