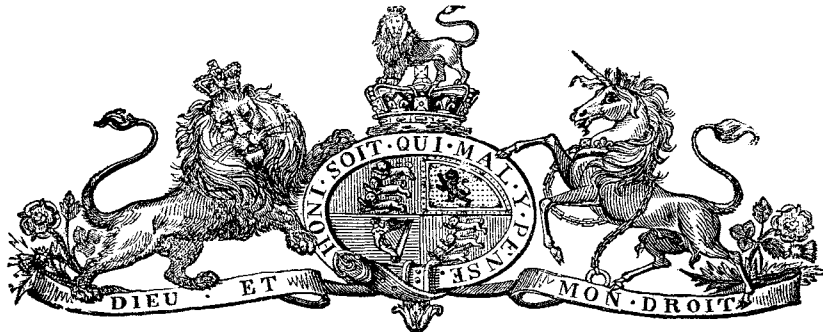


T A S M A N I A.



Practition Act 1857-8.

53 G. No 11

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 44.

see 27 G. No 21
29. " 11



AN ACT to amend the Practice and Course of Proceeding in Equity in the Supreme Court of *Tasmania*. [25 February, 1858.]

15416 G. c. 86

WHEREAS it is expedient to amend the Practice and Course of Proceeding in Equity in the Supreme Court of *Tasmania*: Be it enacted by His Excellency the Governor of *Tasmania*, by and with the Advice and Consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

1 This Act shall be divided into Ten Parts—

Division of Act into Parts.

The First Part relating to the Form and Mode of Pleading and Proceeding in Suits in Equity.

The Second Part to Parties to Suits in Equity.

The Third Part to the Mode of examining Witnesses and taking Evidence in Equity.

The Fourth Part to Proceedings in Equity before the Judges at Chambers.

The Fifth Part to Special Cases for the Opinion of the Court in Equity.

The Sixth Part to the Administration and Disposal of Property in Equity by Order of the Court.

The Seventh Part to Account and Injunctions.

The Eighth Part to Declaratory Orders and the Decision in Equity of Questions of Law and legal Title.

The Ninth Part to the Effect of Registered Decrees in Equity.

And the Tenth Part to Miscellaneous Matters.

PART I.

Pleading, &c.

PART I.

THE FORM AND MODE OF PLEADING AND PROCEEDING IN SUITS IN EQUITY.

Filing and Service of Bills and Claims.

Practice of engrossing Bills on Parchment discontinued, and a written or printed Bill to be filed instead.
[15 & 16 Vict. c. 86.]

2 The Practice of engrossing on Parchment Bills of Complaint to be filed in the said Court, and of filing such Engrossment, shall be discontinued; and the Registrar of the said Court shall receive and file a Bill of Complaint clearly and legibly written or printed on Paper, in lieu of an Engrossment thereof, in like Manner as the said Registrar now receives and files such Engrossment.

Writ of Subpœna abolished.

3 The Writ of Subpœna to appear to and answer a Bill of Complaint shall be abolished.

Defendants to be served with a written or printed Bill in lieu of Writ of Subpœna.

4 In lieu of serving the Defendant to a Bill of Complaint with a Writ of Subpœna to appear to and answer the same, in the Mode and according to the Practice now adopted, the Defendant shall be served with a Copy of the Bill of Complaint, with an Endorsement thereon in the Form or to the Effect set out in the Schedule to this Act, with such Variations as Circumstances may require; such Copy of the Bill of Complaint so to be served being previously stamped or otherwise marked by the Registrar of the Court in such a Manner as to indicate the filing of such Bill of Complaint, and the Date of the filing thereof.

The filing and Service of a written or printed Bill to have the same Effect as the filing and issuing of Subpœna.

5 The filing of a written or printed Bill of Complaint shall have the same Effect as the filing of a Bill of Complaint, and the issuing of a Subpœna thereon, now have; and the Service upon the Defendant of a Copy of the Bill of Complaint so filed, with such Endorsement thereon, so stamped or marked as aforesaid, shall have the same Effect as the Service on him of a Writ of Subpœna now has, and shall entitle the Plaintiff in such Suit to such Remedies for Default of Appearance and otherwise as he is now entitled to in case of due and proper Service of a Subpœna to appear to and answer a Bill of Complaint.

As to Service of Bill.

6 The Service upon any Defendant of a Copy of the Bill of Complaint shall be effected in the same Manner as Service of a Writ of Subpœna to appear to and answer a Bill of Complaint is now effected, or in such other Manner as may hereafter be directed by any Order or Rule of the Court, save only that it shall not be necessary to produce the original Bill, which will be on the Files of the Court; provided that the Court shall be at liberty to direct substituted Service of such Bill, in such Manner and in such Cases as it shall think fit.

29/10/11

7 Upon the Amendment of any Bill of Complaint, the Provisions herein-before contained with respect to filing and serving and delivering Copies thereof shall, so far as may be, extend and be applicable to the Bill as amended: Provided that where, according to the present Practice of the said Court, an Amendment of a Bill may be made without a new Engrossment thereof, or under such other Circumstances as shall be prescribed by any General Order of the Supreme Court in that Behalf, a Bill may be wholly or partially amended by written Alterations in the Bill of Complaint so to be filed as aforesaid.

8 The foregoing Provisions relating to Proceedings in Suits commenced by Bill of Complaint shall, so far as they are applicable, extend and apply to Proceedings in Suits commenced by Claim, in case the Judges of the Supreme Court shall think proper, by any General Rule or Order, to adopt the last-mentioned Mode of Procedure in the Administration of Justice in this Colony.

Form of Bills.

9 Every Bill of Complaint shall contain as concisely as may be a Narrative of the material Facts, Matters, and Circumstances on which the Plaintiff relies, such Narrative being divided into Paragraphs numbered consecutively, and each Paragraph containing, as nearly as may be, a separate and distinct Statement or Allegation, and shall pray specifically for the Relief which the Plaintiff may conceive himself entitled to, and also for general Relief; but such Bill of Complaint shall not contain any Interrogatories for the Examination of the Defendant.

10 Before the Name of any Person shall be used in any Suit to be instituted in the said Court as next Friend of any Infant, married Woman, or other Party, or as Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Bill, Information, or Claim.

Interrogatories for Examination of Defendant.

11 Within a Time to be limited by a General Order of the Supreme Court in that Behalf, the Plaintiff in any Suit in the said Court commenced by Bill may, if he requires an Answer from any Defendant thereto, file in the Office of the Registrar of the said Court Interrogatories for the Examination of any Defendant from whom he shall require an Answer, and deliver to the Defendant so required to answer, or to his Solicitor, a Copy of such Interrogatories, or of such of them as shall be applicable to the particular Defendant; and no Defendant shall be called upon or required to put in any Answer to a Bill unless Interrogatories shall have been so filed, and a Copy thereof delivered to him or his Solicitor, within the Time so to be limited, or within such further Time as the Court shall think fit to direct.

Putting in Plea, Answer, or Demurrer.

12 Whether the Plaintiff in any Suit in the said Court commenced by Bill does or does not require any Answer from the Defendant, such Defendant may, without any Leave of the Court, put in a Plea, Answer, or Demurrer to the Plaintiff's Bill within Twelve Days after Appearance, or within such other Time as shall be fixed by any General Order of the Supreme Court in that Behalf; but after that Time a Defendant not required to answer the Plaintiff's Bill shall not be at liberty to put in a Plea, Answer, or Demurrer to the Bill,

PART I.

Pleading, &c.

Provisions as to filing, &c. of original Bill extended to Amendments. In certain Cases a Bill may be wholly or partially amended.

Foregoing Provisions applicable to Claims.

Bills to contain concise Narrative of material Facts, &c. in numbered Paragraphs, but no Interrogatories.

Person whose Name used as next Friend of Infant, &c., to sign a written Authority.

Interrogatories to be filed in Registrar's Office by Plaintiff for the Examination of Defendant within Time prescribed.

Defendants may answer without Leave within Twelve Days after Appearance, though not required so to do by Plaintiff; but after that Time Defendant must have Leave.

PART I.
Pleading, &c.

without Leave of the Court: Provided that the Power of the Court to grant further Time for pleading, answering, or demurring to any Bill, upon the Application of any Defendant thereto, whether required to answer the Bill or not, shall remain in full Force, and shall not be in anywise prejudiced or affected: Provided also, that if the Court shall grant any further Time to any Defendant for pleading, answering, or demurring to the Bill, the Plaintiff's Right to move for a Decree under the Provisions herein-after contained shall in the meantime be suspended.

Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case.

13 The Answer of the Defendant to any Bill of Complaint may contain, not only the Answer of the Defendant to the Interrogatories so filed as aforesaid, but such Statements material to the Case as the Defendant may think it necessary or advisable to set forth therein; and such Answer shall also be divided into Paragraphs numbered consecutively, each Paragraph containing as nearly as may be a separate and distinct Statement or Allegation.

Motion for Decree on Expiration of Time for answering.

Plaintiff may, on Expiry of Time for answering, but before Replication, move for a Decree or Decretal Order.

14 The Plaintiff in any Suit commenced by Bill shall be at liberty, at any Time after the Time allowed to the Defendant for answering the same shall have expired (but before Replication), to move the Court, upon such Notice as shall in that Behalf be prescribed by any General Order of the Supreme Court, for such Decree or Decretal Order as he may think himself entitled to; and the Plaintiff and Defendant respectively shall be at liberty to file Affidavits in support of and in opposition to the Motion so to be made, and to use the same on the Hearing of such Motion; and if such Motion shall be made after an Answer filed in the Cause, the Answer shall, for the Purposes of the Motion, be treated as an Affidavit.

