ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

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C A P. LXXXIII.

An Act to improve the Administration of Justice in the Court of Chancery and in the Judicial Committee of the Privy Council. [7th *August* 1851.]

WHEREAS it is expedient that further Provision should be made for the Administration of Justice in the High Court of Chancery and in the Judicial Committee of the Privy Council: 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:

Power to Her Majesty to appoint Two Persons to be Judges of the Court of Appeal in Chancery.

I. It shall be lawful for Her Majesty, from Time to Time, by Letters Patent under the Great Seal of the United Kingdom, to appoint Two Persons, being or having been respectively Barristers-at-Law of Fifteen Years standing, to be Judges of the Court of Appeal in Chancery, and every Judge so appointed shall hold his Office during good Behaviour; provided always, that it shall be lawful for Her Majesty to remove any such Judge from his Office upon an Address of both Houses of Parliament; and the Lord Chancellor, together with such Two Judges, for the Time being appointed as aforesaid, shall form the Court of Appeal in Chancery.

Power to appoint Secretary, Usher, and Trainbearer for each Judge.

II. It shall be lawful for Her Majesty, in and by such Letters Patent as aforesaid, or by any other Letters Patent under the Great Seal of the United Kingdom, to direct that each of the Judges to be appointed in pursuance of this Act shall have a Secretary, Usher, and Trainbearer, to be from Time to Time appointed and removed by such Judge at his Pleasure; and the Secretaries, Registrars, and other Officers appointed to attend the Lord Chancellor

shall attend the said Court of Appeal and the respective Judges thereof as Circumstances shall require, and the Lord Chancellor shall direct.

Precedence of Judges of Court of Appeal.

III. The said Judges shall be styled Lords Justices of the Court of Appeal in Chancery, and shall have Rank and Precedence next after the Lord Chief Baron of the Court of Exchequer, and as between themselves shall have Rank and Precedence according to the Order and Time of their Appointment.

Judges of Court of Appeal to take the following Oath.

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

'I do solemnly and sincerely promise and swear, That I will duly and faithfully, and to the best of my Skill and Power, execute the Office of Lord Justice of the Court of Appeal in Chancery. So help me GOD.'

Court of Appeal to have the Jurisdiction now exercised by the Lord Chancellor.

V. From and after the First Day of *October* One thousand eight hundred and fifty-one all the Jurisdiction of the High Court of Chancery in *England* which is now possessed and exercised by the Lord Chancellor in the said Court of Chancery, and all Powers, Authorities, and Duties, as well ministerial as judicial, incident to such Jurisdiction, now exercised and performed by the Lord Chancellor, shall and may be had, exercised, and performed by the said Court of Appeal.

Statutory Jurisdiction now exercised by the Lord Chancellor as a Judge in Chancery may be exercised by the Court of Appeal.

VI. Where under any Act of Parliament any Jurisdiction is vested in the Lord Chancellor, or any Power, Authority, or Duty is to be exercised or performed by the Lord Chancellor, and under the Directions of any Act or by the Usage in this Behalf such Power, Authority, or Duty is or ought to be exercised or performed by the Lord Chancellor acting judicially in the said Court of Chancery, all such Jurisdiction, Power, Authority, and Duty, and the ministerial Powers and Authorities incident thereto or consequent thereupon, which are now exercised and performed by the Lord Chancellor, shall from and after the said First Day of *October* One thousand eight hundred and fifty-one be had, exercised, and performed by the said Court of Appeal.

Jurisdiction of Vice Chancellor in Bankruptcy transferred to the Court of Appeal.

VII. From and after the First Day of *October* One thousand eight hundred and fifty-one all the Powers, Authorities, and Jurisdiction, original and appellate, given and granted to the Vice Chancellors of the said Court of Chancery, or any of them, under the Bankrupt Law Consolidation Act made and passed in One thousand eight hundred and forty-nine, or otherwise had, possessed, or exercised by the said Vice Chancellors, or any of them, in Matters of Bankruptcy, shall be granted to, vested in, exercised, and possessed by the said Court of Appeal; and all the Provisions of the said Act in relation

to

to such Appeals to such Vice Chancellor shall be construed accordingly: Provided always, that there shall not be any Appeal from the Decision of the said Court of Appeal to the Lord Chancellor, anything in the said Bankrupt Law Consolidation Act to the contrary notwithstanding.

