Session and Chapter.	Title.	Extent of Repeal.
27 & 28 Vict. c. 13.	An Act to further extend the time for making enrolments under the Act passed in the twenty-fourth year of the reign of Her present Majesty, intituled, "An Act to "amend the law relating to the "conveyance of lands for chari- "table uses, and otherwise to "amend the said law."	The whole Act.
29 & 30 Vict. c. 57.	An Act to make further provision for the enrolment of certain deeds, assurances, and other instruments relating to charitable trusts.	The whole Act.
31 & 32 Vict. c. 44.	An Act for facilitating the acquisition and enjoyment of sites for buildings for religious, educational, literary, scientific, and other charitable purposes.	Sections one and two.
34 & 35 Vict. c. 13.	An Act to facilitate gifts of land for public parks, schools, and museums.	The whole Act.
35 & 36 Vict. c. 24.	An Act to facilitate the incorporation of trustees of charities for religious, educational, literary, scientific, and public charitable purposes, and the enrolment of certain charitable trust deeds.	Section thirteen.

CHAPTER 43.

An Act to consolidate and amend the County Courts Acts.

[13th August 1888.]

WHEREAS it is desirable to consolidate and amend the County Courts Acts:

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:

PRELIMINARY.

1. This Act may be cited as the County Courts Act, 1888. **Short title.**

2. This Act, save as in this Act otherwise expressly provided, shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act. **Commencement of Act.**

PART I.

COURTS.

Existing courts continued.

3. This Act shall be in force throughout all those parts of England in which County Courts have been established; and, subject to alterations made in pursuance of this Act, the County Court districts existing at the commencement of this Act shall continue, and the County Courts for such districts shall continue to be held at the places fixed at the commencement of this Act.

Power to alter districts.

4. It shall be lawful for Her Majesty by Order in Council from time to time to alter the number and boundaries of the districts and the place of holding any court, and to order the discontinuance of the holding of any court, and the consolidation of any two or more districts, and the division of any district, and to order by what name and in what towns and places a court shall be held in such district.

Any such order of Her Majesty in Council may declare that a part of any county, liberty, city, borough, or district shall be within the jurisdiction of the court held under this Act for any adjoining county or district in like manner as if such part were a part of such adjoining county or district.

Courts to have all jurisdiction of County Courts, and to be courts of record. 9 & 10 Vict. c. 95.

5. Every court held under this Act shall have all the jurisdiction and powers at any time prior to the coming into operation of the County Courts Act, 1846, belonging to any County Court for the recovery of debts and demands as altered by this Act throughout the whole district for which it is held, and there shall be a judge for each district under this Act, and the court may be held simultaneously in all or any of such districts; and every court held under this Act shall be a court of record.

Lords of manors, &c. may surrender courts.

6. It shall be lawful for the lord of any hundred, or of any honor, manor, or liberty having any court in right thereof in which debts or demands may be recovered, to surrender to Her Majesty the right of holding such court for any such purpose (with the consent of any steward or other officer, if any, having a freehold office in such court, or upon the next vacancy in any such freehold office); and from and after such surrender such court shall be discontinued, and the right of holding such court shall cease, and all proceedings commenced in such court may thereafter be continued, and shall be enforced and executed as if they were commenced under the authority of this Act in a court held for the district in which the cause of action arose; but no person shall be entitled to claim any compensation under this Act by reason of any such surrender: Provided always, that the surrender of the right of holding any such court for the recovery of debts and demands shall not be deemed to infer the surrender or loss of any other franchise incident to the lordship of such hundred, honor, manor, or liberty, and that the court thereof may be held for all other purposes, if any, incident thereunto, as now by law it may.

Power to exclude jurisdiction of court

7. If the council of any city or borough, or a majority of the ratepayers of any parish, within the limits of which a court of local jurisdiction, other than a County Court, is established, or into the

limits of which city, borough, or parish the jurisdiction of such court of local jurisdiction shall extend, shall petition Her Majesty in Council that the jurisdiction of such court of local jurisdiction may be excluded in any causes whereof the County Court has cognizance, and if notice of such petition shall be given two months before it is presented by public advertisement in such city, borough, or parish, and in some newspaper therein circulated, Her Majesty, by Order in Council, may declare the exclusion of the jurisdiction of such court of local jurisdiction throughout the whole or any part of the district assigned or which may hereafter be assigned to such County Court, if no petition against declaring the exclusion is presented, and no caveat entered at the Council Office; and if any counter-petition is presented, or any caveat entered, then Her Majesty may refer such petition and counter-petition to the Judicial Committee of the Privy Council, upon whose report Her Majesty may make such Order in Council as she shall be advised touching the matter of the said petitions in respect of excluding the jurisdiction of such court of local jurisdiction, and may award compensation to any persons entitled to appoint officers of such court, or to any officers thereof appointed before the passing of this Act, to be given by the Treasury, who are hereby empowered to pay the same.

Exclusion of local jurisdiction from that of County Court in concurrent causes.

PART II.

JUDGES AND OFFICERS.

8. The Lord Chancellor shall from time to time appoint as many fit persons, not exceeding sixty, as are needed to be judges of the courts under this Act, each of whom shall be a barrister-at-law of at least seven years' standing: Provided that where the whole of a district is within the duchy of Lancaster the appointment of the judge for such district shall be made by the chancellor of the said duchy. No judge shall during his continuance in the office of judge be capable of being elected or of sitting as a member of the House of Commons.

Appointment and qualification of judges.

9. A judge shall, whether within the district of any of his courts or not, have jurisdiction to make any order, or exercise on an ex parte application any authority or jurisdiction in any action or proceeding pending in any of the courts of which he is judge, which, if the same related to an action or proceeding pending in the High Court, might be given, made, or exercised by a Judge of the High Court in chambers, and, with the consent of both parties to an action or proceeding, to hear and decide any matter at any place, either within or without any such district.

Jurisdiction of judge within or without his districts.

10. The judge of each district shall attend and hold the court at each place where Her Majesty shall have ordered that the court shall be held within the district, at such times as he shall appoint for that purpose, so that a court shall be held at every such place once at least in every month, or at such other interval as the Lord Chancellor shall in each case order; and notice of the days on which the court will be held shall be put up in some

Times of sittings.

conspicuous place in the court-house and in the office of the registrar of the court, and no other notice thereof shall be needed; and whenever any day so appointed for holding the court shall be altered, notice of such intended alteration, and of the time when it will take effect, shall be put up in some conspicuous place in the court-house and in the registrar's office. Where, by reason of death or unavoidable absence, a judge at the sitting of a court is not present the registrar, after exercising his powers where the defendant does not appear or admits the debt, or in his unavoidable absence the high bailiff shall adjourn the court to such day as he may deem convenient, and enter in the minute book the cause of such adjournment.

Closing of court for one month.

11. No judge shall be obliged to hold any courts during the month of September in any year, unless he shall be ordered by the Lord Chancellor so to do; and if any judge shall be desirous of holding courts in the said month of September, and of being relieved from the obligation to do so at some other period of the year, it shall be lawful for such judge, with the sanction of the Lord Chancellor, to close the courts upon his circuit for any periods of time of which the Lord Chancellor shall approve, not exceeding in the whole four weeks in any one year: Provided nevertheless, that the office of every court shall aways be open for the receipt and payment out of money due under any order of the court, pursuant to the rules and orders in force for the time being or for any proceedings before the registrar.

Two judges of one district.

12. The Lord Chancellor may from time to time direct that there shall be two judges of a district or districts, and may make such regulations as to their respective sittings, or otherwise as to the division of their duties, as he may think right, and each of the judges when acting shall have all such powers and authorities as if he had been sole judge of such district or districts.

Power to re-distribute districts among judges.

13. It shall be lawful for the Lord Chancellor from time to time to alter the distribution of the districts among the judges, and for that purpose to remove any judge from all or any of the districts of which he is the judge, for the purpose of appointing him to any other district or districts, or to appoint any such judge to be the judge of any district or districts in addition to the district or districts of which he is the judge, or to direct that any judge shall sit as an additional judge in any district or districts.

Judges not to practise.

14. No judge shall practise at the bar, or as a special pleader or equity draftsman, or be directly or indirectly concerned as a conveyancer, notary public, or solicitor, or act as arbitrator or referee for any remuneration to himself.

Judges removable.

15. It shall be lawful for the Lord Chancellor, or the chancellor of the duchy of Lancaster (as the case may be), if he shall think fit, to remove for inability or misbehaviour any judge already appointed or hereafter to be appointed by them respectively.

Judges may be named for assizes.

16. Her Majesty may, if Her Majesty shall so please, include in any commission of assize, oyer and terminer, or gaol delivery the name of any judge.

17. Her Majesty may include in any commission of the peace for any borough, city, county, riding, or division of a county where a court is holden, the judge of such court for the time being, and he may and shall act in the execution of the office of justice of the peace for the said borough, city, county, riding, or division, although he may not be qualified in such manner as is required by law in the case of other persons being justices of the peace. Judges in commission of the peace.

18. In case of the illness or unavoidable absence of any judge it shall be lawful for such judge to appoint a barrister-at-law of at least seven years' standing to act as his deputy during such illness or unavoidable absence; provided that whenever any deputy is appointed, the fact of the appointment and the name of the deputy shall be forthwith communicated to the Lord Chancellor, and no deputy so appointed shall be entitled to act for more than fourteen days at any time, unless with the approval of the Lord Chancellor; provided also that, in the case of the judge's inability to make such appointment, the Lord Chancellor or the chancellor of the duchy (as the case may be) may make the same: and it shall also be lawful for any judge, with the approval of the Lord Chancellor or chancellor of the duchy (as the case may be), to appoint a barrister-at-law of at least seven years' standing to act as his deputy for any time or times not exceeding in the whole two months in any consecutive period of twelve months. Every deputy appointed under this section, during the time for which he shall be so appointed, shall have all the powers and privileges and perform all the duties of the judge for whom he shall have been so appointed. Appointment of deputy judge.

19. Any judge shall be capable of acting for any other judge within or without the districts presided over by such other judge, and where, in the absence of a judge, a deputy of such judge shall, from illness or otherwise, be incapable of performing his duties as such deputy, it shall be lawful for the Lord Chancellor to appoint another person duly qualified, to be the deputy of such judge. Judges may act for one another. Substitute for deputy judge.

20. No deputy judge, save and except of the Westminster County Court of Middlesex, shall, during the time he acts or is entitled to act as such deputy, practise as a barrister in any court within the district for which he acts or is entitled to act as such deputy. Deputy judge not to practise in district.

21. The appointment of a deputy of a judge, whether such deputy shall have been appointed by the judge, or by the Lord Chancellor, or by the chancellor of the duchy of Lancaster, shall not be vacated by the death or resignation of the judge, but the acts of the deputy done after such death or resignation shall be as valid as if the judge had not died or resigned, and he shall continue to act in all the courts to which he was appointed until the Lord Chancellor or the chancellor of the duchy of Lancaster (as the case may be) shall otherwise order, or a successor to such judge shall be appointed; and such deputy shall receive as remuneration for the period that he may act as deputy, after the death or resignation of the judge, a rateable proportion of the salary and travelling allowances attached to the office so vacant during any vacancy. Deputy judge to act during vacancy. Remuneration.

If no such deputy shall have been appointed, the Lord Chancellor may appoint a deputy with the like powers and remuneration for any period not exceeding three months, if the office shall so long remain vacant.

Court where judge can sue and be sued.

22. A judge proposing to sue any person dwelling or carrying on business in any district of which he is the judge may bring his action in the court of any adjoining district of which he is not the judge; and any person proposing to sue a judge may bring his action in any court of a district adjoining the district of which the defendant is judge.

Salaries and allowances of judges.

23. The salary to be received by a judge shall be one thousand five hundred pounds a year: Provided that it shall be lawful for the Treasury to allow to a judge such sum as the Treasury shall in each case, with the concurrence of the Lord Chancellor, deem reasonable to defray his travelling expenses, with reference to the size and circumstances of the district for which he is judge, or in which, under the provisions of this Act, he is directed to sit. The salaries of the judges shall be paid out of the Consolidated Fund, and the Treasury shall pay the same accordingly; and the sums which may be allowed to them for travelling expenses shall be paid out of money provided by Parliament.

Pension of judges.

24. It shall be lawful for the Lord Chancellor from time to time, on a petition presented to him for that purpose, to recommend to the Treasury that there shall be paid out of the Consolidated Fund to any judge who shall be afflicted with some permanent infirmity disabling him from the due execution of his office, and who shall be desirous of resigning the same, an annuity or clear yearly sum of money for the term of his life, not exceeding two thirds of the yearly salary which such judge shall be entitled to as a judge at the time of presenting his petition; and such annuity or sum shall be paid out of the Consolidated Fund, quarterly or otherwise, as the Treasury may direct.

Appointment of registrars.

25. For every court there shall be a registrar who shall be a solicitor of the Supreme Court of at least five years' standing, and whom the judge shall be empowered to appoint, subject to the approval of the Lord Chancellor. No person shall be appointed registrar of more than one court; and every registrar shall reside within the district of his court. In the case of any court where the number of plaints for the preceding year has exceeded eight thousand, the Lord Chancellor may in the case of any future appointment make it a condition of the appointment that the registrar shall not practise as a solicitor or notary, but nothing in this section shall be deemed to disqualify a registrar from holding any other public appointment.

Duties of registrars.

26. The registrar of each court, with such clerks as may be required, shall issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the said court, and keep an account of all proceedings of the court and shall take charge of and keep an account of all court fees and fines payable or paid into court, and of all moneys paid into and out of court, and shall enter an account of all such fees, fines, and moneys in a book

belonging to the court, to be kept by him for that purpose; and shall from time to time, as may be directed, submit his accounts to be audited or settled.

Removal of registrars.

27. It shall be lawful for the Lord Chancellor, or the chancellor of the duchy of Lancaster (as the case may be) when such Lord Chancellor or chancellor of the duchy shall in his discretion think fit, to remove the registrar of any court from his office, and from time to time to make orders as to the attendance of any registrar during the sitting of the court or otherwise.

Minutes of proceedings to be kept.

