

ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

****

CAP. LXXVII.

An Act to amend the Law relating to Probates and Letters of Administration in *England*.

[25th *August* 1857.]

WHEREAS it is expedient that all Jurisdiction in relation to the Grant and Revocation of Probates of Wills and Letters of Administration in *England* should be exercised, in the Name of Her Majesty, by One Court: 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:

Commencement of Act.

I. This Act (except where otherwise specially provided) shall come into operation on such Day, not sooner than the First Day of *January* One thousand eight hundred and fifty-eight, as Her Majesty shall by Order in Council appoint, provided that such Order shall be made One Month at least previously to the Day so to be appointed.

Interpretation of Terms.

II. In the Construction of this Act, unless the Context be inconsistent with the Meaning hereby assigned—

"Will" shall comprehend "Testament" and all other Testamentary Instruments of which Probate may now be granted:

"Administration" shall comprehend all Letters of Administration of the Effects of deceased Persons, whether with or without the Will annexed, and whether granted for general, special, or limited Purposes;

"Matters and Causes Testamentary" shall comprehend all Matters and Causes relating to the Grant and Revocation of Probate of Wills or of Administration:

"Common Form Business" shall mean the Business of obtaining Probate and Administration where there is no Contention as to the Right thereto, including the passing of Probates and Administrations through the Court of Probate in contentious Cases when the Contest is terminated, and all Business of a non-contentious Nature to be taken in the Court in Matters of Testacy and Intestacy, not being Proceedings in any Suit, and also the Business of lodging Caveats against the Grant of Probate or Administration.

Testamentary Jurisdiction of Ecclesiastical and other Courts abolished.

III. The voluntary and contentious Jurisdiction and Authority of all Ecclesiastical, Royal Peculiar, Peculiar, Manorial, and other Courts and Persons in *England* now having Jurisdiction or Authority to grant or revoke Probate of Wills or Letters of Administration of the Effects of deceased Persons, shall in respect of such Matters absolutely cease; and no Jurisdiction or Authority in relation to any Matters or Causes Testamentary, or to any Matter arising out of or connected with the Grant or Revocation of Probate or Administration, shall belong to or be exercised by any such Court or Person.

Testamentary Jurisdiction to be exercised by a Court of Probate.

IV. The voluntary and contentious Jurisdiction and Authority in relation to the granting or revoking Probate of Wills and Letters of Administration of the Effects of deceased Persons now vested in or which can be exercised by any Court or Person in *England*, together with full Authority to hear and determine all Questions relating to Matters and Causes Testamentary, shall belong to and be vested in Her Majesty, and shall, except as herein-after is mentioned, be exercised in the Name of Her Majesty in a Court to be called the Court of Probate, and to hold its ordinary Sittings and to have its Principal Registry at such Place or Places in *London* or *Middlesex* as Her Majesty in Council shall from Time to Time appoint.

Power to Her Majesty to appoint a Judge of the Court of Probate.

V. There shall be One Judge of Her Majesty's Court of Probate; and it shall be lawful for Her Majesty from Time to Time, by Letters Patent under the Great Seal of the United Kingdom, to appoint a Person, being or having been an Advocate of Ten Years Standing, or a Barrister-at-Law of Fifteen Years Standing, to be such Judge.

VI. The

VI. The Judge of the Court of Probate shall hold his Office during good Behaviour, provided that it shall be lawful for Her Majesty to remove any such Judge from his Office upon an Address of both Houses of Parliament. Judge's Tenure of Office.

VII. Every Judge of the Court of Probate shall, before 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: Judge before acting to take the following Oath.

'I *A.B.* 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 Judge of the Court of Probate.

'So help me GOD.'

VIII. The Judge shall have Rank and Precedence with the Puisne Judges of Her Majesty's Superior Courts of Common Law at *Westminster* according to the Date of his Appointment, and he shall have a Secretary and Usher, to be from Time to Time appointed and removed by him at his Pleasure. Rank and Precedence of Judge, who shall appoint a Secretary and Usher.

IX. There shall be paid to the Judge the net yearly Salary of Four thousand Pounds, and to his Secretary the net yearly Salary of Three hundred Pounds, and to his Usher the net yearly Salary of One hundred and fifty Pounds. Salaries of Judge, Secretary, and Usher.

X. Upon the next Vacancy in the Office of Judge of the High Court of Admiralty of *England* it shall be lawful for Her Majesty, if She so think fit, to appoint the Person then being Judge of the Court of Probate to be also Judge of the said Court of Admiralty, or in case the Office of Judge of the Court of Probate become vacant before the Office of Judge of the Court of Admiralty, the Judge of the Court of Admiralty may, with his Consent, be appointed to and hold also the Office of Judge of the Court of Probate, and after the Union of the said Two Offices they shall be thenceforth held by the same Person. Judge of Court of Probate to be also Judge of the Admiralty Court on the next Vacancy.

XI. From and after the Union under this Act of the Two Offices of Judge of the Court of Probate and Judge of the Court of Admiralty in the same Person, the said yearly Salary of Four thousand Pounds payable under this Act shall be increased to Five thousand Pounds, and the Salary now payable to the Judge of the Court of Admiralty shall cease. As to Increase of Salary upon Union of the Two Offices.

XII. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Retiring Pensions of Judges.

of Judge of Her Majesty's Court of Probate an Annuity, not exceeding Two thousand Pounds, or if such Person be also executing the Office of Judge of the said Court of Admiralty, not exceeding Three thousand five hundred Pounds, to commence immediately after the Day when the Person to whom such Annuity shall be granted shall resign the said Office or Offices, and to continue during his natural Life; provided that Her Majesty may, in and by such Letters Patent, limit the Duration of Payment of such Annuity, or any Part thereof, to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall together not exceed in the whole the said Sum of Two thousand Pounds or Three thousand five hundred Pounds, as the Case may be: Provided also, that no Annuity granted to any Person having executed the Office of Judge under this Act, except the present Judge of the Prerogative Court, shall be valid unless such Person shall have held such Office for the Period of Fifteen Years, or have held such Office and any of the Offices of Judge in any of the Superior Courts of Law or Equity or the High Court of Admiralty for Periods amounting together to Fifteen Years, or shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

District Registries to be established as in Schedule (A.)

XIII. There shall be established for each of the Districts specified in Schedule (A.) to this Act, and at the Places respectively mentioned in such Schedule, a Public Registry attached to and under the Control of the Court of Probate, herein-after referred to as "The District Registry."

Appointment of Officers of the Court of Probate.

XIV. There shall be Three Registrars, Two Record Keepers, and One Sealer for the Principal Registry of the Court of Probate, and there shall be One District Registrar for each District Registry herein-after referred to as the District Registrar, and there shall be so many Clerks and other Officers for the Court and the Principal Registry as the Judge of the Court, with the Sanction of the Commissioners of Her Majesty's Treasury, may from Time to Time think fit: Provided, that if at any Time it appear to Her Majesty in Council that the Duties of the Registrars of the Principal Registry of the Court of Probate can be performed by Two Registrars, it shall be lawful for Her Majesty by Order in Council to direct that the Number of Registrars for such Principal Registry be reduced accordingly.

As to Appointment of the First

XV. *Charles Dyneley* Esquire, *John Iggulden* Esquire, and *William F. Gostling* Esquire, the present Deputy Registrars of the Prerogative

Prerogative Court of *Canterbury*, shall, if willing to accept the Office, be the First Registrars of the Principal Registry of the Court of Probate; *Joseph Todd* and *John Smith*, the present Record Keepers of the said Prerogative Court, shall, if willing to accept the Office, be the First Record Keepers at the said Principal Registry; and *William John Berry*, the present Sealer of the said Prerogative Court, shall, if willing to accept the Office, be the First Sealer at the said Principal Registry; and *George Jarvis Foster*, Clerk of the Papers in the said Prerogative Court, shall, if willing to accept the Office, be the First Clerk of Papers at the said Principal Registry. Officers of the Principal Registry.

XVI. The other Clerks and Officers now employed in the said Prerogative Court shall be transferred to such Situations in the Court of Probate and the Principal Registry thereof as the Lord Chancellor may in that Behalf direct, so that their Duties may be such as, in the Opinion of the said Lord Chancellor, may be as nearly as possible similar to those which they have heretofore discharged in the said Prerogative Court: Provided always, that no such Clerk or other Officer shall be so transferred whom the said Lord Chancellor shall consider to be from Age, Infirmity, or other Cause, incompetent to the Discharge of his Duties. Clerks and Officers of Prerogative Court to be transferred to like Offices in Court of Probate.

XVII. The Registrar or Deputy Registrar (as the Case may be) now executing in Person the Duties of Registrar of a Diocesan or other Court exercising Testamentary Jurisdiction at any Place at which a District Registry is to be established under this Act, or where there is more than One such Registrar or Deputy Registrar so acting such one of them as the Judge shall select, shall be appointed the First District Registrar for such District, save where the Judge shall consider such Registrar or Deputy Registrar, or all such Registrars or Deputy Registrars if more than One, to be from Age, Infirmity, or other Cause incompetent to the Discharge of the Duties of District Registrar; provided that where there is now more than One such Registrar or Deputy Registrar competent to the Discharge of the Duties, the Judge may appoint them or more than One of them to hold such Office of District Registrar jointly with Benefit of Survivorship. Existing Diocesan Registrars to be entitled to be appointed District Registrars at the same Places.

XVIII. The Registrars, District Registrars, and other Officers of the Court of Probate, except as herein provided, shall be appointed by the Judge: There shall be paid to the several Officers mentioned in Schedule (B.) to this Act the several Salaries set opposite to their respective Titles in the same Schedule, and the said District Registrars shall, for the Performance of their Duties under this Act, including the Services of any Clerks they may employ, be entitled to take in As to Appointment to Offices. Salaries of Officers.

respect of the Business in their respective District Registries such Fees as shall be fixed as herein-after provided; and, except as aforesaid, there shall be paid to the several Clerks and other Officers appointed under this Act such Salaries or other Remuneration as the Judge, with the Consent of the Commissioners of Her Majesty's Treasury, shall from Time to Time in each Case direct.

Tenure of Office of Officers.

XIX. The Registrars and District Registrars shall hold their Offices during good Behaviour, subject to be removed by Order of the Lord Chancellor for some reasonable Cause to be in such Order expressed; and the other Officers of the Court may be removed by the Judge, with the Sanction of the Lord Chancellor.

Qualification of Registrars and District Registrars.

XX. No Person shall be appointed a Registrar or District Registrar who shall not be or have been an Advocate, Barrister-at-Law, Proctor, Solicitor, or Attorney-at-Law, unless at the Time of the passing of this Act he is performing in Person the Duties of Registrar or Deputy Registrar of some Ecclesiastical Court in *England*, or is acting as Articled Clerk or Paid Clerk to a Proctor in *Doctors Commons*, or as Officer or Clerk in the Office of the said Prerogative Court, or of the Prerogative Court of *York*, or of any Diocesan Court.

Officers of the Court to execute their Offices in Person.

Registrars, &c. not to act as Proctors, &c.

XXI. All Registrars, District Registrars, Officers, and Clerks of the Court of Probate shall execute their respective Offices in Person and not by Deputy; and no Registrar of the Principal Registry of the Court, nor any Officer or Clerk in the Principal Registry thereof, shall during the Time of his holding such Office directly or indirectly practise as an Advocate, Barrister, Proctor, Solicitor, or Attorney, or receive or participate in the Fees of any other Person so practising.

Power to Judge to cause Seals of the Court to be provided.