Common Law Judges may sit on Request of Lord Chancellor.

VIII. It shall be lawful to the said Court of Appeal and the Master of the Rolls, and the Vice Chancellors, and for each of the said Jurisdictions, to sit, with the Assistance of any Judge of either of Her Majesty's Courts of Common Law at *Westminster*, upon the Request of the Lord Chancellor, if any such Common Law Judge shall find it convenient to attend upon such Request.

Decision of Majority to be binding; if Court equally divided the Decree, &c. appealed from to be affirmed.

IX. The Decision of the Majority of the Judges of the Court of Appeal shall be taken and deemed to be the Decision of the said Court; and if the Judges of the Court be equally divided in opinion on any Cause or Matter brought before the Court by way of Appeal, the Decree or Order appealed from shall be taken and deemed to be affirmed by the Court of Appeal.

Decrees, &c. of the said Court of Appeal may be appealed from to the House of Lords.

X. All Decisions, Decrees, or Orders of the Court of Appeal, including Decisions in Matters of Bankruptcy, shall be subject to Appeal to the House of Lords in the Cases and under the Conditions in and under which the like Decisions, Decrees, or Orders of the Lord Chancellor would have been subject to such Appeal if this Act had not been passed; but the Appeal to the House of Lords in Matters of Bankruptcy shall be only on Matters of Law or Equity, or on the Rejection or Admission of Evidence, and on a special Case to be approved and certified by One of the Judges of the Court of Appeal hereby constituted, whose Determination on the Settlement of such Case shall be final and conclusive.

One Judge appointed under this Act sitting with the Lord Chancellor, or both Judges sitting apart from him, to form the Court of Appeal. Lord Chancellor sitting alone to have co-ordinate Jurisdiction with the Court of Appeal.

XI. All the Jurisdiction, Powers, and Authorities of the said Court of Appeal may be exercised either by One only of the Judges for the Time being appointed under this Act and the Lord Chancellor sitting together as such Court of Appeal, or by both of the Judges so appointed sitting as such Court apart from the Lord Chancellor, either in his Absence from the said Court of Chancery, or during the same Time as he is sitting in such Court: Provided always, that the Lord Chancellor shall and may also while sitting alone or apart from such Two Judges have and exercise the like Jurisdiction, Powers, and Authorities, as well as all such other Jurisdiction, Powers, and Authorities as might have been exercised by the Lord Chancellor if this Act had not been passed.

Lord Chancellor to regulate Sittings and Business of Court of Appeal.

XII. The Lord Chancellor shall fix the Times at which the Two Judges of the said Court of Appeal appointed under this Act, or either of them, shall sit with the Lord Chancellor, and at which such Two Judges shall sit apart from him as such Court of Appeal, and also what Appeals and Matters now usually heard and

and determined by the Lord Chancellor, and hereby made subject to the Jurisdiction of the said Court of Appeal, shall be heard and determined by such Court when the Lord Chancellor is sitting with the said Judges to be appointed under this Act or One of them, and by such Judges when sitting apart from such Lord Chancellor, and by such Lord Chancellor when sitting alone, respectively, and generally may make such Regulations as to him may seem proper for dividing and regulating the Business of the said Court of Appeal, and for the Attendance of a Registrar of the said Court of Chancery at the Sittings of the said Court of Appeal.

Saving of the ministerial and certain other Powers of the Lord Chancellor.

