7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
19 Geo. 5. c. 17.	The Local Government Act, 1929 -	In section eighty - one, the words "and "any authori- "ty, person or "body of per- "sons having "power to "levy a drain- "age rate."
20 Geo. 5. c. 8.	The Land Drainage Act, 1929	The whole Act.

CHAPTER 45.

An Act to establish a Court of Criminal Appeal in Northern Ireland and to amend the law relating to appeals in criminal cases in Northern Ireland. [1st August 1930.]

BE it enacted by the King'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:—

Court of Criminal Appeal.

Constitution of Court of Criminal Appeal.

1.—(1) There shall be a Court of Criminal Appeal in Northern Ireland (hereafter in this Act referred to as "the Court"), and all the judges of the Supreme Court of Judicature of Northern Ireland shall be judges of the Court.

(2) For the purpose of hearing and determining appeals under this Act, or any matter preliminary or incidental to an appeal, the Court shall be summoned in accordance with directions given by the Lord Chief Justice, and shall sit in Belfast except in cases where the Lord Chief Justice gives special directions that it shall sit at some other place.

(3) Subject to the provisions of the two subsections next following, the Court, for the purpose of hearing and determining appeals under this Act or any matter preliminary or incidental to an appeal, shall be duly constituted if it consists either of two or of three judges.

(4) Any matter preliminary or incidental to an appeal may be heard and determined by a single judge:

Provided that an appellant who is aggrieved by the decision of a single judge on any such matter shall be entitled to have the matter re-heard and determined by the Court as constituted in manner provided by the last foregoing subsection.

(5) Where any appeal or matter before the Court is heard by two judges and those judges differ in opinion, it shall be re-heard by three judges, and where any appeal or matter before the Court is heard by three judges, it shall be determined according to the opinion of the majority of those judges.

(6) The Lord Chief Justice, if present, and in his absence the senior member of the Court, shall be president of the Court.

(7) Unless the Court direct to the contrary in cases where, in the opinion of the Court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the Court, the judgment of the Court shall be pronounced by the president of the Court or such other member of the Court hearing the case as the president directs, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

(8) The Court shall be a superior court of record, and shall, for the purposes of and subject to the provisions of this Act, have full power to determine, in accordance with this Act, any questions necessary to be determined for the purpose of doing justice in the case before the Court.

(9) Rules of court shall provide for securing sittings of the Court, if necessary during vacation.

(10) The registrar of the Supreme Court of Northern Ireland shall be the registrar of the Court (hereafter in this Act referred to as "the Registrar"), and the Lord Chief Justice may direct any other officer of, or attached

to, the Supreme Court of Northern Ireland to render such assistance to the Registrar as the Lord Chief Justice may think necessary for the purposes of this Act and in the event of any vacancy in the office of the Registrar or in the event of the incapacity of the Registrar to act from any reason, the Lord Chief Justice may direct any other officer of the Supreme Court of Northern Ireland to exercise the powers and perform the duties of the Registrar under this Act.

(11) Any direction which may be given by the Lord Chief Justice under this section may, in the event of any vacancy in that office or in the event of the incapacity of the Lord Chief Justice to act from any reason, be given by the senior judge of the Court.

Right of Appeal and Determination of Appeals.

Right of appeal in criminal cases.

2. A person convicted on indictment may appeal under this Act to the Court—

(1) against his conviction on any ground of appeal which involves a question of law alone; and

(2) with the leave of the Court, or upon the certificate of the judge who tried him that it is a fit case for appeal, against his conviction on any ground of appeal which involves a question of fact alone or a question of mixed law and fact, or on any other ground which appears to the Court, or to the judge aforesaid, to be a sufficient ground of appeal; and

(3) with the leave of the Court, against the sentence passed on his conviction, unless the sentence is one fixed by law:

Provided that a person sentenced to penal servitude and preventive detention in pursuance of the Prevention of Crime Act, 1908, may appeal against the sentence without the leave of the Court.

8 Edw. 7. c. 59.

Determination of appeals in ordinary cases.

3.—(1) Subject to the provisions of this Act, the Court on any such appeal against conviction shall allow the appeal if they think that—

(*a*) the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence; or

(*b*) the judgment of the court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law; or

(*c*) on any ground there was a miscarriage of justice;

and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the provisions of this Act, the Court shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(3) On any appeal, whether against conviction or against sentence, the Court shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as they think ought to have been passed.

Powers of Court in special cases.