28. The registrar of every court shall cause a note of all plaints and summonses, and of all orders, and of all judgments and executions and returns thereto, and of all fines, and of all other proceedings of the court, to be fairly entered from time to time in a book belonging to the court, which shall be kept at the office of the court; and such entries in the said book, or a copy thereof bearing the seal of the court and purporting to be signed and certified as a true copy by the registrar of the court, shall at all times be admitted in all courts and places whatsoever as evidence of such entries, and of the proceeding referred to by such entry or entries, and of the regularity of such proceeding, without any further proof.

Appointment of joint registrars.

29. It shall be lawful for the Lord Chancellor, in populous districts in which it shall appear to him to be expedient, to direct that two persons shall be appointed to execute jointly the office of registrar, under such regulations as to the division of the duties and emoluments of the said office as shall be from time to time made by order of court in case of difference between them, each of such persons being qualified as is herein-before provided in the case of a single registrar.

On death of a joint registrar survivor to be sole registrar.

30. Upon the death, resignation, or removal of any person being joint registrar with another, no other person shall be appointed to such office of registrar jointly or otherwise, until both the persons holding the joint office shall have died, been removed, or resigned, unless the Lord Chancellor shall otherwise order.

Deputy registrar.

31. It shall be lawful for the registrar of any court, with the approval of the judge, or in case of inability of the registrar to make such appointment, for the judge, to appoint from time to time a deputy, qualified to be appointed registrar, to act for the registrar of the said court at any time when he shall be prevented by illness or unavoidable absence from acting in such office, and to remove such deputy at his pleasure; and such deputy while acting under such appointment shall have the like powers and privileges, and be subject to the like provisions, duties, and penalties for misbehaviour, as if he were the registrar of the said court for the time being. The appointment of a deputy of a registrar shall not be vacated by the death or removal of the registrar, but his acts done after such death or removal shall be as valid as if the registrar had not died or been removed, and he shall continue to act until a successor to such registrar shall be appointed; and he shall receive as remuneration for his services during the period he may

so act after the death or removal of the registrar, a rateable proportion of the salary attached to the office of registrar. Provided that notice of any vacancy in the office of registrar shall be forthwith given by the judge having the appointment, and no appointment shall be made to fill the vacancy within the period of one month after the date of the notice without the assent of the Lord Chancellor.

Deputy registrar provisionally appointed.

32. On the death or removal of a registrar who shall not have appointed a deputy, the judge may, for a period not exceeding three months, provisionally appoint a person qualified to be a registrar to discharge the duties of registrar; and such person shall act as and have all the rights and liabilities of a registrar until a permanent successor shall be appointed, and shall receive as remuneration for his services during the period he may so act a rateable proportion of the salary attached to the office of registrar.

Appointment of bailiffs.

33. For every court there shall, unless otherwise provided by this Act, be one or more high bailiffs, whom the judge shall be empowered to appoint, and whom the Lord Chancellor or the chancellor of the duchy of Lancaster (as the case may be), may, if he shall think fit, remove from his office; provided that no person shall be appointed high bailiff of more than one court, and every person discharging the duties of high bailiff shall be empowered, subject to the restrictions herein-after contained, by any writing under his hand, to appoint a sufficient number of able and fit persons, not exceeding such number as shall be from time to time allowed by the judge, to be bailiffs to assist him, and at his pleasure to dismiss all or any of them, and to appoint others in their stead; and every bailiff so appointed may be suspended or dismissed by the judge. Every bailiff duly appointed may serve or execute any process which by any Act passed or to be passed is directed to be served or executed by a high bailiff, unless otherwise specially provided against therein.

Bailiffs during vacancy of high bailiff.

34. The appointment of the bailiffs who are appointed to assist the high bailiff shall not be vacated by the death or removal of the high bailiff, but their acts done after such death or removal shall be as valid as if the high bailiff had not died or been removed, and had authorised such acts, and they shall continue to act until they shall be dismissed by the successor of the high bailiff or by the judge; and they shall be paid for their services during the period they shall so act after the death or removal of the high bailiff the same wages as they were receiving at the date of such death or removal, and such wages shall be paid out of the salary and allowances attached to the office of high bailiff.

Duties of high bailiffs, &c.

35. The high bailiff shall attend every sitting of the court for such time as shall be required by the judge, unless when his absence shall be allowed for reasonable cause by the judge, and shall, by himself or by the bailiffs appointed to assist him as aforesaid, serve all summonses and orders, and execute all the warrants, precepts, and writs issued out of the court, except as herein-after provided; and the said high bailiff and bailiffs shall in

the execution of their duties conform to all such general rules as shall be from time to time made for regulating the proceedings of the court as herein-after provided, and, subject thereunto, to the order and direction of the judge; and every such high bailiff shall be responsible for all the acts and defaults of himself and of the bailiffs appointed to assist him in like manner as the sheriff of any county in England is responsible for the acts and defaults of himself and his officers.

On death, &c. of high bailiff, judge to appoint provisionally a deputy.

36. On the death or removal of a high bailiff the judge may, for a period not exceeding three months, provisionally appoint a person to discharge the duties of high bailiff; and such person shall act as and have all the rights and liabilities of a high bailiff until a permanent successor shall be appointed, and shall receive as remuneration for his services during the period he shall so act a rateable proportion of the salary and allowances attached to the office of high bailiff.

When registrar shall perform duties of high bailiff. Remuneration.

37. Upon the happening of any vacancy in the office of high bailiff of any court, if the registrar of the court in which the vacancy shall occur shall have been appointed such registrar after the twenty-third day of April, one thousand eight hundred and sixty-six, or having been appointed before that day, shall be willing to perform the duties of the office of high bailiff of such court, no successor to such high bailiff shall, unless the Lord Chancellor with the consent of the Treasury shall otherwise determine, be appointed, but in either of such cases the registrar shall perform the duties of the high bailiff of such court, and shall have all the powers and authorities vested by this Act or any other Act in a high bailiff, and shall be responsible for the acts and defaults of himself and his officers in like manner as the high bailiff is by law responsible for the acts and defaults of himself and his officers. Every registrar so invested with the powers and authorities of high bailiff shall receive, in addition to his net salary as registrar, a sum equal to one-fifth part of such salary, together with such sum or allowances for service and execution of process as the Treasury may determine; and such additional salary and allowances shall be paid out of the produce of the fees payable under the provisions of this Act. The appointment of a high bailiff as registrar shall vacate the office of high bailiff held by such appointee.

Vacancies in office of treasurer and examination of accounts of officers.

38. Whenever a treasurer of a court shall die, resign, or be removed, the vacancy caused by the death, resignation, or removal of such person shall not be filled up; and the accounts of the registrar and other officers of the court of which the person who shall have died, resigned, or been removed was the treasurer, shall be examined by such person or persons, at such time or times, and under the supervision of such person, as the Treasury shall think fit.

Treasurers superannuation.

39. Where it shall appear to the Treasury that greater efficiency and economy will be effected by permitting the retirement of a treasurer of a court, it shall be lawful for the Treasury to grant to any such treasurer, out of moneys to be provided for the purpose by Parliament, such superannuation allowance as the Treasury

may determine, not exceeding such amount as might be granted under the Superannuation Act, 1859, to a civil servant retiring upon medical certificate.

22 Vict. c. 26.

Registrar and high bailiffs to give security.

40. The treasurer, registrar, and high bailiff of every court who may receive any moneys in the execution of his duty, shall give security for such sum and in such manner and form as the Treasury from time to time shall order for the due performance of their several offices, and for the due accounting for and payment of all moneys received by them under this Act, or which they may become liable to pay for any misbehaviour in their office.

Officers not to act as solicitors in the court.

41. No registrar, treasurer, high bailiff, or other officer of any court shall, either by himself or his partner, be directly or indirectly engaged as solicitor or agent for any party in any proceeding in the said court. And every registrar, treasurer, high bailiff, or other officer of any court who shall be, by himself or his partner, or in any way, directly or indirectly, concerned as solicitor or agent for any party in any proceeding in the said court, shall for every such offence forfeit and pay the sum of fifty pounds to any person who shall sue for the same by action of debt.

If officer is plaintiff in his own court, defendant may remove action to an adjoining district.

42. If an action be brought by an officer in the court of which he is an officer, except as official receiver, the judge shall, at the request of the defendant, order that the venue be changed, and that the action be sent for trial to the court of some convenient district of which he is not the judge; and the registrar of the first-mentioned court shall forthwith transmit by post to the registrar of such last-mentioned court a certified copy of the plaint as entered in the plaint book, the duplicate copy of the summons and particulars served on the defendant, and a certified copy of the order for changing the venue as entered in the minute book; and the judge of such last-mentioned court shall appoint a day for the trial, notice whereof shall be sent by post or otherwise by the registrar of such last-mentioned court to both parties.

Where officer of County Court may be sued.

43. If an action be brought against an officer of a County Court, the summons may issue in the district of which he is an officer, or in any adjoining district the judge of which is not the judge of a court of which the defendant is an officer.

Provision for salaries.

44. The salaries and remuneration of the registrars and high bailiffs shall be paid out of the produce of the fees payable under the provisions of this Act; and whenever the amount of such fees shall not be sufficient to pay the salaries and remuneration, the deficiency shall be made good out of any moneys to be provided by Parliament for that purpose; and the surplus which from time to time shall remain after payment of the salaries and remuneration shall be paid over to the credit of the Consolidated Fund.

Salaries of registrars.

45. A registrar shall be paid by salary, and the principle upon which the said salary shall be regulated shall be, that if the plaints entered in the court of which he is registrar do not exceed in the year from the first day of January to the thirty-first day of December inclusive the number of two hundred, the salary shall

be one hundred pounds for that year; and if the plaints so entered shall exceed two hundred, then such salary shall be increased by sums of four pounds for every twenty-five additional plaints up to six thousand inclusive; and such salaries shall be inclusive of all salaries to the clerks employed by the registrars in the business of their respective courts, and of all emoluments whatsoever, except as by this Act otherwise provided and except those that may be receivable, in respect of special duties under any Act of Parliament and in any court in which the plaints shall have at any time exceeded six thousand the amount of salary shall be fixed from time to time by the Treasury with the concurrence of the Lord Chancellor, but in no case shall the net salary, exclusive of clerks' salaries and office expenses to be allowed, exceed seven hundred pounds a year. In the case of any court where by reason of the amount of business therein, or of the union of the registrars' office with that of the district registrar of the High Court or the district probate registrar, or any other public office, the Lord Chancellor shall at any time be of opinion that the whole time of the registrar ought to be given to the public service, the Lord Chancellor may, by order to be laid before Parliament, direct that the registrar shall not practise as a solicitor; and thereupon the Treasury shall assign to the registrar such salary in respect of his public offices as they may think fit, having regard to all the circumstances of the case, but no such salary shall exceed fourteen hundred pounds a year; and every registrar to whom any such order shall apply shall, for all purposes, be deemed to be an officer of the Supreme Court within the meaning of the Supreme Court of Judicature (Officers) Act, 1879: Provided that no such order shall be made with respect to any registrar appointed before the passing of this Act without the consent of such registrar.

42 & 43 Vict. c. 78.

46. The high bailiffs of the courts shall be paid by salaries to be fixed and regulated from time to time by the Treasury, with the concurrence of the Lord Chancellor, and shall, in addition to such salaries, receive, for their own use, besides any additional remuneration as herein-after mentioned, the fees appointed for keeping possession of goods under executions, and such salaries shall include all payments made by the high bailiffs to their under bailiffs, or, with the like consent, the high bailiffs may be paid partly by salaries and partly by allowances for the execution of warrants, and for mileage on the service or execution of any process.

High bailiffs' salaries and fees.

47. The Treasury with the concurrence of the Lord Chancellor shall direct whether any and what additional or other remuneration shall be allowed to any person performing any duties under this Act or under any Act passed or to be passed where by such Act no remuneration is or shall be given for the performance of duties by officers of the courts; and such remuneration shall be paid out of the fees which the Treasury, with the consent of the Lord Chancellor, is empowered to order to be taken on proceedings authorised to be taken in the courts. This section shall not apply to the City of London Court.

Remuneration of officers.

Penalty for assaulting bailiffs, or rescuing goods taken in execution.

48. If any officer or bailiff of any court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any goods levied under process of the court, the person so offending shall be liable to a fine not exceeding five pounds, to be recovered by order of the judge, or on summary conviction in manner provided by the Summary Jurisdiction Acts; and it shall be lawful for the bailiff of the court, in any such case, to take the offender into custody (with or without warrant), and bring him before such judge accordingly.

Bailiffs made answerable for escapes and neglect to levy execution.

49. In case any bailiff of any court who shall be employed to levy any execution against goods and chattels shall, by neglect or connivance or omission, lose the opportunity of levying any such execution, then upon complaint of the party aggrieved by reason of such neglect, connivance, or omission (and the fact alleged being proved to the satisfaction of the court on the oath of any credible witness), the judge shall order such bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution issued, and the bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the court.

Remedies against and penalties on bailiffs and other officers for misconduct.

50. If any registrar, bailiff, or officer of any court, acting under colour or pretence of the process of the said court, shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, it shall be lawful for the judge to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and to make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs as he shall think just, and also, if he shall think fit, to impose such fine upon the registrar, bailiff, or officer, not exceeding ten pounds for each offence, as he shall deem adequate; and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said court.

Penalty on officers taking fees besides those allowed.

51. Every treasurer, registrar, bailiff, or other officer employed in putting this Act or any of the powers thereof in execution, who shall wilfully and corruptly exact, take, or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed and allowed respectively for or on account of anything done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall, upon proof thereof before the judge of the court, and in the case of a treasurer, registrar, or high bailiff, on allowance of the finding of the judge by the Lord Chancellor, be for ever incapable of serving or being

employed under this Act in any office of profit or emolument, and shall also be liable for damages as in this Act before provided.

No officer shall be deemed a trespasser by reason of irregularity.

52. No officer of any court in executing any warrant of a court, and no person at whose instance any such warrant shall be executed, shall be deemed a trespasser by reason of any irregularity or informality in any proceeding on the validity of which such warrant depends, or in the form of such warrant, or in the mode of executing it, but the party aggrieved may bring an action for any special damage which he may have sustained by reason of such irregularity or informality against the party guilty thereof, and in such action he shall recover no costs, unless the damage awarded shall exceed forty shillings.

Limitation of actions for proceedings in execution of this Act.

53. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall, unless otherwise provided, be laid and tried in the county where the fact was committed, and shall be commenced within three months after the fact committed, and not afterwards or otherwise; and notice in writing of such action or prosecution, and of the cause thereof, shall be given to the defendant one month at least before the commencement thereof; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before action brought, or if after action brought a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant.