XIII. Nothing herein contained shall affect any of the Powers, Duties, or Authorities attached to the Office of Lord Chancellor, or exercised by the Lord Chancellor as Keeper of the Great Seal, except the Powers, Authorities, and Duties which are exercised and performed by him acting as a Judge in the said Court of Chancery, either by virtue of his ordinary Jurisdiction or of any Statute, and the ministerial Powers and Authorities incident thereto respectively, or affect the Powers, Authorities, and Duties of the Lord Chancellor, under and by virtue of any Appointment under the Sign Manual of the Crown, as having the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind, or in relation to Letters Patent, Grants, or Writings passed or to be passed under the Great Seal of the United Kingdom, or the Revocation of such Letters Patent, Grants, or Writings, or the Powers and Authorities of the Lord Chancellor in right or on behalf of Her Majesty as Visitor of any Charity or other Foundation, or the Powers of the Lord Chancellor of Appointment to or Removal from or otherwise in relation to Offices in the Court of Chancery, or other Offices, save as herein specially provided, or the Powers of the Lord Chancellor to direct and regulate the Sittings and Duties of the Vice Chancellors, or any Powers of the Lord Chancellor (whether to be exercised by the Lord Chancellor alone, or with the Concurrence or Advice or Consent of the Master of the Rolls, or of the Master of the Rolls and the Vice Chancellors, or otherwise,) to make Rules or Orders for regulating the Practice, Proceedings, and Business of the Court of Chancery, or the Business or Duties of any of the Offices or Officers of such Court; and in all Cases where the Concurrence, Advice, or Consent of the Master of the Rolls and of One of the Vice Chancellors, or of either of them, shall be requisite for the making of such Rules or Orders, the Concurrence, Advice, or Consent of One of the Judges appointed by virtue of this Act may be substituted for that of the Master of the Rolls or of such Vice Chancellor.

One of the Judges of the Court of Appeal may sit for Master of the Rolls or

XIV. In case the Master of the Rolls or any Vice Chancellor of the High Court of Chancery shall be prevented by Illness or otherwise from sitting at any Time when according to ordinary Course his Court would be open, the Lord Chancellor may, by Writing under his Hand, from Time to Time, so often as Occasion may require, authorize

authorize One of the Judges of the said Court of Appeal to sit for the hearing and determining of Causes and Matters in lieu of the Master of the Rolls or such Vice Chancellor, and the Judge sitting under such Authority as aforesaid may, for the Purpose of disposing of any Cause or Matter which has been partly heard by him, continue such his Sittings, notwithstanding the Master of the Rolls or Vice Chancellor in whose Stead he has partly heard such Cause or Matter may also be sitting for the hearing of other Causes or Matters; and all Decrees and Orders made by such Judge in pursuance of such Authority shall be of the same Effect and Validity and subject to Revision and Appeal, in the same Manner in all respects as if made by the Master of the Rolls or Vice Chancellor, as the Case may be: Provided always, that such Judge shall not sit as a Judge of the said Court of Appeal upon any Appeal from any Decree or Order made by himself.

Vice Chancellor during his temporary Absence.

XV. Every Person holding or who has held the Office of a Judge of the Court of Appeal in Chancery shall, if a Member of Her Majesty's Privy Council, be a Member of the Judicial Committee of the Privy Council.

Judges of Court of Appeal, if Privy Councillors, to be of the Judicial Committee.

XVI. So much of the Act of the Session holden in the Third and Fourth Years of King *William* the Fourth, Chapter Forty-one, as provides that no Matter shall be heard, nor shall any Order, Report, or Recommendation be made, by the Judicial Committee of the Privy Council, in pursuance of that Act, unless in the Presence of at least Four Members of the said Committee, shall be repealed; and no Matter shall be heard, nor shall any Order, Report, or Recommendation be made, by the said Judicial Committee, in pursuance of the said Act or any other Act, unless in the Presence of at least Three Members of the said Committee, exclusive of the Lord President of Her Majesty's Privy Council for the Time being.

No Matter to be heard, &c. by Judicial Committee unless Three Members are present, exclusive of Lord President.