4.—(1) If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court may instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty on that other count or part of the indictment, and may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as they may think proper, and as may be warranted in law by the verdict so substituted.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and

pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Court consider that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as may appear to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on any appeal it appears to the Court that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the Court may quash the sentence passed at the trial and order the appellant to be kept in custody as a criminal lunatic under the Trial of Lunatics Act, 1883, in the same manner as if a special verdict had been found by the jury under that Act. 46 & 47 Vict. c. 38.

Re-vesting and restitution of property on conviction. 56 & 57 Vict. c. 71.

5.—(1) The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation in case of any such conviction of the provisions of subsection (1) of section twenty-four of the Sale of Goods Act, 1893, as to the re-vesting of property in stolen goods on conviction, shall, unless the court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute, be suspended—

(*a*) in any case until the expiration of ten days after the date of the conviction; and

(*b*) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or the operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the

property in question if the conviction is quashed on appeal.

Provision may be made by rules of court for securing the safe custody of any property pending the suspension of the operation of any such order or of the said provisions.

(2) The Court may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Decision of Court to be final subject to appeal to House of Lords.

6.—(1) If in any case the prosecutor or defendant obtains the certificate of the Attorney-General that the decision of the Court involves a point of law of exceptional public importance, and that it is desirable in the public interest that a further appeal should be brought, he may appeal from that decision to the House of Lords, but subject thereto the determination by the Court of any appeal or other matter which they have power to determine shall be final and no appeal shall lie from the Court to any other court.

(2) An application to the Attorney-General under this section for a certificate authorising an appeal to the House of Lords shall be made within a period of seven days from the date when the decision of the Court was given.

Procedure.

Time for appealing.

7.—(1) Where a person convicted desires to appeal under this Act to the Court, or to obtain the leave of the Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal, in such manner as may be directed by rules of court, within ten days of the date of his conviction in the case of appeal or application for leave to appeal against conviction or within ten days of the date of his sentence in the case of appeal or application for leave to appeal against sentence:

Provided that, except in the case of a conviction involving sentence of death, the time within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court.

(2) In the case of a conviction involving sentence of death or corporal punishment—

(*a*) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(*b*) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

Judge's notes and report to be furnished on appeal.

8. The judge or chairman of any court before whom a person is convicted shall, in the case of an appeal under this Act against the conviction or against the sentence, or in the case of an application for leave to appeal under this Act, furnish to the Registrar, in accordance with rules of court, his notes of the trial, and a report giving his opinion upon the case or upon any point arising in the case.

Supplemental powers of Court.

9. For the purposes of this Act, the Court may, if they think it necessary or expedient in the interest of justice—

(*a*) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case; and

(*b*) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in manner provided by rules of court before any judge of the Court or before any other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court; and

(*c*) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such an application; and

(*d*) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before the Court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court, and act upon the report of any such commissioner so far as they think fit to adopt it; and

(*e*) appoint any person with special expert knowledge to act as assessor to the Court in any case where it appears to the Court that such special knowledge is required for the proper determination of the case;

and may exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Court of Appeal in Northern Ireland on appeals in civil matters, and issue any warrants necessary for enforcing the orders or sentences of the Court:

Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

Presentation of appellant's case.

10.—(1) Rules of court shall enable an appellant on an appeal under this Act to present his case and his argument in writing, instead of by oral argument, if he so desires, and any case or argument so presented shall be considered by the Court.

(2) The Court may at any time assign to an appellant a solicitor and counsel or counsel only in an appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the Court, it appears that it is desirable in the interests of justice that the appellant

should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Right of appellant to be present.

11.—(1) An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal to the Court, except where the appeal is on some ground involving a question of law alone, but in that case, and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide that he shall have the right to be present, or where the Court gives him leave to be present.

(2) The power of the Court to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

Costs of appeal.

12.—(1) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto under this Act no costs shall be allowed on either side.

(2) The expenses of any solicitor or counsel assigned to an appellant under this Act, and the expenses of any witnesses attending on the order of the Court or examined in any proceedings incidental to the appeal, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the Court for the purpose, or any reference of a question to a special commissioner appointed by the Court, or of any person appointed as assessor to the Court, shall be defrayed, up to an amount allowed by the Court, in the same manner as the expenses of a prosecution in cases of felony.

Position of appellant pending determination of appeal.

13.—(1) The Court may, if they think fit, on the application of an appellant, admit the appellant to bail pending the determination of the appeal.

(2) An appellant who is detained in custody shall, pending the determination of the appeal, be treated in such special manner as may be directed by prison rules.

