



Judicial Committee Act 1843

1843 CHAPTER 38

An Act to make further Regulations for facilitating the hearing Appeals and other Matters by the Judicial Committee of the Privy Council. [28th July 1843]

WHEREAS it has been found expedient to make further Regulations for hearing and making Report to Her Majesty in Appeals and other Matters referred to the Judicial Committee of the Privy Council, and for the more effectual Appointment of Surrogates in Ecclesiastical and Maritime Causes of Appeal, and for making Orders or Decrees incidental to such Causes of Appeal, and for the Punishment of Contempts, and compelling Appearances and Enforcement of Judgments, Orders, and Decrees of Her Majesty in Council, or of the said Judicial Committee, or their Surrogates, in such Causes of Appeal :

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of, the same,

Appeals, &c. may be heard by not less than Three Members of the Judicial Committee of the Privy Council under a special Order of Her Majesty.

That in any Appeal, Application for Prolongation or Confirmation of Letters Patent, or other Matter referred or hereafter to be referred by Her Majesty in Council to the Judicial Committee of the Privy Council, it shall be lawful for Her Majesty, by Order in Council or special Direction under Her Royal Sign Manual, having regard to the Nature of the said Appeal or other Matter, and in respect of the same not requiring the Presence of more than Three Members of the said Committee, to order that the same be heard, and when so ordered it shall be lawful that the same shall be accordingly heard by not less than Three of the Members of the said Judicial Committee, subject to such other Rules as are applicable, or under this Act may be applicable, to the hearing and making Report on Appeals and other Matters by Four or more of the Members of the said Judicial Committee.

II Powers of the Judicial Committee and their Surrogates in respect to Appeals from Ecclesiastical and Admiralty Courts.

And be it enacted, That in respect of all Incidents, Emergents, Dependents, and Things adjoined to, arising out of, or connected with Appeals from any Ecclesiastical Court, or from any Admiralty or Vice Admiralty Court, (save in giving a Definitive Sentence, or any Interlocutory Decree having the Force and Effect of a Definitive Sentence,) the said Judicial Committee and their Surrogates shall have full Power, subject to such Rules, Orders, and Regulations as shall from Time to Time be made by the said Judicial Committee, (with the Approval of Her Majesty in Council,) to make all such Interlocutory Orders and Decrees, and to administer all such Oaths and Affirmations, and to do all such Things as may be necessary, or the Judges of the Courts below appealed from or their Surrogates in the Cases appealed, or the Judges of the Courts appealed to or their Surrogates, or the Lords Commissioners of Appeals in Prize Causes or their Surrogates, and the Judges Delegate or their Con-delegates under Commissions of Appeal under the Great Seal in Ecclesiastical and Maritime Causes of Appeal, would respectively have had before an Act passed in the Third Year of the Reign of His late Majesty, intituled *An Act for transferring; the Powers of the High Court of Delegates, both in Ecclesiastical and Maritime Causes, to His Majesty in Council*, and another Act passed in the following Session of Parliament, intituled *An Act for the better Administration of Justice in His Majesty's Privy Council*, were passed.

III Who to be Surrogates and Examiners of the Judicial Committee in Ecclesiastical and Admiralty Appeals.

And be it enacted, That the Surrogates and Examiners of the Arches Court of *Canterbury* and the High Court of Admiralty of *England*, and such Persons as shall from Time to Time be appointed Surrogates or Examiners of the said Courts, shall be by virtue of this Act Surrogates and Examiners respectively of the Judicial Committee of the Privy Council in all Causes of Appeal from Ecclesiastical Courts and from any Admiralty or Vice Admiralty Court.

IV Past Proceedings of Surrogates of the Judicial Committee valid, notwithstanding certain Informalities.

And be it enacted, That all Orders, Decrees, and Things heretofore done and expedited in such Causes of Appeal by the Surrogates appointed by the said Judicial Committee of the Privy Council shall be deemed to be valid and effectual, if otherwise lawfully done and expedited, notwithstanding any Informality or Want of Authority in respect to the same in the Orders of His late Majesty in Council of the Fourth Day of *February* One thousand eight hundred and thirty-three, of the said Judicial Committee of the Fifth Day of *February* One thousand eight hundred and thirty-three, of the Order of His late Majesty in Council of the Ninth Day of *December* One thousand eight hundred and thirty-three, of an Order of the said Judicial Committee of the Tenth Day of *December* One thousand eight hundred and thirty-three, and an Order of His late Majesty in Council of the Twelfth Day of *August* One thousand eight hundred and thirty-five.

V Manner of conducting Appeals before the Judicial Committee.