XVII. From and after the Eleventh Day of *October* One thousand eight hundred and fifty-one, the Salary of the Lord Chancellor shall be the net yearly Sum of Ten thousand Pounds; and there shall be deducted from the yearly Sum payable to the Lord Chancellor under the Act of the Session holden in the Second and Third Years of King *William* the Fourth, Chapter One hundred and twenty-two, the Amount of any Salary or Sum which for the Time being may be payable to the Lord Chancellor as Speaker of the House of Lords, so that such yearly Sum only shall be paid by the Governor and Company of the Bank of *England*, to the Lord Chancellor, under and according to the Provisions of the said Act, as with the Salary or Sum certified (as herein-after mentioned) to be payable to the Lord Chancellor as such Speaker shall be sufficient to make up the net yearly Sum of Ten thousand Pounds; and the Clerk Assistant of the Parliaments shall on or before the Eleventh Day of *October* One thousand eight hundred and fifty-one, and from Time to Time,

Provision as to Lord Chancellor's Salary.

2 & 3 W. 4. c. 122.

so often as the Salary or Sum payable to the Lord Chancellor as such Speaker is altered, certify in Writing under the Hand of such Clerk Assistant, to the said Governor and Company, the Amount of the Salary or Sum for the Time being payable to the Lord Chancellor as such Speaker.

Salary of the Master of the Rolls reduced to 6,000*l.* 7 W. 4. & 1 Vict. c. 46.

XVIII. From and after the Eleventh Day of *October* One thousand eight hundred and fifty-one, in lieu of the Salary payable to the Master of the Rolls under the Act of the Session holden in the Seventh Year of King *William* the Fourth and the First Year of Her Majesty, Chapter Forty-six, there shall be paid, for the Salary of the Master of the Rolls for the Time being, out of the Fund, on the Days, and according to the Provisions mentioned and contained in the said Act, the annual Sum of Six thousand Pounds, free and clear from all Taxes and Deductions.

Salary of 6,000*l.* to be paid to each of the Judges of the Court of Appeal appointed under this Act out of the Interest and Dividends arising from Suitors Fund.

XIX. Out of the Interest and Dividends that have arisen or may hereafter arise from the Government or Parliamentary Securities now or hereafter to be placed in the Name of the Accountant General of the Court of Chancery to the Two Accounts, intituled "Account "of Monies placed out for the Benefit and better Security of the "Suitors of the High Court of Chancery," and "Account of Securities "purchased with surplus Interest arising from Securities carried to an "Account of Monies placed out for the Benefit and further Security "of the Suitors of the High Court of Chancery," or either of them, there shall be paid (but subject and without Prejudice to the Payment of all Salaries or Sums of Money by any former Act or Acts now in force directed or authorized to be paid thereout), by the Governor and Company of the Bank of *England*, by virtue of any Order or Orders of the Lord Chancellor to be made from Time to Time for that Purpose, without any Draft from the Accountant General, the net yearly Salary of Six thousand Pounds to each of the Judges of the said Court of Appeal for the Time being appointed under this Act, the net yearly Salary of Four hundred Pounds to his Secretary, the net yearly Salary of Two hundred and fifty Pounds to his Usher, the net yearly Salary of One hundred Pounds to his Trainbearer; and also a Sum of Forty Pounds *per Annum* to each of the Persons appointed or to be appointed under the Act of the Session holden in the Fiftieth Year of the Reign of King *George* the Third, Chapter One hundred and sixty-four, and under the Act of the Session holden in the Fifth Year of the Reign of Her Majesty, Chapter Five, to keep Order in the Courts therein mentioned, and in addition to the Salary of Forty Pounds thereby provided; all such Payments to be made respectively on the Days and according to the Provisions as to proportionate Parts thereof respectively and otherwise mentioned and contained in the said last-mentioned Act in relation to the Salaries of the Vice Chancellors and Officers appointed under such Act.

XX. It

Power to Her Majesty to grant an Annuity to each of such Judges on his Resignation.