Affidavits may be filed.

Court may refuse or grant such Motion, or make Order for further Prosecution, &c.

15 Upon any such Motion for a Decree or Decretal Order it shall be discretionary with the Court to grant or refuse the Motion, or to make an Order giving such Directions for or with respect to the further Prosecution of the Suit as the Circumstances of the Case may require, and to make such Order as to Costs as it may think right.

Exceptions for Impertinence abolished.

Practice of excepting to Bills, Answers, &c. for Impertinence abolished. Proviso as to Costs.

16 The Practice of excepting to Bills, Answers, and other Proceedings in the said Court for Impertinence shall be and the same is hereby abolished: Provided always, that it shall be lawful for the Court to direct the Costs occasioned by any impertinent Matter introduced into any Proceeding in the said Court to be paid by the Party introducing the same, upon Application being made to the Court for that Purpose.

Production of Documents.

Upon Application of Plaintiff Court may order Defendant to produce Documents, &c. on Oath.

17 It shall be lawful for the Court, upon the Application of the Plaintiff in any Suit, whether commenced by Bill or by Claim, and as to a Suit commenced by Bill, whether the Defendant may or may not have been required to answer the Bill, or may or may not have been interrogated as to the Possession of Documents, to make an Order for the Production by any Defendant, upon Oath, of such of the Documents in his Possession or Power relating to Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

Upon Application

18 It shall be lawful for the Court, upon the Application of any

Defendant in any Suit, whether commenced by Bill or by Claim, but as to Suits commenced by Bill where the Defendant is required to answer the Plaintiff's Bill, not until after he has put in a full and sufficient Answer to the Bill, unless the Court shall make any Order to the contrary, to make an Order for the Production by the Plaintiff in such Suit, on Oath, of such of the Documents in his Possession or Power relating to the Matters in question in the Suit, as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

PART I.

Pleading, &c.

of Defendant after Answer, Plaintiff may be required to produce Documents on Oath.

Interrogatories for Examination of Plaintiff.

19 It shall be lawful for any Defendant in any Suit, whether commenced by Bill or by Claim, but in Suits commenced by Bill which the Defendant is required to answer, not until after he shall have put in a sufficient Answer to the Bill, and without filing any Cross Bill of Discovery, to file in the Office of the Registrar of the said Court Interrogatories for the Examination of the Plaintiff, to which shall be prefixed a concise Statement of the Subjects on which a Discovery is sought, and to deliver a Copy of such Interrogatories to the Plaintiff or his Solicitor; and such Plaintiff shall be bound to answer such Interrogatories, in like Manner as if the same had been contained in a Bill of Discovery filed by the Defendant against him on the Day when such Interrogatories shall have been filed, and as if the Defendant to such Bill of Discovery had on the same Day duly appeared; and the Practice of the High Court of Chancery in *England* with reference to excepting to Answers for Insufficiency, or for Scandal, shall extend and be applicable to Answers put in to such Interrogatories; and also to Answers to Interrogatories filed by the Plaintiff for the Examination of the Defendant so far as the same can be so applied, until some General Order of the said Supreme Court shall be made in that Behalf: Provided that in determining the Materiality or Relevancy of any such Answer, or of any Exception thereto, the Court is to have regard, in Suits commenced by Bill, to the Statements contained in the original Bill, and in the Answer which may have been put in thereto by the Defendant exhibiting such Interrogatories for the Examination of the Plaintiff, and in Suits commenced by Claim, to the Statements therein, and in any Affidavits which may have been filed either in support thereof or in opposition thereto: Provided also, that a Defendant, if he shall think fit so to do, may exhibit a Cross Bill of Discovery against the Plaintiff, instead of filing Interrogatories for his Examination.

In certain Cases Defendant, after Answer, may file Interrogatories for Examination of Plaintiff.

Defendant may exhibit a Cross Bill instead of filing Interrogatories.

Mode of taking and filing Pleas, Answers, Disclaimers, &c.

20 The Practice of issuing Commissions to take Pleas, Answers, Disclaimers, and Examinations in Causes and Matters pending in the said Court shall, with respect to Pleas, Answers, Disclaimers, and Examinations taken within the Jurisdiction of the Court, be and the same is hereby abolished; and any such Plea, Answer, Disclaimer, or Examination may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

Practice of issuing Commissions to take Answers, &c. within the Jurisdiction of the Court abolished.

21 All Pleas, Answers, Disclaimers, Examinations, Affidavits, Declarations, Affirmations, and Attestations of Honor in Causes or Matters depending in the said Court in Equity or in Lunacy, and also Acknowledgments required for the Purpose of enrolling any Deed in the said Court, shall and may be sworn and taken in any Place out of the Colony under the Dominion of Her Majesty, before any Person lawfully authorised to administer Oaths in such Place, or before

Pleas, Declarations, &c. in Equity how to be sworn and taken in Places out of the Colony.

PART 1.
Pleading, &c.

any of Her Majesty's Consuls or Vice-Consuls in any Foreign Parts out of Her Majesty's Dominions; and the Judges and other Officers of the said Court shall take judicial Notice of the Seal or Signature, as the Case may be, of any such Person, Consul, or Vice-Consul attached, appended, or subscribed to any such Pleas, Answers, Disclaimers, Examinations, Affidavits, Affirmations, Attestations of Honor, Declarations, Acknowledgments, or other Documents to be used in the said Court.

Penalty for
falsely swearing,
&c.

22 All Persons swearing, declaring, affirming, or attesting before any Person authorised by this Act to administer Oaths, and take Declarations, Affirmations, or Attestations of Honor, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein as if the Matter sworn, declared, affirmed, or attested had been sworn, declared, affirmed, or attested before the said Supreme Court.

Penalty for
forging Signature
or Seal of Judge,
&c. empowered to
administer Oaths
under this Act.

23 If any Person shall forge the Signature or the Official Seal of any Person lawfully authorised to administer Oaths under this Act, or shall tender in Evidence any Plea, Answer, Disclaimer, Examination, Affidavit, or other judicial or official Document with a false or counterfeit Signature or Seal of any Person authorised as aforesaid attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to be kept in Penal Servitude for any Term not exceeding Ten Years, or to be imprisoned, with or without hard Labour, for any Period not exceeding Three Years.

Answers, &c. to
be filed without
Oath of Messen-
ger.

24 Pleas, Answers, Disclaimers, or Examinations, whether taken by Commission out of the Jurisdiction of the said Court or otherwise, may be filed without the Oath of a Messenger; and any Alterations made therein previously to the taking thereof shall be authenticated according to the Practice now in use in the High Court of Chancery in *England* with respect to Affidavits.

Joinder of Issue.

Issue may be
joined by filing
Replication as at
present.

25 In Suits commenced by Bill, where Notice of Motion for a Decree or Decretal Order shall not have been given, or, having been given, where a Decree or Decretal Order shall not have been made thereon, Issue shall be joined by filing a Replication in the Form or to the Effect of the Replication now in use in the High Court of Chancery in *England*; and where a Defendant shall not have been required to answer and shall not have answered the Plaintiff's Bill, he shall be considered to have traversed the Case made by the Bill.

Dismissal of Bill for Want of Prosecution.

Defendant not
having been re-
quired to answer,
and not answer-
ing, may move
for Dismissal of
Bill for Want of
Prosecution.

26 Where a Defendant to a Suit commenced by Bill shall not have been required to answer the Bill and shall not have answered the same, such Defendant shall be at liberty to move to dismiss the Bill for Want of Prosecution, at such Times, and under such Circumstances, and subject to such Restrictions as shall be in that Behalf prescribed by any General Order of the said Court.

Abatement and Revivor.

In case of Abate-
ment, &c. of Suit
an Order may be
made, which shall
have same Effect

27 Upon any Suit in the said Court becoming abated by Death, Marriage, or otherwise, or defective by reason of some Change or Transmission of Interest or Liability, it shall not be necessary to exhibit any Bill of Revivor or Supplemental Bill in order to obtain the usual

Order to revive such Suit, or the usual or necessary Decree or Order to carry on the Proceedings; but an Order to the Effect of the usual Order to revive or of the usual Supplemental Decree may be obtained as of course upon an Allegation of the Abatement of such Suit, or of the same having become defective, and of the Change or Transmission of Interest or Liability; and an Order so obtained, when served upon the Party who according to the present Practice of the said Court would be Defendant to the Bill of Revivor or Supplemental Bill, shall from the Time of such Service be binding on such Party in the same Manner in every respect as if such Order had been regularly obtained according to the existing Practice of the Court; and such Party shall thenceforth become a Party to the Suit, and shall be bound to enter an Appearance thereto in the Office of the Registrar of the said Court, within such Time and in like Manner as if he had been duly served with Process to appear to a Bill of Revivor or Supplemental Bill filed against him: Provided, that it shall be open to the Party so served, within such Time after Service as shall be in that Behalf prescribed by any General Order of the Supreme Court, to apply to the Court by Motion or Petition to discharge such Order on any Ground which would have been open to him on a Bill of Revivor or Supplemental Bill, stating the previous Proceedings in the Suit and the alleged Change or Transmission of Interest or Liability, and praying the usual Relief consequent thereon: Provided also, that if any Party so served shall be under any Disability other than Coverture, such Order shall be of no Force or Effect as against such Party until a Guardian *ad litem* shall have been duly appointed for such Party, and such Time shall have elapsed thereafter as shall be prescribed by any General Order of the Supreme Court in that Behalf.

PART 1.
Pleading, &c.
 as a Bill of
 Revivor.

New Facts after Suit.