XXII. The Judge shall cause to be made Seals for the Court of Probate, that is to say, One Seal to be used in its Principal Registry, and separate Seals to be used in the several District Registries, and may cause the same respectively from Time to Time to be broken, altered, and renewed at his Discretion; and all Probates, Letters of Administration, Orders, and other Instruments, and Exemplifications and Copies thereof, respectively, purporting to be sealed with any Seal of the Court of Probate, shall in all Parts of the United Kingdom be received in Evidence without further Proof thereof.

The Court to have throughout all England the same Powers as

XXIII. The Court of Probate shall be a Court of Record, and such Court shall have the same Powers, and its Grants and Orders shall have the same Effect, throughout all *England*, and in relation to the Personal Estate in all Parts of *England* of deceased Persons, as the Prerogative

rogative Court of the Archbishop of *Canterbury* and its Grants and Orders respectively now have in the Province of *Canterbury*, or in the Parts of such Province within its Jurisdiction, and in relation to those Matters and Causes Testamentary and those Effects of deceased Persons which are within the Jurisdiction of the said Prerogative Court; and all Duties which, by Statute or otherwise, are imposed on or should be performed by Ordinaries generally, or on or by the said Prerogative Court, in respect of Probates, Administrations, or Matters or Causes Testamentary within their respective Jurisdictions, shall be performed by the Court of Probate: Provided that no Suits for Legacies, or Suits for the Distribution of Residues, shall be entertained by the Court, or by any Court or Person whose Jurisdiction as to Matters and Causes Testamentary is hereby abolished.

the Prerogative Court within the Province of Canterbury.

Suits for Legacies or Distribution not to be entertained.

XXIV. The Court of Probate may require the Attendance of any Party in Person, or of any Person whom it may think fit to examine or cause to be examined in any Suit or other Proceeding in respect of Matters or Causes Testamentary, and may examine or cause to be examined upon Oath or Affirmation, as the Case may require, Parties and Witnesses by Word of Mouth, and may, either before or after or with or without such Examination, cause them or any of them to be examined on Interrogatories, or receive their or any of their Affidavits or solemn Affirmations, as the Case may be; and the Court may by Writ require such Attendance, and order to be produced before itself or otherwise any Deeds, Evidences, or Writings, in the same Form, or nearly as may be, as that in which a Writ of Subpœna ad testificandum, or of Subpœna duces tecum, is now issued by any of Her Majesty's Superior Courts of Law at *Westminster*; and every Person disobeying any such Writ shall be considered as in Contempt of the Court, and also be liable to forfeit a Sum not exceeding One hundred Pounds.

Power to examine Witnesses.

As to Production of Deeds, &c.

XXV. The Court of Probate shall have the like Powers, Jurisdiction, and Authority for enforcing the Attendance of Persons required by it as aforesaid, and for punishing Persons failing, neglecting, or refusing to produce Deeds, Evidences, or Writings, or refusing to appear or to be sworn, or make Affirmation or Declaration, or to give Evidence, or guilty of Contempt, and generally for enforcing all Orders, Decrees, and Judgments made or given by the Court under this Act, and otherwise in relation to the Matters to be inquired into and done by or under the Orders of the Court under this Act, as are by Law vested in the High Court of Chancery for such Purposes in relation to any Suit or Matter depending in such Court.

Powers of the Court to enforce Orders.

XXVI. The

Order to produce any Instrument purporting to be testamentary.

XXVI. The Court of Probate may, on Motion or Petition, or otherwise, in a summary Way, whether any Suit or other Proceeding shall or shall not be pending in the Court with respect to any Probate or Administration, order any Person to produce and bring into the Principal or any District Registry, or otherwise as the Court may direct, any Paper or Writing being or purporting to be testamentary, which may be shown to be in the Possession or under the Control of such Person; and if it be not shown that any such Paper or Writing is in the Possession or under the Control of such Person, but it shall appear that there are reasonable Grounds for believing that he has the Knowledge of any such Paper or Writing, the Court may direct such Person to attend for the Purpose of being examined in open Court, or upon Interrogatories respecting the same, and such Person shall be bound to answer such Questions or Interrogatories, and, if so ordered, to produce and bring in such Paper or Writing, and shall be subject to the like Process of Contempt in case of Default in not attending or in not answering such Questions or Interrogatories, or not bringing in such Paper or Writing, as he would have been subject to in case he had been a Party to a Suit in the Court and had made such Default; and the Costs of any such Motion, Petition, or other Proceeding shall be in the Discretion of the Court.

Registrars, &c. to have Power to administer Oaths.

Power to appoint, also, Commissioners to administer Oaths, &c.

XXVII. The Registrars and District Registrars shall respectively have full Power to administer Oaths; and all Persons who at the Commencement of this Act shall be acting as Surrogates of any Ecclesiastical Court, and any other Persons whom the Judge shall, under the Seal of the Court, from Time to Time appoint, shall respectively have full Power to administer Oaths and perform such other Duties in reference to Matters and Causes Testamentary as may be assigned to them from Time to Time by the Rules and Orders under this Act; and the Persons so appointed shall be styled "Commissioners of Her Majesty's Court of Probate:" Provided, that any Party required to be examined, or any Person called as a Witness or required or desiring to make an Affidavit or Deposition under or for the Purposes of this Act, shall be permitted to make his solemn Affirmation or Declaration instead of being sworn in the Circumstances and Manner in which a Person called as a Witness or desiring to make an Affidavit or Deposition would be permitted so to do under the Common Law Procedure Act, 1854, in Cases within the Provisions of that Act; and any Person who shall wilfully give false Evidence, or who shall wilfully swear, affirm, or declare falsely in any Affidavit or Deposition before the Court of Probate, or before any Registrar, District Registrar, or Commissioner of the Court, shall be liable to the Penalties and Consequences of wilful and corrupt Perjury.

XXVIII. If

XXVIII. If any Person forge the Signature of any Registrar, District Registrar, or Commissioner for taking Oaths, or forge or counterfeit any Seal of the Court of Probate, or knowingly use or concur in using any such forged or counterfeit Signature or Seal, or tender in Evidence any Document with a false or counterfeit Signature of such Registrar, District Registrar, or Commissioner, or with a false or counterfeit Seal, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall upon Conviction be liable to Penal Servitude for the Term of his Life or any Term not less than Seven Years, or to Imprisonment for any Term not exceeding Three Years, with or without Hard Labour. Penalty on forging or counterfeiting Seals or Signatures of Officers.

XXIX. The Practice of the Court of Probate shall, except where otherwise provided by this Act, or by the Rules or Orders to be from Time to Time made under this Act, be, so far as the Circumstances of the Case will admit, according to the present Practice in the Prerogative Court. Practice of the Court.

XXX. And to the Intent and End that the Procedure and Practice of the Court may be of the most simple and expeditious Character, it shall be lawful for the Lord Chancellor, at any Time after the passing of this Act, with the Advice and Assistance of the Lord Chief Justice of the Court of Queen's Bench, or any One of the Judges of the Superior Courts of Law to be by such Chief Justice named in that Behalf, and of the Judge of the said Prerogative Court, to make Rules and Orders, to take effect when this Act shall come into operation, for regulating the Procedure and Practice of the Court, and the Duties of the Registrars, District Registrars, and other Officers thereof, and for determining what shall be deemed contentious and what shall be deemed non-contentious Business, and, subject to the express Provisions of this Act, for fixing and regulating the Time and Manner of appealing from the Decisions of the said Court, and generally for carrying the Provisions of this Act into effect; and after the Time when this Act shall come into operation it shall be lawful for the Judge of the Court of Probate from Time to Time, with the Concurrence of the Lord Chancellor and the said Lord Chief Justice, or any One of the Judges of the Superior Courts of Law to be by such Chief Justice named in this Behalf, to repeal, amend, add to, or alter any such Rules and Orders as to him, with such Concurrence as aforesaid, may seem fit. Rules and Orders to be made for regulating the Procedure of the Court.

XXXI. Subject to the Regulations to be established by such Rules and Orders as aforesaid, the Witnesses, and where necessary the Parties, in all contentious Matters where their Attendance can be had, shall be examined orally by or before the Judge in open Court: Mode of taking Evidence in contentious Matters.

Provided always, that, subject to any such Regulations as aforesaid, the Parties shall be at liberty to verify their respective Cases, in whole or in part, by Affidavit, but so that the Deponent in every such Affidavit shall, on the Application of the opposite Party, be subject to be cross-examined by or on behalf of such opposite Party orally in open Court as aforesaid, and after such Cross-examination may be re-examined orally in open Court as aforesaid by or on behalf of the Party by whom such Affidavit was filed.

Court may issue Commissions or give Orders for Examination of Witnesses abroad, or who are unable to attend.

XXXII. Provided, That where a Witness in any such Matter is out of the Jurisdiction of the Court, or where, by reason of his Illness or otherwise, the Court shall not think fit to enforce the Attendance of the Witness in open Court, it shall be lawful for the Court to order a Commission to issue for the Examination of such Witness on Oath, upon Interrogatories or otherwise, or if the Witness be within the Jurisdiction of the Court to order the Examination of such Witness on Oath, upon Interrogatories or otherwise, before any Officer of the said Court, or other Person to be named in such Order for the Purpose; and all the Powers given to the Courts of Law at *Westminster* by the Acts of the Thirteenth Year of King *George* the Third, Chapter Sixty-three, and of the First Year of King *William* the Fourth, Chapter Twenty-two, for enabling the Courts of Law at *Westminster* to issue Commissions and give Orders for the Examination of Witnesses in Actions depending in such Courts, and to enforce such Examination, and all the Provisions of the said Acts, and of any other Acts for enforcing or otherwise applicable to such Examination, and the Witnesses examined, shall extend and be applicable to the said Court of Probate and to the Examination of Witnesses under the Commissions and Orders of the said Court, and to the Witnesses examined, as if such Court were One of the Courts of Law at *Westminster*, and the Matter before it were an Action pending in such Court.

Rules of Evidence in Common Law Courts to be observed.

XXXIII. The Rules of Evidence observed in the Superior Courts of Common Law at *Westminster* shall be applicable to and observed in the Trial of all Questions of Fact in the Court of Probate.

Common Law Judges may sit, on Request of Judge of Court.

XXXIV. It shall be lawful for the Judge of the Court of Probate to sit, with the Assistance of any Judge or Judges of any of the Superior Courts of Law at *Westminster*, who, upon the Request of the Judge of the Court of Probate, may find it convenient to attend for that Purpose.

Court may cause Questions of Fact to be tried

XXXV. It shall be lawful for the Court of Probate to cause any Question of Fact arising in any Suit or Proceeding under this Act to be tried by a Special or Common Jury before the Court itself, or by

by means of an Issue to be directed to any of the Superior Courts of Common Law, in the same Manner as an Issue may now be directed by the Court of Chancery, and such Question shall be so tried by a Jury in any Case where an Heir-at-Law, cited or otherwise made Party to the Suit or Proceeding, makes Application to the Court of Probate for that Purpose; and in any other Case where all the Parties to the Suit or Proceeding concur in such an Application, and where any Party or Parties other than such Heir-at-Law make a like Application (the other Party or Parties not concurring therein), and the Court shall refuse to cause such Question to be tried by a Jury, such Refusal of the Court shall be subject to Appeal as herein provided.

by a Jury before itself, or direct an Issue to a Court of Law.