No action to be brought against bailiff, &c. acting under order of the court without notice; and registrar to be made defendant in the action.

54. No action shall be commenced against any bailiff, or against any person acting by the order and in aid of any bailiff, for anything done in obedience to any warrant under the hand of the registrar and the seal of the court, until demand has been made or left at the office of such bailiff by the party intending to bring such action, or by his solicitor or agent, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same has been refused or neglected for the space of six days after such demand; and in case after such demand and compliance therewith, by showing the said warrant to and permitting a copy to be taken thereof by the party demanding the same, any action shall be brought against such bailiff, or other person acting in his aid for any such cause as aforesaid, without making the registrar who signed or sealed the said warrant defendant, on producing or proving such warrant at the trial of such action, a verdict shall be given for the defendant, notwithstanding any defect of jurisdiction or other irregularity in the said warrant; and if such action be brought jointly against such registrar, and also against such bailiff, or person acting in his aid as aforesaid, then on proof of such warrant the finding shall be for such bailiff, and for such person so acting as aforesaid, notwithstanding such defect or irregularity as aforesaid; and if the verdict shall be given against the said registrar, the plaintiff shall recover his costs against him, to be taxed in such manner by the proper officer as to include such costs as such plaintiff is liable to pay to such defendant for whom such verdict shall be found as aforesaid.

Protection to officers.

55. In any action commenced against any person for anything done in pursuance of this Act, the production of the warrant under the seal of the court shall be deemed sufficient proof of the authority of the court previous to the issuing of such warrant; and in case the plaintiff shall have a verdict or judgment pass against him, be nonsuit, or discontinue, the defendant shall in any such case be allowed full costs as between solicitor and client.

PART III.

JURISDICTION AND LAW.

Ordinary jurisdiction of the court.

56. All personal actions, where the debt, demand, or damage claimed is not more than fifty pounds, whether on balance of account or otherwise, may be commenced in the court; and all such actions shall be heard and determined in a summary way according to the provisions of this Act: Provided always that, except as in this Act provided, the court shall not have cognizance of any action of ejectment, or in which the title to any corporeal or incorporeal hereditaments, or to any toll, fair, market, or franchise, shall be in question, or for any libel or slander, or for seduction, or breach of promise of marriage.

Where claim reduced by set-off to 50*l.* court to have jurisdiction.

57. Where in any action the debt or demand claimed consists of a balance not exceeding fifty pounds, after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, the court shall have jurisdiction to try such action.

Cases of partnership and intestacy.

58. The jurisdiction of the court shall extend to the recovery of any demand, not exceeding the sum of fifty pounds, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of a distributive share under an intestacy, or of any legacy under a will.

Ejectment where neither value nor rent exceeds 50*l.*

59. All actions of ejectment, where neither the value of the lands, tenements, or hereditaments, nor the rent payable in respect thereof, shall exceed the sum of fifty pounds by the year, may be brought and prosecuted in the court of the district in which the lands, tenements, or hereditaments are situate; provided that the defendant in any such action of ejectment, or his landlord, may within one month from the day of service of the summons, apply to a Judge of the High Court at chambers for a summons to the plaintiff to show cause why such action should not be tried in the High Court on the ground that the title to lands or hereditaments of greater annual value than fifty pounds would be affected by the decision in such action; and on the hearing of such summons, the judge of the High Court, if satisfied that the title to other lands would be so affected, may order such action to be tried in the High Court, and thereupon all proceedings in the court in such action shall be discontinued.

Title where neither value nor rent exceeds 50*l.*

60. A judge shall have jurisdiction to try any action in which the title to any corporeal or incorporeal hereditaments shall come in question where neither the value of the lands, tenements, or hereditaments in dispute, nor the rent payable in respect thereof,

shall exceed the sum of fifty pounds by the year, or in case of an easement or licence, where neither the value nor reserved rent of the lands, tenements, or hereditaments in respect of which the easement or licence is claimed, or on, through, over, or under which such easement or licence is claimed, shall exceed the sum of fifty pounds by the year.

Jurisdiction by consent in cases of title.

61. In any action in which the title to any corporeal or incorporeal hereditament, or to any toll, fair, market, or franchise, shall incidentally come in question, the judge shall have power to decide the claim which it is the immediate object of the action to enforce, if both parties at the hearing shall consent in any writing signed by them or their solicitors to the judge having such power; but the judgment of the court shall not be evidence of title between the parties or their privies in any other action or matter in that court, or in any other court; and such consent shall not prejudice or affect any right of appeal of either of the parties to such first-mentioned action.

Cases where defendant may object to action being tried in the court.

62. If in any action of contract the plaintiff shall claim a sum exceeding twenty pounds, or, if in any action of tort the plaintiff shall claim a sum exceeding ten pounds, and the defendant shall give notice that he objects to the action being tried in the court, and shall give security, to be approved of by the registrar, for the amount claimed and the costs of trial in the High Court, not exceeding in the whole the sum of one hundred and fifty pounds, and the judge shall certify that in his opinion some important question of law or fact is likely to arise, all proceedings in the court in any such action shall be stayed; but if in any such action the defendant do not object to the same being tried by the court, or shall fail to give the security aforesaid, the court shall dispose of the action in the usual way; and the entry of the plaint in such action shall be a sufficient commencement of the action to prevent the operation of any statute of limitations applicable to the claim; provided that nothing herein contained shall prevent the removal of any action from the court by writ of certiorari in the cases and subject to the conditions in this Act provided.

No action on judgment.

63. No action shall be brought in the court on any judgment of the High Court.

Jurisdiction by agreement.

64. With respect to all actions assigned to the Queen's Bench Division of the High Court, if both parties shall agree by a memorandum signed by them or their respective solicitors that the judge of any court named in such memorandum shall have power to try such action, such judge shall have jurisdiction to try the same therein.

Cases where judge of High Court may order action of contract to be tried in a county court.

65. Where in any action of contract brought in the High Court the claim indorsed on the writ does not exceed one hundred pounds, or where such claim, though it originally exceeded one hundred pounds, is reduced by payment, an admitted set-off, or otherwise to a sum not exceeding one hundred pounds, it shall be lawful for either party to the action at any time, if the whole or part of the demand of the plaintiff be contested, to apply to a Judge of the

High Court at chambers to order such action to be tried in any court in which the action might have been commenced, or in any court convenient thereto; and on the hearing of the application the Judge shall, unless there is good cause to the contrary, order such action to be tried accordingly; and thereupon the plaintiff shall lodge the original writ and the order with the registrar of the court mentioned in the order, who shall appoint a day for the trial of the action, notice whereof shall be sent by post or otherwise by the registrar to both parties or their solicitors, and the action and all proceedings therein shall be tried and taken in such court as if the action had been originally commenced therein; and the costs of the parties in respect of proceedings subsequent to the order of the Judge of the High Court shall be allowed according to the scale of costs for the time being in use in the County Courts, and the costs of the order and all proceedings previously thereto shall be allowed according to the scale of costs for the time being in use in the Supreme Court.

Actions of tort in High Court may be remitted to County Court.

66. It shall be lawful for any person against whom an action of tort is brought in the High Court to make an affidavit that the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff; and thereupon a Judge of the High Court shall have power to make 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 one of the masters of the Supreme Court, or satisfy a Judge of the High Court that he has a cause of action fit to be prosecuted in the High 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 a Judge as aforesaid, that the action be remitted for trial before a court to be named in the order, and thereupon the plaintiff shall lodge the original writ and the order with the registrar of such court, who shall appoint a day for the trial of the action, notice whereof shall be sent by post or otherwise by the registrar to both parties or their solicitors; and the action and all proceedings therein shall be tried and taken in such court as if the action had originally been commenced therein; and the costs of the parties in respect of the proceedings subsequent to the order of the Judge of the High Court shall be allowed according to the scale of costs for the time being in use in the County Courts, and the costs of the order and all proceedings previously thereto shall be allowed according to the scale of costs for the time being in use in the Supreme Court.

Jurisdiction in equity.

67. The court shall have and exercise all the powers and authority of the High Court in the actions or matters herein-after mentioned; (that is to say,)

1. By creditors, legatees (whether specific, pecuniary, or residuary) devisees (whether in trust or otherwise), heirs-at-law, or next of kin, in which the personal or real or personal and real estate against or for an account or administration of which the demand may be made shall not exceed in amount or value the sum of five hundred pounds.

2. For the execution of trusts in which the trust estate or fund shall not exceed in amount or value the sum of five hundred pounds:
3. For foreclosure or redemption or for enforcing any charge or lien, where the mortgage, charge, or lien shall not exceed in amount the sum of five hundred pounds:
4. For specific performance of or for the reforming, delivering up, or cancelling of any agreement for the sale, purchase, or lease of any property, where in the case of a sale or purchase the purchase money, or in the case of a lease the value of the property, shall not exceed the sum of five hundred pounds:
5. Under the Trustees Relief Acts, or under the Trustee Acts, or under any of such Acts, in which the trust estate or fund to which the action or matter relates shall not exceed in amount or value the sum of five hundred pounds:
6. Relating to the maintenance or advancement of infants in which the property of the infant shall not exceed in amount or value the sum of five hundred pounds:
7. For the dissolution or winding up of any partnership in which the whole property, stock, and credits of such partnership shall not exceed in amount or value the sum of five hundred pounds:
8. Actions for relief against fraud or mistake in which the damage sustained or the estate or fund in respect of which relief is sought shall not exceed in amount or value the sum of five hundred pounds:

In all such actions or matters the judge shall, in addition to the powers and authorities possessed by him, have all the powers and authorities, for the purposes of this Act, of a Judge of the Chancery Division of the High Court; and the treasurer, registrar, and high bailiff respectively shall in all such actions or matters discharge any duties which an officer of the said Division can discharge, either under the order of a Judge of the said Division, or under the practice thereof, and all officers of the courts shall, in discharging such duties, conform to any rules or orders made in that behalf under this Act.

Transfer to Chancery Division of action exceeding jurisdiction.

68. If during the progress of any action or matter under the last preceding section it shall be made to appear to the judge that the subject-matter exceeds the limit in point of amount to which the jurisdiction of the court is therein limited, it shall not affect the validity of any order already made, but it shall be the duty of the judge to direct the action or matter to be transferred to the Chancery Division of the High Court; and the whole of the procedure in the said action or matter when so transferred shall be regulated by the rules of the Supreme Court: Provided always, that it shall be lawful for any party to apply to a Judge of the said Division at chambers for an order authorising and directing the action or matter to be carried on and prosecuted in the county court, notwithstanding such excess in the amount of the limit to which equitable jurisdiction is given by the said section; and the Judge,

if he shall deem it right to summon the other parties, or any of them, to appear before him for that purpose, after hearing such parties, or on default of the appearance of all or any of them, shall have full power to make such order.

Transfer to county courts of equitable actions or matters.

69. Where any action or matter is pending in the Chancery Division of the High Court which might have been commenced in a court under this Act, it shall be lawful for any of the parties thereto to apply at chambers to the Judge of the said Division to whom the said action or matter is attached to have the same transferred to the court or one of the courts in which the same might have been commenced, and such Judge shall have power upon such application, or without such application, if he shall think fit, to make an order for such transfer, and thereupon such action or matter shall be carried on in the court to which the same shall be ordered to be transferred, and the parties thereto shall have the same right of appeal as they would have had if the action or matter had been commenced in such court.

Trustees may pay trust moneys or transfer stock and securities into county court.

70. Any moneys, annuities, stocks, or securities vested in any persons as trustees, executors, administrators, or otherwise, upon trusts within the meaning of the Trustees Relief Acts where the same do not exceed in amount or value the sum of five hundred pounds, upon the filing by such trustees or other persons, or the major part of them, with the registrar of the court within the district of which such persons or any of them shall reside, of an affidavit shortly describing according to the best of their knowledge, the instrument creating the trust, may, in the case of money, be paid into a post office savings bank established in the town in which the court is held, in the name of the registrar of such court, in trust to attend the orders of the court, and upon such persons filing with the registrar the receipt or other document given to them by the officer of the said bank, the registrar shall record the same, and give to them an acknowledgment in such form as may be prescribed, which acknowledgment shall be a sufficient discharge to such persons for the money so paid, and, in the case of stocks or securities, may be transferred or deposited into or in the names of the treasurer and registrars of such court, in trust to attend the orders of the court, and the certificate of the proper officer of the transfer or deposit of such stocks or securities shall be a sufficient discharge to such persons for the stocks or securities so transferred or deposited; and for the above purposes all the powers and authorities of the High Court shall be possessed and exercised by the courts, and any order made by virtue of such powers and authorities shall fully protect and indemnify all persons acting under or in pursuance of such order.

Moneys paid into court in proceedings may be invested in a post office savings bank.

71. Any money paid into court in the actions or matters mentioned in the last four preceding sections, shall, unless otherwise ordered by the judge, be invested by the registrar in his name as registrar, within forty-eight hours of its payment into court, in a post office savings bank established in the town in which the court is held, without restriction as to amount, and without the declaration required of a depositor in a savings bank; and no part

of any money invested in a post office savings bank under this Act shall be paid out to any registrar except upon an authority addressed to the Postmaster General by the Treasury.

Any person deriving any benefit under any moneys paid into a post office savings bank under the provisions of this Act may nevertheless open an account in a post office savings bank, or in any other savings bank, in his own name, without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

Persons qualified to practise before courts.

72. It shall be lawful for any party to an action or matter or for a solicitor being a solicitor acting generally in the action or matter for such party, but not a solicitor retained as an advocate by such first-mentioned solicitor, or for a barrister retained by or on behalf of any party on either side, but without any right of exclusive audience, or by leave of the judge for any other person allowed by the judge to appear instead of any party, to address the court, but subject to such regulations as the judge may from time to time prescribe for the orderly transaction of the business of the court, the right of a solicitor to address the court shall not be excluded by reason only that he is in the permanent and exclusive employment of any other solicitor. No person other than a solicitor of the Supreme Court shall be entitled to have or recover any fee or reward for appearing or acting on behalf of any other party in any proceeding in the court: provided that nothing in this Act contained shall affect the right of any barrister at law to appear or act in any court, or of any solicitor of the Supreme Court to recover costs in respect of his employment of a barrister at law to appear or act as aforesaid.

PART IV.

PROCEDURE AND TRIAL.

