ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

****

C A P. CIV.

An Act to amend the Procedure and Practice in Crown Suits in the Court of Exchequer at *Westminster*; and for other Purposes.

[5th *July* 1865.]

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:

PART I.

PRELIMINARY.

Short Title.

1. This Act may be cited as The Crown Suits, &c. Act, 1865.

Division of Act into Parts.

2. This Act shall be deemed to be divided into Five Parts, as follows:

Part I., Preliminary:

Part II., relating to Proceedings by *English* Information in the Court of Exchequer:

Part III., relating to Proceedings at Law on the Revenue Side of the Court of Exchequer:

Part IV., relating to certain other Classes of Proceedings where the Crown is interested:

Part V., relating to Recovery of Succession, Legacy, and Probate Duty in certain Cases.

Extent of Act.

3. This Act shall extend to *England* only.

Commencement of Act.

4. This Act shall commence from and immediately after the First Day of *November* One thousand eight hundred and sixty-five; General Rules under this Act may nevertheless be made before that Time, but not so as to commence before it.

Construction, as to Attorney General, &c.

5. With respect to the Construction of this Act, the following Provisions shall have effect:

(1.) The Provisions of this Act relative to Her Majesty's Attorney General shall be construed as applying also to Her Majesty's Solicitor General, when a Vacancy in the Office of Attorney General or other Occasion so requires:

(2.) The Provisions of this Act relative to the Crown, or to Her Majesty in right of the Crown, shall be construed as applying also to the Duchy of *Lancaster*, or to Her Majesty in right of that Duchy, when the Case so requires:

(3.) The Terms "Party" and "Parties" where used in this Act include, and the same Terms where used in any Enactment extended and applied by this Act shall for the Purposes of this Act include, Her Majesty's Attorney General, and the Attorney General of the Prince of *Wales* and Duke of *Cornwall*, as the Case may require:

(4.) The Term "a Judge" where used in this Act means any Judge of One of Her Majesty's Superior Courts of Law at *Westminster* transacting Business out of Court.

PART II.

Proceedings by English Information in the Court of Exchequer.

Interpretation of Terms in Part II.

6. In this Part of this Act—

The Term "the Court of Exchequer" or "the Court" means Her Majesty's Court of Exchequer at *Westminster* exercising Jurisdiction or Authority in Suits relating to the Revenues of the Crown and of the Duchies of *Lancaster* and *Cornwall* instituted and conducted according to the Forms of equitable Procedure:

The Term "Information" means an Information, styled an *English* Information, exhibited in the Court of Exchequer in the Name of Her Majesty's Attorney General, or of the Attorney General of the Prince of *Wales* and Duke of *Cornwall*, as the Informant, and includes an Information and Bill:

The Term "Suit" or "Cause" means a Suit or Cause commenced by Information:

and,

and, except as expressly provided otherwise, nothing in this Part of this Act shall be deemed to apply to any Proceedings other than Proceedings in Suits commenced by Information.

Printing of Information.

7. An Information shall be printed, and shall be received and filed in print, and not otherwise.

Abolition of Subpœna and Distringas, and Substitution of Service of printed Information.

8. The Writ of Subpœna to appear to and answer an Information, and the Writ of Distringas against a Corporation to appear to an Information, are hereby abolished; and in lieu of the Service of such Writs respectively there shall be served a printed Information having an Indorsement thereon in the Form given in the First Schedule to this Act, with such Variations as Circumstances require.

Mode and Effect of Service of printed Information.

9. Except in case of a Corporation Aggregate, such Service shall be effected as Service of a Writ of Subpœna is now effected (save that the original Information shall not be produced), and shall have the same Effect in all respects as Service of a Writ of Subpœna now has; and in case of a Corporation Aggregate such Service shall be effected by Delivery of a printed Information, having an Indorsement thereon as aforesaid, to the Mayor or other Head Officer, or to the Town Clerk, Clerk, Treasurer, or Secretary of the Corporation.

Printed Information served to be first marked by Officer.

10. The Information served shall be first so marked by the proper Officer of the Court as to indicate the filing of the Information and the Date of the filing.

Sale to Defendant of printed Copies.

11. A Defendant shall be entitled to have as many printed Copies of the Information as he requires, on paying for them at such Rate as General Rules under this Part of this Act direct.

Amendments to be subject to same Rules.

12. On Amendment of an Information the foregoing Provisions shall extend and apply, *mutatis mutandis*, to the Information as amended; but an Information may be amended in Writing in such Cases as General Rules direct.

Form, &c. of Interrogatories.

13. An Information shall not contain Interrogatories, but the Informant within such Time as General Rules direct may file Interrogatories for the Examination of Defendants from whom he requires an Answer, and deliver to each such Defendant, or his Solicitor, a Copy of the Interrogatories, or of such of them as are applicable to the particular Defendant.

14. A Defen-

Defendant not bound to answer unless interrogated.

14. A Defendant shall not be bound to put in an Answer unless Interrogatories have been filed, and unless a Copy has been delivered as aforesaid.

Time for Defendant to put in Plea, Answer, or Demurrer, &c.

15. A Defendant, whether required to answer or not, may, without Leave of the Court or a Judge, put in a Plea, Answer, or Demurrer within such Time as General Rules direct, but after that Time a Defendant not required to answer shall not be at liberty to put in a Plea, Answer, or Demurrer, except by Leave of the Court or a Judge; nevertheless the Power of the Court or a Judge to grant further Time for pleading, answering, or demurring, on the Application of a Defendant, whether required to answer or not, shall remain unaffected.

Contents of Answer.

16. An Answer may contain not only the Defendant's Answers to the Interrogatories, if any, but also such Statements material to the Case as he thinks fit to set forth therein.

Abolition of Commissions to take Answers, &c.