XXXVI. When the Court shall order a Question of Fact to be tried before itself by a Jury, the Court may make all such Rules and Orders upon the Sheriff or any other Person for procuring the Attendance of a Special or Common Jury for the Trial of such Question as may now be made by any of the Superior Courts of Common Law at *Westminster*, and may also make any other Orders which to such Court may seem requisite; and every such Jury shall consist of Persons possessing the Qualifications, and shall be struck, summoned, balloted for, and called in like Manner as if such Jury were a Jury for the Trial of any Cause in any of the said Superior Courts; and every Juryman so summoned shall be entitled to the same Rights, and subject to the same Duties and Liabilities, as if he had been duly summoned for the Trial of any such Cause in any of the said Superior Courts; and every Party to any such Proceeding shall be entitled to the same Rights as to Challenge and otherwise as if he were a Party to any such Cause; and generally for all Purposes of or auxiliary to the Trial of Questions of Fact by a Jury before the Court itself, and in respect of new Trials thereof, and also for all Purposes in relation to or consequential upon the Direction of Issues, the Court of Probate shall have the same Jurisdiction, Powers, and Authority in all respects as belong to any Superior Court of Common Law, or to any Judge thereof, or to the High Court of Chancery, or any Judge thereof, for the like Purposes.

Powers of the Court for the Trial of Questions by a Jury.

XXXVII. When any such Question shall be so ordered to be tried by a Jury before the Court itself, such Question shall be reduced into Writing in such Form as the Court shall direct, and at the Trial the Jury shall be sworn to try the said Question, and a true Verdict to give thereon according to the Evidence; and upon every such Trial the Court of Probate shall have the same Powers, Jurisdiction, and Authority as belong to any Judge of any of the said Superior Courts sitting at Nisi Prius.

Question to be stated, and Jury sworn to try it.

Court, on Trial, to have the same Authority as a Judge at Nisi Prius.

XXXVIII. Where

Court may direct where Issues shall be tried.

XXXVIII. Where the Court of Probate directs an Issue, it shall be lawful for such Court to direct such Issue to be tried either before a Judge of Assize in any County or at the Sittings for the Trial of Causes in *London* or *Middlesex*, and either by a Special or Common Jury, in like Manner as is now done by the Court of Chancery.

Appeal to the House of Lords.

XXXIX. Any Person considering himself aggrieved by any final or interlocutory Decree or Order of the Court of Probate may appeal therefrom to the House of Lords: Provided always, that no Appeal from any interlocutory Order of the Court of Probate shall be made without Leave of the Court of Probate first obtained, but on the Hearing of an Appeal from any final Decree all interlocutory Orders complained of shall be considered as under Appeal as well as the final Decree.

Advocates admitted to practise.

Barristers may practise in contentious Causes.

XL. All Persons who at the Time of the passing of this Act have been admitted Advocates in any of the Ecclesiastical Courts shall be entitled to practise as Advocates or Counsel in all Matters and Causes whatsoever in the Court of Probate; and all Serjeants and Barristers-at-Law shall be entitled to practise as Advocates or Counsel in all contentious Matters and Causes in the said Court; and such Persons who have been so admitted Advocates and Serjeants and Barristers-at-Law shall have respectively the same Rank and Precedence which they now have before the Judicial Committee of the Privy Council, unless and until Her Majesty shall otherwise order.

Advocates admitted to practise as Barristers.

XLI. All Persons who at the Time of the passing of this Act have been admitted as Advocates as aforesaid shall be entitled to practise as Counsel in any of Her Majesty's Courts of Law or Equity in *England*, with the same Eligibility to Appointments, under Acts of Parliament or otherwise, as if they had respectively been duly called to the Degree of Barrister-at-Law on the Days on which they respectively were so admitted as Advocates, and with the same Rank and Precedence which they now have before the said Judicial Committee, unless and until Her Majesty shall otherwise order.

Proctors admitted to practise.

XLII. Every Person who at the Time of the passing of this Act is actually admitted and practising as a Proctor in the Courts in *Doctors Commons*, or in the Prerogative Court of *York*, or in any Diocesan Court, or in any Archidiaconal Court, having previously duly served under Articles of Clerkship either to an Attorney or Proctor, may, upon his Application, at any Time within One Year after the passing

passing of this Act, be admitted a Proctor of the Court of Probate, without Payment of any Fee or Stamp Duty.

Admission of Registrars and Proctors as Solicitors

XLIII. Every Person who at the Time of the Commencement of this Act is acting as Registrar or Deputy Registrar of any Ecclesiastical Court, or is actually admitted and practising as a Proctor in the Courts in *Doctors Commons*, or in any Ecclesiastical Court in *England* or *Wales*, may, within One Year after the passing of this Act, be admitted, without the Payment of any Stamp Duty, Fee, Charge, or Gratuity whatsoever, as a Solicitor of the High Court of Chancery, upon the Production of his Appointment or Admission as such Registrar, Deputy Registrar, or Proctor, or an official Certificate thereof; and upon the Production of an official Certificate that such Appointment or Admission continued in force at the Time of the passing of this Act, and upon signing the Roll of Solicitors of the High Court of Chancery, but not otherwise, such Person shall be entitled to be admitted as a Solicitor of such Court, and to be afterwards in like Manner admitted and enrolled as an Attorney of Her Majesty's Superior Courts.

Admission of Articled Clerks to Proctors as Solicitors.

XLIV. Every Person who at the Time of the Commencement of this Act has served or is actually serving as an Articled Clerk to a Proctor entitled to take such Articled Clerk, and who has not been admitted as a Proctor, shall be entitled to be admitted as a Solicitor of the High Court of Chancery, in the same Manner, and subject to the same Rules and Regulations, and upon the same Conditions as if he had before the Commencement of this Act been articled to a Solicitor or to an Attorney-at-Law; and such Admission shall entitle such Articled Clerk so admitted as a Solicitor to be afterwards in like Manner admitted and enrolled as an Attorney of Her Majesty's Superior Courts: Provided, that if any such Proctor to whom any such Clerk is now articled shall retire from Practice after the passing of this Act, he shall and is hereby required to transfer such articled Clerk to some other Proctor, or to a Solicitor, or to an Attorney-at-Law, for the unexpired Term of his Articles of Clerkship; provided that the Court shall at any Time have the same Power to transfer such Clerk, during the unexpired Term of his Articles of Clerkship, to any other Proctor, or to a Solicitor, or to an Attorney-at-Law, as the Judge of the Prerogative Court now has in respect to Clerks articled to Proctors practising in the Court of Arches.

Practitioners.

XLV. All Solicitors and Attornies-at-Law may practise in the Court of Probate, and the Laws and Statutes now in force concerning Solicitors and Attornies shall extend to Solicitors and Attornies practising in the said Court; and the Commissioners for taking Oaths

in the High Court of Chancery shall be Commissioners for taking Oaths in the Court of Probate.

Probates and Administration may be granted in Common Form by District Registrars, if it shall appear by Affidavit that the Testator, &c. had a fixed Place of Abode.

XLVI. Probate of a Will or Letters of Administration may, upon Application for that Purpose to the District Registry, be granted in Common Form by the District Registrar in the Name of the Court of Probate and under the Seal appointed to be used in such District Registry, if it shall appear by Affidavit of the Person or some or One of the Persons applying for the same that the Testator or Intestate, as the Case may be, at the Time of his Death had a fixed Place of Abode within the District in which the Application is made, such Place of Abode being stated in the Affidavit, and such Probate or Letters of Administration shall have effect over the Personal Estate of the Deceased in all Parts of *England* accordingly.

Affidavit to be conclusive for authorizing Grant of Probate.

XLVII. Such Affidavit shall be conclusive for the Purpose of authorizing the Grant, by the District Registrar, of Probate or Administration; and no such Grant of Probate or Administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the Testator or Intestate had no fixed Place of Abode within the District at the Time of his Death; and every Probate and Administration granted by any such District Registrar shall effectually discharge and protect all Persons paying to or dealing with any Executor or Administrator thereunder, notwithstanding the Want of or Defect in such Affidavit, as is hereby required.

District Registrars not to make Grants where there is Contention, &c.

XLVIII. The District Registrar shall not grant Probate or Administration in any Case in which there is Contention as to the Grant until such Contention is terminated or disposed of by Decree or otherwise, or in which it otherwise appears to him that Probate or Administration ought not to be granted in Common Form.

As to Transmission of Notice of Application for Grants of Probate, &c. to District Registrar.

XLIX. Notice of every Application to any District Registrar for the Grant of Probate or Administration shall be transmitted by such District Registrar to the Registrars of the Principal Registry by the next Post after such Application shall have been made; and such Notice shall specify the Name and Description, or Addition (if any), of the Testator or Intestate, the Time of his Death, and the Place of his Abode at his Decease, as stated in the Affidavit made in support of such Application, and the Name of the Person by whom the Application has been made, and such other Particulars as may be directed by Rules or Orders under this Act; and no Probate or Administration shall be granted in pursuance of such Application until such District Registrar shall have received a Certificate, under the Hand of One of the Registrars of the Principal Registry, that no other

other Application appears to have been made in respect of the Goods of the same deceased Person, which Certificate the said Registrar of the Principal Registry shall forward as soon as may be to the District Registrar; all such Notices in respect of Applications in the District Registries shall be filed and kept in the Principal Registry, and the Registrars of the Principal Registry shall, with reference to every such Notice, examine all Notices of such Applications which may have been received from the several other District Registries, and the Applications which may have been made for Grants of Probate or Administration at the Principal Registry, so far as it may appear necessary to ascertain whether or no Application for Probate or Administration, in respect of the Goods of the same deceased Person, may have been made in more than One Registry, and shall communicate with the District Registrars as Occasion may require in relation to such Applications.

District Registrar in case of Doubt as to Grant to take the Directions of the Judge.

L. In every Case where it appears to a District Registrar that it is doubtful whether the Probate or Letters of Administration which may be applied for should or should not be granted, or where any Question arises in relation to the Grant, or Application for the Grant, of any Probate or Administration, the District Registrar shall transmit a Statement of the Matter in question to the Registrars of the Court of Probate, who shall obtain the Directions of the Judge in relation thereto, and the Judge may direct the District Registrar to proceed in the Matter of the Application according to such Instructions as to the Judge may seem necessary, or may forbid any further Proceeding by the District Registrar in relation to the Matter of such Application, leaving the Party applying for the Grant in question to make Application to the Court of Probate through its Principal Registry, or, if the Case be within its Jurisdiction, to a County Court.

District Registrars to transmit Lists of Probates and Administrations, and Copies of Wills.

LI. On the First *Thursday* of every Month, or oftener if required by any Rules or Orders to be made in that Behalf, every District Registrar shall transmit to the Registrars of the Principal Registry a List, in such Form and containing such Particulars as may be from Time to Time required by the Court of Probate, or by any Rules or Orders under this Act, of the Grants of Probate and Administration made by such District Registrar up to the last preceding *Saturday*, and not included in a previous Return, and also a Copy, certified by the District Registrar to be a correct Copy, of every Will to which any such Probate or Administration relates.

District Registrars to preserve

LII. Every District Registrar shall file and preserve all original Wills of which Probate or Letters of Administration with the

original Wills.

the Will annexed may be granted by him, in the Public Registry of the District, subject to such Regulations as the Judge of the Court of Probate may from Time to Time make in relation to the due Preservation thereof, and the convenient Inspection of the same.

As to Caveats.

LIII. Caveats against the Grant of Probates or Administrations may be lodged in the Principal Registry or in any District Registry, and (subject to any Rules or Orders under this Act) the Practice and Procedure under such Caveats in the Court of Probate shall, as near as may be, correspond with the Practice and Procedure under Caveats now in use in the Prerogative Court of *Canterbury;* and immediately upon a Caveat being lodged in any District Registry, the District Registrar shall send a Copy thereof to the Registrars to be entered among the Caveats in the Principal Registry; and immediately upon a Caveat being entered in the Principal Registry, Notice thereof shall be given to the District Registrar of the District, if any, in which it is alleged the Deceased resided at the Time of his Decease, and to any other District Registrar to whom it may appear to the Registrar of the Principal Registry expedient to transmit the same.

Where Personalty is under 200*l.*, and Real Property is under 300*l.*, County Court to have Jurisdiction.