28 It shall not be necessary to exhibit any Supplemental Bill for the Purpose only of stating or putting in Issue Facts or Circumstances which may have occurred after the Institution of any Suit; but such Facts or Circumstances may be introduced by way of Amendment into the original Bill of Complaint in the Suit if the Cause is otherwise in such a State as to allow of an Amendment being made in the Bill, and if not, the Plaintiff shall be at liberty to state such Facts or Circumstances on the Record, in such Manner and subject to such Rules and Regulations with respect to the Proof thereof, and the affording the Defendant Leave and Opportunity of answering and meeting the same, as shall in that Behalf be prescribed by any General Order of the Supreme Court.

New Facts, &c.
 after Commence-
 ment of Suit to
 be introduced as
 Amendments to
 Bill, &c.

PART 2.

PARTIES TO SUITS IN EQUITY.

29 It shall not be competent to any Defendant in any Suit in the said Court to take any Objection for Want of Parties to such Suit, in any Case to which the Rules next herein-after set forth extend; and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court, and any Law or Practice of the said Court inconsistent therewith shall be and is hereby abrogated and annulled.

PART 2.
Parties.
 Defendant not to
 take Objection
 for Want of
 Parties in any
 Case to which
 Rules herein set
 forth shall extend.

Rule 1. Any Residuary Legatee or Next of Kin may, without serving the remaining Residuary Legatees or Next of Kin, have a Decree for the Administration of the Personal Estate of a deceased Person.

PART 2.

Parties.

Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree for the Administration of the Estate of a deceased Person.

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-residuary Devisee or Co-heir, have the like Decree.

Rule 4. Any One of several Cestuisque Trust under any Deed or Instrument may, without serving any other of such Cestuisque Trust, have a Decree for the Execution of the Trusts of the Deed or Instrument.

Rule 5. In all Cases of Suits for the Protection of Property pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons having the same Interest.

Rule 6. Any Executor, Administrator, or Trustee may obtain a Decree against any One Legatee, Next of Kin, or Cestuisque Trust for the Administration of the Estate, or the Execution of the Trusts.

Rule 7. In all the above Cases the Court, if it shall see fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Defendant on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question.

Rule 8. In all the above Cases the Persons who, according to the present Practice of the Court, would be necessary Parties to the Suit, shall, if resident within the Jurisdiction of the said Court, be served with Notice of the Decree, and after such Notice they shall be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suit, and they may by an Order of Course have Liberty to attend the Proceedings under the Decree; and any Party so served may, within such Time as shall in that Behalf be prescribed by the General Order of the Supreme Court, apply to the Court to add to the Decree.

Rule 9. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such Trustees shall represent the Persons beneficially interested under the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to make the Persons beneficially interested under the Trusts Parties to the Suit; but the Court may, upon Consideration of the Matter, on the Hearing, if it shall so think fit, order such Persons, or any of them, to be made Parties.

Rule 10. In Suits to execute the Trusts of a Will of Real Estate it shall not be necessary to make the Heir at Law a Party, but the Plaintiff shall be at liberty to make the Heir at Law a Party where he desires to have the Will established against him.

Practice of setting down a Cause on Objection for Want of Parties abolished.

30 The Practice of the said Court of setting down a Cause merely on an Objection for Want of Parties to the Suit shall be abolished.

31 If in any Suit or other Proceeding it shall appear to the Court that any deceased Person who was interested in the Matters in question has no legal personal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing the Estate of such deceased Person, or to appoint some Person to represent such Estate for all the Purposes of the Suit or other Proceeding, on such Notice to such Person, if any, as the Court shall think fit, either specially or generally by public Advertisements; and the Order so made by the said Court, and any Orders consequent thereon, shall bind the Estate of such deceased Person in the same Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal personal Representative had been a Party to the Suit or Proceeding, and had duly appeared and submitted his Rights and Interests to the Protection of the Court; and this Section shall be applicable to Cases where the Estate as to which it is desired to appoint a Representative is the Estate being administered by the Court.

PART 2.

Parties.

Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one.

32 It shall be lawful for the Court to adjudicate on Questions arising between Parties notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other Instrument, without making the other Parties interested in the Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be executed under the Direction of the Court, and without taking the Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent or collusive, or for some other Reason ought not to be entertained, it shall have Power to refuse to make the Order prayed.

Court may decide between some of the Parties without making others interested Parties to the Suit.

Proviso.

33 No Suit in the said Court shall be dismissed by reason only of the Misjoinder of Persons as Plaintiffs therein, but wherever it shall appear to the Court that, notwithstanding the Conflict of Interest in the Co-Plaintiffs, or the Want of Interest in some of the Plaintiffs, or the Existence of some Ground of Defence affecting some or One of the Plaintiffs, the Plaintiffs, or some or One of them, are or is entitled to Relief, the Court shall have Power to grant such Relief, and to modify its Decree, according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at the Hearing, before such Amendments are made, to treat any One or more of the Plaintiffs as if he or they was or were a Defendant or Defendants in the Suit, and the remaining or other Plaintiff or Plaintiffs was or were the only Plaintiff or Plaintiffs on the Record; and where there is a Misjoinder of Plaintiffs, and the Plaintiff having an Interest shall have died leaving a Plaintiff on the Record without an Interest, the Court may, at the Hearing of the Cause, order the Cause to stand revived as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and to give such Directions as to Costs or otherwise as may appear just and expedient.

Suit not to be dismissed for Misjoinder of Plaintiffs, but Court may modify its Decree, according to special Circumstances.

PART 3.

Evidence.

PART 3.

MODE OF EXAMINING WITNESSES AND TAKING EVIDENCE
IN EQUITY.

Practice of Court as to, and Mode of examining Witnesses, abolished. Court may order particular Witnesses to be examined upon Interrogatories as now practised.

34 The Mode of examining Witnesses in Causes in the said Court, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, is hereby abolished: Provided always, that the Court may, if it shall think fit, order any particular Witness within the Jurisdiction of the said Court, or any Witness out of the Jurisdiction of the said Court, to be examined upon Interrogatories in the Mode now practised in the said Court; and that with respect to such Witness the Practice of the said Court in relation to the Examination of Witnesses shall continue in full Force, save only so far as the same may be varied by any General Order of the said Court in that Behalf, or by any Order of the Court with reference to any particular Case.

Plaintiff, where Suits by Bill at issue, may give Notice to Defendant to adduce Evidence orally or by Affidavit.

35 When any Suit commenced by Bill shall be at issue, the Plaintiff shall, within such Time thereafter as shall be prescribed in that Behalf by any General Order of the said Court, give Notice to the Defendant that he desires that the Evidence to be adduced in the Cause shall be taken orally or upon Affidavit, as the Case may be; and if the Plaintiff shall desire the Evidence to be adduced upon Affidavit, and the Defendant, or some or One of the Defendants, if more than One, shall not, within such Time as shall be prescribed in that Behalf by any General Order of the said Court, give Notice to the Plaintiff or his Solicitor that he or they desire the Evidence to be oral, the Plaintiff and Defendants respectively shall be at liberty to verify their respective Cases by Affidavit.

Evidence may be taken orally if required, but the Court may in certain Cases make an Order, &c.

36 When any of the Parties to any Suit commenced by Bill desires that the Evidence should be adduced orally, and gives Notice thereof to the opposite Party as herein-before provided, the same shall be taken orally, in the Manner herein-after provided: Provided, that if the Evidence be required to be oral merely by a Party without a sufficient Interest in the Matters in question, the Court may, upon Application in a summary Way, make such Order as shall be just.

Witnesses to be examined before Court or Judge, or an Examiner, in the Presence of the Parties.

37 All Witnesses to be examined orally under the Provisions of this Act shall be so examined by or before the said Court or One of the Judges thereof, or by or before an Examiner to be specially appointed by the Court, the said Court, Judge, or Examiner being furnished by the Plaintiff with a Copy of the Bill, and of the Answer, if any, in the Cause; and such Examination shall take place in the Presence of the Parties, their Counsel, Solicitors, or Agents, and the Witnesses so examined orally shall be subject to Cross-examination and Re-examination; and such Examination, Cross-examination, and Re-examination when before the Court or a Judge shall be conducted, as nearly as may be, in the Mode in use in Courts of Common Law at the Trial of a Cause, and when before an Examiner shall be conducted, as nearly as may be, in the Mode now in use in Courts of Common Law with respect to a Witness about to go abroad, and not expected to be present at the Trial of a Cause.

Court or Judge on such Examination to have the Powers of Judge at Nisi Prius.

38 Upon such oral Examination before the Court or a Judge, such Court or Judge shall have all the Powers of a Judge presiding at the Trial of a Cause in a Court of Common Law, in deciding all Points

arising in the Course of such Examination touching the Admissibility of Evidence, the Materiality or Relevancy of Questions, or otherwise, and in dealing with Persons produced as Witnesses before such Court or Judge.

PART 3.
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Evidence.
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39 The Depositions taken upon any such oral Examination as aforesaid shall be taken down in Writing, not ordinarily by Question and Answer, but in the Form of a Narrative, and when completed shall be read over to the Witness, and signed by him in the Presence of the Parties, or such of them as may think fit to attend: Provided always, that in case the Witness shall refuse to sign the said Depositions, then the Clerk of the Court, Judge, or Examiner, as the Case may be, shall sign the same.

Depositions to be taken in Writing, and read over to Witness, and signed.

40 Where the Examination is before a Judge or Examiner, such Judge or Examiner may, upon all Examinations, state any special Matter to the Court as he shall think fit; and it shall be in the Discretion of the Judge or Examiner to put down any particular Question or Answer, if there should appear any Special Reason for doing so.