17. Commissions to take Pleas, Answers, Disclaimers, and Examinations are, with respect to Pleas, Answers, Disclaimers, and Examinations taken within the Jurisdiction of the Court, hereby abolished; and any such Plea, Answer, Disclaimer, or Examination may be filed without any Formalities other than such as are required in relation to an Affidavit.

Swearing of Answers, &c. in Scotland, &c.

18. Pleas, Answers, Disclaimers, Examinations, Affidavits, Declarations, Affirmations, and Protestations of Honour in Causes depending in the Court may be sworn and taken in *Scotland*, *Ireland*, the *Isle of Man*, or the Channel Islands, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Court or Judge, or before any Notary Public, or before any Person authorized to administer Oaths there, or in any Foreign Parts out of Her Majesty's Dominions before any of Her Majesty's Consuls or Vice Consuls there; and every such Instrument may be used and shall be admitted in Evidence, saving just Exceptions; and judicial and official Notice shall be taken of the Seal or Signature of any such Court, Judge, Notary Public, Person, Consul, or Vice Consul affixed, appended, or subscribed to any such Document.

False swearing, &c. Perjury.

19. Any Person wilfully and corruptly swearing, declaring, affirming, or protesting falsely in any Plea, Answer, Disclaimer, Examination, Affidavit, Declaration, Affirmation, or Protestation of Honour so taken out of *England* shall be deemed guilty of Perjury in every Case where, having so sworn, declared, affirmed, or protested

protested before competent Authority in *England*, he would be deemed guilty of Perjury, and may be dealt with, indicted, tried, and (if convicted) sentenced, and his Offence may be laid and charged to have been committed, in any County or Place in *England* in which he is in Custody as if the Offence had been actually there committed.

Oath of Messenger abolished.

20. Pleas, Answers, Disclaimers, and Examinations, whether taken by Commission out of the Jurisdiction of the Court or otherwise, may be filed without the Oath of a Messenger, and any Alteration made therein before the taking thereof shall be authenticated as in the Case of an Affidavit.

Alteration of Mode of taking Evidence.

21. By General Rules the Examination of Witnesses on written Interrogatories may be discontinued, and such Amendments as from Time to Time seem fit may be made in the Mode of taking Evidence and the Practice relative thereto; and for the Purpose of such Evidence any Officer or Person from Time to Time directed by General Rules or by an Order of the Court or a Judge to take such Evidence may administer Oaths and take Declarations.

Application of Sect. 103. 17 & 18 Vict. c. 125.

22. The Court shall be deemed to be a Court of Civil Judicature within the Meaning of Section One hundred and three of The Common Law Procedure Act, 1854.

Proceeding in case of Abatement of Suit, &c.

23. Where a Suit becomes abated by Death or otherwise, or becomes defective by reason of some Change or Transmission of Interest or Liability, an Order to the Effect of an Order to revive, or of a Supplemental Decree, may be obtained as of course on an Allegation of the Abatement of the Suit, or of the same having become defective, and of the Change or Transmission of Interest or Liability; and the Parties who would in the same Case be Defendants to an Information of Revivor or Supplemental Information shall, when served with such Order, be Parties to the Suit, and be bound to appear within such Time and in such Manner as General Rules direct, subject to the following Provisions:

(1.) It shall be open to any Party so served (within such Time after Service as General Rules direct) to apply to the Court or a Judge to discharge the Order on any Ground that would have been open to him on an Information of Revivor or Supplemental Information:

(2.) If any Party so served is under any Disability other than Coverture, the Order shall be of no Effect as against such Party until a Guardian *ad litem* has been appointed for such Party, and such Time has elapsed thereafter as General Rules direct.

24. Facts

Statement of new Facts on Record.

24. Facts or Circumstances occurring after the Institution of a Suit may be introduced by way of Amendment into the original Information if the Cause is otherwise in such a State as to allow of the Information being amended, and if not, may be stated on the Record in such Manner, and subject to such Regulations with respect to the Proof thereof, and to the affording Defendants Leave and Opportunity to answer and meet the same, as General Rules direct.

Writs in Counties Palatine to be directed to Sheriffs.

25. Writs issuing out of the Court to be executed in the Counties Palatine shall be directed and delivered to the Sheriffs of those Counties, and shall be executed and returned by them to the Court in all respects as Writs are executed and returned by Sheriffs of other Counties.

Power to Court to rectify Errors in Procedure.

26. If in any Suit any Direction of this Part of this Act or of General Rules under it by Mistake of Parties fails to be followed, the Court or a Judge may (if it seems fit), on Payment of such Costs as the Court or a Judge directs, make such Order, giving Effect to and rectifying the Proceedings, as appears justified by the Merits of the Case.

Saving for Distringas to restrain Transfer of Stock, &c.

27. Notwithstanding anything in this Part of this Act or in any other Act, a Writ of Distringas (in such Form as General Rules under this Part of this Act from Time to Time direct) to restrain the Transfer of Stock transferable at the Bank of *England*, or the Payment of the Dividends thereon, shall continue to be issuable from the Office of the Queen's Remembrancer on behalf of Her Majesty's Attorney General, or of the Attorney General of the Prince of *Wales* and Duke of *Cornwall*.

Power to Court to make General Rules.

28. The Lord Chief Baron and Two or more Barons of the Court shall from Time to Time make such General Rules as seem fit for carrying this Part of this Act into execution, and for regulating the Sittings of the Court, and the Procedure and Practice in Suits by Information, and in other Proceedings in the Court.

Provision as to pending Suits.

29. Nothing in this Part of this Act, or in any General Rules made under it, shall apply to any Suit commenced by Information filed before the Commencement of this Act; nevertheless in any such Suit the Court or a Judge may, if it seems fit, on hearing the Parties, from Time to Time direct that the Procedure and Practice prescribed in this Part of this Act, or in any General Rules made under it, be followed in the Court in any respect.