LIV. Where it shall appear by Affidavit of the Person or some or One of the Persons applying for Probate or Letters of Administration that the Testator or Intestate had at the Time of his Death his fixed Place of Abode in One of the Districts specified in Schedule (A.) to this Act, and that the Personal Estate in respect of which such Probate or Letters of Administration should be granted under this Act, exclusive of what the Deceased shall have been possessed of or entitled to as a Trustee, and not beneficially, but without deducting anything on account of the Debts due and owing from the Deceased, is under the Value of Two hundred Pounds, and that the Deceased at the Time of his Death was not seised or entitled beneficially of or to any Real Estate, or that the Value of the Real Estate of or to which he was seised or entitled beneficially at the Time of his Death was under the Value of Three hundred Pounds, the Judge of the County Court having Jurisdiction in the Place in which it shall be sworn that the Deceased had at the Time of his Death his fixed Place of Abode shall have the contentious Jurisdiction and Authority of the Court of Probate in respect of Questions as to the Grant and Revocation of Probate of the Will or Letters of Administration of the Effects of such deceased Person, in case there be any Contention in relation thereto.

Registrar of County Court to transmit Certificate of Decree for

LV. On a Decree being made by a Judge of a County Court for the Grant or Revocation of a Probate or Administration in any such Cause, the Registrar of the County Court shall transmit to the District Registrar of the District in which it shall have been sworn that

that the Deceased had at the Time of his Decease his fixed Place of Abode a Certificate under the Seal of the County Court of such Decree having been made, and thereupon, on the Application of the Party or Parties in favour of whom such Decree shall have been made, a Probate or Administration in compliance with such Decree shall be issued from such District Registry; or, as the Case may require, the Probate or Letters of Administration theretofore granted shall be recalled or varied by the District Registrar according to the Effect of such Decree.

Grant or Revocation of Probate.

LVI. The Judge of any County Court before whom any disputed Question shall be raised relating to Matters and Causes Testamentary under this Act shall, subject to the Rules and Orders under this Act, have all the Jurisdiction, Power, and Authority to decide the same and enforce Judgment therein, and to enforce Orders in relation thereto, as if the same had been an ordinary Action in the County Court.

The Judge of the County Court to decide Causes and enforce Judgments as in other Cases.

LVII. The Affidavit as to the Place of Abode and State of the Property of a Testator or Intestate which is to give contentious Jurisdiction to the Judge of a County Court under the previous Provisions shall, except as herein-after provided, be conclusive for the Purpose of authorizing the Exercise of such Jurisdiction, and the Grant or Revocation of Probate or Administration in compliance with the Decree of such Judge; and no such Grant of Probate or Administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the Testator or Intestate had no fixed Place of Abode within the Jurisdiction of such Judge or within any of the said Districts at the Time of his Death, or by reason that the Personal Estate sworn to be under the Value of Two hundred Pounds did in fact amount to or exceed that Value, or that the Value of the Real Estate of or to which the Deceased was seised or entitled beneficially at the Time of his Death amounted to or exceeded Three hundred Pounds: Provided, that where it shall be shown to the Judge of a County Court before whom any Matter is pending under this Act that the Place of Abode or State of the Property of the Testator or Intestate in respect of whose Will or Estate he may have been applied to for Grant or Revocation of Probate or Administration has not been correctly stated in the Affidavit, and if correctly stated would not have authorized him to exercise such contentious Jurisdiction, he shall stay all further Proceedings in his Court in the Matter, leaving any Party to apply to the Court of Probate for such Grant or Revocation, and making such Order as to the Costs of the Proceedings before him as he may think just.

Affidavit of the Facts giving the County Court Jurisdiction to be conclusive, unless disproved while the Matter is pending.

As to Appeals from County Court.

LVIII. Any Party who shall be dissatisfied with the Determination of the Judge of the County Court in point of Law, or upon the Admission or Rejection of any Evidence in any Matter or Cause under this Act, may appeal from the same to the Court of Probate, in such Manner and subject to such Regulations as may be provided by the Rules and Orders to be made under this Act, and the Decision of the Court of Probate on such Appeal shall be final.

Not obligatory to apply for Probate, &c. to District Registries or County Court, but may in every Case be made to Court of Probate.

LIX. It shall not be obligatory on any Person to apply for Probate or Administration to any District Registry, or through any County Court, but in every Case such Application may be made through the Principal Registry of the Court of Probate, wherever the Testator or Intestate may at the Time of his Death have had his fixed Place of Abode: Provided, that where in any contentious Matter arising out of any such Application it is shown to the Court of Probate that the State of the Property and Place of Abode of the Deceased were such as to give contentious Jurisdiction to the Judge of a County Court, the Court of Probate may send the Cause to such County Court, and the Judge thereof shall proceed therein as if such Application and Cause had been made to and arisen in his Court in the first instance.

Rules and Orders for regulating the Procedure of County Courts under the Act to be made by the Judges now having Authority for the like Purpose.

LX. For regulating the Procedure and Practice of the County Courts, and the Judges, Registrars, and Officers thereof, in relation to their Jurisdiction and Proceedings under this Act, Rules and Orders may be from Time to Time framed, amended, and certified by the County Court Judges appointed for the Time being to frame Rules and Orders for regulating the Practice of the County Courts under the Act of the Session holden in the Nineteenth and Twentieth Years of Her Majesty, Chapter One hundred and eight, and shall be subject to be allowed or disallowed or altered, and shall be in force from the Day named for that Purpose by the Lord Chancellor, as in the said Act is provided in relation to other Rules and Orders regulating the Practice of the same Courts; and for establishing Rules and Orders to be in force when this Act comes into operation, the Power given by this Enactment shall be exercised as soon as conveniently may be after the passing of this Act.

Where a Will affecting Real Estate is proved in solemn Form, or is the Subject of a contentious Proceed-

LXI. Where Proceedings are taken under this Act for proving a Will in solemn Form, or for revoking the Probate of a Will, on the Ground of the Invalidity thereof, or where in any other contentious Cause or Matter under this Act the Validity of a Will is disputed, unless in the several Cases aforesaid the Will affects only Personal Estate, the Heir-at-Law, Devisees and other Persons having or pretending Interest in the Real Estate affected by the Will shall, subject

to

to the Provisions of this Act, and to the Rules and Orders under this Act, be cited to see Proceedings, or otherwise summoned in like Manner as the Next of Kin or others having or pretending Interest in the Personal Estate affected by a Will should be cited or summoned, and may be permitted to become Parties, or intervene for their respective Interests in such Real Estate, subject to such Rules and Orders, and to the Discretion of the Court.

ing, the Heir and Persons interested in the Real Estate to be cited.

LXII. Where Probate of such Will is granted after such Proof in solemn Form, or where the Validity of the Will is otherwise declared by the Decree or Order in such contentious Cause or Matter as aforesaid, the Probate, Decree, or Order respectively shall enure for the Benefit of all Persons interested in the Real Estate affected by such Will, and the Probate Copy of such Will, or the Letters of Administration with such Will annexed, or a Copy thereof respectively, stamped with the Seal of Her Majesty's Court of Probate, shall in all Courts, and in all Suits and Proceedings affecting Real Estate, of whatever Tenure, (save Proceedings by way of Appeal under this Act, or for the Revocation of such Probate or Administration,) be received as conclusive Evidence of the Validity and Contents of such Will, in like Manner as a Probate is received in Evidence in Matters relating to the Personal Estate; and where Probate is refused or revoked, on the Ground of the Invalidity of the Will, or the Invalidity of the Will is otherwise declared by Decree or Order under this Act, such Decree or Order shall enure for the Benefit of the Heir-at-Law or other Persons against whose Interest in Real Estate such Will might operate, and such Will shall not be received in Evidence in any Suit or Proceeding in relation to Real Estate, save in any Proceeding by way of Appeal from such Decrees or Orders.

Where the Will is proved in solemn Form, or its Validity otherwise decided on, the Decree of the Court to be binding on the Persons interested in the Real Estate.

LXIII. Nothing herein contained shall make it necessary to cite the Heir-at-Law or other Persons having or pretending Interest in the Real Estate of a deceased Person, unless it is shown to the Court and the Court is satisfied that the Deceased was at the Time of his Decease seised of or entitled to or had Power to appoint by Will some Real Estate beneficially, or in any Case where the Will propounded or of which the Validity is in question would not in the Opinion of the Court, though established as to Personalty, affect Real Estate, but in every such Case, and in any other Case in which the Court may, with reference to the Circumstances of the Property of the Deceased or otherwise, think fit, the Court may proceed without citing the Heir or other Persons interested in Real Estate; provided that the Probate, Decree, or Order of the Court shall not in any Case affect the Heir or any Person in respect of his Interest in Real Estate, unless such Heir

Heir in certain Cases not to be cited, and where not cited not to be affected by Probate.

Heir or Person has been cited or made Party to the Proceedings, or derives Title under or through a Person so cited or made Party.

Probate or Office Copy to be Evidence of the Will in Suits concerning Real Estate, save where the Validity of the Will is put in issue.

LXIV. In any Action at Law or Suit in Equity, where, according to the existing Law, it would be necessary to produce and prove an original Will in order to establish a Devise or other Testamentary Disposition of or affecting Real Estate, it shall be lawful for the Party intending to establish in Proof such Devise or other Testamentary Disposition to give to the opposite Party, Ten Days at least before the Trial or other Proceeding in which the said Proof shall be intended to be adduced, Notice that he intends at the said Trial or other Proceeding to give in Evidence as Proof of the Devise or other Testamentary Disposition the Probate of the said Will or the Letters of Administration with the Will annexed, or a Copy thereof stamped with any Seal of the Court of Probate; and in every such Case such Probate or Letters of Administration, or Copy thereof respectively, stamped as aforesaid, shall be sufficient Evidence of such Will and of its Validity and Contents, notwithstanding the same may not have been proved in solemn Form, or have been otherwise declared valid in a contentious Cause or Matter, as herein provided, unless the Party receiving such Notice shall, within Four Days after such Receipt, give Notice that he disputes the Validity of such Devise or other Testamentary Disposition.

As to Costs of Proof of Will.

LXV. In every Case in which, in any such Action or Suit, the original Will shall be produced and proved, it shall be lawful for the Court or Judge before whom such Evidence shall be given to direct by which of the Parties the Costs thereof shall be paid.

Place of Deposit of original Wills.

LXVI. There shall be One Place of Deposit under the Control of the Court of Probate, at such Place in *London* or *Middlesex* as Her Majesty may by Order in Council direct, in which all the original Wills brought into the Court or of which Probate or Administration with the Will annexed is granted under this Act in the Principal Registry thereof, and Copies of all Wills the Originals whereof are to be preserved in the District Registries, and such other Documents as the Court may direct, shall be deposited and preserved, and may be inspected under the Control of the Court and subject to the Rules and Orders under this Act.

Judge to cause Calendars to be made from Time to Time in the

LXVII. The Judge shall cause to be made from Time to Time in the Principal Registry of the Court of Probate Calendars of the Grants of Probate and Administration in the Principal Registry, and in the several District Registries of the Court, for such Periods as the

the Judge may think fit, each such Calendar to contain a Note of every Probate or Administration with the Will annexed granted within the Period therein specified, and also a Note of every other Administration granted within the same Period, such respective Notes setting forth the Dates of such Grants, the Registry in which the Grants were made, the Names of the Testators and Intestates, the Place and Time of Death, the Names and Descriptions of the Executors and Administrators, and the Value of the Effects; and the Calendars to be so made shall be printed as the same are from Time to Time completed. Principal Registry, and to be printed.

