5. Nothing in this Act contained shall extend to authorise the hawking of petroleum within the limits of any municipal borough in which, by any lawful authority, such hawking shall have been or may hereafter be forbidden. Saving of rights of municipal boroughs.

6. For the purposes of this Act— Definitions.

The expression "carriage" includes any carriage, waggon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled; and

A person shall be deemed for the purposes of this Act to hawk petroleum if by himself or his servants he goes about carrying petroleum to sell, whether going from town to town or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden.

7. This Act may be cited as the Petroleum (Hawkers) Act, 1881. Short title and construction of Act. 34 & 35 Vict. c. 105. 42 & 43 Vict. c. 47.

This Act shall be construed as one with the Petroleum Acts, 1871 and 1879, and together with those Acts may be cited as the Petroleum Acts, 1871 to 1881.

CHAPTER 68.

An Act to amend the Supreme Court of Judicature Acts; and for other purposes. [27th August 1881.]

WHEREAS it is expedient to amend the constitution of Her Majesty's Court of Appeal, and to make further provision concerning the Supreme Court of Judicature and the officers thereof, and such other matters as are herein-after mentioned:

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:

1. This Act may be cited as the Supreme Court of Judicature Act, 1881. Short title.

2. From and after the passing of this Act the present and every future Master of the Rolls shall cease to be a judge of Her Majesty's High Court of Justice, but shall continue by virtue of his office to be a judge of Her Majesty's Court of Appeal, and shall retain the same rank, title, salary, right of pension, patronage, and powers of appointment or dismissal, and all other powers, privileges, and disqualifications now and heretofore belonging to the said office of Master of the Rolls and all other duties of the said office except that of a judge of Her Majesty's High Court of Justice: Provided that the present Master of the Rolls shall not by virtue of this Act be subject to any disqualification to which he is not by law now subject, nor shall be required to act under any commission of assize, nisi prius, oyer and terminer, or gaol delivery; and the existing personal officers of the Master of the Rolls shall continue to be attached to him and be under his authority, and to hold their respective offices upon the same tenure and in the same manner in all respects as if this Act had not passed: Provided also, that any Master of the Rolls to be hereafter appointed shall be under an obli- Master of the Rolls to be Judge of Appeal only.

gation to go circuits and to act as a commissioner under commissions of assize, or other commissions authorised to be issued in pursuance of the Supreme Court of Judicature Act, 1873, in the same manner in all respects as he would have been under the last-mentioned Act, or any Acts or Act amending the same, if he had continued to be a judge of the Chancery Division of the High Court of Justice.

36 & 37 Vict. c. 66.

Existing vacancy in Court of Appeal not to be filled up.

3. The vacancy now existing among the ordinary judges of the said Court of Appeal shall not be filled up, and the number of ordinary judges of that Court shall henceforth be five.

President of Probate Division to be an ex-officio judge of Court of Appeal.

4. The President for the time being of the Probate, Divorce, and Admiralty Division of the High Court of Justice shall henceforth be an ex-officio judge of Her Majesty's Court of Appeal with the same powers, and in the same manner in all respects as the other ex-officio judges thereof; he shall not be entitled in the said Court to any precedence over any existing judge to which he would not have been entitled as a judge of the Supreme Court of Judicature if this Act had not passed.

New judge of High Court instead of Master of the Rolls.

5. It shall be lawful for Her Majesty to supply the vacancy in the High Court of Justice, to be occasioned by the removal therefrom of the Master of the Rolls, by the appointment, immediately after the passing of this Act, and from time to time afterwards, of a judge, who shall be in the same position as if he had been appointed a puisne judge of the said High Court in pursuance of the Judicature Acts, 1873 and 1875; and all the provisions of the Supreme Court of Judicature Acts, 1873 and 1875, for the time being in force in relation to the qualification and appointment of puisne judges of the said High Court, and to their duties and tenure of office, and to their precedence, and to their salaries and pensions, and to the officers to be attached to the persons of such judges, and all other provisions relating to such puisne judges, or any of them, with the exception of such provisions as apply to existing judges only, shall apply to the judge appointed in pursuance of this section, in the same manner as they apply to the other puisne judges of the said High Court respectively. The judge so appointed shall be attached to the Chancery Division of the said High Court, subject to such power of transfer as is in the Supreme Court of Judicature Act, 1873, mentioned.