30. The

Fees, Remuneration, &c. to be appointed by Treasury with Concurrence of Barons. 28 & 29 Vict. c. 45.

30. The Commissioners of Her Majesty's Treasury, with the Concurrence of the Lord Chief Baron and Two or more Barons of the Court, may from Time to Time, if they think fit, appoint Fees to be charged on Proceedings in Suits in the Court, which Fees shall be collected by Stamps, and such Provisions of The Common Law Courts (Fees) Act, 1865, as relate to the Collection by Stamps of the Fees therein referred to, shall extend and apply to the Fees to be taken under this Section; and there shall be paid to any Officer of the Court or other Person employed in taking Examinations of Witnesses, or discharging other Duties connected with Proceedings in Suits in the Court, such Remuneration, if any, as the Commissioners of Her Majesty's Treasury, with the Concurrence aforesaid, from Time to Time direct.

PART III.

Proceedings at Law on the Revenue Side of the Court of Exchequer.

Appeal, &c. in Proceedings at Law on Revenue Side of Exchequer.

31. The Provisions of Sections Thirty-four to Thirty-seven, and Thirty-nine to Forty-five (all inclusive), and of Sections Fifty-nine and Ninety-five, of The Common Law Procedure Act, 1854, shall extend and apply to the Revenue Side of Her Majesty's Court of Exchequer at *Westminster* as a Court of Law (to which Court the Term "the Court" when hereafter used in this Part of this Act refers), in the same Manner as those Provisions apply to the Plea Side of that Court.

Effect of Appeal as to Stay of Execution.

32. In any Suit or Proceeding at Law on the Revenue Side of the Court Notice of Appeal shall be a Stay of Execution on the following Condition, but not otherwise, namely,—that within Eight Days after the Decision complained of, or before Execution delivered to the Sheriff, Bail to pay the Sum recovered and Costs, or to pay Costs when adjudged, be given to the same Amount and be approved of in like Manner as Bail in Error is required to be given and approved of under the Rules of the Court for the Time being in force, except where the Court or a Judge otherwise orders; but such Bail shall not be necessary where the Appellant is Her Majesty, or Her Majesty's Attorney General on behalf of Her Majesty in right of the Crown or in right of the Duchy of *Cornwall*, or the Attorney General of the Prince of *Wales* and Duke of *Cornwall*, or where the Appellants are the Commissioners of Inland Revenue.

33. Section

Repeal of Sect. 36. of 18 & 19 Vict. c. 96. and Sect. 14. of 20 & 21 Vict. c. 62.

33. Section Thirty-six of The Supplemental Customs Consolidation Act, 1855, and Section Fourteen of The Customs Amendment Act, 1857, shall, from and after the Commencement of this Act, be repealed.

Evidence of Defendants, &c.

34. Sections Two and Three of the Act of the Session of the Fourteenth and Fifteenth Years of Her Majesty's Reign (Chapter Ninety-nine), "to amend the Law of Evidence," and The Evidence Amendment Act, 1853, shall extend and apply to Proceedings at Law on the Revenue Side of the Court; and any Proceeding at Law on the Revenue Side of the Court shall not, for the Purposes of this Act, be deemed a Criminal Proceeding within the Meaning of the said Sections and Act as extended and applied by the present Section.

Application of Sect. 103. of 17 & 18 Vict. c. 125.

35. The Revenue Side of the Court, as a Court of Law, shall be deemed to be a Court of Civil Judicature within the Meaning of Section One hundred and three of The Common Law Procedure Act, 1854.

Abolition of Writ of Distringas.

36. In a Suit at Law on the Revenue Side of the Court a Writ of Distringas against a Corporation Aggregate to compel an Appearance shall not be necessary; but in such a Suit a Writ of Subpœna or Scire facias (as the Case may require) may issue against a Corporation Aggregate to compel an Appearance; and Service of such Writ may be effected by Delivery thereof, or of a Copy thereof, to the Mayor or other Head Officer, Town Clerk, Clerk, Treasurer, or Secretary of the Corporation; and the like Proceedings to Judgment may be taken on a Writ of Subpœna or Scire facias so issued as, according to the Practice for the Time being of the Court of Exchequer, may be taken on a like Writ issued against an individual Defendant.

Suits against British Subjects resident out of Jurisdiction of Exchequer.

37. In a Suit at Law on the Revenue Side of the Court against a *British* Subject resident out of the Jurisdiction of the Court in any Place except *Scotland* or *Ireland*, the Informant may sue out against that Person a Writ of Subpœna bearing an Indorsement stating that the Writ is for Service out of the Jurisdiction of the Court; and the Time for Appearance by the Defendant to such Writ shall be regulated by the Distance from *England* of the Place where he is resident; and the Court or a Judge, on being satisfied by Affidavit that the Writ was personally served on the Defendant, or that reasonable Efforts were made to effect personal Service thereof on him, and that it came to his Knowledge, and either that he wilfully neglects to appear to the Writ, or that he is living out

out of the Jurisdiction of the Court in order to defeat the Claim to which the Information relates, may order from Time to Time that the Informant be at liberty to proceed in the Suit in such Manner and subject to such Conditions as to the Court or a Judge seem fit, the Time allowed for the Defendant to appear being reasonable, and regard being had to the other Circumstances of the Case; but it shall be a Condition precedent to the Informant's obtaining Judgment that he give Proof of the Merits of the Claim to the Satisfaction of the Court or a Judge, or of the Officer of the Court to whom the Court think fit to refer the Matter.

Suits against Foreigners resident out of Jurisdiction of Exchequer.