LXVIII. The Registrars shall cause a printed Copy of every Calendar to be transmitted through the Post or otherwise to each of the District Registries, and to the Office of Her Majesty's Prerogative in *Dublin*, the Office of the Commissary of the County of *Midlothian* in *Edinburgh*, and such other Offices, if any, as the Court of Probate shall from Time to Time by Rule or Order direct; and every printed Copy of a Calendar so transmitted as aforesaid shall be kept in the Registry or Office to which it is transmitted, and may be inspected by any Person on Payment of a Fee of One Shilling for each Search, without reference to the Number of Calendars inspected. Registrar to transmit printed Copies to certain Offices.

LXIX. An official Copy of the whole or any Part of a Will, or an official Certificate of the Grant of any Letters of Administration, may be obtained from the Registry or District Registry where the Will has been proved or the Administration granted, on the Payment of such Fees as shall be fixed for the same by the Rules and Orders under this Act. Official Copy of whole or Part of Will may be obtained.

LXX. Pending any Suit touching the Validity of the Will of any deceased Person, or for obtaining, recalling, or revoking any Probate or any Grant of Administration, the Court of Probate may appoint an Administrator of the Personal Estate of such deceased Person; and the Administrator so appointed shall have all the Rights and Powers of a General Administrator, other than the Right of distributing the Residue of such Personal Estate; and every such Administrator shall be subject to the immediate Control of the Court, and act under its Direction. Administration pendente lite.

LXXI. It shall be lawful for the Court of Probate to appoint any Administrator appointed as aforesaid or any other Person to be Receiver of the Real Estate of any deceased Person pending any Suit in the Court touching the Validity of any Will of such deceased Person by which his Real Estate may be affected, and such Receiver shall have such Power to receive all Rents and Profits of such Real Estate, Receiver of Real Estate pendente lite.

and such Powers of letting and managing such Real Estate, as the Court may direct.

Remuneration to Administrators pendente lite and Receivers.

LXXII. The Court of Probate may direct that Administrators and Receivers appointed pending Suits involving Matters and Causes Testamentary shall receive out of the Personal and Real Estate of the Deceased such reasonable Remuneration as the Court think fit.

Power as to Appointment of Administrator.

LXXIII. Where a Person has died or shall die wholly intestate as to his Personal Estate, or leaving a Will affecting Personal Estate, but without having appointed an Executor thereof willing and competent to take Probate, or where the Executor shall at the Time of the Death of such Person be resident out of the United Kingdom of *Great Britain* and *Ireland*, and it shall appear to the Court to be necessary or convenient in any such Case, by reason of the Insolvency of the Estate of the Deceased, or other special Circumstances, to appoint some Person to be the Administrator of the Personal Estate of the Deceased, or of any Part of such Personal Estate, other than the Person who if this Act had not been passed would by Law have been entitled to a Grant of Administration of such Personal Estate, it shall not be obligatory upon the Court to grant Administration of the Personal Estate of such deceased Person to the Person who if this Act had not passed would by Law have been entitled to a Grant thereof, but it shall be lawful for the Court, in its Discretion, to appoint such Person as the Court shall think fit to be such Administrator upon his giving such Security (if any) as the Court shall direct, and every such Administration may be limited as the Court shall think fit.

38 G. 3. c. 87. extended to Administrators.

LXXIV. The Provisions of an Act passed in the Thirty-eighth Year of His late Majesty King *George* the Third, Chapter Eighty-seven, shall apply (in like Manner) to all Cases where Letters of Administration have been granted, and the Person to whom such Administration shall have been granted shall be out of the Jurisdiction of Her Majesty's Courts of Law and Equity.

After Grant of Administration no Person to have Power to sue as an Executor.

LXXV. After any Grant of Administration, no Person shall have Power to sue or prosecute any Suit, or otherwise act as Executor of the Deceased, as to the Personal Estate comprised in or affected by such Grant of Administration, until such Administration shall have been recalled or revoked.

Revocation of temporary Grants not

LXXVI. Where before the Revocation of any temporary Administration any Proceedings at Law or in Equity have been commenced by

by or against any Administrator so appointed, the Court in which such Proceedings are pending may order that a Suggestion be made upon the Record of the Revocation of such Administration, and of the Grant of Probate or Administration which shall have been made consequent thereupon, and that the Proceedings shall be continued in the Name of the new Executor or Administrator, in like Manner as if the Proceeding had been originally commenced by or against such new Executor or Administrator, but subject to such Conditions and Variations, if any, as such Court may direct.

to prejudice Actions or Suits.

LXXVII. Where any Probate or Administration is revoked under this Act, all Payments *bonâ fide* made to any Executor or Administrator under such Probate or Administration, before the Revocation thereof, shall be a legal Discharge to the Person making the same; and the Executor or Administrator who shall have acted under any such revoked Probate or Administration may retain and reimburse himself in respect of any Payments made by him which the Person to whom Probate or Administration shall be afterwards granted might have lawfully made.

Payments under revoked Probates or Administration to be valid.

LXXVIII. All Persons and Corporations making or permitting to be made any Payment or Transfer *bonâ fide*, upon any Probate or Letters of Administration granted in respect of the Estate of any deceased Person under the Authority of this Act, shall be indemnified and protected in so doing, notwithstanding any Defect or Circumstance whatsoever affecting the Validity of such Probate or Letters of Administration.

Persons, &c. making Payment upon Probates granted for Estate of deceased Person to be indemnified.

LXXIX. Where any Person, after the Commencement of this Act, renounces Probate of the Will of which he is appointed Executor or One of the Executors, the Rights of such Person in respect of the Executorship shall wholly cease, and the Representation to the Testator and the Administration of his Effects shall and may, without any further Renunciation, go, devolve, and be committed in like Manner as if such Person had not been appointed Executor.

Rights of an Executor renouncing Probate to cease as if he had not been named in the Will.

LXXX. So much of an Act passed in the Twenty-first Year of King *Henry* the Eighth, Chapter Five, and of an Act passed in the Twenty-second and Twenty-third Years of King *Charles* the Second, Chapter Ten, and of an Act passed in the First Year of King *James* the Second, Chapter Seventeen, as requires any Surety, Bond, or other Security to be taken from a Person to whom Administration shall be committed, shall be repealed.

Sureties to Administration Bonds.

LXXXI. Every

Persons to whom Grant of Administrations shall be committed shall give Bond.

LXXXI. Every Person to whom any Grant of Administration shall be committed shall give Bond to the Judge of the Court of Probate to enure for the Benefit of the Judge for the Time being, and, if the Court of Probate or (in the Case of a Grant from the District Registry) the District Registrar shall require, with One or more Surety or Sureties, conditioned for duly collecting, getting in, and administering the Personal Estate of the Deceased, which Bond shall be in such Form as the Judge shall from Time to Time by any general or special Order direct: Provided that it shall not be necessary for the Solicitor for the Affairs of the Treasury or the Solicitor of the Duchy of *Lancaster* applying for or obtaining Administration to the Use or Benefit of Her Majesty to give any such Bond as aforesaid.

Penalty on Bond.

LXXXII. Such Bond shall be in a Penalty of double the Amount under which the Estate and Effects of the Deceased shall be sworn, unless the Court or District Registrar, as the Case may be, shall in any Case think fit to direct the same to be reduced, in which Case it shall be lawful for the Court or District Registrar so to do, and the Court or District Registrar may also direct that more Bonds than One shall be given, so as to limit the Liability of any Surety to such Amount as the Court or District Registrar shall think reasonable.

Power of Court to assign Bond.

LXXXIII. The Court may, on Application made on Motion or Petition in a summary Way, and on being satisfied that the Condition of any such Bond has been broken, order One of the Registrars of the Court to assign the same to some Person, to be named in such Order, and such Person, his Executors or Administrators, shall thereupon be entitled to sue on the said Bond, in his own Name, both at Law and in Equity, as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as Trustee for all Persons interested the full Amount recoverable in respect of any Breach of the Condition of the said Bond.

Pending Suits transferred to Court of Probate.

LXXXIV. All Suits, whether original or by way of Appeal, which at the Commencement of this Act shall be pending in any Court in *England* respecting any Grant of Probate or Administration, shall be transferred, with all the Proceedings therein, to the Court of Probate, there to be dealt with and decided according to the Rules and Practice of the said Court, except so far as such Court may think it expedient to adopt, for the Purposes of such transferred Suits or any of them, the Rules or Practice of the Court in which the same shall have

have been pending, to which End the Court of Probate shall, for the Purposes of such Suits, have all the Jurisdiction, Power, and Authority possessed by the Court from which such Suit shall be transferred; but this Enactment shall not apply to Proceedings by way of Appeal pending before Her Majesty in Council, which Proceedings shall be carried on and prosecuted in the same Manner in all respects as if this Act had not passed; and every Person who if this Act had not passed might have appealed to Her Majesty in Council against any Proceeding, Decree, or Sentence of any Court respecting the Grant of any Probate or Administration, may, notwithstanding this Act, appeal to Her Majesty in Council against such Proceeding, Decree, or Sentence: Provided also, that Her Majesty in Council may remit to the Court of Probate any Cause or Proceeding pending by way of Appeal as aforesaid, or to be brought before Her Majesty in Council upon Appeal as aforesaid, with such Directions as the Justice of the Case may require.

Not to apply to Appeals pending before Her Majesty in Council.

LXXXV. Provided, That if at the Commencement of this Act any Cause which would be transferred to the Court of Probate under the Enactment herein-before contained shall have been heard before any Judge having Jurisdiction in relation to such Cause before the Commencement of this Act, and shall be standing for Judgment, such Judge may, at any Time within Six Weeks after the Commencement of this Act, give in to One of the Registrars of the Court a written Judgment thereon, signed by him, and a Decree or Order, as the Case may require, shall be drawn up in pursuance of such Judgment; and every such Decree or Order shall have the same Force and Effect as if it had been drawn up in pursuance of a Judgment of the Court of Probate on the Day on which the same shall so be delivered to the Registrar, and shall be subject to Appeal under this Act.

Power to Judges whose Jurisdiction is determined to deliver written Judgments.

LXXXVI. All Grants of Probates and Administrations made before the Commencement of this Act, which may be void or voidable by reason only that the Courts from which respectively the same were obtained had not Jurisdiction to make such Grants, shall be as valid as if the same had been obtained from Courts entitled to make such Grants: Provided, that any such Grants of Probate or Administration shall not be made valid by this Act when the same shall before the Commencement of this Act have been revoked or determined by any Court of competent Jurisdiction to have been void; nor shall this Act prejudice or affect any Proceedings pending at the Time of the passing of this Act in which the Validity of any such Probate or Administration shall be in question: If the Result of such Proceeding shall be to invalidate the same, such Probate or Administration shall not be rendered valid by this Act; and if such Proceedings abate or become defective by reason of the Death of any Party, any Person

Void and voidable Probates and Administrations.

who but for this Act would have any Right by reason of the Invalidity of such Probate or Administration shall retain such Right, and may commence Proceedings for enforcing the same within Six Calendar Months after the Death of such Party.

Probates and Administrations granted before this Act comes into operation.

LXXXVII. Legal Grants of Probate and Administration made before the Commencement of this Act, and Grants of Probate and Administration made legal by this Act, shall have the same Force and Effect as if they had been granted under this Act, but in every such Case there shall be due and payable to Her Majesty such further Stamp Duty, if any, as would have been chargeable on any Probate or Administration which but for this Act would or ought to have been obtained in respect of the Personal Estate not covered by the Grant; and all Inventories and Accounts in respect thereof shall be returnable to the Court of Chancery, and all Bonds taken in respect thereof may be enforced by or under the Authority of the Court of Chancery, at the Discretion of the Court.

Probate or Administration may be granted of Personal Estate not affected by the former Grants.