Judge or Examiner may state any special Matter he may think fit.

41 Upon any Examination before an Examiner, any Question which may be objected to shall be noticed or referred to by the Examiner in or upon the Depositions, and he shall state his Opinion thereon to the Counsel, Solicitors, or Parties, and shall refer to such Statement on the Face of the Depositions, but he shall not have Power to decide upon the Materiality or Relevancy of any Question; and the Court shall have Power to deal with the Costs of immaterial or irrelevant Depositions as may be just.

Examiner not to decide Questions, but refer them to Court.

42 Upon any Examination before an Examiner, if any Person produced before such Examiner as a Witness shall refuse to be sworn, or to answer any lawful Question put to him by the Examiner, or by either of the Parties, or by his or their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is pursued in the Case of a Witness produced for Examination before an Examiner of the said Court, upon written Interrogatories, and refusing to be sworn, or to answer some lawful Question: Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer or Objection of the Witness thereto, shall be taken down by the Examiner, and transmitted by him to the Record Office of the said Court, to be there filed; and the Validity of such Demurrer or Objection shall be decided by the Court; and the Costs of and occasioned by such Demurrer or Objection shall be in the Discretion of the Court.

If Witnesses refuse to be sworn, &c. before Examiner, the same Course to be pursued as is adopted.

Proviso as to Witness demurring to Questions.

43 When the Examination of Witnesses shall have been concluded, the original Depositions, authenticated by the Signature of the Clerk of the Court, Judge, or Examiner, as the case may be, shall be transmitted to the Office of the Registrar of the said Court, to be there filed, and any Party to the Suit may have a Copy thereof, or of any Part or Portion thereof, upon Payment for the same in such Manner as shall be provided by any General Order of the Supreme Court in that Behalf.

Original Depositions to be transmitted to Registrar's Office, and filed.

44 It shall not be necessary to sue out any Commission for the Examination of any Witnesses within the Jurisdiction of the said Court; and any Examiner appointed by any Order of the Court shall have the like Power of administering Oaths as Commissioners now have under Commissions issued by the Court for the Examination of Witnesses.

Commission to examine Witnesses dispensed with, and Examiner empowered to administer Oaths.

PART 3.

Evidence.

Affidavits as to particular Facts, &c. may be used.

45 Notwithstanding that the Plaintiff or the Defendant in any Suit may have elected that the Evidence in the Cause should be taken orally, Affidavits by particular Witnesses, or Affidavits as to particular Facts or Circumstances, may, by Consent, or by Leave of the Court obtained upon Notice, be used on the Hearing of any Cause; and such Consent, with the Approbation of the Court, may be given by or on the Part of married Women, or Infants, or other Persons under Disability.

Affidavits to be divided into Paragraphs numbered.

46 Every Affidavit to be used in the said Court shall be divided into Paragraphs; and every Paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct Portion of the Subject.

Evidence oral or by Affidavit, on both Sides, to be closed within Time prescribed by General Order.

47 The Evidence on both Sides in any Suit, whether taken orally or upon Affidavit, shall be closed within such Time or respective Times after Issue joined as shall in that Behalf be prescribed by any General Order of the Supreme Court, but with Power to the Court or a Judge to enlarge the same as may be deemed fit; and after the Time fixed for closing the Evidence no further Evidence, whether oral or by Affidavit, shall be receivable, without special Leave of the Court or a Judge previously obtained for that Purpose: Provided always, that any Witness who has made an Affidavit filed by any Party to a Cause shall be subject to oral Cross-examination within such Time after the Time fixed for closing the Evidence as shall be prescribed in that Behalf by any Order of the Supreme Court, by or before the Court or Judge, or Examiner, in the same Manner as if the Evidence given by him in his Affidavit had been given by him orally before such Court, Judge, or Examiner, and after such Cross-examination may be re-examined orally by or on the Part of the Party by whom such Affidavit was filed; and such Witness shall be bound to attend before such Court, Judge, or Examiner to be so cross-examined and re-examined, upon receiving due and proper Notice, and Payment of his reasonable Expenses, in like Manner as if he had been duly served with a Writ of Subpœna ad testificandum before such Court, Judge, or Examiner; and the Expenses attending such Cross-examination and Re-examination shall be paid by the Parties respectively, in like Manner as if the Witness so to be cross-examined were the Witness of the Party cross-examining, and shall be deemed Costs in the Cause of such Parties respectively, unless the Court shall think fit otherwise to direct.

Witnesses by Affidavit to be subject to oral Cross-examination, and afterwards to Re-examination.

Witness bound to attend.

As to Expenses attending Cross-examination, &c.

Power for Court to receive Proof by Affidavit at Hearing.

48 It shall be lawful for the said Court, at the Hearing of any Cause or of any further Directions therein, to receive Proof by Affidavit of all proper Parties being before the Court, and of all such Matters as are necessary to be proved for enabling the Court to order Payment of any Monies belonging to any married Woman, and of all such other Matters not directly in issue in the Cause as in the Opinion of the Court may safely and properly be so proved.

Court may require oral Examination of any Witness, &c. at Hearing.

49 Upon the Hearing of any Cause depending in the said Court, whether commenced by Bill or by Claim, the Court, if it shall see fit so to do, may require the Production and oral Examination before itself of any Witness or Party in the Cause, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit.

Any Party in a

50 Any Party in any Cause or Matter depending in the said Court

may, by a Writ of Subpœna ad testificandum or duces tecum, require the Attendance of any Witness before the Court or a Judge, or before an Examiner specially appointed for the Purpose, as the case may be, and examine such Witness orally, for the Purpose of using his Evidence upon any Claim, Motion, Petition, or other Proceeding before the Court, in like Manner as such Witness would be bound to attend and be examined with a view to the Hearing of a Cause; and any Party having made an Affidavit to be used or which shall be used on any Claim, Motion, Petition, or other Proceeding before the Court shall be bound on being served with such Writ to attend before the Court or a Judge, or an Examiner, as the case may be, for the Purpose of being cross-examined: Provided always, that the Court shall always have a discretionary Power of acting upon such Evidence as may be before it at the Time, and of making such interim Orders, or otherwise, as may appear necessary to meet the Justice of the Case.

PART 3.

Evidence.

Cause may by Subpœna require Attendance of any Witness before the Court or an Examiner.

51 In Cases where it shall be necessary for any Party to any Cause depending in the said Court to go into Evidence subsequently to the Hearing of such Cause, such Evidence shall be taken as nearly as may be in the Manner herein-before provided with reference to the taking of Evidence with a view to such Hearing.

Evidence subsequent to Hearing to be taken the same as prior to Hearing.

PART 4.

PROCEEDINGS IN EQUITY BEFORE THE JUDGES AT CHAMBERS.

PART 4.

Proceedings in Chambers.

52 The Practice of making References to the Master in Causes or Matters depending in the said Court is hereby abolished.

References to the Master abolished. [15 & 16 Vict., c. 80.]

53 It shall be lawful for the Judges, and they are hereby required, respectively to sit at Chambers for the Despatch, in conjunction with the Court Business, of such Part of the Business of the said Court as can, without Detriment to the Public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions herein-after in that Behalf specified or referred to; and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

Power to Judges to sit at Chambers for the Despatch of Business, &c.

54 The Judges respectively when sitting in Chambers shall have the same Power and Jurisdiction, in respect of the Business to be brought before them, as both Judges have when sitting in open Court.

Judges to have same Power as in open Court.

55 The Orders made by the Judges respectively when sitting in Chambers shall ordinarily be drawn up there by the Clerk of the Court, but with Power to each of such Judges to direct any of such Orders to be drawn up by the Registrar of the said Court, in like Manner as Orders made by the Court are drawn up, for which Purpose the Registrar shall, when required, attend the Judges respectively when sitting at Chambers.

Orders in Chambers to be drawn up by Clerk, but Judges may direct them to be drawn up by Registrar.

56 All Orders of the Judges respectively made at Chambers shall have the Force and Effect of Orders of the Supreme Court in Equity, and such Orders may be signed and enrolled in like Manner, subject nevertheless, in every Case, to be reversed, discharged, or altered by

Orders at Chambers to have same Force as Orders of Court, &c.

PART 4.
 Proceedings in
 Chambers.

Business to be
 disposed of in
 Chambers by the
 Judges.

the full Court within such Time, and under such Regulations and Conditions, as may be prescribed in that Behalf by any General Rule or Order of the Court.

57 The Business to be disposed of by the Judges respectively while sitting at Chambers shall consist of such of the following Matters as the Court or a Judge shall from Time to Time think may be more conveniently disposed of in Chambers than in open Court; namely, Applications for Time to plead, answer, or demur; for Leave to amend Bills or Claims; for enlarging the Time for closing the Evidence; and also Applications for the Production of Documents; Applications relating to the Conduct of Suits or Matters; Applications as to the Guardianship and Maintenance of Infants; Matters connected with the Management of Property; and such other Matters as each such Judge may from Time to Time see fit, or as may from Time to Time be directed by any General Order of the Court.

Judges may ad-
 journ from open
 Court to Cham-
 bers, and *vice*
versâ, the Con-
 sideration of any
 Matter.

58 It shall be lawful for the Judges when sitting in open Court to adjourn for Consideration by One or more of such Judges in Chambers any Matter which, in their Opinion, may be more conveniently disposed of in Chambers, or, when sitting in Chambers, it shall be lawful for the Judge to direct any Matter to be heard in open Court which he may think ought to be so heard.

Proceeding at
 Chambers to be by
 Summons as at
 Common Law.