38. In a Suit at Law on the Revenue Side of the Court against a Person, not a *British* Subject, resident out of the Jurisdiction of the Court in any Place except *Scotland* or *Ireland*, the like Proceedings may be taken as against a *British* Subject resident out of the Jurisdiction, save that in lieu of the Form of Writ used in that Case the Informant shall issue a Writ of Subpœna commanding the Defendant to appear within the Time therein prescribed, after Service on him of Notice of the Writ, and shall in manner aforesaid serve a Notice of the Writ on the Defendant; and such Service shall have the same Effect as Service of the Writ of Subpœna in a Suit against a *British* Subject resident out of the Jurisdiction of the Court; and thereupon, by Leave of the Court or a Judge, on their or his being satisfied by Affidavit, the like Proceedings may be had and taken as aforesaid.

Forms of Writs in Schedule.

39. The Forms of Writs of Subpœna and of Notice given in the Second Schedule to this Act applicable in the respective Cases aforesaid shall be used in those Cases, with such Variations as Circumstances require, but General Rules relating to the Process and Practice at Law of the Revenue Side of the Court may from Time to Time prescribe any such altered, additional, or substituted Forms of Writs of Subpœna and Notice for Use in the respective Cases aforesaid as seem fit, and the same shall be used accordingly.

Omission to insert or indorse Matters in or on Writ not to nullify it.

40. If in any such Case the Informant omits to insert in or indorse on any Writ or Copy thereof any of the Matters for the Time being required to be inserted therein or indorsed thereon, such Writ or Copy shall not on that Account be void, but it may be set aside as irregular, or it may be amended on such Terms as to the Court or a Judge seem fit, either on an Application to the Court or a Judge for such Amendment, or on an Application to set aside the Writ.

Amendment in case of Substitution

41. If in any such Case one Form of Writ of Subpœna is by Mistake or Inadvertence substituted for another, such Mistake or

by Mistake, &c. of One Writ for another.

Inadvertence shall not be an Objection to the Writ or any other Proceeding in the Suit, but on an *ex parte* Application to a Judge, either before or after an Application to set aside such Writ or any Proceeding thereon, and whether the Writ or Notice thereof has been served or not, the Writ may be amended by a Judge without Costs.

Writs for Service in and out of Jurisdiction.

42. A Writ of Subpœna for Service out of the Jurisdiction may be issued and marked as a concurrent Writ with One for Service within the Jurisdiction, and a Writ of Subpœna for Service within the Jurisdiction may be issued and marked as a concurrent Writ with One for Service out of the Jurisdiction.

Affidavit may be sworn before a Consul, &c.

43. An Affidavit for the Purpose of enabling the Court or a Judge to make an Order for Liberty to proceed against a Defendant resident out of the Jurisdiction of the Court may be sworn at any Foreign Port or Place before any of Her Majesty's Consuls or Vice Consuls there; and every Affidavit so sworn may be used and shall be admitted in Evidence, saving just Exceptions; and judicial and official Notice shall be taken of the Seal or Signature of the Consul or Vice Consul affixed or subscribed to any such Affidavit.

False swearing, Perjury.

44. If any Person wilfully and corruptly makes a false Affidavit before such Consul or Vice Consul he shall be deemed guilty of Perjury, as if the false Affidavit had been made in *England* before competent Authority, and may be dealt with, indicted, tried, and (if convicted) sentenced, and his Offence may be laid and charged to have been committed, in any County or Place in *England* in which he is in Custody, as if the Offence had been actually there committed.

Provision as to pending Suits.

45. No Repeal or other Provision in this Part of this Act shall affect or apply to any Suit or Proceeding instituted or taken before the Commencement of this Act.

PART IV.

Certain other Classes of Proceedings where the Crown is interested.

Provision for Change of Venue and for View.

46. Where a Cause in which Her Majesty's Attorney General on behalf of the Crown is entitled to demand as of Right a Trial at Bar is at any Time depending in any of Her Majesty's Superior Courts

Courts of Law at *Westminster*, whether instituted before or instituted after the Commencement of this Act, and the Attorney General states to the Court that he waives his Right to a Trial at Bar, the following Provisions shall have effect:

(1.) The Court, on the Application of the Attorney General, shall change the Venue to any County in which the Attorney General elects to have the Cause tried:

(2.) The Court may (if requisite) order that the Sheriff of the County into which the Venue is removed do cause a View to be had by Jurors of that County (notwithstanding that the View must be taken and had by such Sheriff and Jurors out of their own County):

(3.) For the Purposes aforesaid the Court may make such Orders as seem necessary or proper; and all such Orders shall be binding on all Sheriffs and other Officers, and on all Jurors and other Persons concerned, and shall be sufficient Warrant for the doing of everything thereby authorized or directed to be done:

(4.) The Powers of the Judges of the Superior Courts of Law and of the Judges of the Court of Exchequer as a Court of Revenue at Law respectively to make General Rules for the Regulation of Procedure and Practice, and of Costs, Charges, and Expenses, shall extend to the making of such General Rules as from Time to Time seem fit for the better Execution of this Section:

(5.) Subject to any such Rules, the Provisions of The Common Law Procedure Act, 1852, and of any Rules made under it, and all other Law and Practice for the Time being in force relative to Change of Venue and to Views, shall extend to the Cases of Change of Venue and View to which this Section relates.

Extents and Writs of Diem clausit extremum.

47. A Commission to find a Debt due to the Crown shall not be necessary for authorizing the Issue of an immediate Extent or of a Writ of Diem clausit extremum; and an immediate Extent may be issued on an Affidavit of Debt and Danger, and a Writ of Diem clausit extremum may be issued on an Affidavit of Debt and Death (similar, *mutatis mutandis*, to the Affidavit of Debt and Danger, or of Debt and Death, on which, after Inquisition returned, an immediate Extent or a Writ of Diem clausit extremum has been used to be issued), and on the Fiat of the Chancellor of the Exchequer, or of a Baron of Her Majesty's Court of Exchequer at *Westminster*, or of a Judge of Her Majesty's Court of Queen's Bench or Common Pleas at *Westminster*.