LXXXVIII. Provided that where any Probate or Administration has been granted before the Commencement of this Act, and the Deceased had Personal Estate in *England* not within the Limits of the Jurisdiction of the Court by which the Probate or Administration was granted, or otherwise not within the Operation of the Grant, it shall be lawful for the Court of Probate to grant Probate or Administration only in respect of such Personal Estate not covered by any former Probate or Administration, and such Grant may be limited accordingly.

Judges of present Ecclesiastical Courts and others to transmit all Wills, &c. to the Registry.

LXXXIX. The Acting Judge and Registrar of every Court, and other Person now having Jurisdiction to grant Probate or Administration, and every Person having the Custody of the Documents and Papers of or belonging to such Court or Person, shall, upon receiving a Requisition for that Purpose, under the Seal of the Court of Probate, from a Registrar, and at the Time and in the Manner mentioned in such Requisition, transmit to the Court of Probate, or to such other Place as in such Requisition shall be specified, all Records, Wills, Grants, Probates, Letters of Administration, Administration Bonds, Notes of Administration, Court Books, Calendars, Deeds, Processes, Acts, Proceedings, Writs, Documents, and every other Instrument relating exclusively or principally to Matters or Causes Testamentary, to be deposited and arranged in the Registry of each District or in the Principal Registry, as the Case may require, so as to be easy of Reference, under the Control and Direction of the Court.

Penalty for Default.

XC. No Judge, Registrar, or other Person who shall wilfully refuse or neglect so to transmit such Records, Wills, Grants, Probates, Letters of Administration, Administration Bonds, Notes of Administration,

nistration, Court Books, Calendars, Deeds, Processes, Acts, Proceedings, Writs, Documents, or any other Instrument relating to Matters or Causes Testamentary, shall be entitled to any Compensation under this Act, and every Judge, Registrar, or other Person so refusing or neglecting shall be liable to a Penalty of One hundred Pounds, to be sued for and recovered, together with full Costs of Suit, in any of Her Majesty's Superior Courts, by the Registrars.

As to Depositories for safe Custody of the Wills of living Persons.

XCI. One or more safe and convenient Depository or Depositories shall be provided, under the Control and Directions of the Court of Probate, for all such Wills of living Persons as shall be deposited therein for safe Custody; and all Persons may deposit their Wills in such Depository upon Payment of such Fees and under such Regulations as the Judge shall from Time to Time by any Order direct.

This Act not to affect the Stamp Duties on Probates and Administrations.

XCII. Nothing in this Act contained shall affect the Stamp Duties now by Law payable upon Probates and Administrations; and all the Clauses, Provisions, Rules, Regulations, and Directions contained in any Act of Parliament relating to the said Duties, and to Wills, Probates of Wills, and Letters of Administration, for securing the said Duties, not superseded by or inconsistent with the express Provisions of this Act, shall be in full Force, and shall be observed, applied, and put in execution for securing the Duties payable on Probates of Wills and Letters of Administration granted under this Act, as if such Duties had been granted by this Act, and the said Clauses, Provisions, Rules, and Regulations relating thereto were herein repeated and specially enacted.

The Registrars to deliver Copies of Wills, &c. to the Commissioners of Inland Revenue.

XCIII. The Registrars of the Court of Probate shall, within such Period as the Judge shall direct after Probate of any Will or Letters of Administration shall have been granted, deliver or cause to be delivered to the Commissioners of Inland Revenue, or their proper Officer, the following Documents respectively; that is to say, in the Case of a Probate or Administration with a Will annexed a Copy of the Will and the original Affidavit, and in the Case of Letters of Administration without a Will annexed such original Affidavit, and in every Case of Letters of Administration a Copy or Extract thereof, and in every Case such Certificate or Note of the Grant as the said Commissioners may require.

Sections 8 and 9 of 53G.3.c.127. repealed in part as to the Court of Probate.

XCIV. Whereas by an Act passed in the Fifty-third Year of King *George* the Third, Chapter One hundred and twenty-seven, it is enacted, that if any Proctor of any Ecclesiastical Court shall act as such, or permit his Name to be used in any Suit appertaining to the Office of a Proctor, or in obtaining Probates of Wills or Letters of Administration, for or on account or for the Profit or Benefit of any

any Person not entitled to act as a Proctor, or shall permit any such Person to participate in such Profit or Benefit, such Proctor shall be subject to certain Penalties therein mentioned; and it is also therein further enacted, that if any Person shall, in his own Name, or in that of any other Person, do or perform any Act whatever belonging to the Office of a Proctor in consideration of any Gain, Fee or Reward, or with a view to participate in the Benefit to be derived from the Office, Functions, or Practice of a Proctor, without being admitted and enrolled, every such Person shall be subject to certain other Penalties therein mentioned: Be it enacted, Nothing in the said Act contained shall prevent any Proctor of the Court of Probate from acting as Agent of any Attorney or Solicitor in relation to any Matter Testamentary, or from allowing him to participate in the Profits of and incident thereto.

Fees to be taken by Officers of Court and by Officers of County Courts.

XCV. The Lord Chancellor, with such Assistance as is herein-before provided as to Rules and Orders to be made in pursuance of this Act, shall, as soon as conveniently may be after the passing of this Act, fix a Table or Tables of Fees to be taken by the Officers of the Court of Probate, and the Proctors, Solicitors, and Attornies practising therein, including the District Registrars, and the Proctors, Solicitors, and Attornies practising in District Registries, and of Fees to be taken by the Officers of the County Courts, in respect of Business under this Act, and of Fees to be payable in respect of Searches, Inspection, and Printed and other Copies of and Extracts from Records, Wills, and other Documents in the Custody or under the Control of the Court of Probate, and the Judge of the Court of Probate, with such Concurrence as is herein-before provided in respect of the Amendment of Rules and Orders, is hereby empowered, from Time to Time after this Act shall come into operation, to add to, reduce, alter, or amend such Table or Tables of Fees, as he may see fit: Provided that such Tables of Fees and every Alteration of the same, except so far as respects the Fees which are to be taken by District Registrars, Proctors, and others, for their own Remuneration and to their own Use, shall be subject to the Approval of the Commissioners of Her Majesty's Treasury; and every such Table of Fees, and every Addition, Reduction, Alteration, or Amendment to, in, or of the same, shall be published in the *London Gazette;* and no other Fees than those specified and allowed in such Tables of Fees shall be demanded or taken by such Officers, and Proctors, Solicitors, and Attornies.

Taxation of Costs.

XCVI. The Bill of any Proctor, Attorney, or Solicitor, for any Fees, Charges, or Disbursements in respect of any Business transacted in the Court of Probate, whether contentious or otherwise, or any Matters connected therewith, shall, as well between Proctor

or

or Attorney or Solicitor and Client as between Party and Party, be subject to Taxation by any One of the Registrars of the said Court, and the Mode in which any such Bill shall be referred for Taxation, and by whom the Costs of Taxation shall be paid, shall be regulated by the Rules and Orders to be made under this Act. and the Certificate of the Registrar of the Amount at which such Bill is taxed shall be subject to Appeal to the Judge of the said Court.

Fees not to be paid in Money, but by Stamps.

XCVII. None of the Fees payable to the Officers of the Court of Probate, or of any County Court, in respect of Business under this Act, except the Fees of the District Registrars (which are to be taken as their Remuneration, and for their own Use), the Fees of Proctors, Solicitors, and Attornies, and such Fees as may be authorized to be taken for their own Use by Surrogates and Commissioners for administering Oaths, shall be received in Money, but every such Fee shall be collected and received by a Stamp denoting the Amount of the Fee which otherwise would be payable.

Provisions of Acts relating to Stamps to be applicable to Stamps for collecting Fees.

XCVIII. The Fees to be collected by means of Stamps under the Provisions of this Act shall be deemed "Stamp Duties," and shall be placed under the Management of the Commissioners of Inland Revenue, to be collected and paid into the Exchequer under the same Laws and Regulations as those made in respect of the other Duties of "Stamps," and the Provisions in the several Acts for the Time being in force relating to Stamps under the Care or Management of the Commissioners of Inland Revenue shall in all Cases not hereby expressly provided for be of full Force and Effect with respect to the Stamps to be provided under or by virtue of this Act, and to the Vellum, Parchment, or Paper on or to which the same Stamps shall be impressed or affixed, and be applied and put in Execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively; but a separate and distinct Account of all Money received in respect of the said last-mentioned Stamps for every Year ending the Thirty-first Day of *March* shall be laid before both Houses of Parliament within One Month after the Termination of such Year of Accounts, or, if Parliament be not then sitting, within One Month after the Commencement of the next Session of Parliament.

No Document to be received or used unless stamped.

XCIX. No Document which under this Act, and any Table of Fees for the Time being in force under this Act, ought to have a Stamp in respect of such Fee impressed thereon or affixed thereto, shall be received

received or filed or be used in relation to any Proceeding in the Court of Probate, or be of any Validity for any Purpose whatsoever, unless or until the same shall have the proper Stamp impressed thereon or affixed thereto: Provided that if any Time it shall appear that any such Document has through Mistake or Inadvertence been received, or filed, or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for the Judge of the Court of Probate, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto, and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto in compliance with any such Order, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Officers of the Court may be dismissed for Fraud or wilful Neglect in relation to Stamps.

C. If any Officer of the Court of Probate, or any other Person employed under this Act, shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected, or which ought to be collected, by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission whereby any Fee or Money which ought to be collected by means of a Stamp under this Act shall be lost, or the Payment thereof evaded, every such Officer or Person so offending shall be dismissed from his Office or Employment if the Judge of the Court of Probate shall think fit so to order.

Salary of Judge and Compensations to be charged on Consolidated Fund.

CI. The Salary of the Judge of the Court of Probate, and any retiring Annuity granted to a Judge of the Court of Probate under this Act, and all Compensations payable under this Act, shall be charged on and payable out of the Consolidated Fund of the United Kingdom.

Salaries and Expenses not charged on the Consolidated Fund to be paid out of Moneys to be provided by Parliament.

CII. It shall be lawful for the Commissioners of Her Majesty's Treasury, out of such Monies as may be provided and appropriated by Parliament for the Purpose, to cause to be paid all Salaries payable to the Registrars, Clerks, and other Officers under this Act, and all necessary Expenses of the Court of Probate and its Registries, and other Expenses which may be incurred in carrying the Provisions of this Act into effect (except such Salary, retiring Annuity, and Compensations as are herein-before charged on the said Consolidated Fund).

Compensation to Registrars, &c. of existing Courts.

CIII. It shall be lawful for the Commissioners of the Treasury to grant to any Archdeacons, Judges, Deputy Judges, Registrars, Deputy Registrars, and other Persons holding Office in the Courts now exercising Jurisdiction in Matters and Causes Testamentary who may sustain

sustain any Loss of Emoluments by reason of the passing of this Act, and who are not transferred or appointed by or under this Act to Offices of equal Value in the Court of Probate, such Compensation as, having regard to the Tenure of their respective Offices and Appointments, and to the Provisions of the Act of the Session holden in the Sixth and Seventh Years of King *William* the Fourth, Chapter Seventy-seven, Section Twenty-five, and of the Act of the Session holden in the Tenth and Eleventh Years of Her Majesty, Chapter Ninety-eight, Section Nine, and the several subsequent Acts continuing the Provisions of the said Acts respectively, the said Commissioners deem just and proper to be awarded: Provided that where Persons whose Claims in respect of Offices, held for Life or otherwise, are excluded by the said Provisions, have executed in Person the Duties of such Offices, the said Provisions shall not be deemed to prevent the said Commissioners from granting to such Persons such Compensation as the said Commissioners would deem just and proper to be awarded on the Abolition or Reduction of the Emoluments of like Offices, if held at the Pleasure of the Crown; and it shall be lawful for the said Commissioners to grant to all managing and other Clerks who have been continuously employed in the Offices of Registrars of the said Courts for Fifteen Years and upwards immediately before the passing of this Act, and may sustain any Loss of Emoluments as aforesaid, and are not transferred or appointed as aforesaid, such Compensation as the said Commissioners may deem just and proper: Provided always, that if any Person to whom any yearly Sum is awarded for Compensation as aforesaid is or shall be appointed to any Office or Situation under this Act, or in the Public Service, the Payment of such Compensation shall be suspended so long as he continues to receive the Salary or Emoluments of such Office or Situation, if the Amount thereof be equal to or greater than the Amount of Emoluments in respect of the Loss whereof Compensation is awarded; and if the Amount of such last-mentioned Emoluments be greater than the Salary or Emoluments of such Office or Situation, no more of such Compensation shall be paid than will, with such Salary or Emoluments, be equal to the Emoluments in respect of the Loss whereof such Compensation is payable.