59 The Mode of proceeding before the Judges respectively at Chambers shall be by Summons, and as near as may be according to the Form now adopted by the Judges when sitting at Chambers in their Common Law Jurisdiction.

All Powers
 possessed by
 Master to be ex-
 ercised by Judges.

60 All or any of the Powers, Authorities, and Jurisdiction vested in the Master of the said Court by any Legislative Enactment may be exercised by the Judges respectively.

Power to Judges
 to summon Par-
 ties, &c., and to
 settle and wind
 up Proceedings
 before them.

61 In order as expeditiously as may be to wind up all Causes and Matters which may from Time to Time be depending before the Judges respectively in Chambers, each of such Judges is hereby empowered to summon as he shall deem fit all or any of the Parties to any Cause or Matter so depending, or their Solicitors, and thereupon to proceed with such Cause or Matter, and give such Directions and make such Order as he may think necessary for the Purpose of settling and winding up the same; but any such Order shall be subject to be discharged or varied by the Court upon Application made for that Purpose; and the Judge shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

Power to Judges
 to bring Matters
 before Court and
 to Court to make
 Order for Prose-
 cution or final
 Disposal of any
 Suit, &c. and for
 Payment of Costs,
 &c.

62 In case the Judge shall be unable, by reason of the Conduct of Parties, or otherwise, to finally dispose of any Cause or Matter, he shall be at liberty to dispose of any Part thereof within his Power, and to direct the Case to stand in the Paper in open Court, or otherwise to be brought before the Court, and the Court shall thereupon make such Order as it shall think proper on all or any of the Parties for the further Prosecution of the Suit or Matter, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties; and whenever the Judge shall be of opinion that any Cause or Matter so depending ought to be finally

disposed of, unless the Parties or some of them can show good Cause to the contrary, he shall direct the same to stand in the Paper in open Court, or otherwise to be brought before the Court, giving such Notice thereof, if any, as he shall deem right, and the Court shall proceed to dispose thereof accordingly.

PART 4.

Proceedings in Chambers.

63 It shall be lawful for the Court, or for any Judge thereof when sitting at Chambers, to receive and act upon the Opinion and to obtain the Aid and Assistance of Conveyancers, to be nominated as herein-after mentioned, in all Cases in which the Court or a Judge shall think proper to require or receive such Opinion or such Aid and Assistance in the Investigation of the Title to an Estate, with a view to an Investment of Money in the Purchase or on Mortgage thereof, or with a view to a Sale thereof, or in the Settlement of a Draft of a Conveyance, Mortgage, Settlement, or other Instrument, or otherwise, and in such other Cases as the Court shall by any General Order direct; but it shall be competent for any Party to object to any Opinion of any such Conveyancer when he shall deem it open to Objection, and thereupon the Point in dispute shall be disposed of by the Court, or by the Judge sitting in Chambers, according to the Nature of the Case.

Power to Judges at Chambers to take Opinion of Conveyancers in certain Matters.

Parties may object to such Opinion, which may be disposed of in Chambers or open Court.

64 It shall be lawful for the Supreme Court to nominate any Number of Conveyancers to be the Conveyancers upon whose Opinion the Court, or any Judge thereof, may act in any of the Cases last before mentioned, and to supply Vacancies in such List from Time to Time, and to distribute the Business among such Conveyancers in such Order and Manner as to the Court shall seem fit; and by the term "Conveyancer" as used in this Act shall be understood to be meant any Barrister, Attorney, or Solicitor of the Court.

Power to Court to nominate Conveyancers.

65 It shall be lawful for the said Court, or any Judge thereof, in such Way as they may think fit, to obtain the Assistance of Accountants, Merchants, Engineers, Actuaries, or other scientific Persons, the better to enable such Court or Judge to determine any Matter at issue in any Cause or Proceeding, and to act upon the Certificate of such Persons.

Power to obtain the Assistance of Accountants, Merchants, &c.

66 The Allowances in respect of Fees to such Conveyancers, Accountants, Merchants, Engineers, Actuaries, Examiners, and other scientific Persons shall be regulated by the Taxing Officer of the Court, subject to an Appeal to the Court.

Taxing Officer to regulate Fees to Conveyancers, &c. subject to Appeal.

PART 5.

SPECIAL CASE FOR THE OPINION OF THE COURT.

PART 5.

Special Case.

67 It shall be lawful for Persons interested or claiming to be interested in any Question cognizable in the said Court as to the Construction of any Act of the Imperial Parliament, or any Act of the Legislature of this Colony, or any Will, Deed, or other Instrument in Writing, or any Article, Clause, Matter, or Thing therein contained, or as to the Title or Evidence of Title to any Real or Personal Estate contracted to be sold or otherwise dealt with, or as to the Parties to or the Form of any Deed or Instrument for carrying any such Contract into effect, or as to any other Matter falling within the Jurisdiction of the said Court as a Court of Equity, and including among such Persons all Lunatics,

Power to Persons interested in Questions cognizable in Equity to state Special Cases for the Opinion of the Court.

[13 & 14 Vict. c. 35.]

PART 5.
 Special Case.

married Women, and Infants, in the Manner and under the Restrictions hereinafter contained, to concur in stating such Question in the Form of a Special Case for the Opinion of the said Court, and it shall also be lawful for all Executors, Administrators, and Trustees to concur in such Case.

How Lunatic may concur.

68 The Committee of the Estate of any Lunatic interested or claiming to be interested in any such Question as aforesaid may, after having been authorised in that Behalf by the Court, concur in such Case in his own Name and in the Name and on the Behalf of the Lunatic.

How married Women may concur.

69 A Husband interested or claiming to be interested in right of his Wife in any such Question as aforesaid may concur in such Case in his own Name and in the Name of his Wife where the Wife has no Claim to any Interest distinct from her Husband; and a married Woman having or claiming any Interest in any such Question as aforesaid distinct from her Husband may in her own Right concur in such Case, provided that her Husband also concurs therein.

How Infant may concur.

70 The Guardian of any Infant interested or claiming to be interested in any such Question as aforesaid may concur in any such Case in the Name and on the Behalf of the Infant, unless such Guardian has an Interest in such Question adverse to the Interest of the Infant therein.

How special Guardian to be appointed for a Lunatic not found such by Commission, and for Infant.

71 It shall be lawful for the said Court, by Order to be made in the Matter of any Lunatic not found such by Inquisition, or, in the Matter of any Infant, upon the Application of any Person on the Behalf of such Lunatic, or upon the Application of such Infant, by Motion or Petition, to appoint any Person shown by Affidavit to be a fit Person, and to have no Interest adverse to the Interest of the Lunatic or Infant, to be the special Guardian of such Lunatic or Infant for the Purpose of concurring in such Case in the Name and on behalf of the Lunatic or Infant, and any such Person so appointed may lawfully so concur: Provided, that it shall be lawful for the said Court to require Notice of such Application to be given to such Person, if any, as the Court shall think fit.

Order to appoint special Guardian of an Infant may be discharged by Court if made without notice.

72 In any Case in which any such Order as aforesaid shall have been made by the said Court in the Matter of any Infant without Notice to the Guardian of the Infant, it shall be lawful for the said Court, if it shall think fit so to do, to discharge such Order, upon the Application of such Guardian, by Motion or Petition; and the said Court, if it shall think fit, may thereupon appoint some other fit Person to be the special Guardian of such Infant for the Purpose of such Special Case, and may also give such Directions as may be necessary for substituting in such Special Case either the Name of the Guardian so applying, or of the Special Guardian so appointed in lieu of the Name of the special Guardian so displaced: Provided always, that the Discharge of any Order appointing a special Guardian shall not invalidate anything which shall in the meantime have been done by such special Guardian, unless the Court shall, upon Notice to all Parties, specially so direct.

How such Special Cases to be entitled.

73 Every such Special Case shall be entitled as a Cause between some or one of the Parties interested or claiming to be interested as Plaintiffs or Plaintiff, and the others or other of them as Defendants or Defendant; and in the Title to such Cases Lunatics and Infants shall be described as such, and their Committees, Guardians, or special Guardians named; and where in any such Case a married Woman is

named as a Plaintiff and her Husband as a Defendant thereto, a next Friend of such married Woman shall be named in the Title to such Case.

PART 5.
Special Case.

74 Every such Special Case shall concisely state such Facts and Documents as may be necessary to enable the Court to decide the Question raised thereby; and upon the hearing of such Case the Court and the Parties shall be at liberty to refer to the whole Contents of such Documents; and the Court shall be at liberty to draw from the Facts and Documents stated in any such Special Case any Inference which the Court might have drawn therefrom if proved in a Cause.

Form of Special Case.

75 Every such Special Case to which an Infant or Lunatic is a Party by his Guardian or Special Guardian shall also state how such Guardian or special Guardian was constituted; and where any married Woman having or claiming any Interest distinct from her Husband is a Party to such Case, it shall be stated therein that she concurs in such Case in her own Right.

Special Case to state how Guardian constituted, and the Concurrence of married Women.

76 Every such Special Case shall be signed by Counsel for all Parties, and shall be filed, and a Copy served on the Defendant, in the same Manner as a Bill, and the Defendant may appear thereto in the same Manner as to a Bill.

Special Cases to be signed by Counsel, and filed as Bills.

77 After a Special Case has been filed, and the Defendant has appeared thereto, all the Parties to such Special Case shall be subject to the Jurisdiction of the Court in the same Manner as if the Plaintiff in the Special Case had filed a Bill against the Parties named as Defendants thereto, and such Defendants had appeared to such Bill; and upon the Special Case being filed, and Appearances entered thereto as aforesaid, all Parties to such Special Case, other than married Women, Infants, and Lunatics, shall, for the Purposes of such Special Case, be bound by the Statements therein; and married Women, Infants, and Lunatics made Parties to a Special Case shall, for the Purposes of such Special Case, be bound by the Statements therein, when, and not before, Leave has been given by the Court to set down such Special Case in manner herein-after provided.