36 & 37 Vict. c. 66. 38 & 39 Vict. c. 77.

Judge under 40 & 41 Vict. c. 9.

6. The power given to Her Majesty by the Supreme Court of Judicature Act, 1877, to appoint a judge of the High Court of Justice in addition to the number of judges authorised to be appointed by the Supreme Court of Judicature Acts, 1873 and 1875, may be exercised by Her Majesty from time to time, so as at all times to make due provision for the business of the Chancery Division of the High Court of Justice: Provided that no such appointment shall be made unless or until the number of judges attached for the time being to the Chancery Division of the High Court, other than the Lord Chancellor, is, by death, resignation, or otherwise, reduced below five.

Rolls Court Chambers and clerks, &c.

7. The Lord Chancellor shall have power by order under his hand to direct that the court and chambers, heretofore used by the Master of the Rolls as a judge of the Chancery Division of the High Court of Justice, shall (so long as may be necessary or convenient) be used by such judge of the said Chancery Division of the said

High Court as shall be in any such order in that behalf named; and the chief and other clerks, and other officers, heretofore attached to the said court and chambers respectively, shall (subject to any rules or orders of court) be and continue attached to the judge to be named in any such order, and, after such court and chambers shall have ceased to be so used, to the judge to whom the business previously transacted in such court and chambers respectively shall be for the time being assigned.

Title of justices. 40 & 41 Vict. c. 9.

8. And whereas it is expedient to amend section four of the Supreme Court of Judicature Act, 1877: Be it enacted that the exception of Presidents of Divisions from the enactment that the judges of the High Court of Justice shall be styled justices of the High Court shall not apply to any judge to be hereafter appointed who may be or become President of the Probate, Divorce, and Admiralty Division of the High Court of Justice.

Appeals under Divorce Act.

9. All appeals which, under section fifty-five of the Act of the twentieth and twenty-first years of Her present Majesty, chapter eighty-five, or under any other Act, might be brought to the full court established by the said first-mentioned Act, shall henceforth be brought to Her Majesty's Court of Appeal and not to the said full court.

The decision of the Court of Appeal on any question arising under the Acts relating to divorce and matrimonial causes, or to the declaration of legitimacy, shall be final except where the decision either is upon the grant or refusal of a decree on a petition for dissolution or nullity of marriage, or for a declaration of legitimacy, or is upon a question of law on which the Court of Appeal give leave to appeal; and, save as aforesaid, no appeal shall lie to the House of Lords under the said Acts.

Subject to any order made by the House of Lords, in accordance with the Appellate Jurisdiction Act, 1876, every appeal to the House of Lords against any such decision shall be brought within one month after the decision appealed against is pronounced by the Court of Appeal if the House of Lords is then sitting, or, if not within fourteen days after the House of Lords next sits. 39 & 40 Vict. c. 59.

This section, so far as is consistent with the tenor thereof, shall be construed as one with the said Acts.

As to appeal against decrees nisi for dissolution or nullity of marriage.

10. No appeal from an order absolute for dissolution or nullity of marriage shall henceforth lie in favour of any party who, having had time and opportunity to appeal from the decree nisi on which such order may be founded, shall not have appealed therefrom.

Qualification of judges to sit on appeals.

11. A judge who was not present and acting as a member of a divisional court of the High Court of Justice, at the time when any decision which may be appealed from was made, or at the argument of the case decided, shall not, for the purposes of the fourth section of the Supreme Court of Judicature Act, 1875, be deemed to be, or to have been, a member of such divisional court.

In cases of urgency, &c. one judge may officiate for another.

12. In any case of urgency arising during the absence from illness or any other cause or during any vacancy in the office of any judge of the High Court of Justice to whom any cause or matter may have been according to the course of the said court or of any division thereof specially assigned, it shall be lawful for any other judge of the said court, who may consent so to do, to hear and dispose of

any application for an injunction or other interlocutory order for or on behalf of the judge so absent, or in the place of the judge whose office may have so become vacant.

Selection of judges for trial of election petitions. 31 & 32 Vict. c. 125.