Actions by plaint.

73. On the application of any person desirous to bring an action under this Act, the registrar of the court shall enter in a book to be kept for this purpose in his office a plaint in writing, stating the names and the last known places of abode of the parties, and the substance of the action intended to be brought, every one of which plaints shall be numbered in every year according to the order in which it shall be entered; and thereupon a summons, stating the substance of the action, and bearing the number of the plaint on the margin thereof, shall be issued under the seal of the court, according to such form, and be served on the defendant so many days before the day on which the court shall be holden at which the action is to be tried, as shall be prescribed, and delivery of such summons to the defendant, or in such other manner as shall be so prescribed, shall be deemed good service; and no misnomer or inaccurate description of any person or place in any such plaint or summons shall vitiate the same, so that the person or place be therein described so as to be commonly known.

Where action may be commenced.

74. Except where by this Act it is otherwise provided, every action or matter may be commenced in the court within the district of which the defendant or one of the defendants shall dwell or carry on his business at the time of commencing the action or matter, or it may be commenced, by leave of the judge or registrar, in the court within the district of which the defendant or one of the defendants dwelt or carried on business, at any time within six calendar months next before the time of commencement, or, with the like leave in the court in the district of which the cause of action or claim wholly or in part arose.

In what courts proceedings in equity shall be taken.

75. The provisions of the next preceding section shall not apply to any of the following proceedings; but

(1.) Proceedings which relate to the recovery of sale or any mortgage, charge, or lien on lands, tenements, or hereditaments, or to partition, shall be taken in that court within the districts of which the lands, tenements, or hereditaments, or any part thereof, are situate:

13 & 14 Vict. c. 60. 15 & 16 Vict. c. 55.

(2.) Proceedings under the Trustee Acts, 1850 and 1852, shall be taken in the court within the district of which the persons making the application, or any of them, reside or resides:

(3.) Proceedings for the administration of the assets of a deceased person shall be taken in the court within the district of which the deceased person had his last place of abode in England, or in which the executors or administrators, or any one of them, shall have their or his place of abode:

(4.) Proceedings in any partnership case shall be taken in the court within the district of which the partnership business was or is carried on:

Provided that if during the progress of any such proceedings it shall be made to appear to the court that the same could be more conveniently heard in some other court, it shall be competent for the court to transfer the same to such other court, and thereupon the proceeding shall be taken in such other court.

Service of process out of district.

76. Any summons or other process which under this Act shall be required to be served or executed out of the district of the court from which the same shall have issued, may be served or executed by the bailiff of any court in any part of England, and such service or execution shall be as valid as if the same had been made by the bailiff of the court out of which such summons or other process shall have issued within the jurisdiction of the court for which he acts.

Service of summons or execution of warrant within 500 yards of district.

77. Any summons or other process may be served or a warrant executed within five hundred yards of the boundary of the district of the court from which the same issued by the bailiff of such court, or if the judge of such court so orders, by such bailiff within the district of any other court.

Proof of service of process by a bailiff.

78. Where any summons or other process of the court is served by a bailiff of any court, the service may be proved by indorsement on a copy of the summons or process under the hand of such bailiff, showing the fact and mode of the service of such summons or

process; and any such bailiff wilfully and corruptly endorsing any false statement on the copy of a summons or other process shall be guilty of a misdemeanor, and on conviction thereof shall be removed from his office or employment, and shall incur the same penalties as are or may be incurred by persons convicted of wilful and corrupt perjury.

Proceedings on hearing the plaint.

79. On the return day the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer the plaint; and on answer being made in court the judge shall proceed in a summary way to try the action and give judgment, without further pleading or formal joinder of issue.

No evidence to be given that is not in summons.

80. Subject to the power of amendment conferred by this Act, no evidence of any demand or claim shall be given by the plaintiff on the trial or hearing, except such as shall be stated in the summons or other proceeding under this Act directed to be issued or taken.

Demands not to be divided for the purpose of bringing two or more actions.

81. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in any of the courts; but any plaintiff having cause of action for more than fifty pounds, for which a plaint might be entered if not for more than fifty pounds, may abandon the excess, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding fifty pounds; and the judgment of the court upon such plaint shall be in full discharge of all demands in respect of such cause of action, and entry of the judgment shall be made accordingly.

Notice of special defences to be given to registrar, who shall communicate same to plaintiff.

82. Subject to the power of amendment conferred by this Act, no defendant shall be allowed to set off or set up by way of counterclaim any debt or demand claimed or recoverable by him from the plaintiff, or to set up by way of defence, and to claim and have the benefit of infancy, coverture, or any statute of limitations, or of his discharge under any statute relating to bankrupts or any Act for relief of insolvent debtors, without the consent of the plaintiff, unless the prescribed notice thereof shall have been given to the registrar; and in every case in which the practice of the court shall require such notice to be given, the registrar of the court shall as soon as conveniently may be after receiving such notice, communicate the same to the plaintiff by post, or by causing the same to be delivered at his usual place of abode or business, but it shall not be necessary for the defendant to prove on the trial that such notice was communicated to the plaintiff by the registrar.

Before whom affidavits may be sworn.

83. An affidavit to be used in a court may be sworn before any judge or registrar, or clerk to the registrar nominated by a judge for that purpose, without the payment of any fee, or before any commissioner to administer oaths in the Supreme Court not being a registrar, or before a justice of the peace.

Districts of courts in metropolis to be treated as one district.

84. Where a plaintiff shall dwell or carry on business in the district of the Bloomsbury County Court of Middlesex, or in the district of the Brompton County Court of Middlesex, or in the district of the Clerkenwell County Court of Middlesex, or in the

district of the Lambeth County Court of Surrey, or in the district of the Marylebone County Court of Middlesex, or in the district of the Shoreditch County Court of Middlesex, or in the district of the Southwark County Court of Surrey, or in the district of the Westminster County Court of Middlesex, or in the district of the Whitechapel County Court of Middlesex, or in the district of the City of London Court, and the defendant shall dwell or carry on business in the district of any of the said courts, the action or matter may be commenced and all proceedings thereon taken and had either in the court of the district in which the plaintiff shall dwell or carry on business, or in the court of the district in which the defendant shall dwell or carry on business.

Power to judge to change place of trial.

85. If a judge shall be satisfied by either party to an action or matter pending in his court that such action or matter can be more conveniently or fairly tried or heard in some other court, he shall order that the same be transferred to such other court, or, if the judge shall be interested in any action or matter pending in his court, he shall order that the same be transferred to some convenient court of which he is not the judge, at his discretion; and in either case the registrar of the court in which the action or matter was commenced shall forthwith transmit by post to the registrar of the court to which it is to be sent, a certified copy of all the proceedings therein, and the judge of such last-mentioned court shall appoint a day for the trial or hearing, notice whereof shall be sent, by post or otherwise, by the registrar to all parties interested, and thenceforth all proceedings therein shall be taken in such court as if the action or matter had been commenced therein.

Default summons and notice of defence.

86.—(1.) Subject to any rules and orders under this Act, in any action in a court for a debt or liquidated money demand, the plaintiff may, at his option, cause to be issued a summons in the ordinary form, or (upon filing an affidavit to the effect set forth in the prescribed form) a default summons in the prescribed form or to the prescribed effect, and if such last-mentioned summons be issued it shall be personally served on the defendant, and if the defendant shall not, within eight days after service of the summons, inclusive of the day of service, give notice, by post or otherwise, in writing, signed by himself or his solicitor, to the registrar of the court from which the summons issued, of his intention to defend, the plaintiff may, after eight days and within two months from the day of service, upon proof of service, or of an order for leave to proceed as if personal service had been effected, have judgment entered up against the defendant for the amount of his claim and costs, such costs to be taxed by the registrar.

(2.) The order upon such judgment shall be for payment forthwith or at such time or times, and by such instalments, if any, as the plaintiff, or his solicitor, shall in writing have consented to take at the time of the entry of the plaint or of the judgment.

(3.) Where the defendant shall have given notice of defence the registrar shall, immediately upon the receipt of such notice, send a letter to the plaintiff or his solicitor by post, stating therein that

the defendant has given such notice and shall send by post to both plaintiff and defendant notice of the day upon which he shall have fixed that the trial shall take place at least six clear days before the day so fixed.

(4.) Where the defendant shall neglect to give such notice the judge or registrar shall, upon an affidavit disclosing a defence upon the merits and satisfactorily explaining his neglect, let in the defendant to defend, upon such terms as he may think just.

(5.) Where personal service cannot be effected, and the judge or registrar is satisfied by affidavit that reasonable efforts have been made to effect such service, and either that the summons has come to the knowledge of the defendant or that he wilfully evades service of the same, it shall be lawful for the judge or registrar to order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as he may think just.

(6.) Provided always, that no other summons than a summons in the ordinary form shall, without leave of the judge or registrar be issued where the amount claimed shall not exceed five pounds, unless the action is for the price, value, or hire of goods which, or some part of which, were sold and delivered or let on hire to the defendant to be used or dealt with in the way of his trade, profession, or calling, and such leave shall be given in the manner prescribed.

Amendment of proceedings.

87. The judge may at all times amend all defects and errors in any proceeding in the court, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend, or not; and all such amendments may be made with or without costs, and upon such terms as the judge may think just; and all such amendments as may be necessary for the purpose of determining the real question in controversy between the parties shall be so made, if duly applied for.

Proceedings if plaintiff does not appear or prove his case.

88. If upon the return day, or at any continuation or adjournment of the court, or of the action or matter, the plaintiff shall not appear, the action or matter shall be struck out; and if he shall appear but shall not make proof of his claim to the satisfaction of the court, it shall be lawful for the judge to nonsuit the plaintiff, or to give judgment for the defendant, and in either case where the defendant shall appear and shall not admit the claim, to award to the defendant, by way of costs and satisfaction for his trouble and attendance, such sum as the judge in his discretion shall think just, and such sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same court can be recovered: Provided always, that if the plaintiff shall not appear when called upon, and the defendant, or some one duly authorised on his behalf, shall appear, and admit the cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the judge, if he shall think fit, may proceed to give judgment as if the plaintiff had appeared.

Costs of defendant where plaintiff does not appear.

89. In every case where the plaintiff shall not appear, either in person or by some person duly authorised on his behalf, upon the return day, or at any continuation or adjournment of the court or

of the action or matter, and the defendant shall appear either in person or by some person duly authorised on his behalf, it shall be lawful for the court to award to the defendant by way of costs of attendance and satisfaction for his trouble, such sum as the court shall think just; and the sum so awarded shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the court can be recovered.

Proceedings before registrar where defendant does not appear.

90. If in any action founded on contract a defendant shall not appear at the hearing, either in person or by some person duly authorised on his behalf, and no sufficient excuse for the defendant's absence shall be shown, the registrar may, by leave of the judge or in case of the judge's death or unavoidable absence, upon due proof of the service of the summons and of the debt being due and owing, enter up judgment for the plaintiff, and shall have the same power to make an order for payment by instalments, or to enter up judgment of nonsuit, or to strike out or adjourn the action, as a judge would have; and such judgment shall be as valid as if both parties had attended the court; but the judgment, and any execution thereon, may be set aside by the judge of the court, and a new trial granted upon such terms, if any, as the judge may think just.

Trial in absence of defendant.

91. If on the return day, or at any continuation or adjournment of the court or of the action or matter, the defendant shall not appear either in person or by some person duly authorised on his behalf, or sufficiently excuse his absence, or shall neglect to answer when called in court, the judge, upon due proof of service, may proceed to the trial or hearing on the part of the plaintiff only, and the judgment or order thereupon shall be as valid as if both parties had attended: Provided always, that the judge in any such case, at the same or any subsequent court, may set aside any judgment or order so given or made in the absence of the defendant, and the execution thereupon, and may grant a new trial or hearing, upon such terms, if any, as to payment of costs, giving security or such other terms as he may think just, on sufficient cause shown to him for that purpose.

Where defendant appears and admits the claim.

92. Where a defendant appearing at the hearing, either in person or by some person duly authorised on his behalf, admits the claim, the registrar may, by leave of the judge, or in case of the judge's death or unavoidable absence, settle the terms and conditions upon which it is to be paid, and enter up judgment accordingly as a judgment of the court. Subject to rules and orders under this Act a registrar may, on the application of the parties and by leave of the judge, hear and determine any disputed claim where the sum claimed or amount involved does not exceed two pounds.

The judge may, after deciding or reserving any question of liability, refer to the registrar any mere matter of account which is in dispute between the parties, and after deciding the question of liability may give judgment on the registrar's report.

Judgments how far final.

93. Every judgment and order of the court, except as in this Act provided, shall be final and conclusive between the parties; but the Court shall have power to nonsuit the plaintiff in every

case in which satisfactory proof shall not be given entitling either the plaintiff or defendant to judgment. The judge shall also in every case whatever have the power, if he shall think just, to order a new trial to be had upon such terms as he shall think reasonable, and in the meantime to stay the proceedings.

Bankruptcy not to cause action to abate, if trustee elect to continue it.

94. The bankruptcy of the plaintiff in any action in the court which the trustee might maintain for the benefit of the creditors, shall not cause the action to abate if the trustee shall elect to continue such action, and to give security for the costs thereof, within such reasonable time as the judge shall order, but the hearing of the action may be adjourned until such election is made; and in case the trustee does not elect to continue the action and to give such security within the time limited by the order, the defendant may avail himself of the bankruptcy as a defence to the action.

Executors may sue and be sued.

95. It shall be lawful for any executor or administrator to sue and be sued in the court in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the High Court.

Minors may sue for wages.

96. It shall be lawful for any person under the age of twenty-one years to prosecute any action in the court for any sum of money not greater than fifty pounds which may be due to him for wages or piece work, or for work as a servant, in the same manner as if he were of full age.

One of several persons liable may be sued.

97. Where any plaintiff shall have any demand recoverable under this Act against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served, notwithstanding that others jointly liable may not have been served or sued, or may not be within the jurisdiction of the court; and every such person against whom judgment shall have been obtained, and who shall have satisfied such judgment, shall be entitled to demand and recover in the court contribution from any other person jointly liable with him.

Confession of debts or parts of debts, &c., and judgment thereupon.