After Special Case filed, Parties bound by Statements after Defendants have appeared, except married Women, &c. who are not to be bound till Leave given by Court to set it down.

78 So soon as all the Defendants have appeared to the Special Case the same may, subject to the Provisions herein-after contained, be set down for hearing, and Subpœnas to hear Judgment issued and served according to the Practice of the Court.

How Case to be set down for hearing.

79 When any married Woman, Infant, or Lunatic is Party to a Special Case, Application may be made to the Court by Motion for Leave to set down the same, of which Motion Notice shall be given to every Party to such Case in whom, as Executor, Administrator, or Trustee, any Property in question therein is or is alleged to be vested in Trust for or for the Benefit of such married Woman, Infant, or Lunatic, and also, if such Application be not made by or on behalf of such married Woman, Infant, or Lunatic, to such married Woman and her Husband, or to such Infant, or to such Lunatic and his Committee, if any, as the Case may be; and upon the hearing of such Motion the Court may give Leave to set down such Case, if it shall be of opinion that it is proper that the Question raised therein shall be determined thereon, and shall be satisfied by Affidavit or other sufficient Evidence that the Statements contained therein, so far as the same affect the

When a married Woman, Infant, or Lunatic is a Party, Application to be made to the Court for Leave to set the Case down.

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 Special Case.

Interest of such married Woman, Infant, or Lunatic, are true, but otherwise may refuse such Application : Provided, that in case the Court, upon the hearing of such Application, is of opinion that it is proper that the Question raised in such Case shall be determined thereon, but is not satisfied that the Statements contained therein, so far as they affect the Interest of such married Woman, Infant, or Lunatic, are true, it shall be lawful for the Court or a Judge in Chambers to make such Inquiries as to the Court shall seem proper, and upon further Application being made, by Motion as aforesaid, according to the result of such inquiries, to give or refuse Leave to set down such Case as to the Court shall seem fit.

Upon hearing, Court to determine Question, and make Declaration.

80 It shall be lawful for the Court, upon the hearing of any such Special Case, to determine the Questions raised therein or any of them, and by Decree to declare its Opinion thereon, and, so far as the Case shall admit of the same, upon the Right involved therein, without proceeding to administer any Relief consequent upon such Declaration; and every such Declaration of the Court contained in any such Decree shall have the same Force and Effect as such Declaration would have had, and shall be binding to the same Extent as such Declaration would have been, if contained in a Decree made in a Suit between the same Parties instituted by Bill : Provided, that if upon the hearing of such Special Case the Court is of opinion that the Questions raised thereby or any of them cannot properly be decided upon such Case, the Court may refuse to decide the same.

Proviso that Court may refuse to decide.

Protection to be afforded to Trustees by Declaration.

81 Every Executor, Administrator, Trustee, or other Person making any Payment or doing any Act in conformity with the Declaration contained in any Decree made upon a Special Case shall in all respects be as fully and effectually protected and indemnified by such Declaration as if such Payment had been made or Act done under or in pursuance of the express Order of the Court made in a Suit between the same Parties instituted by Bill, save only as to any Rights or Claims of any Person in respect of Matters not determined by such Declaration.

The Court may suspend the acting upon Declaration.

82 Where any Person shall be desirous to have a Special Case reheard, it shall be lawful for the Court, upon Application for that Purpose, either at the Time of the Decree upon such Special Case being made or at any Time afterwards, and upon such Conditions, if any, as the Court shall think fit, to order that the Declaration contained in such Decree shall not be acted upon for such Time as the said Court may think just.

Special Case to be a *Lis pendens*, and may be registered.

83 The filing of a Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, shall be taken to be a *Lis pendens*, and may be registered in like Manner as any other *Lis pendens* in the said Court may be registered, and, unless and until so registered, shall not bind a Purchaser or Mortgagee without express Notice thereof.

Mode of identifying Documents, and Court may order Production.

84 Any Documents referred to in a Special Case, and any Copies thereof or Extracts therefrom, identified by the Signature of the Solicitors for all Parties, or their Agents being Solicitors, may be produced and read at the hearing of such Case without further Proof; and it shall be lawful for the Court, at any Time after the filing of the Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, to order any Document which may be admitted thereby to be in

Possession of any Party to such Case to be deposited and produced in such Manner and for such Purposes as the Court shall think fit.

PART 5.

Special Case.

85 Until General Orders shall be made, in pursuance of this Act, for regulating the Proceedings under this Act with respect to Special Cases, and in so far as the same, when made, shall not be applicable, the Proceedings under this Act with respect to Special Cases shall be governed and regulated by the Provisions herein contained so far as the same extend, and so far as the same do not extend shall be governed and regulated by the Orders, and Practice of the Court in Suits instituted by Bill, so far as the same can be applied thereto; and, subject to such General Orders as aforesaid, the Costs of all Proceedings in such Cases shall be in the Discretion of the Court.

As to Special Cases until Orders are made, and if not applicable when made, Practice to be according to this Act and Practice of the Court.

PART 6.

ADMINISTRATION AND DISPOSAL OF PROPERTY IN EQUITY BY ORDER OF THE COURT.

PART 6.

Property.

Administration of Personal and Real Estate of deceased Persons.

86 It shall be lawful for any Person claiming to be a Creditor, or a specific pecuniary or residuary Legatee, or the next of Kin, or some or One of the next of Kin, of a deceased Person, to apply for and obtain as of course, without Bill or Claim filed, or any other preliminary Proceedings, a Summons from a Judge of the said Court requiring the Executor or Administrator, as the Case may be, of such deceased Person to attend before him at Chambers, for the Purpose of showing Cause why an Order for the Administration of the Personal Estate of the Deceased should not be granted; and upon Proof by Affidavit of the due Service of such Summons, or on the Appearance in Person or by his Solicitor or Counsel of such Executor or Administrator, and upon Proof by Affidavit of such other Matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his Discretion he shall think fit so to do, to make the usual Order for the Administration of the Estate of the Deceased, with such Variations, if any, as the Circumstances of the Case may require; and the Order so made shall have the Force and Effect of a Decree of the said Court to the like Effect made on the hearing of a Cause or Claim between the same Parties: Provided, that such Judge shall have full discretionary Power to grant or refuse such Order, or to give any special Directions touching the Carriage or Execution of such Order, and in the Case of Applications for any such Order by Two or more different Persons or Classes of Persons, to grant the same to such One or more of the Claimants or of the Classes of Claimants as he may think fit; and if the Judge shall think proper, the Carriage of the Order may subsequently be given to such Party interested, and upon such Terms as the Judge may direct.

Creditor, &c. may summon Executor, &c. to show Cause why an Order for Administration of Personal Estate should not be granted.

Power to Judge to order Administration of such Estate.

87 A Duplicate or Copy of such Summons shall, previously to the Service thereof, be filed in the Office of the Registrar of the said Court; and no Service thereof upon any Executor or Administrator shall be of any Validity unless the Copy so served shall be stamped or marked by the said Registrar with a Stamp or Mark indicating the filing thereof; and the filing of such Summons shall have the same Effect with respect to *Lis pendens* as the filing of a Bill or Claim.

Copy of Summons to be filed in Registrar's Office.

PART 6.

Property.

Creditor, &c. may obtain an Order for Administration of Real Estate.

88 It shall be lawful for any Person claiming to be a Creditor of any deceased Person, or interested under his Will, to apply for and obtain in a summary Way, in the Manner herein-before provided with respect to the Personal Estate of a deceased Person, an Order for the Administration of the Real Estate of a deceased Person where the whole or any Part of such Real Estate is by Devise vested in Trustees who are by the Will empowered to sell such Real Estate, and authorised to give Receipts for the Rents and Profits thereof, and for the Produce of the Sale of such Real Estate; and all the Provisions herein-before contained with respect to the Application for such Order in relation to the Personal Estate of a deceased Person, and consequent thereon, shall extend and be applicable to an Application for such Order as last herein-before mentioned with respect to Real Estate.

Sale, &c. of Property subject of Suit by Order of the Court.

Court may order Real Estate to be sold, if required.

89 If after a Suit shall have been instituted in relation to any Real Estate it shall appear to the Court that it will be necessary or expedient that the said Real Estate or any Part thereof should be sold for the Purpose of such Suit, it shall be lawful for the Court to direct the same to be sold at any Time after the Institution thereof, and such Sale shall be as valid to all Intents and Purposes as if directed to be made by a Decree or Decretal Order on the Hearing of such Cause; and any Party to the Suit in possession of such Estate, or in receipt of the Rents and Profits thereof, shall be compelled to deliver up such Possession or Receipt to the Purchaser or such other Person as the Court shall direct.

Before Sale of Estate Abstract of Title to be laid before some Conveyancer.

90 Before any Estate or Interest shall be put up for Sale under a Decree or Order of the Court, an Abstract of the Title thereunto shall, with the Approbation of the Court, be laid before some Conveyancer to be approved by the Court, for the Opinion of such Conveyancer thereon, to the Intent that the said Court may be the better enabled to give such Directions as may be necessary respecting the Conditions of Sale of such Estate or Interest, and other Matters connected with the Sale thereof; and when an Estate or Interest shall be so put up for Sale, a Time for the Delivery of the Abstract of Title thereto to the Purchaser or his Solicitor shall be specified in the said Conditions of Sale.