48. Any

Future Crown Debts, &c. not to affect Land till Writ of Execution issued and registered.

48. Any Judgment, Decree, or Order obtained after the Commencement of this Act by or on behalf of the Crown, or any Recognizance entered into after the Commencement of this Act on the proper Account of the Crown, or any Inquisition finding after the Commencement of this Act a Debt due to the Crown, or any Obligation or Specialty made after the Commencement of this Act to the Crown, or any Acceptance of Office accepted after the Commencement of this Act from or under the Crown, shall not affect any Land (of whatever Tenure) as to a *bonâ fide* Purchaser for valuable Consideration or a Mortgagee (whether such Purchaser or Mortgagee have or have not Notice of the Judgment, Decree, Order, Recognizance, Inquisition, Obligation, Specialty, or Acceptance of Office), unless a Writ of Extent or of Diem clausit extremum, or other Writ or Process of Execution, in pursuance of or in relation to such Judgment, Decree, Order, Recognizance, Inquisition, Obligation, Specialty, or Acceptance of Office, has been issued and registered before the Execution of the Conveyance or Mortgage to such Purchaser or Mortgagee, and the Payment by him of the Purchase or Mortgage Money.

Mode of Registration, and Discontinuance of other Modes of Registration.

49. The Registration of such Writ or Process shall be effected as follows; namely,—a Minute of the Name of the Person against whom the Writ or Process is issued, and of the Date of the issuing thereof, and of the Amount for which it is issued, shall be left with the Senior Master of the Court of Common Pleas at *Westminster*, who shall forthwith enter the same Particulars in a Book by the Name in alphabetical Order of the Person against whom the Writ or Process is issued; and no other Registration of such Writ or Process, or of the Judgment, Decree, Order, Recognizance, Inquisition, Obligation, Specialty, or Acceptance of Office, in pursuance of or in relation to which it is issued, shall be necessary for any Purpose. There shall be paid for every such Entry a Fee of Two Shillings and Sixpence; and all Persons shall be at liberty to search the said Book, with the other Books in the Office, on Payment of a Fee of One Shilling.

Provisions of 25 G. 3. c. 35. as to Sale, &c. to apply in all Cases.

50. The Act of the Twenty-fifth Year of the Reign of King *George* the Third (Chapter Thirty-five), "for the more easy and "effectual Sale of Lands, Tenements, and Hereditaments of Crown "Debtors or of their Sureties," shall extend to authorize the Sale, subject and according to the Provisions of that Act, of any Land taken in Execution by virtue of any Writ or Process of Execution issued after the Commencement of this Act, by any Court of Law or Equity, for enforcing the Payment of any Sum of Money to or in favour of the Crown.

51. Nothing

Saving the Prerogative of the Crown.

51. Nothing in this Part of this Act shall take away or abridge any Prerogative or Right of the Crown, in respect of Priority or otherwise, over or against the Creditors of any Debtor or Accountant to the Crown, and, save as in this Part of this Act expressly provided, every Prerogative or Right of the Crown as against the Land of any Debtor or Accountant to the Crown, or over or against the Creditors of any such Debtor or Accountant, shall remain in all respects as if this Part of this Act had not been enacted.

Inquiry on Objection to Inquisition finding Crown's Title.

52. With respect to Inquests of Office or Inquisitions after the Commencement of this Act finding the Title of Her Majesty in right of the Crown or in right of the Duchy of *Cornwall*, or the Title of the Prince of *Wales* and Duke of *Cornwall*, to any Real Property, the following Provisions shall have effect:

(1.) If in any such Case a Copy of the Inquisition is served on any Person, and such Person thinks himself aggrieved by any Description of Boundary or other finding therein, he may within Six Months after such Service, or within such enlarged Time as Her Majesty's Court of Exchequer at *Westminster* or a Judge may think fit to allow, file in the Office of the Court of Exchequer in which the Inquisition is filed a Statement in Writing of his Objection to the Inquisition:

(2.) On any such Objection being filed, the Court of Exchequer or a Baron thereof, on the Application of the proper Officer on behalf of Her Majesty in right of the Crown or in right of the Duchy of *Cornwall*, or on behalf of the Prince of *Wales* and Duke of *Cornwall* (as the Case may require), may appoint a fit Person to inquire into the Matter of the Objection; and the Person so appointed shall hold an Inquiry on or near the Land in question, or at some other convenient Place (Notice of the Time and Place for the holding of the Inquiry being given to the Person objecting); and for the Purposes of such Inquiry the Person so appointed shall have Power to summon Witnesses and administer Oaths:

(3.) The Person so appointed shall make a Return in Writing to the Court of Exchequer of the Result of the Inquiry, which Return shall be filed in the Office in which the Inquisition is filed; and if in any respect the Return and the Inquisition differ in Effect, the Inquisition shall be deemed to be altered so as to conform with the Return:

(4.) Where a Copy of an Inquisition is served as aforesaid, an Affidavit of Service shall be filed in the Office in which

the Inquisition is filed, and an Office Copy of such Affidavit shall be Evidence of the Service:

(5.) Nothing in this Section shall take away or abridge the Right of any Person to traverse an Inquisition.

PART V.

RECOVERY OF SUCCESSION, LEGACY, AND PROBATE DUTY IN CERTAIN CASES.

Enactments in Third Schedule repealed.

53. The Enactments described in the Third Schedule to this Act, as far as they relate to *England*, shall from and after the Commencement of this Act be repealed, but not so as to affect any Proceeding pending at the Commencement of this Act, or any Appeal or other Step capable of being brought or taken therein or in relation thereto, or any Right, Title, Obligation, Liability, Forfeiture, or Penalty acquired, accrued, or incurred before the Commencement of this Act; and every such Proceeding, Appeal, Step, Right, Title, Obligation, Liability, Forfeiture, and Penalty may be continued, brought, taken, maintained, and enforced as if this Act had not been passed.