Persons receiving Compensation to continue to discharge the remaining Duties of their Offices.

CIV. Any Person to whom Compensation is awarded under this Act in respect of the Loss of Emoluments of any Office, and who at the passing of this Act shall have been discharging or liable to discharge in respect of such Office Duties other than those in Matters and Causes Testamentary, shall, so long as he shall receive such Compensation, be bound to discharge such other Duties on the same Terms on which, whether gratuitously or otherwise, he discharged or was liable to discharge the same before the passing of this Act.

CV. Whereas

Compensation to Proctors.

CV. Whereas the Fees or Emoluments of the Persons now practising as Proctors in the Courts now exercising Jurisdiction in Matters and Causes Testamentary may be damaged by the Abolition of the exclusive Rights and Privileges which they have hitherto enjoyed as such Proctors in such Courts: Be it enacted, That the Commissioners of Her Majesty's Treasury, by Examination on Oath or otherwise, which Oath they are hereby authorized to administer, may inquire into and may, by the Production of such Evidence as they shall think fit to require, ascertain and absolutely determine the net annual Amount of the Profits arising from the Transaction of Business by Proctors in Matters and Causes Testamentary, on an Average of Five Years immediately preceding the Commencement of this Act, or of such Proportion of Five Years as shall have elapsed since each and every such Proctor was admitted to practise in such Courts, and shall award to each and every such Proctor a Sum of Money or annual Payment during the Term of his natural Life of such Amount as shall be equal in Value to One Half of the net Profits derived by such Proctor in respect of Matters and Causes Testamentary upon the said Average of Five Years immediately preceding the Commencement of this Act, or of such Proportion of the said Five Years as shall have elapsed since the Admission of each and every such Proctor to practise in the Courts now exercising Jurisdiction in Matters and Causes Testamentary.

Compensation to Proctors in Partnership.

CVI. And whereas divers Proctors practising in the Courts now exercising Jurisdiction in Matters and Causes Testamentary now are or may at the Commencement of this Act be associated together in Partnership: Be it therefore enacted, That in all such Cases the Commissioners of Her Majesty's Treasury shall inquire into and ascertain the Terms or Conditions of such Partnerships, and shall absolutely determine and award Compensation in respect thereof as herein-before provided to each of such Partnerships, in like Manner as if all the Emoluments thereof had been derived by One Individual, and shall apportion such Compensation among the Members of each such Partnership, with or without Benefit of Survivorship, Regard being had to the existing Terms and Conditions of the same.

For the Protection of the Interests of Viscount Canterbury.

CVII. And whereas the Most Reverend *Charles* late Archbishop of *Canterbury*, by virtue of the Power given by an Act of the Ninth Year of King *George* the Fourth, "to authorize the Lord Archbishop of *Canterbury* for the Time being to appoint a Person or Persons to the Office of Registrar of his Prerogative, without a previous Surrender of the existing Grant or Grants of the said Office," did, by Letters Patent under his Archiepiscopal Seal, dated the Twenty-first Day of *June* One thousand eight hundred and twenty-eight, with the Confirmation of the Dean and Chapter of the Cathedral and Metropolitical

Metropolitical Church of *Christ, Canterbury*, grant the said Office of Registrar of his Prerogative to the Right Honourable *Charles Manners Sutton*, now Viscount *Canterbury*, then *Charles Manners Sutton*, Esquire, the eldest Son and next Heir Male of the Right Honourable *Charles Manners Sutton*, late Viscount *Canterbury*, for his Life, subject and without Prejudice to the Estates and Interests, Rights and Privileges, of the Reverend *George Moore* and *Robert Moore* (who then held the said Office by virtue of such Grant as therein mentioned), and the Survivor of them: And whereas by an Act passed in the Session of Parliament held in the Second and Third Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for settling and securing Annuities on the Right Honourable* Charles Manners Sutton *and on his next Heir Male, in consideration of the eminent Services of the said Right Honourable* Charles Manners Sutton, it was enacted, that an Annuity of Four thousand Pounds should be payable out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland* to the said Right Honourable *Charles Manners Sutton* late Viscount *Canterbury* during his Life, and that after the Decease of the said *Charles* late Viscount *Canterbury* One Annuity of Three thousand Pounds be payable out of the said Consolidated Fund to the then Heir Male of the Body of the said *Charles* late Viscount *Canterbury*, during the natural Life of such Heir Male; and it was further enacted, that, in the event of the said *Charles* now Viscount *Canterbury* having succeeded to and being in the Possession of the said Annuity of Three thousand Pounds, and afterwards becoming entitled to the full Possession of the said Office of Registrar of the Prerogative of the Lord Archbishop of *Canterbury*, and to the Fees, Perquisites, Profits, and Emoluments thereof (provided the same should exceed the annual Sum of Three thousand Pounds), then and in either of the Cases aforesaid the said Annuity of Three thousand Pounds should cease and determine and be no longer payable to the said *Charles* now Viscount *Canterbury*: Provided nevertheless, that if the said Fees, Perquisites, Profits, and Emoluments of the said Office of Registrar should not produce the net annual Sum of Three thousand Pounds to the said *Charles* now Viscount *Canterbury*, then there should be issued and paid out of the said Consolidated Fund such a Sum of Money annually as, together with the said Fees, Perquisites, Profits, and Emoluments, would make a clear annual Income to the said *Charles* now Viscount *Canterbury* of Three thousand Pounds: And whereas the said *Charles* now Viscount *Canterbury*, upon the Decease of the said *Charles* late Viscount *Canterbury*, succeeded to and is now in possession of the Annuity of Three thousand Pounds, but he is not yet in possession of the said Office of Registrar: There shall be awarded to the said *Charles* now Viscount *Canterbury*, as a Compen-

2 & 3 W. 4. c. 109.

sation for the Fees, Perquisites, Profits, and Emoluments of the said Office of Registrar of the Prerogative of the Lord Archbishop of *Canterbury*, an Annuity to be calculated upon the average yearly net Receipts of the legal Fees, Perquisites, Profits, and Emoluments of the said Office during such Period next preceding the Time when this Act shall come into operation as the Commissioners of Her Majesty's Treasury shall think proper; and such Annuity shall commence from the Time of this Act coming into operation, if the said *Charles* Viscount *Canterbury* shall then be in possession of the said Office, and if not, then from the Time at which the said *Charles* Viscount *Canterbury* would have become entitled, but for the passing of this Act, to the full Possession of the said Office, and to the Receipt of the Fees, Perquisites, Profits, and Emoluments thereof, and shall be paid to the said *Charles* Viscount *Canterbury* thenceforth during his Life; provided that if the said Annuity by way of Compensation shall exceed the annual Sum of Three thousand Pounds, then the said Annuity of Three thousand Pounds payable under the last-recited Act to the said *Charles* Viscount *Canterbury* shall, from and after the Commencement of the said Annuity by way of Compensation, cease and determine, and shall not be payable to the said *Charles* Viscount *Canterbury*; and in case the Annuity awarded by way of Compensation shall be less than the net annual Sum of Three thousand Pounds, the Provision contained in the said recited Act passed in the Session of Parliament held in the Second and Third Years of His late Majesty King *William* the Fourth, for the Payment unto the Heir Male of the Body of the said *Charles* Viscount *Canterbury*, out of the said Consolidated Fund, of such a Sum of Money annually as, together with the said Fees, Perquisites, Profits, and Emoluments, would make up a clear Income to him of Three thousand Pounds, shall, from and after the Commencement of the said Annuity by way of Compensation, be applicable to and be in force for the Purpose of making up, together with the said Annuity so to be awarded in lieu of such Fees, Perquisites, Profits, and Emoluments as aforesaid, a clear annual Income of Three thousand Pounds to the said *Charles* now Viscount *Canterbury* during his Life.

The Registry of Prerogative Court of Canterbury to vest in Registrars of the Court.

CVIII. All the Claim, Title, and Interest which at the Time of the passing of this Act the Reverend *Robert Moore*, Clerk, has or is entitled to in or in respect of the Building at present used as the Public Registry of the Prerogative Court, shall at the Time appointed for the Commencement of this Act vest in the Registrars for the Time being of the Court, subject to the Payment of such Rents, and the Performance and Fulfilment of such Contracts in respect thereof, as the said *Robert Moore*, his Executors or Administrators, shall be subject to at the Time of such vesting.

CIX. In

Compensation to Sir John Dodson in case he be not appointed Judge of the Court of Probate.

CIX. In case Sir *John Dodson*, the present Judge of the Prerogative Court of *Canterbury* and Dean of the Court of Arches, be not appointed the First Judge of the Court of Probate, there shall be paid to him during his Natural Life, as well by way of Retiring Pension as of Salary as Dean of the Court of Arches, the net yearly Sum of Two thousand Pounds, to commence from the Time appointed for the coming into operation of this Act, and to be paid out of the Fund and in manner herein provided for the Payment of Compensations.

Establishments in District Registries.

CX. There shall be a Clerk or so many Clerks in each District Registry, and there shall be paid to such Clerk or Clerks such Salary or respective Salaries, as the Judge of the Court, with the Sanction of the Commissioners of Her Majesty's Treasury, may from Time to Time think fit to direct; and it shall be lawful for such Judge to prescribe from Time to Time the Qualifications which shall be possessed by Persons appointed to be Clerks in such District Registries, and generally to regulate the Establishment of such District Registries with reference to the Duties to be performed therein; and the Clerk or Clerks in each District Registry shall be appointed by the District Registrar, with the Approval of the Judge; and every such Clerk may be removed by such Judge, or by the District Registrar with the Approval of the Judge.

Fees payable to District Registrars.

CXI. Each District Registrar shall, out of the Fees taken by him in respect of the Business in his respective District Registry, pay the Salary or Salaries of the Clerk or Clerks in such Registry, and the Residue of such Fees shall be retained by such District Registrar to his own Use; and every District Registrar shall keep an Account of all Fees so taken by him as aforesaid, and shall within One Month after the End of each Year render to the Commissioners of Her Majesty's Treasury a faithful Account in Writing of all such Fees received by him during such Year: Provided that it shall be lawful for the Commissioners of Her Majesty's Treasury, at any Time after the Commencement of this Act, to order that the District Registrars under this Act, or any of them, shall be paid by Salaries instead of Fees, and to fix the Salaries to be payable to them respectively; and thereupon all Fees payable to the District Registrars so ordered to be paid by Salaries shall be accounted for and paid into the Exchequer at such Times and under such Regulations as the Commissioners of Her Majesty's Treasury shall direct, and shall be carried to and form Part of the Consolidated Fund of the United Kingdom, and the Salaries of such District Registrars and of their Clerks shall be paid out of such Monies as shall be provided by Parliament for that Purpose, and no such District Registrar shall be deemed to have any Claim to Compensation on account of any Diminution of his Emoluments by reason of any such Order.