Time for Delivery of Abstract to be specified in Conditions of Sale.

Sale of Mortgaged Property instead of Foreclosure.

Court may direct Sale of mortgaged Property instead of a Foreclosure on such Terms as it may think fit.

91 It shall be lawful for the Court in any Suit for the Foreclosure of the Equity of Redemption in any mortgaged Property, upon the Request of the Mortgagee, or of any subsequent Incumbrancer, or of the Mortgagor, or any Person claiming under them respectively, to direct a Sale of such Property, instead of a Foreclosure of such Equity of Redemption, on such Terms as the Court may think fit to direct, and if the Court shall so think fit, without previously determining the Priorities of Incumbrances, or giving the usual or any Time to redeem: Provided, that if such Request shall be made by any such subsequent Incumbrancer, or by the Mortgagor, or by any Person claiming under them respectively, the Court shall not direct any such Sale, without the Consent of the Mortgagee or the Person claiming under him, unless the Party making such Request shall deposit in Court a reasonable Sum of Money, to be fixed by the Court, for the Purpose of securing the Performance of such Terms as the Court may think fit to impose on the Party making such Request.

Rep^d by 47. Vic
No. 49.

Investment of Money paid into Court.

92 In any Cause or Matter depending in the said Court in which Money shall be paid into Court, an Order may be made by a Judge of the said Court at Chambers on the Application of any Trustee or Person interested in such Money for the Investment thereof, or of such Part thereof as such Judge shall think fit, with the Approbation of such Judge, on Mortgage of real Property, or in the Purchase of Debentures of the Government of *Tasmania*, or on any other Securities guaranteed by the said Government; and thereupon the Party making such Application shall lay before such Judge a Proposal of the particular Security or Securities for such Investment; and in case the Security proposed shall be a Mortgage of real Property, an Abstract of the Title thereto shall be laid before One of the Conveyancers, to be nominated as aforesaid by the said Court, whose Opinion therein, together with a Certificate of a Surveyor or competent Valuer as to the Value of such real Property, shall be laid before such Judge, and if the Security shall be approved by such Judge a Draft of such Mortgage shall be settled by such Conveyancer; and on the Judge certifying his Approbation of any such Investment, the same shall be made by the Registrar of the said Court in the Name of such Registrar, and the Certificate of such Judge shall be a sufficient Indemnity to him for making the same.

PART 6.

Property.

A Judge may make Order for the Investment of Money in Court.

PART 7.

ACCOUNT AND INJUNCTION.

Account.

93 It shall be lawful for the Court, in any Case where any Account is required to be taken, to give such special Directions, if any, as it may think fit with respect to the Mode in which the Account should be taken or vouched, and such special Directions may be given, either by the Decree or Order directing such Account, or by any subsequent Order or Orders, upon its appearing to the Court that the Circumstances of the Case are such as to require such special Directions; and particularly it shall be lawful for the Court, in Cases where it shall think fit so to do, to direct that in taking the Account the Books of Account in which the Accounts required to be taken have been kept, or any of them, shall be taken as *primâ facie* Evidence of the Truth of the Matters therein contained, with liberty to the Parties interested to take such Objections thereto as they may be advised.

Injunctions.

94 The Practice of the Court with respect to Injunctions for the Stay of Proceedings at Law shall, so far as the Nature of the Case will admit, be assimilated to the Practice of such Court with respect to Special Injunctions generally; and such Injunctions may be granted upon interlocutory Applications supported by Affidavit, in like Manner as other Special Injunctions are granted by the said Court.

PART 7.

Injunction, &c.

Where Account required to be taken, Court may give special Directions as to the Mode of taking same.

Practice as to Injunctions to stay Proceedings at Law assimilated to Practice as to Special Injunctions.

95 Upon Application by Motion or Petition to the Court in any Suit depending therein for an Injunction or a Receiver, or to dissolve an Injunction, or discharge an Order appointing a Receiver, the Answer of the Defendant shall, for the Purpose of Evidence on such Motion or Petition, be regarded merely as an Affidavit of the Defendant, and Affidavits may be received and read in Opposition thereto.

Answer of Defendant, on Motion for Injunction or Receiver, &c. to be regarded as an Affidavit.

PART 8.

*Question of Law,
&c.*

No Suit to be objected to because only declaratory Order sought.

Supreme Court in Equity to decide questions of Law arising in Matters before Court.

Court may determine legal Title without requiring Parties to proceed to Law.

PART 8.

DECLARATORY ORDER AND DECISION IN EQUITY OF QUESTIONS OF LAW AND LEGAL TITLE.

Declaratory Order.

96 No Suit in the said Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby; and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief.

Decision in Equity of Questions of Law and legal Title.

97 The Supreme Court in Equity shall have full Power to determine any Question of Law arising in any Cause or Matter before the said Court, which in the Judgment of the said Court shall be necessary to be decided previously to the Decision of the Equitable Question at issue between the Parties.

98 In Cases where, according to the present Practice of the Court, such Court declines to grant equitable Relief until the legal Title or Right of the Party seeking such Relief shall have been established in a Proceeding at Law, the said Court may itself determine such Title or Right without requiring the Parties to proceed at Law to establish the same.

PART 9.

REGISTERED DECREES.

Registered Decrees to have Effect of Judgments.

PART 9.

*Registered
Decrees.*

Decrees and Orders in Equity to have the Effect of Judgments, but no Decree to affect Real Estate till registered.

[1 & 2 Vict. c. 110, Sect. 18, *et seq.*]

99 All Decrees and Orders of the Supreme Court in Equity, and all Orders of the said Court in matters of Lunacy whereby any Sum of Money, or any Costs, Charges, or Expenses shall be payable to any Person, shall have the Effect of Judgments in the Supreme Court at Common Law, and the Persons to whom any such Monies, Costs, Charges, or Expenses shall be payable, shall be deemed Judgment Creditors to all Intents and Purposes: Provided, that no Decree or Order of the said Court in Equity or Lunacy shall affect any Lands as to Purchasers, Mortgagees, or Creditors, unless and until a Memorandum or Minute containing the Name and the usual or last known Place of Abode, and the Title, Trade, or Profession of the Person whose Estate is intended to be affected thereby, and the Title of the Cause or Matter in which such Decree or Order shall have been obtained or made, and the Date of such Decree or Order, and the Amount of the Monies, Costs, Charges, or Expenses thereby ordered to be paid, shall be left with the Registrar of Deeds at his Office, who shall forthwith enter the same Particulars in a Book in alphabetical Order by the Name of the Person whose Estate is intended to be affected by such Decree or Order, together with the Year and the Day of the Month when every such Memorandum or Minute was left with him; and such Registrar shall be entitled for any such Entry to the Sum of Five Shillings, and all Persons shall be at liberty to search the same Book on Payment of the Sum of One Shilling

100 It shall be lawful for any Judge of the Supreme Court, by any Order to be by him made, to direct Satisfaction to be entered in the said Book of any Moneys, Costs, Charges, or Expenses which shall have been directed to be paid by any Decree or Order of the said Court in Equity, or in Lunacy, upon Production to such Judge of such reasonable Proof as to him shall appear sufficient of the Payment of any such Moneys, Costs, Charges, or Expenses so ordered to be paid as aforesaid; and the Party to whom such Moneys, Costs, Charges, or Expenses shall have been directed to be paid by any such Decree or Order or his Solicitor, or the legal Representative of such Party, or his Solicitor, may also by Consent to be signed by him in writing authorise such Satisfaction as aforesaid to be entered by the said Registrar in the said Books; and upon Production to the said Registrar of any such Order or Consent, and upon leaving with the said Registrar such Consent as aforesaid, he shall forthwith cause an Entry to be made in the said Book of the Satisfaction of such Decree or Order as aforesaid, and upon such Satisfaction being so entered such Decree or Order shall cease to affect any Lands or Hereditaments of the Party against whom such Decree or Order shall have been made.

PART 9.

Registered Decrees.

How Satisfaction of such Decrees to be entered.

101 All such Moneys, Costs, Charges, or Expenses shall and may be levied by such Writs respectively as are set forth in the Schedule, and the Execution of such Writs shall be enforced in such and the same Manner as the Execution of Writs of Execution upon Judgments at Law is now or hereafter may be enforced, or as near thereto as the Circumstances of the Cases will admit; and every such Writ shall be issued by the Registrar of the Supreme Court of *Tasmania*, and shall be by him sealed, stamped, or signed: Provided, that it shall be lawful for the said Supreme Court from Time to Time to alter and adapt to the particular Circumstances of the Case any of the said Writs, or to frame any other Writ or Writs for the Purposes of this Act, all which Writs shall be of the same Force and Effect, and shall be prosecuted and dealt with in the same Manner as the Writs hereinbefore first mentioned; and by any general Rule or Order of the said Court, to fix and determine the Time when such Writs shall be issued and returned, the Costs and Fees to be paid to the Party or his Solicitor, the Registrar, and Sheriff in respect thereof, and all other Matters connected with the issuing, Conduct, and Execution of such Writs.

Writs, and Mode of issuing and enforcing Writs.

PART 10.

MISCELLANEOUS MATTERS.

PART 10.

Miscellaneous.

102 In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the said Court shall by Mistake of Parties fail to be followed in any Suit or Proceeding in the said Court, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs as such Court shall direct, to make such Order giving effect to and rectifying such Proceedings as may be justified by the Merits of the Case.

In case Directions as to Practice, &c. not followed, Court may make Order and award Costs.

103 The Judges of the Supreme Court may and they are hereby required from Time to Time to make General Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the said Court,

Judges to make General Orders for carrying Purposes of this Act into effect.