Construction of Part V.

54. In this Part of this Act—

The Term "the Succession Duty Act" means The Succession Duty Act, 1853:

The Term "the Legacy Duty Acts" means the Acts for charging Duties on Legacies and Shares of the Personal Estates of deceased Persons, so far as those Acts relate to *England*:

The Term "the Court of Exchequer" means Her Majesty's Court of Exchequer at *Westminster*.

This Part of this Act as far as it relates to Duty under the Succession Duty Act and Legacy Duty Acts shall be read with the Succession Duty Act as One Act.

Summary Proceedings for Account and Payment of Succession or Legacy Duty.

55. If any Person accountable for or chargeable with Duty under the Succession Duty Act or the Legacy Duty Acts, required by the Commissioners of Inland Revenue to deliver an Account under those Acts or any of them, makes default in doing so, the Commissioners may sue out of the Court of Exchequer a Writ of Summons commanding him to deliver an Account and to pay the Duty and the Costs of the Proceedings, or to show Cause to the contrary; and on Cause being shown such Order shall be made as seems just.

Summary Proceedings for Payment

56. Where, in pursuance of the Succession Duty Act or the Legacy Duty Acts, the Commissioners of Inland Revenue make an Assessment

Assessment of Duty, and the Duty is not paid, and there is no Notice of Appeal against the Assessment under Section Fifty of the Succession Duty Act, or of disputing the Liability to Assessment, the Commissioners may sue out of the Court of Exchequer a Writ of Summons commanding the Person liable for the Duty, or the Owner of any Property expressly charged therewith, to pay the Duty payable by him and the Costs of the Proceedings, or to show Cause to the contrary, and on Cause being shown such Order shall be made as seems just. of Succession or Legacy Duty assessed.

57. If any Person takes possession of and in any Manner administers any Part of the Personal Estate of any Person deceased without obtaining Probate of his Will or Letters of Administration of his Estate within Six Months after his Decease, or within Two Months after the Termination of any Suit or Dispute respecting the Will or the Right to Letters of Administration, if there is any such Suit or Dispute that is not ended within Four Months after the Death, the Commissioners of Inland Revenue may sue out of the Court of Exchequer a Writ of Summons commanding the Person so taking possession and administering as aforesaid to deliver to the Commissioners an Account of the Estate of the deceased and of its Value, and to pay such Duty as would have been payable if Probate or Administration had been obtained and the Costs of the Proceedings, or to show Cause to the contrary, and on Cause being shown such Order shall be made as seems just; and any such Proceedings shall be a Waiver of all Penalties incurred in the Premises by such Person as aforesaid. Summary Proceedings for Payment of Probate Duty.

58. In Proceedings by Writ of Summons as aforesaid the Court may, if they think fit, refer the Matter to the proper Officer to report thereon, and may, if they think fit, order the Facts contained in his Report to be stated in the Form of a Special Case for the Opinion of the Court, and give Directions as to the Mode of settling the Case, and the Matters to be contained therein, and for the Production of any Documents, and may, if they think fit, direct any Issue or Issues of Fact to be tried by a Jury; and the Court may proceed to give Judgment on the Special Case, and for any Amount of Duty which the Court are of opinion is due to the Crown, and for Costs; and on such Judgment, Error may be brought and Judgment given as on a Special Case stated by Consent. Court may before Judgment order Report and Special Case.

59. In Proceedings by Writ of Summons as aforesaid, and also in Cases of Appeal to the Court of Exchequer from the Assessment of the Commissioners of Inland Revenue under Section Fifty of the Succession Duty Act, an Appeal shall lie from the Decision of the Court or a Judge on a Case stated by the Parties, or, if they differ, settled Appeal in summary Proceedings and on Appeal from Assessment.

settled by the Court of Exchequer or a Judge, or any Officer of the Court of Exchequer, to whom the same is referred by the Court or a Judge; and the Court of Appeal shall give such Judgment as ought to have been given by the Court of Exchequer or Judge, and may award Costs.

Courts of Appeal.

60. The Appeal in all such Cases as aforesaid shall be made to the Court of Error in the Exchequer Chamber, and the Decision of that Court shall be subject to Appeal to the House of Lords.

Notice of Appeal; and Bail.

61. No such Appeal shall be allowed unless Notice thereof is given in Writing to the opposite Party or Attorney, and to the proper Officer of the Court of Exchequer, within Four Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge; and Bail shall be given and approved of as provided with respect to Suits at Law on the Revenue Side of the Court of Exchequer.

Power to Court to make General Rules.

62. The Lord Chief Baron and Two or more Barons of the Court of Exchequer shall from Time to Time make such General Rules as seem fit for carrying this Part of this Act into execution, and for regulating the Procedure and Practice in Proceedings by Writ of Summons as aforesaid.

Forms of Writs in Schedule.

63. The Forms of Writs of Summons given in the Fourth Schedule to this Act, applicable in the respective Cases aforesaid, shall be used in those Cases, with such Variations as Circumstances require; but General Rules under this Part of this Act may from Time to Time prescribe such altered, additional, or substituted Forms of Writs of Summons for Use in the respective Cases aforesaid or any of them as seem fit, and the same shall be used accordingly.

Application of Procedure and Practice of Revenue Side of Court.

64. Subject to the Provisions of this Part of this Act, and to General Rules made thereunder, Proceedings by Writs of Summons as aforesaid shall be deemed Proceedings at Law on the Revenue Side of the Court of Exchequer within the Meaning of Sections Ten, Eleven, and Sixteen to Twenty-two (both inclusive) of the Act of the Session of the Twenty-second and Twenty-third Years of the Reign of Her Majesty (Chapter Twenty-one), "to regulate the "Office of Queen's Remembrancer, and to amend the Practice and "Procedure on the Revenue Side of the Court of Exchequer."