98. Any person against whom a plaint shall be entered in any court may, if he think fit, whether he be summoned upon such plaint or not, in the presence of any registrar, registrar's clerk, or solicitor, sign a statement confessing and admitting the amount of the debt or demand, or part of the amount of the debt or demand, for which such plaint shall have been entered; and it shall be the duty of the registrar of the court in which the plaint was entered, as soon as conveniently may be after receiving such statement, to send notice thereof to the plaintiff by post, or by causing the same to be delivered at his usual place of abode or business, and thereupon it shall not be necessary for the said plaintiff to prove the debt or demand so confessed and admitted as aforesaid; but the court, at the next sitting thereof, whether the parties or either of them attend such court or not, shall, upon proof by affidavit of the signature of the party, if such statement was not made in the presence of a registrar, or one of his clerks, enter up judgment for the debt or demand so confessed and admitted.

Agreement as to amount of debt, and conditions of payment.

99. If the person against whom a plaint shall be entered in a court can agree with the person on whose behalf such plaint shall have been entered upon the amount of the debt or demand in respect of which such plaint shall have been entered, and upon the terms and conditions upon which the same shall be paid and satisfied, it shall be lawful for such persons respectively, in the presence of the registrar of the court in which such plaint shall have been entered, or one of his clerks, or in the presence of a solicitor, to sign a statement of the amount of the debt or demand so agreed upon between such persons respectively, and of the terms and conditions upon which the same shall be paid or satisfied, and such registrar shall receive such statement, and shall thereupon, upon proof by affidavit of the signatures of the parties, if such statement was not signed in the presence of the registrar, or one of his clerks, enter up judgment for the plaintiff for the amount of the debt or demand so agreed on, and upon the terms and conditions mentioned in such statement; and such judgment shall to all intents and purposes be the same and have the same effect, and shall be enforced and enforceable in the same manner as if it had been a judgment of the judge of the said court.

Judge alone to determine all questions, unless a jury be summoned.

100. The judge shall be the sole judge in all actions brought in the court, and shall determine all questions as well of fact as of law, unless a jury shall be summoned as herein-after mentioned.

Trial with jury when parties require it.

101. In all actions where the amount claimed shall exceed five pounds, it shall be lawful for the plaintiff or defendant to require a jury to be summoned to try the said action, unless the action is of the nature of the causes or matters assigned to the Chancery Division of the High Court of Justice; and in all actions where the amount claimed shall not exceed five pounds, it shall be lawful for the judge in his discretion, on the application of either of the parties, to order that such action be tried by a jury; and in every case such jury shall be summoned according to the provisions in this Act contained: The party requiring a jury to be summoned shall give to the registrar of the court, or leave at his office, such notice thereof as shall be prescribed; and the said registrar shall cause notice of such demand of a jury, made either by the plaintiff or defendant, to be communicated to the other party to the said action, either by post or by causing the same to be delivered at his usual place of abode or business, but it shall not be necessary for either party to prove on the trial that such notice was communicated to the other party by the registrar. Every party requiring a jury to be summoned shall, at the time of giving the said notice, and before he shall be entitled to have such jury summoned, pay to the registrar of the court the sum of five shillings for payment of the jury, and such sum shall be considered as costs in the action, unless otherwise ordered by the judge. Whenever it is required that a jury should be summoned for the trial of any matter arising out of the jurisdiction given to the court by section sixty-seven of this Act, the jury shall be summmond from the list of jurors in the possession of the registrar of the court in which the action or matter was commenced.

Who shall be jurors, and their number.

102. The sheriff of every county, and the high bailiffs of Westminster and Southwark, shall cause to be delivered to the registrar of the court a list of persons qualified and liable to serve as jurors in the courts of assize and nisi prius for their county, city, and borough respectively, within fourteen days from the receipt of the jury book from the clerk of the peace of the county or other officer, each list containing only the names of persons residing within the jurisdiction of the court, for which list the said sheriffs and high bailiffs shall be entitled to receive a fee after the rate of twopence for every folio of seventy-two words; and whenever a jury shall be required the registrar of the court shall cause so many of the persons named in the list as shall be prescribed, to be summoned to attend the court at a time and place to be mentioned in the summons, and shall administer, or cause to be administered, to such of them as shall be impanelled, an oath to give true verdicts according to the evidence; and the persons so summoned shall attend at the court at the time mentioned in the summons, and in default of attendance shall forfeit such sum of money as the judge shall direct, not being more than five pounds for each default; and the delivery of such summons to the person whose attendance is required on such jury, or delivery thereof to his wife or servant, or any inmate at his usual place of abode, trading, or dealing, shall be deemed good service: Provided always, that no person shall be summoned or compelled to serve on such jury more than twice within one year, or who shall have been summoned and shall have attended upon any jury for the same county at the assizes, or any court of nisi prius, or at the central criminal court within six months next before the delivery of such summons. Whenever there are any jury trials five jurymen shall be impanelled and sworn, as occasion shall require, to give their verdicts in the actions which shall be brought before them in the said court, and being once sworn shall not need to be re-sworn in each trial; and either of the parties to any such action shall be entitled to his lawful challenge against all or any of the said jurors in like manner as he would be entitled in the High Court; and the jurymen so sworn shall be required to give an unanimous verdict.

Appointment of assessors.

103. In any action or matter it shall be lawful for the judge if he think fit, on the application of either party, to summon to his assistance, in such manner as may be prescribed, one or more persons of skill and experience in the matter to which the action or matter relates, who may be willing to sit with the judge and act as assessors; and their remuneration for so sitting shall be at such rate as may be prescribed, and shall be costs in the action or matter, unless otherwise ordered by the judge; but, where any person is proposed to be summoned as an assessor, objection to him, either personally or in respect of his qualification, may be taken by either party in the prescribed manner.

Actions may be settled by arbitration.

104. The judge may in any case, with the consent of both parties to the action, order the same, with or without other matters within the jurisdiction of the court in dispute between such parties,

to be referred to arbitration, to such person or persons and in such manner, and on such terms as he shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the judge; and the award of the arbitrator or arbitrators, or umpire, shall be entered as the judgment in the action, and shall be as binding and effectual to all intents as if given by the judge: Provided that the judge may, if he think fit, on application to him at the first court held after the expiration of one week after the entry of such award, set aside any such award so given as aforesaid, or may, with the consent of both parties aforesaid, revoke the reference, or order another reference to be made in the manner aforesaid.

Where judgment does not exceed 20*l.*, court may order payment by instalments. In other cases consent of plaintiffs necessary.

105. When judgment has been obtained for a sum not exceeding twenty pounds, exclusive of costs, the court may order such sum and the costs to be paid at such time or times, and by such instalments, if any, as it shall think fit, and all such moneys shall be paid into court; but in all other cases the full amount for which judgment has been obtained shall be ordered to be paid either forthwith or within fourteen clear days from the date of the judgment, unless the plaintiff, or his counsel, solicitor, or agent, will consent that the same shall be paid by instalments, in which case the court shall order the same to be paid at such time or times, and by such instalments, if any, as shall be consented to; and all such moneys, whether payable in one sum or by instalments, shall be paid into court.

Judge may grant time.

106. The judge may in any case make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the action or matter, and also may from time to time adjourn any court, or the hearing or further hearing of any action or matter, in such manner as the judge may think fit.

Defendant may pay money into court; notice to be given to plaintiff.

107. It shall be lawful for the defendant in any action or matter within such time as shall be prescribed, to pay into court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment; and notice of such payment shall be communicated by the registrar to the plaintiff by post, or by causing the same to be delivered at his usual place of abode or business; and the said sum of money shall be paid to the plaintiff; but if the plaintiff shall elect to proceed, and shall recover no further sum in the action or matter than shall have been so paid into court, he shall pay to the defendant the costs incurred by him in the said action or matter after such payment; and such costs shall be settled by the court, and an order shall thereupon be made by the court for the payment of such costs by the plaintiff.

How securities to be given and enforced.

108. Where a party is required to give security, such security shall be at the cost of the party giving it, and in the form of a bond, with sureties, to the other party or intended party in the action or matter: Provided always, that the court in which any action on the bond shall be brought may by order give such relief to the obligors as may be just, and such order shall have the effect of a defeasance of such bond.

Where security is required to be given, a deposit of money may be made in lieu thereof.

109. Where a party is required to give security, he may in lieu thereof deposit with the registrar, if the security is required to be given in the court, or with a master of the Supreme Court if the security is required to be given in the High Court, a sum equal in amount to the sum for which he would be required to give security, together with a memorandum, to be approved of by such registrar or master, and to be signed by such party, his solicitor or agent, setting forth the conditions on which such money is deposited, and the registrar or master shall give to the party paying a written acknowledgment of such payment; and the judge of the county court, when the money shall have been deposited in such court, or a Judge of the High Court when the money shall have been deposited in the High Court, may, on the same evidence as would be required to enforce or avoid such bond as in the last preceding section is mentioned, order such sum so deposited to be paid out to such party or parties as he shall think just.

Service of summonses to witnesses and others.

110. Either of the parties to any action or matter may obtain from the registrar summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or control of the person summoned as a witness; and such summonses, and any summonses which are now or may be required to be served personally, may, under such regulations as may be prescribed, be served by a bailiff of the court or otherwise.

Penalty on witnesses neglecting summons.

111. Every person summoned as a witness, either personally or in such other manner as shall be prescribed, to whom at the same time payment or a tender of payment of his expenses shall have been made on the prescribed scale of allowances and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books, papers, or writings required by such summons to be produced, or who shall refuse to be sworn or give evidence, and also every person present in court who shall be required to give evidence, and who shall refuse to be sworn or give evidence, shall forfeit and pay such fine, not exceeding ten pounds, as the judge shall direct; and the whole or any part of such fine, in the discretion of the judge, after deducting the costs, shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall be accounted for by the registrar to the treasurer.

Judge may issue warrant for bringing up a prisoner to give evidence.

112. A judge in any case where he shall think fit, upon application on an affidavit by either party, may issue an order under his hand and the seal of the court for bringing up before such court any prisoner or person confined in any gaol, prison, or place, under any sentence or under commitment for trial or otherwise, except under process in any civil action, or matter, to be examined as a witness in any action or matter depending or to be inquired of or determined in or before such court; and the person required by any such warrant or order to be brought before the court shall be so brought under the same care and custody, and be dealt with in like manner in all respects as a prisoner required by any writ of habeas corpus awarded by the High Court to be brought before such court to be examined as a witness in any action or matter pending before such court is by law required to be dealt with: Provided always

that the person having the custody of such prisoner or person shall not be bound to obey such order unless a tender be made to him of a reasonable sum for the conveyance and maintenance of a proper officer or officers and of the prisoner or person in going to, remaining at, and returning from such court.

Costs to abide the event.

113. All the costs of any action or matter in the court, not herein otherwise provided for, shall be paid by or apportioned between the parties in such manner as the court shall think just, and in default of any special direction shall abide the event of the action or matter, and execution may issue for the recovery of any such costs in like manner as for any debt adjudged in the said court.

Court may award costs where action or matter is struck out for want of jurisdiction.

114. Whenever an action or matter is commenced over which the court has no jurisdiction, the judge shall, unless the parties consent to the court having jurisdiction, order it to be struck out, and shall have power to award costs in the same manner, to the same extent, and recoverable in the same manner, as if the court had jurisdiction therein, and the plaintiff had not appeared, or had appeared and failed to prove his demand or complaint.

No second action for same cause. Treble costs.

115. If any party shall sue another in any court for any debt or other cause of action for which he has already sued him and obtained judgment in any other court, proof of such former action having been brought and judgment obtained may be given, and the party so sueing shall not be entitled to recover in such second action, and shall be adjudged to pay three times the costs of such second action to the opposite party.

Costs when not recoverable in High Court.

116. With respect to any action brought in the High Court which could have been commenced in a county court, the following provisions shall apply:—

1. If in an action founded on contract the plaintiff shall recover a sum less than twenty pounds, he shall not be entitled to any costs of the action, and if he shall recover a sum of twenty pounds or upwards, but less than fifty pounds, he shall not be entitled to any more costs than he would have been entitled to if the action had been brought in a county court; and
2. If in an action founded on tort the plaintiff shall recover a sum less than ten pounds, he shall not be entitled to any costs of the action; and, if he shall recover a sum of ten pounds or upwards, but less than twenty pounds, he shall not be entitled to any more costs than he would have been entitled to if the action had been brought in a county court; unless in any such action, whether founded on contract or on tort, a Judge of the High Court certifies that there was sufficient reason for bringing the action in that Court, or unless the High Court or a Judge thereof at Chambers shall by order allow costs. Provided that, if in any action founded on contract the plaintiff shall within twenty-one days after the service of the writ, or within such further time as may be ordered by the High Court or a judge thereof, obtain an order under order fourteen of the Rules of the Supreme Court empowering him to enter judgment for a sum of twenty pounds or upwards, he shall be entitled to

costs according to the scale for the time being in use in the Supreme Court.

Costs of action brought elsewhere than in county court.

117. Where any action shall be brought in any other court than the High Court which could have been brought in a county court, and the verdict recovered is for a less sum than ten pounds, the plaintiff shall not recover from the defendant a greater amount of costs than he would have been allowed if the action had been brought in a county court.

Costs of solicitor to be taxed by registrar.

118. All costs and charges between party and party shall be taxed by the registrar of the court in which such costs and charges were incurred, but his taxation may be reviewed by the judge on the application of either party, and no costs or charges shall be allowed on such taxation which are not sanctioned by the scale then in force. All costs and charges between solicitor and client shall, on the application either of the solicitor or client, but not otherwise, be taxed by the registrar of the court in which such costs and charges were incurred, but his taxation may be reviewed by the judge on the application of either party, and no costs or charges shall be allowed on such taxation which are not sanctioned by the scale then in force, unless the registrar shall be satisfied that the client has agreed in writing to pay them, in which case they may be allowed; and no solicitor shall have a right to recover from his client any such costs or charges unless they shall have been allowed on taxation.

Costs on higher scale.

119. The judge may award costs on any scale higher than that which would be otherwise applicable to the plaintiff on any amount recovered, however small, or to a defendant who successfully defends an action brought for any amount, however small, provided that the said judge certifies in writing that the action involved some novel or difficult point of law, or that the question litigated was of importance to some class or body of persons, or of general or public interest.

PART V.

APPEALS, &c.

Parties aggrieved may appeal by notice of motion.