(3) Where the Court has allowed an appeal against conviction and the prosecutor gives notice to the Court immediately after the decision of the Court has been

given on the appeal that he intends to apply to the Attorney-General for a certificate authorising an appeal to the House of Lords, the Court may make an order providing for the detention of the defendant in custody, or directing that the defendant shall not be released except on bail, until either the Attorney-General has refused to grant the certificate or a decision on the appeal has been given by the House of Lords, as the case may be.

(4) The time during which an appellant, pending the determination of the appeal, is not detained in custody, and, subject to any directions which the Court may give to the contrary on any appeal, the time during which the appellant, if detained in custody, is specially treated in accordance with prison rules under this section, shall not count as part of any term of imprisonment or penal servitude under his sentence, and, in the case of an appeal under this Act, any imprisonment or penal servitude under the sentence of the appellant, whether it is the sentence passed by the court of trial or the sentence passed by the Court, shall, subject to any directions which may be given by the Court as aforesaid, be deemed to be resumed or to begin to run, as the case requires, if the appellant is detained in custody, as from the day on which the appeal is finally determined, and, if he is not detained in custody, as from the day on which he is received into prison under the sentence.

(5) Provision shall be made by prison rules for the manner in which an appellant, when detained in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act, or to any place to which the Court may order him to be taken for the purpose of any proceedings of the Court, and for the manner in which he is to be kept in custody while absent from prison for the purpose; and an appellant whilst in custody in accordance with those rules shall be deemed to be in legal custody.

(6) Prison rules for the purposes of this section shall be made by the Ministry, subject to the approval of the Governor and Privy Council of Northern Ireland, and section fifty-seven of the General Prisons (Ireland) Act, 1877, which provides conditions applicable to rules under that Act, shall apply to rules under this section.

40 & 41 Vict. c. 49.

Duties of registrar with respect to notices of appeal, &c.

14.—(1) The Registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications to the Court, notice of which is given to him under this Act, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court before which the appellant was tried which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the Registrar that any notice of an appeal against a conviction purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court for summary determination, and, where the case is so referred, the Court may, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning the proceedings for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment who, if convicted, is entitled or may be authorised to appeal under this Act, shall be kept in the custody of the court of trial in accordance with rules of court made for the purpose, for such time as may be provided by the rules, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Act to any person who demands them, and to officers of courts, governors of prisons, and such other officers or persons as he thinks fit, and the governor of a prison shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Act, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar.

(5) The Registrar shall report to the Court or some judge thereof any case in which it appears to him that,

although no application has been made for the purpose, a solicitor and counsel or counsel only ought to be assigned to an appellant under the powers given to the Court by this Act.

Shorthand notes of trial.

15.—(1) Shorthand notes shall be taken of the proceedings at the trial of any person on indictment who, if convicted, is entitled or may be authorised to appeal under this Act, and on any appeal or application for leave to appeal a transcript of the notes or any part thereof shall be made, if the Registrar so directs, and furnished to the Registrar for the use of the Court or any judge thereof, and also, upon the payment of such charges as the Treasury may fix, to any party interested.

(2) The Minister may also, if he thinks fit in any case, direct a transcript of the shorthand notes to be made and furnished to him for his use.

(3) The cost of taking any such shorthand notes and of any transcript furnished to the Registrar or the Minister shall be defrayed as part of the expenses of the Court (in accordance with scales of payment fixed for the time being by the Treasury) out of moneys provided by Parliament, and rules of court may make such provision as is necessary for securing the accuracy of the notes to be taken and for the verification of the transcript.

Rules of court.

40 & 41 Vict. c. 57.

16.—(1) Rules of court for the purposes of this Act shall be made, and may be altered or annulled, in the same manner as rules of court made under section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any subsequent enactment or Order in Council, and, for the purposes of section sixty-nine of the said Act, shall be deemed to be rules of court required by the said Act to be laid before each House of Parliament:

Provided that no rule affecting the governor or any other officer of a prison or any officer having the custody of an appellant shall be made except after consultation with the Ministry.

(2) Rules of court made for the purposes of this Act may make provision with respect to any matter for which

provision is to be made under this Act by rules of court, and may regulate generally the practice and procedure under this Act, and the officers of any court before whom an appellant has been convicted, and the governor or other officers of any prison or other officer having the custody of an appellant and any other officers or persons, shall comply with any requirements of those rules so far as they affect those officers or persons and compliance with those rules may be enforced by order of the Court.

Supplemental.

Prerogative of mercy.