22 & 23 Vict. c. 21.

SCHE-

SCHEDULES.

THE FIRST SCHEDULE.

FORM OF INDORSEMENT ON ENGLISH INFORMATION UNDER PART II.

To the within-named *C.D.*

VICTORIA R.

We command you [and every of you, *where there are more Defendants than One,*] that within Days after Service hereof on you, exclusive of the Day of such Service, you cause an Appearance to be entered for you in Our Court of Exchequer at Westminster to the within-contained Information, and that you observe what Our said Court directs.

Witness at Westminster this Day of 18 .

NOTE.—If you fail to comply with the foregoing Directions an Appearance may be entered for you, and you will be liable to be arrested and imprisoned [*or, in case of a Corporation,* to be distrained by all your Lands and Chattels], and to have a Decree made against you in your Absence.

Appearances are to be entered at the Queen's Remembrancer's Office, Chancery Lane, London.

THE SECOND SCHEDULE.

FORMS OF WRITS OF SUBPŒNA AND NOTICE UNDER PART III.

(A.)

Writ where Defendant, being a British Subject, is resident out of Jurisdiction of Court of Exchequer.

VICTORIA, &c.

To *C.D.* of in the County of

We command and strictly enjoin you, That within [*here insert a sufficient Number of Days within which the Defendant might appear with reference to the Distance he may be at from England*] Days after the Service of this Writ on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of Exchequer at Westminster, to answer Us concerning certain Articles then and there on Our Behalf to be objected against you; and take notice, that in default of your so doing We shall proceed thereon to Judgment and Execution.

Witness, *&c.*

[*Memorandum to be subscribed on Writ.*]

This Writ is to be served within [*Six*] Calendar Months from the Date thereof, or, if renewed, from the Date of such Renewal, including the Day of such Date, and not afterwards.

[*Indorsement to be made on Writ before Service thereof.*]

At the Suit of Her Majesty's Attorney General [*or as the Case may be*].

By Information.

This Writ is for Service out of the Jurisdiction of the Court of Exchequer, and is issued by *E.F.*, the Solicitor of [*as the Case may be*],

[*if for Penalties*],

for the Forfeiture by you of Pounds for Penalties under the Statutes relating to the Revenue of Customs [*or* Excise, Stamps, Taxes, *&c., as the Case may be*];

[*or, if for Duties or a Debt*],

for the Recovery of Pounds for Duties due from you under the Statutes relating [*&c., as before,—or state shortly the Nature of the Debt*].

Take

Take notice, that in default of your entering an Appearance in the Court of Exchequer, according to the Exigency of this Writ, an Information may be filed and Judgment signed thereon, and Execution issued on such Judgment, together with Costs, at the Expiration of Fourteen Days from the Day of signing such Judgment.

(B.)

Writ where Defendant, not being a British Subject, is resident out of Jurisdiction of Court of Exchequer.

VICTORIA, &c.

To *C.D.* late of in the County of

We command and strictly enjoin you, That within [*here insert a sufficient Number of Days within which the Defendant might appear with reference to the Distance he may be at from England*] Days after Notice of this Writ is served on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of Exchequer at Westminster to answer Us concerning certain Articles then and there on Our Behalf to be objected against you; and take notice, that in default of your so doing We shall proceed therein to Judgment and Execution.

Witness, *&c.*

[*Memorandum to be subscribed on Writ.*]

Notice of this Writ is to be served within [*Six*] Calendar Months from the Date thereof, including the Day of such Date, and not afterwards.

[*Indorsements as on Writ* (*A*).]

(C.)

Notice of last foregoing Writ.

To *C.D.* [*late of Brighton in the County of Sussex*], residing at [*Paris in France*].

Take notice, That in the Name of the Attorney General of Her Majesty Queen Victoria of the United Kingdom of Great Britain and Ireland [*or, as the Case may be*], *E. F.*, the Solicitor of [*as the Case may be*], has commenced Proceedings at Law against you *C.D.* in Her Majesty's Court of Exchequer at Westminster by Writ of that Court dated the Day of A.D. 18

[*if*

[*if for Penalties*],

for the Forfeiture by you of Pounds for Penalties under the Statutes relating to the Revenue of Customs [*or* Excise, Stamps, Taxes, *&c., as the Case may be*];

[*or, if for Duties or a Debt*],

for the Recovery of Pounds for Duties due from you under the Statutes relating [*&c., as before,—or state shortly the Nature of the Debt*].

Take notice, that you are required within Days after the Receipt of this Notice, inclusive of the Day of such Receipt, to defend yourself against the said Proceedings by entering an Appearance in the said Court of Exchequer, and that in default of your so doing an Information may be filed, and the said *E. F.* may, by Leave of that Court or of a Judge of One of Her Majesty's Superior Courts of Law at Westminster, proceed thereon to Judgment and Execution.

(Signed) *E. F.*,
Solicitor of

THE

THE THIRD SCHEDULE.

ENACTMENTS REPEALED AS TO ENGLAND BY PART V.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
42 Geo. 3. c. 99. -	An Act for allowing the stamping certain Deeds until the 31st Day of December 1802; for amending an Act passed in the Thirty-sixth Year of the Reign of His present Majesty, relating to Duties on Legacies and Shares of Personal Estates; for exempting certain Legacies from the Payment of Duty; for reducing the Allowances on present Payment of Stamp Duties; and for reducing certain Stamp Duties on Policies for Sea Insurances.	Section Two.
16 & 17 Vict. c. 51.	The Succession Duty Act, 1853.	Sections Forty-seven and Forty-eight.
22 & 23 Vict. c. 21.	An Act to regulate the Office of Queen's Remembrancer, and to amend the Practice and Procedure on the Revenue Side of the Court of Exchequer.	Sections Twelve, Thirteen, Fourteen, and Fifteen.
24 & 25 Vict. c. 92.	An Act to amend the Law for the Collection of the Stamp Duties on Probates, Administrations, Inventories, Legacies, and Successions.	Section One.