120. If any party in any action or matter shall be dissatisfied with the determination or direction of the judge in point of law or equity, or upon the admission or rejection of any evidence, the party aggrieved by the judgment, direction, decision, or order of the judge may appeal from the same to the High Court, in such manner and subject to such conditions as may be for the time being provided by the rules of the Supreme Court regulating the procedure on appeals from inferior courts to the High Court; Provided always, that there shall be no appeal in any action of contract or tort, other than an action of ejectment or an action in which the title to any corporeal or incorporeal hereditament shall have come in question, where the debt or damage claimed does not exceed twenty pounds, nor in any action of replevin, where the amount of rent or the damage or value of the goods seized does not exceed twenty pounds, nor in any action for the recovery of

tenements where the yearly rent or value of the premises does not exceed twenty pounds, nor in proceedings in interpleader where the money claimed or the value of the goods or chattels claimed, or of the proceeds thereof, does not exceed twenty pounds, unless the judge shall think it reasonable and proper that such appeal should be allowed, and shall grant leave to appeal. At the trial or hearing of any action or matter, in which there is a right of appeal, the judge, at the request of either party, shall make a note of any question of law raised at such trial or hearing, and of the facts in evidence in relation thereto, and of his decision thereon, and of his decision of the action or matter.

Procedure on appeal.

121. In any action or matter in which there is a right of appeal, and the judge has at the request of either party made a note of any question of law raised at such trial or hearing, and of the facts in evidence in relation thereto, and of his decision thereon, and of his decision of the action or matter, he shall at the expense of any person or persons being party or parties in any such action or matter, furnish a copy of the note so taken at the said trial or hearing, or allow a copy to be taken of the same, by or on behalf of such person or persons, and he shall sign such copy, whether a notice of motion in the matter of the said appeal has been served or not, and the copy so signed shall be used and received at the hearing of such appeal.

Jurisdiction of High Court.

122. On the hearing of an appeal the High Court shall have power to draw any inference of fact, and may either order a new trial on such terms as the court shall think just, or may order judgment to be entered for any party, as the case may be, or may make a final or other order on such terms as the High Court may think proper to ensure the determination on the merits of the real questions in controversy between the parties.

Parties may agree not to appeal.

123. No appeal shall lie from the decision of the judge, if before such decision is pronounced the parties shall agree, in writing signed by themselves or their solicitors or agents, that his decision shall be final, and no such agreement shall require a stamp.

No appeal allowed except as in this Act mentioned.

124. No judgment or order of any judge, nor any action or matter brought before him or pending in his court, shall be removed by appeal, motion, certiorari, or otherwise, into any other court whatever, save and except in the manner and according to the provisions in this Act mentioned.

Assessors on appeal.

125. Where an admiralty action has been heard in the court with the assistance of nautical assessors, elder brethren of the Trinity House shall be summoned to assist on the hearing of an appeal by the High Court if either party shall require the same, and the High Court shall be of opinion that the assistance of the elder brethren is necessary or desirable.

Where action may be removed on security given.

126. It shall be lawful for the High Court or a Judge thereof to order the removal into the High Court, by writ of certiorari or otherwise, of any action or matter commenced in the court under

the provisions of this Act, if the High Court or a Judge thereof shall deem it desirable that the action or matter shall be tried in the High Court, and upon such terms as to payment of costs, giving security, or otherwise as the High Court or a Judge thereof shall think fit to impose.

Judge of High Court may hear applications for prohibition.

127. It shall be lawful for any Judge of the High Court, as well during the sittings as in vacation, to hear and determine applications for writs of prohibition to any court and to make such orders for the issuing of such writs as might have been made by the High Court, and all such orders so made by any such Judge of the High Court shall have the same force and effect as heretofore.

Prohibition finally disposed of by order.

128. When an application shall be made to the High Court or a Judge thereof for a writ of prohibition addressed to any court, the matter shall be finally disposed of by order, and no declaration or further proceedings in prohibition shall be allowed. Upon any such application the judge of the court shall not be served with notice thereof, and shall not, except by the order of a Judge of the High Court, be required to appear or be heard thereon, and shall not, except by such order, be liable to any order for the payment of the costs thereof; but the application shall be proceeded with and heard in the same manner in all respects as any case of an appeal duly brought from a decision of a judge; and notice thereof shall be given to or served upon the same parties as in any case of an order made or refused by a judge in a matter within his jurisdiction, as the case may be.

Order to show cause as to certiorari or prohibition a stay of proceedings if High Court so direct.

129. The grant by the High Court, or by any Judge thereof, of an order or summons to show cause why a writ of certiorari or prohibition should not issue to any court shall, if the High Court or a Judge thereof so direct, operate as a stay of proceedings in the action or matter to which the same shall relate, until the determination of an order or summons, or until such High Court or Judge thereof shall otherwise order; and the judge shall from time to time adjourn the trial of such action or matter to such day as he shall think fit, until such determination, or until such order be made; but if a copy of such order or summons shall not be served by the party who obtained it on the opposite party and on the registrar two clear days before the day fixed for the trial of the action or matter, the judge may, in his discretion, order the party who obtained the order or summons to pay all the costs of the day, or so much thereof as he may think fit, unless the High Court or a Judge thereof shall have made some order respecting such costs.

Costs of certiorari or prohibition if not sent to registrar.

130. Where a writ of certiorari or of prohibition to a court shall have been granted by the High Court or a Judge thereof on an ex parte application, and the party who obtained it shall not lodge it with the registrar, and give notice to the opposite party that it has issued, two clear days before the day fixed for the trial of the action or matter to which it shall relate, the judge may, in his discretion, order the party who obtained the writ to pay all the costs of the day, or so much thereof as he shall think fit, unless the High Court, or a Judge thereof shall have made some order respecting such costs.

Order in lieu of mandamus.

131. No writ of mandamus shall issue to a judge or an officer of the court for refusing to do any act relating to the duties of his office, but any party requiring such act to be done may apply to the High Court, upon an affidavit of the facts, for an order or summons calling upon such judge or officer of the court, and also the party to be affected by such act, to show cause why such act should not be done; and if after the service of such order or summons good cause shall not be shown, the High Court may, by order, direct the act to be done, and the judge or officer of the court, upon being served with such order, shall obey the same on pain of attachment; and, in any event, the High Court may make such order with respect to costs as to it shall seem fit.

No judge to grant writ or order once refused.

132. When the High Court or a Judge thereof shall have refused to grant a writ of certiorari or prohibition to a court, or any such order as in the last preceding section mentioned, no other Court or Judge shall grant such writ or order; but nothing herein shall affect the right of appealing from the decision of the Judge of the High Court to the High Court itself, or prevent a second application being made for such writ or order to the High Court or a Judge thereof on grounds different from those on which the first application was founded.

PART VI.

REPLEVIN; RECOVERY OF TENEMENTS.

Actions of replevin may be brought by plaint.

133. All actions of replevin which shall be brought in the court, shall be brought by plaint, and in every such action the plaint shall be entered in the court of the district where the goods were seized.

Registrar to grant replevins.

134. The sheriff shall have no powers and responsibilities with respect to replevin bonds and replevins; but the registrar of the court of the district in which any goods subject to replevin shall be taken, shall be empowered, subject to the regulations hereinafter contained, to approve of replevin bonds, and to grant replevins, and to issue all necessary process in relation thereto, and such process shall be executed by the bailiff. Such registrar shall, at the instance of the party whose goods shall have been seized, cause the same to be replevied to such party, on his giving one or other of such securities as are mentioned in the next two succeeding sections.

Conditions of security to be given in cases of replevins commenced in High Court.

135. Where a replevisor shall wish to commence proceedings in the High Court he shall, at the time of replevying, give security, to be approved of by the registrar in the last preceding section mentioned, for such an amount as such registrar shall deem sufficient to cover the alleged rent or damage, or if the goods replevied have been seized otherwise than under colour of distress the value of the goods, and in either case the probable costs of the action in the High Court, conditioned to commence an action of replevin against the seizor in the High Court, within one week from the date thereof, and to prosecute such action with effect and without delay, and unless judgment thereon be obtained by default, to prove before

the High Court that he had good ground for believing either that the title to some corporeal or incorporeal hereditament, the rent or value whereof exceeded twenty pounds by the year, or to some toll, market, fair, or franchise, was in question, or that such rent or damage, or the value of the goods seized, exceeded twenty pounds, and to make return of the goods if a return thereof shall be adjudged.

Conditions of security to be given when replevin brought in County Court.

136. If a replevisor shall wish to commence proceedings in a County Court, he shall at the time of replevying give security, to be approved of by the registrar, for such an amount as such registrar shall deem sufficient to cover the alleged rent or damage in respect of which the distress shall have been made, or if the goods replevied have been seized otherwise than under colour of distress the value of the goods, and in either case the probable costs of the action, conditioned to commence an action of replevin against the seizor in the court of the district in which the goods shall have been seized, within one month from the date of the security, and to prosecute such action with effect and without delay, and to make a return of the goods if a return thereof shall be adjudged.

Replevins shall at instance of defendant be removed into High Court by certiorari in certain cases.

137. Any action of replevin brought in the court shall be removed into the High Court by writ of certiorari, if the defendant shall apply to the High Court or to a Judge thereof for such writ, and shall give security, to be approved of by a master of the Supreme Court, for such amount, not exceeding one hundred and fifty pounds, as such master shall think fit, conditioned to defend such action with effect, and unless the replevisor shall discontinue or shall not prosecute such action, or shall become nonsuit therein, to prove before the High Court that the defendant had good ground for believing, either that the title to some corporeal or incorporeal hereditament, the rent or value whereof exceeded twenty pounds by the year, or to some toll, market, fair, or franchise, was in question, or that the rent or damage in respect of which the distress shall have been taken or the value of the goods seized exceeded twenty pounds.

Possession of small tenements may be recovered in County Courts by landlords where term has expired or been determined by notice.

138. When the term and interest of the tenant of any corporeal hereditament, where neither the value of the premises nor the rent payable in respect thereof shall have exceeded fifty pounds by the year, and upon which no fine or premium shall have been duly paid, shall have expired, or shall have been determined either by the landlord or the tenant by notice to quit, and such tenant, or any person holding or claiming by, through, or under him, shall neglect or refuse to deliver up possession accordingly, the landlord may enter a plaint, at his option, either against such tenant, or against such person so neglecting or refusing, in the court of the district in which the premises lie, for the recovery of the same, and thereupon a summons shall issue to such tenant or such person so neglecting or refusing; and if the defendant shall not at the time named in the summons, show good cause to the contrary, then, on proof of his still neglecting or refusing to deliver up possession of the premises, and of the yearly value and rent of the premises,

and of the holding, and of the expiration or other determination of the tenancy, with the time and manner thereof, and of the title of the plaintiff, if such title has accrued since the letting of the premises, and of the service of the summons, if the defendant shall not appear thereto, the judge may order that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff, either forthwith or on or before such day as the judge shall think fit to name; and if such order be not obeyed, the registrar, whether such order can be proved to have been served or not, shall, at the instance of the plaintiff, issue a warrant authorising and requiring the bailiff of the court to give possession of such premises to the plaintiff. In any such plaint against a tenant, the plaintiff may add a claim for rent or mesne profits, or both, down to the day appointed for the hearing, or to any preceding day named in the plaint, so as the same shall not exceed fifty pounds.

Possession of small tenements may be recovered in the court by landlords for nonpayment of rent.

139. When the rent of any corporeal hereditament, where neither the value of the premises nor the rent payable in respect thereof exceeds fifty pounds by the year, shall for one half-year be in arrear, and the landlord shall have right by law to re-enter for the nonpayment thereof, he may, without any formal demand or re-entry, enter a plaint in the court of the district in which the premises lie, for the recovery of the premises, and thereupon a summons shall issue to the tenant, the service whereof shall stand in lieu of a demand and re-entry; and if the tenant shall, five clear days before the return day of such summons, pay into court all the rent in arrear and the costs, the action shall cease; but if he shall not make such payment, and shall not at the time named in the summons show good cause why the premises should not be recovered, then, on proof of the yearly value and rent of the premises, and of the fact that one half-year's rent was in arrear before the plaint was entered, and that no sufficient distress was then to be found on the premises to countervail such arrear, and of the landlord's power to re-enter, and of the rent being still in arrear, and of the title of the plaintiff if such title has accrued since the letting of the premises, and of the service of the summons if the defendant shall not appear thereto, the judge may order possession of the premises mentioned in the plaint to be given by the defendant to the plaintiff on or before such day, not being less than four weeks from the day of hearing, as the judge shall think fit to name, unless within that period all the rent in arrear and the costs are paid into court, and if such order be not obeyed, and such rent and costs are not so paid, the registrar shall, whether such order can be proved to have been served or not, at the instance of the plaintiff, issue a warrant authorising and requiring the bailiff of the court to give possession of such premises to the plaintiff, and the plaintiff shall, from the time of the execution of such warrant, hold the premises discharged of the tenancy, and the defendant and all persons claiming by, through, or under him, shall, so long as the order of the court remains unreversed, be barred from all relief.

Sub-tenant served with summons to recover possession must give notice to his immediate landlord, who may come in and defend.

140. Where any summons for the recovery of a tenement as is herein-before specified shall be served on or come to the knowledge of any sub-tenant of the plaintiff's immediate tenant, such sub-tenant being an occupier of the whole or of a part of the premises sought to be recovered, he shall forthwith give notice thereof to his immediate landlord, under penalty of forfeiting three years rack-rent of the premises held by such sub-tenant to such landlord, to be recovered, whatever the amount thereof, by such landlord by action in the court from which such summons shall have issued, and such landlord, on the receipt of such notice, if not originally a defendant, may be added or substituted as a defendant to defend possession of the premises in question.

In plaints to recover possession of premises, how summonses may be served.

141. A summons for the recovery of a tenement may be served like ordinary summonses to appear to plaints in the court, and if the defendant cannot be found, and his place of dwelling shall either not be known, or admission thereto cannot be obtained for serving any such summons, a copy of the summons shall be posted on some conspicuous part of the premises sought to be recovered, and such posting shall be deemed good service on the defendant.

Warrants to high bailiffs sufficient to justify them for entering on premises.

142. Any warrant to a bailiff to give possession of a tenement shall justify the bailiff named therein in entering upon the premises named therein, with such assistants as he shall deem necessary, and in giving possession accordingly; but no entry upon any such warrant shall be made except between the hours of nine in the morning and four in the afternoon.

Such warrants to be in force for three months from the day named for delivering possession.