13. The judges to be placed on the rota for the trial of election petitions in England in each year, under the provisions of the Parliamentary Elections Act, 1868, or any Act amending the same, shall henceforth be selected out of the Judges of the Queen's Bench Division of the High Court of Justice in such manner as may be provided by any Rules of Court to be made for that purpose; and, subject thereto, shall be selected as follows; (that is to say,) the judges of the Queen's Bench Division of the said High Court shall, on or before the fourth day of November in every year, select, by a majority of votes, three of the puisne judges of such Division (none of whom shall be a member of the House of Lords) to be placed on the rota for the trial of election petitions during the ensuing year.

If in any case the judges of the said Division, present at the time of their meeting to make such selection, are equally divided in their choice of any judge to be placed on the rota, the Lord Chief Justice of England, or, in case of his absence, the senior judge then present, shall have a second or casting vote.

The choice of a judge to fill any occasional vacancy upon the rota or to assist the judge on the rota as an additional judge, shall be made in like manner.

The judges, who at the time of the passing of this Act shall be upon the rota for the trial of election petitions, shall continue upon such rota until the end of the year for which they have been appointed, in the same manner as if this Act had not passed.

If at the end of the year for which any such judge shall have been appointed, whether before or after the passing of this Act, any trial or other matter shall be pending before him, either alone or together with any other judge and not concluded, or if, after the conclusion of any such trial or of the hearing of any such matter, judgment shall not have been given thereon, it shall be lawful for every such judge to proceed with and to conclude such pending trial or other matter, and to give judgment thereon, after the end of such year, in the same manner in all respects as if the year for which he was appointed had not expired.

Jurisdiction of High Court in registration and election cases. 28 & 29 Vict. c. 36. 31 & 32 Vict. c. 125. 35 & 36 Vict. c. 60. 41 & 42 Vict. c. 26.

14. The jurisdiction of the High Court of Justice to decide questions of law, upon appeal or otherwise, under the Act of the sixth and seventh years of Her Majesty, chapter eighteen, the County Voters Registration Act, 1865, the Parliamentary Elections Act, 1868, the Corrupt Practices (Municipal Elections) Act, 1872, the Parliamentary and Municipal Registration Act, 1878, or any of the said Acts, or any Act amending the same respectively, shall henceforth be final and conclusive, unless in any case it shall seem fit to the said High Court to give special leave to appeal therefrom to Her Majesty's Court of Appeal, whose decision in such case shall be final and conclusive.

Quorum in Court of Criminal Appeal.

15. The jurisdiction and authority in relation to questions of law arising in criminal trials, which, under section forty-seven of the Supreme Court of Judicature Act, 1873, is now vested in the judges of the High Court of Justice, may be exercised by any five or

more of such judges, notwithstanding the abolition of the offices of Lord Chief Justice of the Common Pleas and Lord Chief Baron of the Exchequer; provided that the Lord Chief Justice of England shall always be one of such judges, unless, by writing under his hand or by the certificate in writing of his medical attendant, it shall appear that he is prevented, by illness or otherwise, from being present at any court duly appointed to be held for the purpose aforesaid, in which case the presence of the said Lord Chief Justice at such court shall not be necessary.

Proceedings with regard to nomination of sheriffs. 24 Geo. 2. c. 48.

16. The proceedings for the ordaining or nominating of sheriffs, directed by an Act passed in the fourteenth year of King Edward the First, intituled "How long a Sheriff shall tarry in his Office," and by another Act passed in the twenty-fourth year of King George the Second, intituled "An Act for the abbreviation of Michaelmas Term," to take place at the Exchequer, shall henceforth in every year take place in the Queen's Bench Division of the High Court of Justice, at the same time and in the same manner as hath been heretofore accustomed in the Court of Exchequer.

Presentation and swearing of Lord Mayor of London.

17. The presentation and swearing of the Lord Mayor of the city of London, which has heretofore taken place in the Court of Exchequer at Westminster after every annual election into that office, pursuant to charters granted by Her Majesty's Royal predecessors to the citizens of London, and to the herein-before recited Act of King George the Second, shall henceforth take place in the Queen's Bench Division of Her Majesty's High Court of Justice, or before the judges of that Division, at the same time and in the same manner as hath been heretofore accustomed in the Court of Exchequer.

As to fixing sessions of Central Criminal Court.

18. The power of making general orders for fixing the times of holding sessions of the Central Criminal Court established by the Act of the fourth and fifth years of King William the Fourth, chapter thirty-six, which by section fifteen of that Act was given to any eight or more of the judges of the Superior Courts of Westminster, may henceforth be exercised from time to time by any four or more of the judges of Her Majesty's High Court of Justice.