XX. It shall be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to grant to any Person appointed to and executing the Office of a Judge of the said Court of Appeal in pursuance of this Act, an Annuity not exceeding Three thousand seven hundred and fifty Pounds, to commence and take effect immediately after the Period when the Person to whom such Annuity is granted resigns his Office, and to continue from thenceforth during the natural Life of such Person; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom, after paying or reserving sufficient to pay all such Sums of Money as by any Acts of Parliament now in force have been directed to be paid thereout, but with Precedence to all other Payments which shall hereafter be charged thereupon; and such Annuity shall be paid on the Days and according to the Provisions mentioned and contained in the said Act of the Fifth Year of Her Majesty, in relation to the Annuities granted on Resignation of Office to the Vice Chancellors appointed under that Act: Provided always, that it shall be lawful for Her Majesty to limit the Duration of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person as he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Profits of such Office, shall together not exceed the said Sum of Three thousand seven hundred and fifty Pounds: Provided also, that no Annuity granted to any Person having executed the said Office of a Judge of the said Court of Appeal shall be valid unless such Person have held such Office for the Period of Fifteen Years, or have held such Office, and any of the Offices of Master of the Rolls, Vice Chancellor, or Judge of One of Her Majesty's Superior Courts of Common Law at *Westminster*, for Periods amounting together to Fifteen Years, or be affected with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Lord Chancellor empowered, if he think it necessary, to appoint an additional Registrar.

XXI. It shall be lawful for the Lord Chancellor (in case it shall hereafter appear to be necessary) by Writing under his Hand to appoint One additional Registrar of the Court of Chancery, and from Time to Time to fill up any Vacancy in the said Office; and the Person to be appointed such additional Registrar shall be the senior of the Clerks to the Registrars of the said Court for the Time being, to whom no sufficient Objection to the Satisfaction of the Lord Chancellor shall be made; and such additional Registrar shall rank next after the junior of the Registrars for the Time being appointed under the Act of the Fifth Year of the Reign of Her present Majesty, Chapter Five, and shall personally do and perform all the Duties and have and enjoy all the Rights and Privileges belonging to the Office of Registrar, and shall be subject to the several Provisions and Penalties contained in the said Act relating to

to the Registrars of the said Court, and be entitled, in case of permanent Infirmity or after Continuance in Office for Forty Years, to the like Annuity as if he had been appointed Registrar in and by the said Act: Provided always, that the Acceptance of the Office of additional Registrar by such senior Clerk for the Time being shall be without Prejudice to all his Rights of Succession to the Office of Registrar under the said Act.

Salary of such Registrar to be paid out of Suitors Fund.

XXII. Out of the Fund placed to the Credit of the Accountant General of the said Court, intituled "The Suitors Fee Fund Account," or the other Funds charged with and made liable for the Payment of the Salaries of the present Registrars, there shall be paid to such additional Registrar from the Date of his Appointment the Salary or net yearly Sum of One thousand two hundred and fifty Pounds, and also, so long as he shall be liable for the Expenses of writing and copying the Decrees and Orders, and the Minutes of the Decrees and Orders of the said Court, the yearly Sum of One hundred Pounds, on the Days and in the Manner provided by the said Act of the Fifth Year of the Reign of Her present Majesty, Chapter Five, with respect to the Payment of the Salaries of the present Registrars.

Additional Salary to the Eleventh Clerk to the Registrars.

XXIII. In the event of the Appointment of such additional Registrar there shall be paid to the Eleventh Clerk to the Registrars for the Time being, from the Date of such Appointment, out of the said Fund, intituled "The Suitors Fee Fund," or such other Funds as aforesaid, the same Salary or yearly Sum, and on the same Days and in the same Manner as by the said Act of the Fifth Year of the Reign of Her present Majesty, Chapter Five, is appointed and directed to be paid to the Seventh, Eighth, Ninth, and Tenth Clerks to the Registrars.

Interpretation of Term "Lord Chancellor."

XXIV. In the Construction of this Act, unless such Meaning be repugnant to or inconsistent with the Context, the Expression "Lord Chancellor" shall mean and include the Lord High Chancellor of *Great Britain*, and the Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom, for the Time being.

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