143. Every such warrant shall, on whatever day it may be issued, bear date on the day next after the last day named by the judge in his order for the delivery of possession of the premises in question, and shall continue in force from three months from such date and no longer, but no order for delivery of possession need be drawn up or served.

Judges, registrars, bailiffs, or other officers not liable to actions on account of proceedings taken.

144. It shall not be lawful to bring any action or prosecution against the judge or against the registrar of the court by whom such warrant as aforesaid shall have been issued, or against any bailiff or other person by whom such warrant may be executed or summons affixed, for issuing such warrant, or executing the same respectively, or affixing such summons, by reason that the person by whom the same shall be sued out had not lawful right to the possession of the premises.

Where landlord has a lawful title, he shall not be deemed a trespasser by reason of irregularity.

145. Where the landlord at the time of applying for such warrant as aforesaid had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said landlord nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act, but the party aggrieved may, if he think fit, bring an action for such irregularity or informality, in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such

special damage with costs of the action: Provided that if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that if proved, but assessed at any sum not exceeding five shillings, the plaintiff shall recover no more costs than damages, unless the judge before whom the trial shall have been held shall certify that in his opinion full costs ought to be allowed.

PART VII.

EXECUTION; COMMITMENT.

Court may award execution against goods.

146. Whenever the court shall have given or made a judgment or order for the payment of money, the amount may be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner thereby directed, by execution against the goods and chattels of the party against whom such judgment or order shall be given or made; and the registrar, at the request of the party prosecuting such judgment or order, shall issue under the seal of the court a warrant of execution in the nature of a writ of fieri facias to the high bailiff of the court, who, by such warrant, shall be empowered to levy, or cause to be levied, by distress and sale of the goods and chattels wheresoever they may be found within the district of the court, whether within liberties or without, such sum of money as shall be so ordered, and also the costs of the execution; and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such warrant. The precise time when an application shall be made to a registrar to issue a warrant against the goods of a party shall be entered by him in the execution book and on the warrant; and when more than one such warrant shall be delivered to the high bailiff to be executed, he shall execute them in the order of the time so entered.

What goods may be taken in execution.

147. Every bailiff or officer executing any process of execution issuing out of the court against the goods and chattels of any person may by virtue thereof seize and take any of the goods and chattels of such person (excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade, to the value of five pounds, which shall to that extent be protected from such seizure), and may also seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money, belonging to any such person against whom any such execution shall have issued as aforesaid.

Securities seized to be held by high bailiff.

148. The high bailiff shall hold any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money which shall have been seized or taken under the last preceding section, as a security for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised, for the benefit of the plaintiff; and the plaintiff may sue in the name of the defendant, or in the name of any person

in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby, when the time of payment thereof shall have arrived.

Execution after default in instalment may issue for whole sum.

149. If the court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue against the party until after default in payment of some instalment according to such order, and execution or successive executions may then issue for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as the court shall order, either at the time of making the original order, or at any subsequent time.

Cross judgments.

150. If there shall be cross judgments between the parties, execution shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Judgment may be removed into the High Court if there are no goods to be taken under it.

151. If a judge of the High Court shall be satisfied that a party against whom judgment for an amount exceeding twenty pounds, exclusive of costs, has been obtained in a County Court, has no goods or chattels which can be conveniently taken to satisfy such judgment, he may, if he shall think fit, and on such terms as to costs as he may direct, order a writ of certiorari to issue to remove the judgment of the County Court into the High Court, and when removed it shall have the same force and effect, and the same proceedings may be had thereon, as in the case of a judgment of the High Court; but no action shall be brought upon such judgment.

Priority of executions issuing out of High Court and county court.

152. When a writ against the goods of a party has issued from the High Court, and a warrant against the goods of the same party has issued from a County Court, the right to the goods seized shall be determined by the priority of the time of the delivery of the writ to the sheriff to be executed, or of the application to the registrar for the issue of the warrant to be executed; and the sheriff, on demand, shall, by writing signed by any clerk in the office of the under-sheriff, inform the high bailiff of the precise time of such delivery of the writ, and the bailiff, on demand, shall show his warrant to any sheriff's officer, and such writing purporting to be so signed, and the endorsement on the warrant, shall respectively be sufficient justification to any high bailiff or sheriff acting thereon.

Power to judge to suspend execution or order discharge in certain cases.

153. If it shall at any time appear to the satisfaction of the judge that the defendant in any action or matter is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof, it shall be lawful for the judge, in his discretion, to suspend or stay any judgment, order, or execution given, made, or issued in such action or matter, for such time and on such terms as the judge shall think fit, and so from time to time until it shall appear that such cause

of inability has ceased, or to order the discharge of any debtor confined in prison by order of a court, who, on account of sickness, insanity, or other sufficient cause, ought, in the opinion of the judge, to be discharged.

Regulating the sale of goods taken in execution.

154. No sale of any goods which shall be taken in execution shall be made until after the end of the five days at least next following the day on which such goods shall have been so taken, unless such goods be of a perishable nature, or upon the request in writing of the party whose goods shall have been taken; and until such sale the goods shall be deposited by the bailiff in some fit place, or they may remain in the custody of a fit person approved by the high bailiff to be put in possession by the bailiff; and it shall be lawful for the high bailiff from time to time, as he shall think proper, to appoint such and so many persons for keeping possession, and so many sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels, or effects taken in execution under this Act as shall appear to him to be necessary, and to direct security to be taken from each of them, for such sum and in such manner as he shall think fit, for the faithful performance of their duties without injury or oppression, and the judge or high bailiff may dismiss any person, broker, or appraiser so appointed; and no goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution except by one of the brokers or appraisers so appointed, and the brokers or appraisers so appointed shall be entitled to have, out of the produce of the goods so distrained or sold, sixpence in the pound on the value of the goods for the appraisement thereof, whether by one broker or more, over and above the stamp duty, and for advertisements, catalogues, sale and commission, and delivery of goods one shilling in the pound on the net produce of the sale.

Execution to be superseded on payment of debt and costs

155. In or upon every warrant of execution issued against the goods and chattels of any person whomsoever, the registrar of the court shall cause to be inserted or indorsed the sum of money and costs adjudged and the fees for the execution of such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the registrar of the court out of which such warrant of execution has issued, or to the bailiff holding the warrant of execution, such sum of money and costs as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full of his debt or damages and costs, together with the fees inserted or indorsed as aforesaid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

Claimant of goods taken in execution must deposit their values or pay costs of keeping possession, otherwise goods shall be sold.

156. Where any claim shall be made to or in respect of any goods taken in execution under the process of the court, the claimant may deposit with the bailiff either the amount of the value of the goods claimed, such value to be affixed by appraisement in case of dispute, to be by such bailiff paid into court, to abide the decision of the judge upon such claim, or the sum which the bailiff shall be allowed to charge as costs for keeping possession of such

goods until such decision can be obtained, or may give to the bailiff in the prescribed manner security for the value of the goods claimed, and in default of the claimant so doing the bailiff shall sell such goods as if no such claim had been made, and shall pay into court the proceeds of such sale to abide the decision of the judge.

High bailiff may interplead where claims as to goods taken in execution are made.

157. If any claim shall be made to or in respect of any goods or chattels taken in execution, or in respect of the proceeds or value thereof, by any person, it shall be lawful for the registrar upon application of the high bailiff, as well before as after any action brought against him, to issue a summons calling before the court as well the party issuing such process as the party making such claim, and the judge shall adjudicate upon such claim, and make such order between the parties in respect thereof and of the costs of the proceedings, as he shall think fit, and shall also adjudicate between such parties, or either of them, and the high bailiff, with respect to any damage, or claim of or to damages, arising or capable of arising out of the execution of such process by the high bailiff, and make such order in respect thereof, and of the costs of the proceedings, as to him shall seem fit; and such orders shall be enforced in like manner as any order in any action brought in such court, and shall be final and conclusive as between the parties, and as between them or either of them and the high bailiff, unless the decision of the court shall be in either case appealed from; and upon the issue of the summons any action which shall have been brought in any court in respect of such claim, or of any damage arising out of the execution of such process, shall be stayed.

How execution may be had out of the jurisdiction of the court.

158. In all cases where a warrant of execution shall have issued against the goods and chattels of any person or an order for his commitment shall have been made, and such person, or his goods and chattels, shall be out of the jurisdiction of the court, it shall be lawful for the high bailiff of the court to send the warrant of execution or order of commitment to the registrar of any other court within the jurisdiction of which such person, or his goods and chattels, shall then be or be believed to be, with a warrant thereto annexed, under the hand of the high bailiff and seal of the court from which the original warrant or order issued, requiring execution of the same, and the registrar of the court to which the same shall be sent shall seal or stamp the same with the seal of his court and issue the same, to the high bailiff of his court; and thereupon such last-mentioned high bailiff shall be authorised and required to act in all respects as if the original warrant of execution or order of commitment had been directed to him by the court of which he is the high bailiff, and shall, within such time as shall be prescribed return to the high bailiff of the court from which the same originally issued what he shall have done in the execution of such process, and shall, within such time as shall be prescribed, pay over all moneys received in pursuance of the warrant or order; and where any order of commitment shall have been made and the person apprehended, he shall be forthwith conveyed, in custody of the bailiff or officer

apprehending him, to the prison of the court within the jurisdiction of which he shall have been apprehended, and kept therein for the time mentioned in the order of commitment, unless sooner discharged by law; and all constables and other peace officers shall be aiding and assisting within their respective districts in the execution of such order of commitment.

Judge may authorise bailiffs to act as brokers.

159. It shall be lawful for the judge, by any writing under his hand, to authorise any of the bailiffs appointed by the high bailiff to act as brokers or appraisers for the purpose of selling or valuing any goods, chattels, or effects taken in execution under this Act; and the bailiffs so authorised by the judge may, without other licence in this behalf, do and perform all the duties and shall be entitled to the poundage which sworn brokers or appraisers may do and perform and are entitled to under this Act.

When goods seized under process of the court, landlord may claim certain rent in arrear.

160. Section one of the Act of the eighth year of the reign of Queen Anne, chapter fourteen, shall not apply to goods taken in execution under the warrant of the court, but the landlord of any tenement in which any such goods shall be so taken may claim the rent thereof at any time within five clear days from the date of such taking, or before the removal of the goods, by delivering to the bailiff or officer making the levy any writing signed by himself or his agent, which shall state the amount of rent claimed to be in arrear, and the time for and in respect of which such rent is due; and if such claim be made, the bailiff or officer making the levy shall, in addition thereto, distrain for the rent so claimed and the costs of such distress, and shall not within five days next after such distress sell any part of the goods taken unless they be of a perishable nature, or upon the request in writing of the party whose goods shall have been taken; and the bailiff shall afterwards sell such of the goods under the execution and distress as shall satisfy, first, the costs of and incident to the sale, next the claim of such landlord, not exceeding the rent of four weeks where the tenement is let by the week, the rent of two terms of payment where the tenement is let for any other term less than a year, and the rent of one year in any other case, and lastly, the amount for which the warrant was issued; and if any replevin be made of the goods so taken, the bailiff shall, notwithstanding, sell such portion thereof as will satisfy the costs of and incident to the sale under the execution, and the amount for which the warrant issued; and in either event the overplus of the sale, if any, and the residue of the goods, shall be returned to the defendant, and the poundage of the high bailiff and broker for keeping possession, appraisement, and sale under such distress shall be the same as would have been payable if the distress had been an execution of the court, and no other fees shall be demanded or taken in respect thereof.

Mode of issuing and executing orders of commitment.

161. Whenever any order of commitment under the Debtors Act, 1869, shall have been made, or any warrant of attachment shall have been ordered to be issued, such order or warrant, under the seal of the court, shall be directed to the high bailiff of any court, who by such order or warrant shall be empowered to take the body of the person against whom such order shall be made or warrant

issued; and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such order or warrant; and the governor of every prison mentioned in any such order or warrant shall be bound to receive and keep the person therein mentioned until discharged under the provisions of this Act or otherwise by due course of law.

Power of committal for contempt

162. If any person shall wilfully insult the judge, or any juror or witness, or any registrar, bailiff, or officer of the court for the time being during his sitting or attendance in court, or in going to or returning from the court, or shall wilfully interrupt the proceedings of the court, or otherwise misbehave in court, it shall be lawful for any bailiff or officer of the court, with or without the assistance of any other person, by the order of the judge, to take such offender into custody, and detain him until the rising of the court; and the judge shall be empowered, if he shall think fit, by a warrant under his hand, and sealed with the seal of the court, to commit any such offender to any prison to which he has power to commit offenders for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding five pounds for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid for any time not exceeding seven days, unless the said fine be sooner paid.

To what prisons committals may be made.

163. If a judge orders any person to be committed to prison either for contempt or in pursuance of the Debtors Act, 1869, he shall order such person to be committed to a prison which shall from time to time, by order of one of Her Majesty's Principal Secretaries of State, be allowed as a place of imprisonment for persons committed by the judge of such court: Provided that until such order of a Secretary of State has been made, the person may be committed to any prison to which the judge now has power to commit him.

PART VIII.

RULES; FEES; FINES; UNCLAIMED MONEY IN COURT.

Rules, &c. and forms of proceedings and scale of costs to be framed by judges appointed by Lord Chancellor.

164. The Lord Chancellor may appoint five judges and from time to time fill up any vacancies in their number, to frame rules and orders for regulating the practice of the courts and forms of proceedings therein, and scales of costs to be paid to counsel and solicitors, and from time to time to amend such rules, orders, forms, and scales; and such rules, orders, forms, and scales, or amended rules, orders, forms, and scales, certified under the hands of such judges, or any three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow, or alter the same; and the rules, orders, forms, and scales, or amended rules, orders, forms, and scales, so allowed or altered, subject to the concurrence of the authority for making rules of the Supreme Court, as in the Supreme Court of Judicature Act, 1884, provided, shall, from a day to be named by the Lord Chancellor, be in force in every court. Such power of making rules and orders shall extend to all matters of procedure or practice, or relating to or concerning the effect or

47 & 48 Vict. c. 61.

operation in law of any procedure or practice, in any case within the cognizance of county courts, as to which rules of the Supreme Court have been or might lawfully be made for cases within the cognizance of the High Court of Justice. The rules, orders, forms, and scales of costs in force at the commencement of this Act shall continue to be in force unless and until otherwise provided. In any case not expressly by this Act or in pursuance thereof provided for the general principles of practice in the High Court of Justice may be adopted and applied to actions and matters.