Power to make rules under 39 & 40 Vict. c. 59.

19. The power of making Rules of Court, conferred by section seventeen of the Appellate Jurisdiction Act, 1876, upon the several judges therein mentioned, shall henceforth be vested in and exercised by any five or more of the following persons, of whom the Lord Chancellor shall be one; namely, the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, and four other judges of the Supreme Court of Judicature to be from time to time appointed for the purpose by the Lord Chancellor in writing under his hand, such appointment to continue for such time as shall be specified therein.

Extension of 32 & 33 Vict. c. 91. s. 14.

20. The provisions of section fourteen of the Courts of Justice (Salaries and Funds) Act, 1869, shall henceforth be applicable to all officers of the Supreme Court of Judicature and all officers in Lunacy in the same manner and subject to the same conditions as is thereby enacted concerning the officers in the Courts of Chancery, Bankruptcy, and Admiralty: Provided always, that any order to be made

by the Treasury as to any officers not heretofore included within that section of the said Act shall be made with the concurrence of the Lord Chancellor, and also in the case of officers who are appointed by any other persons or person than the Lord Chancellor either solely or jointly with the Lord Chancellor, with the concurrence of the persons or person having such power of appointment: Provided also, that no order made under this Act which would not have been heretofore authorised by the said section or otherwise by law shall without his consent apply to any officer holding any office at the time of the commencement of this Act.

Notice of vacancies in offices of Supreme Court.

21. Upon the occurrence henceforth of any vacancy in any office of the Supreme Court of Judicature notice thereof shall be forthwith given to the Lord Chancellor and also to the Treasury by the senior continuing or surviving officer of the department in which the vacancy shall occur, and no appointment shall be made to fill such vacancy within the period of one month next after the date of such notice without the assent of the Lord Chancellor, given with the concurrence of the Treasury; and the Lord Chancellor may, if it be necessary, make provision for such manner as he thinks fit for the temporary discharge in the meantime of the duties of such office. The word "officer" in this Act shall not include the office of any judge of the Supreme Court of Judicature.

Appointment of district registrars. 42 & 43 Vict. c. 78.

22. And whereas by the Judicature Acts, 1873, 1875, and 1877, and the Supreme Court of Judicature (Officers) Act, 1879, no provision is made for the appointment of district registrars of the High Court of Justice other than persons holding or having held the offices in section sixty of the Supreme Court of Judicature Act, 1873, and section thirteen of the Supreme Court of Judicature Act, 1875, respectively mentioned: Be it enacted, that if on any vacancy in the office of district registrar under the said Acts, or upon the appointment by any Order in Council to be hereafter made of any new district within which there shall be a district registrar (unless by such Order in Council it shall be otherwise directed), it shall appear to the Lord Chancellor, with the concurrence of the Treasury, that from the nature and amount of the business to be transacted by such district registrar it is expedient that such office should be conferred upon a person not so qualified as aforesaid, it shall be lawful for the Lord Chancellor, with the concurrence of the Treasury, to appoint to such office any solicitor of the Supreme Court of Judicature of not less than five years standing.

A district registrar shall not, either by himself or his partner, be directly or indirectly engaged as solicitor or agent for a party to any proceeding whatsoever in the district registry of which he is registrar.

Appointments to keep order, &c. in Royal Courts of Justice.

23. The Lord Chancellor may from time to time, with the concurrence of the Treasury, make regulations with respect to—

(*a.*) The appointment, removal, payment, and duties of persons to keep order in the Royal Courts of Justice, provided that no such regulation shall affect any right of appointment enjoyed by any person at the time of the commencement of this Act, without his consent thereto:

(*b.*) The appointment, removal, payment, and duties of persons charged with the care and cleaning of the Royal Courts of Justice:

(*c.*) Any other matters necessary or incidental to the use or management of the Royal Courts of Justice. Any remuneration payable under this section shall be paid out of money voted by Parliament.

Powers as to solicitors. 6 & 7 Vict. c. 73. 23 & 24 Vict. c. 127. 40 & 41 Vict. c. 62.