THE FOURTH SCHEDULE.

FORMS OF WRITS OF SUMMONS UNDER PART V.

(A.)

For Account and Payment by Executor.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, and the Legacy Duty Acts, have been required by Our Commissioners of Inland Revenue to render an Account, pursuant to the said Acts, and have made default therein.

Now We command you that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to the said Commissioners of Inland Revenue an Account, upon Oath, of all the Legacies and of all the Property of the said deceased, paid or to be paid or administered by you as such Execut as aforesaid, and that you do within the same Time pay the Duty chargeable upon the said Legacies and Property of the said deceased, and the Costs of these Proceedings; *or* that you the said do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the Day of in the Year of our Lord One thousand eight hundred and sixty- .

(B.)

For Account and Payment by Administrator.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable

accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, and the Legacy Duty Acts, have been required by Our Commissioners of Inland Revenue to render an Account, pursuant to the said Acts, and have made default therein.

Now We command you that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to the said Commissioners of Inland Revenue an Account, upon Oath, of all the Personal Estate and Effects of the said deceased, paid or to be paid or administered by you as such Administrat as aforesaid, and that you do within the same Time pay the Duty chargeable upon the said Personal Estate and Effects of the said deceased, and the Costs of these Proceedings; *or* that you the said do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the Day of in the Year of our Lord One thousand eight hundred and sixty- .

(C.)

For Account and Payment by Trustee, Legatee, &c.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, and the Legacy Duty Acts, have been required by Our Commissioners of Inland Revenue to render an Account, pursuant to the said Acts, and have made default therein.

Now We command you that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to the said Commissioners of Inland Revenue an Account, upon Oath, of and that you do, within the same Time, pay the Duty chargeable and the Costs of these Proceedings;

or

or that you the said
do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you
are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the
Day of in the Year of our Lord One thousand eight hundred and sixty- .

(D.)

For Account and Payment by Successor, Trustee, &c.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To
Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, have been required by Our Commissioners of Inland Revenue to render an Account, pursuant to the said Act, and have made default therein.

Now We command you
that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to the said Commissioners of Inland Revenue an Account, upon Oath, of all the Property to which, or to the Income whereof, became beneficially entitled as Successor on the Death of deceased, by reason of the Disposition thereof made by and that you do, within the same Time, pay the Duty chargeable on the said Succession and the Costs of these Proceedings; *or* that you the said
do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you
are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the
Day of in the Year of our Lord One thousand eight hundred and sixty- .

(E.)

(E.)

For Accounts and Payment by Executor, being also Successor.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, and the Legacy Duty Acts, have been required by Our Commissioners of Inland Revenue to render an Account pursuant to the said Acts, and have made default therein.

Now We command you
that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to the said Commissioners of Inland Revenue an Account, upon Oath, of all the Legacies and of all the Property of the said
deceased paid or to be paid or administered by you as such Executor as aforesaid, and also an Account of all the Property to which, or to the Income whereof, you have
become beneficially entitled as such Successor as aforesaid upon the Death of the said
deceased
and that you do within the same Time pay the Duty chargeable under the Legacy Duty Acts upon the said Legacies and Property of the said
deceased, and also the Duty chargeable under the said Succession Duty Act upon the said Property as Succession as aforesaid, and the Costs of these Proceedings; *or* that you the said
do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you
are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the
Day of in the Year of our Lord One thousand eight hundred and sixty-

(F.)

For Payment of Succession Duty when assessed.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, being accountable Part within the true Intent and Meaning of the Succession Duty Act, 1853, have, as required by the said Act, delivered to Our Commissioners of Inland Revenue an Account of the Property for the Duty whereon you are accountable, and that the said Commissioners have, in pursuance of the said Act, assessed the Duty on such Account, but that you have made default in Payment of the same, or some Part thereof.

Now We, having been likewise given to understand in manner aforesaid that there has been no Appeal from the said Assessment, and no Notice of disputing the Liability to the same, command you that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do pay to the said Commissioners of Inland Revenue, or their proper Officer, the said Duty so assessed, or such Part thereof as shall at the Time of such Service be by Law due and payable, and the Costs of these Proceedings; *or* that you the said do within the same Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you are in nowise to omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the Day of in the Year of our Lord One thousand eight hundred and sixty.

(G.)

For Account and Payment of Probate Duty.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To Greeting:

Whereas We have been given to understand, in Our Court before Our Barons of the Exchequer at Westminster, that you, having taken possession

possession of and administered some Part or Parts of the Personal Estate and Effects of
deceased, have not obtained Probate of the Will (*or* Letters of Administration of the Estate and Effects) of the said
deceased within the Time required by Law.

Now We command you
that (all Excuses ceasing) within Fourteen Days from the Service of this Writ, or a Copy thereof, you do deliver to Our Commissioners of Inland Revenue an Account, upon Oath, of the Estate and Effects of the said
deceased, and of the true Value thereof, and that you do within the same Time pay to the said Commissioners of Inland Revenue such Duty as would have been duly payable on such Probate (*or* Letters of Administration) as aforesaid if the same had been duly obtained by you, and the Costs of these Proceedings; *or* that you the said
do within the same
Time appear before the Barons of Our said Exchequer at Westminster, and show Cause why you make default in the Premises, and this you are in nowise to
omit upon pain of Process of Contempt issuing against your Person for your Neglect therein.

Witness at Westminster, the
Day of in the Year of our Lord One thousand eight hundred and sixty- .

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1865.