PART 10.
 Miscellaneous.

in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers of the said Court and Solicitors thereof in respect to such Matters, and, so far as may be found expedient, for altering the Course of Proceeding herein-before prescribed in respect to the Matters to which this Act relates, or any of them; and in making such Orders the Judges are hereby directed to have regard to the General Orders of the Court of Chancery in *England* relating to the same subject matter; and such Orders may from Time to Time be rescinded or altered by the like Authority; and all such Orders shall take effect as General Orders of the said Court.

Preserves Jurisdiction conferred on one Judge by 19 Vict. No. 23.

104 Nothing in this Act contained shall be construed to limit the Jurisdiction vested in a single Judge by the Act of Council of the 19th *Victoria*, No. 23; but, subject to the Proviso contained in the First Section of the said recited Act, any Judge of the Court separately and apart from the other Judge or Judges shall have the same Power and Jurisdiction under this Act as if that Section were re-enacted in this Act; and, for the Removal and Prevention of Doubt as to the Cases in which the Jurisdiction vested in the Court under any of the Provisions of this or any other Act can be exercised by a single Judge, the Supreme Court is hereby empowered by General Orders from Time to Time to declare what are the Power and Jurisdiction of a single Judge in any such Case, and such Orders shall be of equal Force with this Act.

Construction of Terms.

105 In the Construction of this Act,

The Words "Bill of Complaint" shall mean also and include Information:

The Word "Lunatic" shall include Idiots and Persons of unsound Mind, and whether found such by Inquisition or not:

The Word "Guardian" shall mean Father or testamentary Guardian, or Guardian appointed by the Court, not being a special Guardian appointed under the Provisions of this Act.

Commencement of Act.

106 This Act shall commence and take effect on the First Day of *May*, 1858: Provided, that it shall be lawful for the Judges of the said Court to make and issue any such General Orders as aforesaid at any Time after the passing of this Act, so as the same be not made to take effect before the Time appointed for the Commencement of this Act.

Short Title.

107 In referring to this Act it shall be sufficient to use the Expression *The Equity Procedure Act*.



No. 2.

WRIT of Fieri facias on a Decree or Order of the Supreme Court of Tasmania, in Equity or Lunacy, for Payment of Money and Interest.

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Sheriff of *Tasmania* and its Dependencies.

GREETING—

WE command you that of the Goods and Chattels, Lands and Tenements, of *C.D.* in your Bailiwick you cause to be made the Sum of £ , and also Interest thereon at the Rate of £ per Centum per Annum from the Day of , which said Sum of Money and Interest were lately before Us in Our Supreme Court of *Tasmania* in Equity [or Lunacy] in a certain Cause [or certain Causes, as the Case may be,] wherein *A.B.* is Plaintiff and *C.D.* is Defendant, [or in a certain Matter there depending, intituled “In the Matter of *E.F.*,” as the Case may be,] by a Decree [or Order, as the Case may be,] of Our said Court bearing date the Day of decreed [or ordered, as the Case may be,] to be paid by the said *C.D.* to *A.B.*, and that you have that Money and Interest before Us in Our said Court immediately after the Execution hereof, to be paid to the said *A.B.* in pursuance of the said Decree [or Order, as the Case may be]; and in what Manner you shall have executed this Our Writ make appear to Us in Our said Court immediately after the Execution thereof, and have there then this Writ.

Witness the Honourable the Chief Justice of Our said Court the Day of in the Year of Our Reign.

[Name of Solicitor.]

No. 3.

WRIT of Fieri facias on a Decree or Order of the Supreme Court of Tasmania, in Equity or Lunacy, for Payment of Money and Costs.

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Sheriff of *Tasmania* and its Dependencies.

GREETING—

WE command you that of the Goods and Chattels, Lands, Tenements, and Hereditaments of *C.D.* in your Bailiwick you cause to be made the Sum of £ which said Sum of Money was lately before Us in Our said Supreme Court in Equity [or Lunacy] in a certain Cause or certain Causes [as the Case may be], wherein *A.B.* is Plaintiff and *C.D.* is Defendant [or in a certain Matter there depending, intituled “In the Matter of *E.F.*,”] by a Decree [or Order, as the Case may be], of Our said Court, bearing date the Day of , decreed or ordered [as the Case may be] to be paid by the said *C.D.* to *A.B.*, together with certain Costs in the said Order mentioned, and which Costs have been taxed and allowed by the Master of the said Court at the Sum of £ as appears by the Certificate of the said Master, dated the Day of and that of the Goods, Chattels, Lands, Tenements, and Hereditaments of the said *C.D.* in your Bailiwick you further cause to be made the said Sum of £ [the Costs] together with Interest at the Rate of £ per Centum per Annum, on the said Sum of £ [the Money] from the Day of and that you have that Money and Interest before Us in Our said Court immediately after the Execution hereof, to be paid to the said *A.B.* in pursuance of the said Decree [or Order, as the Case may be]; and in what Manner you shall have executed this Our Writ make appear to Us in Our said Court immediately after the Execution thereof, and have there then this Writ.

Witness the Honourable the Chief Justice of Our said Court the Day of in the Year of Our Reign.

[Name of Solicitor.]

No. 4.

WRIT of Fieri facias on a Decree or Order of the Supreme Court of Tasmania, in Equity or Lunacy, for Payment of Money, Interest, and Costs.

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Sheriff of *Tasmania* and its Dependencies.

GREETING—

WE command you that of the Goods, Chattels, Lands, Tenements, and Hereditaments of *C.D.* in your Bailiwick you cause to be made the Sum of £ and also Interest thereon at the Rate of £ per Centum per Annum from the Day of , which said Sum of Money and Interest were lately before Us in Our said Supreme Court of *Tasmania* in Equity [*or Lunacy*] in a certain Cause, [*or certain Causes, as the Case may be,*] wherein *A.B.* is Plaintiff and *C.D.* is Defendant, [*or in a certain Matter there depending, intituled "In the Matter of E.F."*] by a Decree [*or Order, as the Case may be,*] of Our said Court bearing date the Day of , decreed [*or ordered, as the Case may be,*] to be paid by the said *C.D.* to *A.B.*, together with certain Costs in the said Order mentioned, and which Costs have been taxed and allowed by the Master of Our said Court at the Sum of £ as appears by the Certificate of the said Master dated the Day of , and that of the Goods, Chattels, and Lands, Tenements, and Hereditaments of the said *C.D.* in your Bailiwick you further cause to be made the said Sum of £ [*Costs*], and that you have that Money and Interest before Us in Our said Court immediately after the Execution hereof, to be paid to the said *A.B.* in pursuance of the said Decree [*or Order, as the Case may be*]; and in what Manner you shall have executed this Our Writ make appear to Us in Our said Court immediately after the Execution thereof, and have there then this Writ.

Witness the Honourable the Chief Justice of Our said Court the Day of in the Year of Our Reign.

[*Name of Solicitor.*]

No. 5.

WRIT of Fieri facias on a Decree or Order of the Supreme Court of Tasmania, in Equity or Lunacy, for Payment of Costs.

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Sheriff of *Tasmania* and its Dependencies.

GREETING—

WE command you, that of the Goods and Chattels, Lands, Tenements, and Hereditaments of *C.D.* in your Bailiwick you cause to be made the Sum of £ for certain Costs which were lately before Us in Our Supreme Court of *Tasmania* in Equity [*or Lunacy*] in a certain Cause [*or certain Causes, as the Case may be*] wherein *A.B.* is Plaintiff and *C.D.* is Defendant [*or in a certain Matter therein depending, intituled "In the Matter of E.F."*] by a Decree [*or Order, as the Case may be*] of Our said Court, bearing date the Day of decreed [*or ordered, as the Case may be*] to be paid by the said *C.D.* to *A.B.*, and which Costs have been taxed and allowed by the Master of Our said Court at the Sum of £ as appears by the Certificate of the said Master bearing date the Day of and that you have that Money before Us in Our said Court immediately after the Execution hereof, to be paid to the said *A.B.* in pursuance of the said Decree [*or Order, as the Case may be*]; and in what Manner you have executed this Our Writ make appear to Us in Our said Court immediately after the Execution thereof, and have there then this Writ.

Witness the Honourable the Chief Justice of Our said Court the Day of in the Year of Our Reign.

[*Name of Solicitor.*]

No. 6.

WRIT of Venditioni exponas.

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Sheriff of *Tasmania* and its Dependencies.

GREETING—

WHEREAS by Our Writ We lately commanded you that of the Goods and Chattels, Lands, Tenements, and Hereditaments of *C.D.* [*here recite Fieri facias to the end*] and on the Day of you returned to Us in Our Supreme Court of *Tasmania* aforesaid that by virtue of the said Writ to you directed you had taken Goods and Chattels, Lands, Tenements, and Hereditaments [*as the Case may be*] of the said *C.D.* to the Value of the Money [and Interest] aforesaid, which said Goods and Chattels, Lands, Tenements, and Hereditaments [*as the Case may be*] remained in your Hands unsold for want of Buyers; therefore We, being desirous that the said *A.B.* should be satisfied his Money [and Interest] aforesaid, command you that you expose to sale, and sell or cause to be sold, the Goods and Chattels, Lands, Tenements, and Hereditaments [*as the Case may be*] of the said *C.D.* by you in Form aforesaid taken, and every Part thereof, for the best Price that can be gotten for the same, and have the Money arising from such Sale before Us in Our said Supreme Court immediately after the Execution hereof, to be paid to the said *A.B.*, and have there then this Writ.

Witness the Honourable the Chief Justice of Our said Court the Day
of in the Year of Our Reign.

[*Name of Solicitor.*]