24. The powers which by an Act passed in the session of the sixth and seventh years of Her present Majesty, intituled "An "Act for consolidating and amending several of the Laws relating "to Attornies and Solicitors practising in England and Wales," and by section fourteen of the Supreme Court of Judicature Act, 1875, and by the Solicitors Act, 1860, and by the Solicitors Act, 1877, and by any Act amending the said Acts respectively, are vested in the Master of the Rolls jointly with the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, or with any of them, or jointly with the Presidents of the Queen's Bench, Common Pleas, and Exchequer Divisions of the High Court, or with any of them, shall henceforth be vested in the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice of England, or (in case of difference) of one of them, and anything required by the said Acts to be done to or before the said Lord Chief Justices and Lord Chief Baron, or the said Presidents jointly with the Master of the Rolls, may be done to or before the Master of the Rolls, the Lord Chancellor, and the Lord Chief Justice of England.

Provision may be made by the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice of England, or (in case of difference) of one of them, for the care and custody of the Roll of Solicitors after the abolition of the office of Clerk of the Petty Bag.

Chief Justice of England to have powers of Chief Justice of Common Pleas and Chief Baron of the Exchequer.

25. Where by any Statute any power is given to or any act is required or authorised to be done by the Lord Chief Justice of the Common Pleas and the Lord Chief Baron of the Exchequer, or either of them, either solely or jointly with the Lord Chief Justice of the Queen's Bench or the Lord Chief Justice of England, and either with or without the Lord Chancellor or any judge, officer, or person, such power may henceforth be exercised and such act done by the Lord Chief Justice of England; and where by any Statute the concurrence of the Lord Chief Justice of the Common Pleas and the Lord Chief Baron of the Exchequer, or either of them, is required for the exercise of any power, or the performance of any act, it shall be sufficient henceforth that the Lord Chief Justice of England shall concur therein.

Commissioners for acknowledgments by married women.

26. And whereas under the Act of the third and fourth years of King William the Fourth, chapter seventy-four, the Lord Chief Justice of the Court of Commons Pleas was empowered to appoint such proper persons as he should think fit to be perpetual commissioners for taking the acknowledgments by married women of deeds to be executed by them as in the same Act provided, and such commissioners were made removable by and at the pleasure of the said Lord Chief Justice; and by divers subsequent Acts

provision was made for further and other duties to be performed by such commissioners: And whereas the present Lord Chief Justice of England was before and down to the time of his appointment to that office Lord Chief Justice of the Common Pleas, and after his appointment to be Lord Chief Justice of England no other person was appointed to be Lord Chief Justice of the Common Pleas, and that office has since been abolished: Be it enacted and declared, that every appointment of any person to be a commissioner for taking such acknowledgments and performing such other duties as aforesaid, and every order for the removal of any person from such office of commissioner, which shall have been made by the present Lord Chief Justice of England at any time since his appointment to that office, or shall be hereafter made by the Lord Chief Justice of England for the time being, shall be and be deemed to have been valid and effectual in the law, to all intents and purposes whatsoever, in the same manner as if it had been made by a Lord Chief Justice of the Common Pleas before the abolition of that office.

Powers to make rules for practice of county courts.

27. And whereas it is expedient that the jurisdiction of county courts should be exercised as far as conveniently may be in a manner similar to that of the High Court in the like cases, and doubts have arisen as to the extent of the powers of making rules and orders for regulating the practice of county courts contained in the Act of the nineteenth and twentieth years of Her present Majesty, chapter one hundred and eight, which doubts it is expedient to remove: Be it enacted, that the power of making rules and orders for regulating the practice of county courts contained in section thirty-two of the said last-mentioned Act shall be deemed to extend to all matters of procedure or practice, or relating to or concerning the effect or operation in law of any procedure or practice, in any cases within the cognizance of county courts, as to which rules of court have been or might lawfully be made by or under the provisions of the Judicature Acts, 1873 and 1875, and the Appellate Jurisdiction Act, 1876, for cases within the cognizance of Her Majesty's High Court of Justice; and any rules heretofore made under the provisions of the said first-mentioned Act, in the manner and with the concurrence thereby required, as to any such matters as aforesaid, shall be deemed to be and to have been to all intents and purposes valid and effectual in law.

CHAPTER 69.

An Act to amend the Law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the Trial of Offenders.

[27th August 1881.]

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; (that is to say,)

Short title.

1. This Act may be cited as the Fugitive Offenders Act, 1881.