District Registrars may be paid by Salaries instead of Fees.

CXII. It

Compensation to Clerical Surrogates, &c.

CXII. It shall be lawful for the Commissioners of the Treasury to grant to every Clerical Surrogate or other Clerical Person who, at the Time of the passing of this Act, shall have been appointed Surrogate in either of the Provinces of *Canterbury* or *York*, such Compensation for any Loss the said Surrogates or Persons may sustain by the passing of this Act as the said Commissioners deem just and proper to be awarded; the said Commissioners having regard in awarding such Compensation to the Circumstance of the said Clerical Surrogates not being able to follow any other professional Employment in lieu of the said Office of Surrogate.

Persons receiving Compensation to be liable to be called upon to fill Offices, &c.

CXIII. That every Person to whom any Compensation shall be granted under this Act shall at all Times when called upon be liable to fill any public Office or Situation in *England* under the Crown for which his previous Services in any Office abolished by this Act may render him eligible; and that if he shall decline when called upon so to do to take upon himself such Office or Situation, and execute the Duties thereof satisfactorily, being in a competent State of Health, he shall forfeit his Right to any Compensation or Allowances which may have been granted to him in respect of such previous Services.

Publication of Accounts.

CXIV. The Commissioners of Her Majesty's Treasury shall cause to be prepared in each Year ending *December* Thirty-one a Return of all Fees and Monies levied in such Year under the Authority of this Act; also a Return of the annual Salaries of the Judge of the said Court of Probate, and of the Registrars, Deputy Registrars, Clerks, and all others holding Offices either in *London* or in the Country Districts, with an Account of all the incidental Expenses relating to the Offices aforesaid, whether such Salaries and Expenses be defrayed out of Fees or out of any other Monies; also a Return of all Superannuations, Pensions, Annuities, Retiring Allowances and Compensations made payable under this Act in each Year, stating the gross Amount and the Amount in detail of such Charges: Provided always, that all such Returns aforesaid shall be presented to both Houses of Parliament on or before the Thirty-first Day of *March* in each Year, if Parliament is then sitting, and if Parliament is not sitting, then such Returns shall be presented within One Month of the First Meeting of Parliament after the Thirty-first Day of *March* in each Year: Provided also, that every District Registrar shall keep an Account of all Fees so taken by him as aforesaid, and shall within One Month after the End of each Year render to the Commissioners of Her Majesty's Treasury a faithful Account in Writing of all such Fees received by him during such Year.

Judge if a Privy Councillor to be a Member of Judicial Committee.

CXV. The Judge of the Court if a Privy Councillor shall be a Member of the Judicial Committee of the Privy Council.

CXVI. And

College of Doctors of Law may let, sell, &c. their Real and Personal Estate, and lay out Monies in purchase of other Estates, &c.

CXVI. And whereas, with reference to the Abolition of the Jurisdiction hereby abolished and otherwise, it is expedient to give, confirm, or extend certain Powers to or of "The College of Doctors of Law exercent in the Ecclesiastical and Admiralty Courts," incorporated under that Style and Title by Letters Patent, dated the Twenty-second Day of *June*, in the Eighth Year of His late Majesty King *George* the Third: Be it enacted, That it shall be lawful for the said College from Time to Time hereafter to let, sell, or exchange for other Real or Personal Estate, or both, all or any Part of the Real and Personal Estate which shall for the Time being belong to the said College, either directly or through the Medium of any Trustee or Trustees, and to lay out the Monies to be received on any such Sale or Exchange, or otherwise, belonging to the said College as aforesaid, in the Purchase of other Real or Personal Estate, or both, but so that the said College shall not at any One Time hold or enjoy Real Estate of a yearly Value exceeding One thousand Pounds in the whole, and to pay, apply, and dispose of the Income of all the Real and Personal Estate which shall for the Time being belong to the said College as aforesaid to or for the Benefit of such Body or Bodies Politic or Corporate, or Person or Persons, whether being or including, or not being or including, the said College, and all or any individual Members or Member thereof for the Time being, and generally for such Purposes and in such Manner as the said College shall think fit; and further, to alien and dispose of all or any Part of such Real and Personal Estate, and the Proceeds of any Sale thereof, either by way of Donation, voluntary Disposition, or otherwise, unto, between, or amongst any Body or Bodies Politic or Corporate, or any Person or Persons whatsoever, whether being or not being a Member or Members of the said College: Provided always, that no Donation or other voluntary Disposition of the Corpus, or any Part of the Corpus, of the Real and Personal Estate of the said College to any Person or Persons being a Member or Members thereof at the Time of such Donation or other voluntary Disposition shall be effectual without the previous Consent thereto of a Majority of the Members of the said College present at any Meeting of the College, and the Receipt of the Treasurer for the Time being of the said College shall be an effectual Discharge for all gross annual and other Sums which shall for the Time being belong or be payable to the said College.

College may surrender their Charter, and upon such Surrender shall be dissolved.

CXVII. It shall be lawful for the said College, at any Time after a Resolution to that Effect shall have been come to at a Meeting of the College, by a Majority of the Members present at such Meeting, to surrender and yield up to Her Majesty, Her Heirs or Successors, at such Time as in such Resolution shall be determined, the Charter of Incorporation of the said College, and all Franchises and Privileges

thereby conferred, or which shall for the Time being belong to the said College; and upon and by such Surrender the said Corporation shall be dissolved, and shall cease to exist, for all Purposes whatsoever, (except so far as its Existence may be requisite for the Saving of the Rights of Her Majesty, Her Heirs and Successors, and of all and every Person and Persons, Body and Bodies Politic or Corporate, whatsoever other than the said College,) and all Real and Personal Estate which at the Time of such Dissolution of the said College shall belong to the said College for its own Use and Benefit, either directly or through the Medium of any Trustee or Trustees, shall thenceforth belong, for all the Estate and Interest therein which at the Time of such Dissolution belonged to the said College absolutely, to all the Persons who at the Time of such Dissolution thereof shall be the President and Fellowes of the said College, in equal Shares as Tenants in Common, to and for their own Use and Benefit respectively, but subject to any Charges or Incumbrances affecting the same at the Time of such Dissolution, and all Real and Personal Estate of which the said College at the Time of such Dissolution thereof be seised or possessed, upon any Trust or Trusts, shall thereupon become vested in the Four Persons who at the Time of such Dissolution shall be the President and Three Senior Fellowes of the said College, as joint Tenants, their Heirs, Executors, or Administrators, according to the Nature of the Real and Personal Estates respectively, upon the Trust or Trusts affecting the same respectively.

Treasury to provide the Buildings for Registries, &c.

CXVIII. It shall be lawful for the Commissioners of Her Majesty's Treasury, out of such Monies as may be provided and appropriated by Parliament for that Purpose, to cause to be purchased, erected, hired, or otherwise provided such Offices and Buildings as may be suitable for the District Registries and Depository or Depositories for Wills, and such Buildings, if any, as may be necessary for the Court and Principal Registry, in addition to the Building by this Act vested in the said Registrars, or after the Determination of their Interest in such Building.

Rules and Orders to be laid before Parliament.

CXIX. All Rules and Orders to be made under this Act concerning Procedure and Practice, and the Table of Fees to be fixed under this Act, and all Alterations thereof to be from Time to Time made, shall be laid before both Houses of Parliament within One Month after the making thereof if Parliament be then sitting, or if Parliament be not then sitting, within One Month after the Commencement of the then next Session of Parliament.

SCHEDULE (A.)

DISTRICTS and PLACES of DISTRICT REGISTRIES throughout ENGLAND and WALES.

Districts.	Places of District Registries.	Districts.	Places of District Registries.
County of Northumberland (*a*)	Newcastle-on-Tyne.	County of Warwick (*i*) -	Birmingham.
County of Durham - -	Durham.	County of Stafford (*k*) -	Lichfield.
Counties of Cumberland and Westmoreland.	Carlisle.	Counties of Radnor, Brecknock, and Hereford.	Hereford.
West Riding of the County of York.	Wakefield.	Counties of Cardigan, Carmarthen (*l*), and Pembroke (*m*) with the Deaneries of East and West Gower in the County of Glamorgan.	Carmarthen.
North Riding ditto - -	York.		
East Riding ditto (*b*) including the City of York and Ainsty			
County of Lancaster, except the Hundred of Salford and West Derby and the City of Manchester.	Lancaster.	Counties of Glamorgan (with the Exception of the Deaneries of East and West Gower) and Monmouth.	Llandaff.
		County of Worcester (*n*) -	Worcester.
City of Manchester and Hundred of Salford.	Manchester.	County of Gloucester (*o*), except the present Bristol County Court District.	Gloucester.
Hundred of West Derby in Lancashire.	Liverpool.	Bristol and Bath present County Court Districts.	Bristol.
County of Chester (*c*) - -	Chester.	Counties of Oxford (*p*), Berks, Bucks.	Oxford.
Counties of Carnarvon and Anglesea.	Bangor.	Eastern Division of the County of Somerset, except the present Bath County Court District, and the Part in Somersetshire of the present Bristol County Court District.	Wells.
Counties of Flint, Denbigh, and Merioneth.	St. Asaph.		
County of Derby - - -	Derby.		
County of Nottingham (*d*) -	Nottingham.		
Counties of Leicester and Rutland.	Leicester.		
County of Lincoln (*e*) -	Lincoln.	Western Division of the County of Somerset.	Taunton.
Counties of Salop and Montgomery.	Shrewsbury.		
		County of Devon (*q*) - -	Exeter.
Northern Division of Northampton, and Counties of Huntingdon and Cambridge. (*f*)	Peterborough.	County of Cornwall - -	Bodmin.
		County of Wilts - -	Salisbury.
		County of Dorset (*r*) - -	Blandford.
County of Norfolk (*g*) -	Norwich.	County of Hants (*s*) - -	Winchester.
Eastern Division of the County of Suffolk and North Division of the County of Essex.	Ipswich.	Eastern Division of the County of Sussex. (*t*)	Lewes.
		Western Division of the County of Sussex.	Chichester.
Western Division of the County of Suffolk.	Bury St. Edmunds.	East Division of the County of Kent. (*u*)	Canterbury.
County of Bedford and Southern Division of Northamptonshire. (*h*)	Northampton.		

The Divisions of Counties referred to in the Schedule are the Divisions of the same Counties described for Election Purposes in the Act of the Second and Third Years of King William the Fourth Chapter Sixty-four, and the Cities and Towns herein referred to are to be taken to include the Counties of such Cities and Towns as are Counties of themselves.

(*a*) Including the Towns and Counties of Newcastle-on-Tyne and Berwick-upon-Tweed.
(*b*) Including the Town and County of Kingston-on-Hull.
(*c*) Including the City of Chester.
(*d*) Including the Town of Nottingham.
(*e*) Including the City of Lincoln.
(*f*) Including the University of Cambridge.
(*g*) Including the City of Norwich.
(*h*) Including the Town of Northampton.
(*i*) Including the City of Coventry.
(*k*) Including the City of Lichfield.
(*l*) Including the Town of Carmarthen.
(*m*) Including the Town of Haverfordwest.
(*n*) Including the City of Worcester.
(*o*) Including the City of Gloucester.
(*p*) Including the University of Oxford.
(*q*) Including the City of Exeter.
(*r*) Including the Town of Poole.
(*s*) Including the Town of Southampton and Isle of Wight.
(*t*) Including such of the Cinque Ports and their Dependencies as are locally situate in the County of Sussex.
(*u*) Including the City of Canterbury and such of the Cinque Ports and their Dependencies as are locally situate in the County of Kent.

SCHE-

SCHEDULE (B.)

	Annual Salary. £
The Three Registrars in London, each - -	1,500
The Record Keepers, each - - -	600
The Sealer - - - - -	300

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