17.—(1) Nothing in this Act shall affect the prerogative of mercy, but the Minister on the consideration of any petition for the exercise of His Majesty's mercy, having reference to the conviction of a person on indictment or to the sentence (other than sentence of death) passed on a person so convicted, may, if he thinks fit, at any time and whether an appeal or an application for leave to appeal against the conviction or sentence has or has not previously been heard and determined by the Court, either—

(*a*) refer the whole case to the Court, and the case shall then be heard and determined by the Court as in the case of an appeal by a person convicted; or

(*b*) if he desires the assistance of the Court on any point arising in the case with a view to the determination of the petition, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish the Minister with their opinion thereon accordingly.

(2) Notwithstanding anything contained in section nineteen of this Act, the powers conferred on the Minister by this section may, at any time after the thirty-first day of March, nineteen hundred and thirty-one, be exercised in the case of a person sentenced on or before that date in like manner as if he had been sentenced after that date.

Abolition of existing procedure in criminal appeals.
11 & 12 Vict. c. 78.

18. Writs of error, and the powers and practice now existing in the High Court in Northern Ireland in respect of motions for new trials or the grant thereof in criminal cases, are hereby abolished and the Crown Cases Act, 1848, shall cease to have effect and, except as provided by this Act, no appeal shall lie from any judgment of the High Court in any criminal cause or matter.

Application.

19.—(1) This Act shall, save as otherwise expressly provided, apply in the case of all persons tried and convicted on indictment, who are sentenced after the thirty-first day of March, nineteen hundred and thirty-one, but shall not affect the rights as respects appeal of any person sentenced on or before that date.

(2) This Act shall apply in the case of a person tried and convicted on a criminal information or a coroner's inquisition as if he had been tried and convicted on indictment but shall not apply in the case of a peer or peeress, or other person claiming the privilege of peerage, convicted on indictment or inquisition charging him or her with any offence not lawfully triable by a court of assize.

(3) This Act shall apply in the case of a parent or guardian against whom an order is made under section ninety-nine of the Children Act, 1908, by a court of assize or court of quarter sessions, as if he had been tried and convicted on indictment and as if the order were a sentence passed on his conviction.

8 Edw. 7. c. 67.

(4) This Act shall apply in the case of a person sentenced to detention in a Borstal Institution by a court of quarter sessions under section ten of the Criminal Justice Administration Act, 1914, as if the proceedings before the court of quarter sessions were a trial on indictment and as if he had been convicted on indictment:

4 & 5 Geo. 5. c. 58.

Provided that no such person shall appeal under this Act against his conviction.

Interpretation.

20. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Appellant" includes a person who has been convicted and desires to appeal under this Act;

"Attorney-General" means the Attorney-General for Northern Ireland;

"The Court" means the Court of Criminal Appeal in Northern Ireland constituted by this Act;

"Lord Chief Justice" means the Lord Chief Justice of Northern Ireland;

"Minister" and "Ministry" mean, respectively, the Minister and the Ministry of Home Affairs for Northern Ireland;

"Sentence" includes any order of the court of trial made on conviction with reference to the person convicted or his wife or children, and any recommendation of that court as to the making of a deportation order in the case of a person convicted, and the power of the Court to pass a sentence includes a power to make any such order or recommendation which could lawfully have been made by the court of trial.

Short title, extent and repeal.

21.—(1) This Act may be cited as the Criminal Appeal (Northern Ireland) Act, 1930.

(2) This Act shall not extend to England or Scotland.

10 & 11 Geo. 5. c. 67.

(3) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

(4) The Acts specified in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

SCHEDULE.

Section 21.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
11 & 12 Vict. c. 78.	The Crown Cases Act, 1848	The whole Act.
40 & 41 Vict. c. 57.	The Supreme Court of Judicature (Ireland) Act, 1877.	Section fifty; in section sixty-five the words "including the practice and procedure with respect to Crown cases reserved."
8 Edw. 7. c. 59.	The Prevention of Crime Act, 1908.	Paragraph (*f*) of section eighteen.
8 Edw. 7. c. 67.	The Children Act, 1908	Paragraph (16) of section one hundred and thirty-three.
13 Geo. 5. c. 2.	The Irish Free State (Consequential Provisions) Act, 1922 (Session 2).	In sub-paragraph (2) of paragraph six of the First Schedule the words from "Questions under" to the end of the sub-paragraph.

CHAPTER 46.

An Act to relieve the Principal Librarian of the British Museum of the care of the Natural History Departments of the Museum and from liability to enter into a bond for the due discharge of the duties of his office.

[1st August 1930.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present