Order as to fees.

165. The Treasury from time to time, with the concurrence of the Lord Chancellor, may make orders as to the fees to be paid on any proceedings which are now or shall hereafter be authorised to be taken in the courts, whether any fee is now payable thereon or not: Provided always, that every such order shall be notified to both Houses of Parliament within ten days from the commencement of the session next after the making thereof.

Fees; how payable, and where to be exhibited.

166. The fees payable on the proceedings in the courts shall except in interpleaders, or where such fees shall be payable in respect of keeping possession, appraising or selling goods seized, be paid in the first instance by the party on whose behalf any such proceeding is to be taken before such proceeding is taken; and in default of the payment of any fees, payment thereof shall, by order of the judge, be enforced in like manner as payment of any debt adjudged by the court to be paid; and a table of all fees shall be posted in some conspicuous place in every court house and registrar's office.

Fines how to be enforced.

167. Payment of any fine imposed by any court under the authority of this Act may be enforced upon the order of the judge, in like manner as payment of any debt adjudged by the court to be paid, or in such manner as payment of a sum adjudged to be paid on summary conviction, may be enforced under the Summary Jurisdiction Acts.

Penalties to be paid to registrar and accounted to treasurer.

168. The moneys arising from any penalties, forfeitures, and fines inflicted or authorised to be imposed by this Act, when paid and levied, shall (if not by this Act directed to be otherwise applied) be from time to time paid to the registrar of the court, and accounted for by him to the treasurer.

Account of fees and fines.

169. The registrar of every court from time to time, as often as he shall be required so to do by the Treasury, and in such form as the Treasury shall require, shall deliver to the treasurer a full account in writing of the fees received in that court under the authority of this Act, and a like account of all fines levied by the court, and of the expenses of levying the same.

Account to Auditor-General.

170. The registrar of every court, shall, once in every year, and oftener if required, on such day as shall be appointed by the Treasury, make out and send to the Comptroller and Auditor-General an account of all sums paid over by him to the treasurer of the court; and every such account, duly vouched by receipts given under the hand of the treasurer, shall be a voucher to charge the treasurer in his account before the said Comptroller and Auditor-General.

171. The treasurer of every court shall from time to time audit and settle the accounts of the registrar and other officers of the court, and shall receive the balance of the various moneys which such registrar and other officers shall have received under this Act; and the registrar shall pay over to the treasurer of the court, at such times as he may be directed by the Treasury, the moneys received by him as a registrar. Audit of registrar's accounts.

172. The Treasury shall from time to time make such rules as they shall think fit for securing the balances and other sums of money in the hands of any officers of every court, and for the due accounting for and application of all such balances and other sums of money. Rules as to balances.

173. The registrar of every court shall, in the month of March in each year, make out a correct list of all sums of money belonging to suitors in the court which shall have been paid into court, and which shall have remained unclaimed for five years before the first day of January then last past, specifying the names of the parties for whom or on whose account the same were so paid into court; and a copy of such list shall be put up and remain during court hours in some conspicuous part of the court-house, and at all times in the registrar's office, and all sums of money which shall have been paid into any such court to the use of any suitors thereof, and which shall have remained unclaimed for the period of six years on the first day of January next after the said list shall have been put up as aforesaid, shall be accounted for by the registrar to the treasurer, and no person shall be entitled to claim any sum which shall have remained so unclaimed; but no time during which the person entitled to claim such sum shall have been an infant or feme covert, or of unsound mind, or beyond the seas, shall be taken into account in estimating the said period of six years. Suitors money unclaimed in six years to be forfeited.

PART IX.

MISCELLANEOUS PROVISIONS.

174. Any Order in Council made for the purposes of this Act shall be published in the London Gazette. Publication of Orders in Council.

175. No privilege, except as herein-after excepted, shall be allowed to any solicitor or other person to exempt him from the jurisdiction of the court. No privilege allowed.

176. Nothing in this Act contained shall be construed to alter or affect the rights or privileges of the chancellor, masters, and scholars of the universities of Oxford or Cambridge respectively as by law possessed, or the jurisdiction of the courts of the chancellors or vice-chancellors of the said universities as holden under the respective charters of the said universities or otherwise. Saving for universities of Oxford or Cambridge.

177. Nothing in this Act contained shall be construed to affect the Court of the Vice-Warden of the Stannaries; but this provision shall not be deemed to prevent the establishment of any court under this Act within the Stannaries, or to limit or affect the jurisdiction Saving for Court of Vice-Warden of Stannaries.

of any court so established under this Act: Provided that no judge shall have authority to entertain jurisdiction in any case to which the equitable jurisdiction of the said Court of the Vice-Warden of the Stannaries at present extends.

When treasurer's clerk to be deemed a civil servant.

178. If the Treasury shall think fit to employ in the examination of the accounts of the courts any person whom they may think it desirable so to employ on account of knowledge acquired by him as clerk to any treasurer of a court, such clerk shall, if after one year the Treasury shall continue to employ him, be deemed a servant in the permanent civil service of the State, and be entitled to superannuation.

Townhalls used for sittings.

179. In every town or place where there shall be a court the townhall, court house, or other public building belonging to any county, city, borough, town, or place, or vested in any public body, shall, with all necessary rooms, furniture, and fittings in any such public building, be used for the purposes of holding the court, without any charge for rent or other payment save and except the reasonable and necessary charges for lighting, warming, and cleaning, when such public building is used for the purpose of the court: Provided always, that the necessary arrangements shall be made so that the sittings of the court shall not interfere with the business of the county, city, borough, or town usually transacted in such townhall, court house, or other public building, or with any purposes for which such townhall, court house, or other public building may be used by virtue of any local Act in that behalf: Provided also, that this enactment shall not apply to any city, borough, or town in which a building shall have been heretofore erected for the purposes of holding the court, and for the business connected with such court.

Process of the court to be under seal.

180. For every court there shall be a seal of the court, and all summonses and other process issuing out of the said court shall be sealed or stamped with the seal of the court, and all such summonses and other process purporting to be so sealed shall in England be received in evidence without further proof thereof; and every person who shall forge the seal or any process of the court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of the said court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process or authority of the said court, shall be guilty of felony.

Incidental expense.

181. The expense of supplying the courts and offices with law and office books and stationery, and of postage stamps, and the disbursements of the high bailiffs in conveying to prison persons committed by the courts, and all other expenses arising out of any jurisdiction now or hereafter conferred on such courts or any officer thereof, shall be paid by the Treasury out of any moneys to be from time to time provided by Parliament for such purposes.

182. No action shall be brought or be maintainable in any county or other court to recover any debt or sum of money alleged to be due in respect of the sale of any ale, porter, beer, cider, or perry which was consumed on the premises where sold or supplied, or in respect of any money or goods lent or supplied, or of any security given for, in, or towards the obtaining of any such ale, porter, beer, cider, or perry. No action for beer, &c. consumed on the premises to be brought.

183. A register of every judgment entered in the courts for the sum of ten pounds and upwards, and of every such other judgment or order as may be prescribed, shall be kept in such manner, in such place, and under such regulations as the Treasury shall appoint, and for the inspection of the said register when formed such fees shall be charged to persons desirous of inspecting the same as shall be appointed by the Treasury, and the proceeds of such fees shall be applied, in such manner as the Treasury shall appoint, in paying the expenses incurred in maintaining the said register; and the surplus of such fees, after providing for the payment of such expenses, shall be paid over to the credit of the Consolidated Fund. Registry of judgments.

184. Any acknowledgment to be made by any married woman of any deed under the Act of the third and fourth years of the reign of his late Majesty King William the Fourth, chapter seventy-four, may be received by a judge in the same manner as such acknowledgment may be received by a Judge of the High Court. Acknowledgments by married women to be received by judge.

185. The courts held by virtue of the London (City) Small Debts Extension Act, 1852, shall be held by the name of the City of London Court and shall be a court of record, and its decisions shall be subject to appeal in the same way and on the same conditions as the decisions of a County Court are subject for the time being. The judge and officers of the City of London Court shall respectively have and exercise the like jurisdiction, power, and authority in all respects, except the power of appointing officers, as are for the time being possessed and exercised by the judge and officers respectively of a County Court. The rules and orders in force for the time being for regulating the practice of and costs in the County Courts, and forms of proceedings therein, shall be in force in the said City of London Court, to the exclusion of any other rules and orders; and the same fees shall be taken for proceedings in which jurisdiction is hereby given to the court as upon similar proceedings in the County Courts, and such fees shall be applied in the same manner as the fees taken under the provisions of the said London (City) Small Debts Extension Act, 1852; provided that nothing in this Act shall take away, lessen, or diminish any of the powers, rights, or privileges of the judge of the said court, or the authority of the mayor, aldermen, and commons of the city of London in common council assembled in relation to such court, or to the judge or officers thereof, or to the fees taken therein, as such powers or authority heretofore existed. City of London Court. 15 & 16 Vict. c. lxxvii. 15 & 16 Vict. c. lxxvii.

SUPPLEMENTARY.

186. In construing this Act or any future Act relating to County Courts, unless there is anything in the subject or context repugnant Interpretation of Act.

thereto, the several words herein-after mentioned shall have or include the meanings following:

"Lord Chancellor" shall include Lord Keeper or the First Commissioner for the custody of the Great Seal; and

"Treasury" shall mean the Commissioners of Her Majesty's Treasury or any two of them; and

"Treasurer" shall include any person appointed by the Treasury to supervise the persons appointed to examine the accounts of the registrars and other officers of the court; and

"Person" shall include a body corporate or polite; and

"Landlord" shall be understood to mean the person entitled to the immediate reversion of the lands, or, if the property be holden in joint tenancy, coparcenary, or tenancy in common, shall be understood to mean any one of the persons entitled to such reversion; and

"Supreme Court" shall mean the Supreme Court of Judicature in England; and

"High Court" shall mean Her Majesty's High Court of Justice; and

"Judge" shall mean judge of County Courts; and

"Registrar" shall mean registrar of a County Court, or where there are joint registrars either of such registrars; and

"Bailiff" shall include high bailiff and any registrar performing the duties of high bailiff; and

"Order" shall include rule; and

"Action" shall include suit, and shall mean every proceeding in the court which may be commenced as prescribed by plaint; and

"Matter" shall mean every proceeding in the court, which may be commenced as prescribed otherwise than by plaint; and

"Prescribed" shall mean prescribed by the County Court Rules for the time being; and

"Court" or "County Court" shall mean and include any court held under this Act, and also the City of London Court, and shall include and mean the judge or registrar of the court.

"Return day" shall mean the day appointed in any summons or proceeding for the appearance of the defendant, or any other day fixed for the trial or hearing of any action or matter.

"Party" shall include every person served with notice of, or attending, any proceeding, although not named as a party to such proceeding.

Construction of Acts referring to county courts.

187. Any reference in an Act of Parliament or Order in Council passed or made since 1846 to a county court shall be construed as referring to a court under this Act, unless the context shows that a county court as constituted prior to 1846 is meant; and any reference in any of the Supreme Court of Judicature Acts and the Statute Law Revision and Civil Procedure Act, 1883, to an inferior court shall be construed as referring to courts under this Act as well as to any other inferior court.

188. The Acts specified in the Schedule to this Act are hereby repealed, from and after the commencement of this Act. Repeal.

Provided that—

(1.) Any Order in Council or rule or order now in force whether made under any enactment hereby repealed or not, shall continue in force until otherwise provided; and

(2.) Any judge or officer appointed under any enactment hereby repealed shall continue and be deemed to have been duly appointed under this Act; and

(3.) Any enactment or document referring to any Act or enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment in this Act.

(4.) This repeal shall not affect—

(*a.*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or

(*b.*) Any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment hereby repealed; or

(*c.*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(*d.*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed; and

(5.) This repeal shall not revive any enactment, right, office, privilege, matter or thing not in force or existing at the commencement of this Act.

SCHEDULE.

Section 188.

Acts.	Short Title.
9 & 10 Vict. c. 95. An Act for the more easy Recovery of Small Debts and Demands in England.	"The County Courts Act, 1846."
12 & 13 Vict. c. 101. An Act to amend the Act for the more easy Recovery of Small Debts and Demands in England, and to abolish certain Inferior Courts of Record.	"The County Courts Act, 1849."
13 & 14 Vict. c. 61. An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England.	"The County Courts Act, 1850."
15 & 16 Vict. c. 54. An Act further to facilitate and arrange Proceedings in the County Courts.	"The County Courts Act, 1852."

Acts.	Short Title.
19 & 20 Vict. c. 108. An Act to amend the Acts relating to the County Courts.	"The County Courts Act, 1856."
20 & 21 Vict. c. 36. An Act to supply an omission in a schedule to the Act to amend the Acts relating to the County Courts.	
21 & 22 Vict. c. 74. An Act for the Rearrangement of the Districts of the County Courts among the Judges thereof.	"The County Courts Act, 1858."
22 Vict. c. 8. An Act to repeal the thirty-second section of the Act for the more easy recovery of small debts and demands in England, and to make further provision in lieu thereof.	
25 & 26 Vict. c. 99. s. 4. An Act to amend the Bankruptcy Act, 1861.	
28 & 29 Vict. c. 99. An Act to confer on the County Courts a limited Jurisdiction in Equity.	"The County Courts Act, 1865."
29 & 30 Vict. c. 14. An Act for the Abolition of the Offices of Treasurer and of High Bailiffs of County Courts as Vacancies shall occur, and to provide for the Payment of future Registrars of County Courts.	"The County Courts Act, 1866."
30 & 31 Vict. c. 142. An Act to amend the Acts relating to the Jurisdiction of the County Courts.	"The County Courts Act, 1867."
38 & 39 Vict. c. 50. An Act to amend the Acts relating to the County Courts.	"The County Courts Act, 1875."
45 & 46 Vict. c. 57. An Act to amend the law relating to Costs and Salaries in County Courts.	"The County Courts (Costs and Salaries) Act, 1882."
50 & 51 Vict. c. 3. An Act to amend the Acts relating to County Courts, so far as regards the payment of certain expenses connected with the County Courts.	"The County Courts (Expenses) Act, 1887."

CHAPTER 44.

An Act to provide for the establishment of Local Courts of Bankruptcy in Ireland. [24th December 1888.]

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 as the Local Bankruptcy (Ireland) Act, 1888.