And be it enacted, That, subject to such Rules and Regulations as may from Time to Time be made by the said Judicial Committee with the Approval of Her Majesty in Council, and save and in so much as the Practice thereof may be varied by the said

Acts of the Reign of His late Majesty or by this Act, the said Causes of Appeal to Her Majesty in Council shall be commenced within the same Times, and conducted in the same Form and Manner, and by the same Persons and Officers, as if Appeals in the same Causes had been made to the Queen in Chancery, the High Court of Admiralty of *England*, or the Lords Commissioners of Appeals in Prize Causes respectively; and all things otherwise lawfully done and expedited in the said Causes of Appeal by the Registrar of the High Court of Admiralty of *England*, his Deputy or Deputies, in consequence of the passing of the said Acts of the Reign of His late Majesty, shall be deemed to be valid to all Intents whatsoever.

VI So much of 2 & 3 W.4 c.93 as empowers the Judicial Committee and His Majesty in Council to punish Contempts, &c. repealed.

And whereas by the Provisions of the herein-before secondly-recited Act it was enacted, that the said Judicial Committee should have and enjoy in all respects such and the same Power of punishing Contempts and of compelling Appearances, and that His Majesty in Council should have and enjoy in all respects such and the same Powers of enforcing Judgments, Decrees, and Orders, (both in *personam* and *in rem*,) as are given to any Court Ecclesiastical by an Act of Parliament passed in a Session of Parliament of the Second and Third Years of the Reign of His Majesty King *William* the Fourth, intituled *An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland*, and that all such Powers as are given to Courts Ecclesiastical, if of punishing Contempts or of compelling Appearances, should be exercised by the said Judicial Committee, and of enforcing Decrees and Orders should be exercised by His Majesty in Council, in such and the same Manner as the Powers in and by such Act of Parliament given, and should be of as much Force and Effect as if the same had been thereby expressly given to the said Committee or to His Majesty in Council; be it enacted, That so much of the said Act as relates to the Powers thereby given to the said Judicial Committee and to His Majesty in Council, under the last-recited Act, shall be repealed.

VII Punishing Contempts, compelling Appearances, enforcing Judgments, &c. in Causes of Appeal.

And be it enacted, That for better punishing Contempts, compelling Appearances, and enforcing Judgments of Her Majesty in Council, and all Orders and Decrees of the said Judicial Committee or their Surrogates, in all Causes of Appeal from Ecclesiastical Courts and from Admiralty or Vice Admiralty Courts, Her Majesty in Council and the said Judicial Committee and their Surrogates shall have the same Powers, by Attachment and Committal of the Person to any of Her Majesty's Gaols, and subsequent Discharge of any Person so committed, as by any Statute, Custom, or Usage belong to the Judge of the High Court of Admiralty of *England*; and the said Judicial Committee shall have the same Immunities and Privileges as are conferred on the Judge of the High Court of Admiralty of *England* under an Act passed in the Fourth Year of the Reign of Her Majesty, intituled *An Act to improve the Practice and extend the Jurisdiction of the High Court of Admiralty of England*, as fully as if the same had been thereby expressly given to the said Judicial Committee.

VIII Orders, &c. may be enforced by Sequestration against certain Persons pronounced contumacious and in Contempt.

And be it enacted, That in all Causes of Appeal to Her Majesty in Council from Ecclesiastical Courts, and from Admiralty or Vice Admiralty Courts, in which any Person duly monished or cited or required to comply with any lawful Order or Decree of Her Majesty in Council, or of the said Judicial Committee or their Surrogates, and neglecting or refusing to pay Obedience to such lawful Order or Decree, or committing any Contempt of the Process under the Seal of Her Majesty in Ecclesiastical and Maritime Causes, shall reside out of the Dominions of Her Majesty, or shall have Privilege of Peerage, or shall be a Lord of Parliament or a Member of the House of Commons, it shall be lawful for the said Judicial Committee or their Surrogates to pronounce such Person to be contumacious and in Contempt, and after he shall have been so pronounced contumacious and in Contempt to cause Process of Sequestration to issue under the said Seal of Her Majesty against the Real and Personal Estate, Goods, Chattels, and Effects, wheresoever lying within the Dominions of Her Majesty, of the Person against or upon whom such Order or Decree shall have been made, in order to enforce Obedience to the same, and Payment of the Expences attending such Sequestration, and all Proceedings consequent thereon, and to make such further Order in respect of or consequent on such Sequestration, and in respect to such Real and Personal Estate, Goods, Chattels, and Effects sequestrated thereby, as may be necessary, or for Payment of Monies arising from the same to the Person to whom the same may be due or into the Registry of the High Court of Admiralty and Appeals for the Benefit of those who may be ultimately entitled thereto.

IX Inhibitions, &c. to be in Her Majesty's Name, and of force throughout the British Dominions.

And be it enacted, That all Inhibitions, Citations, Monitions, and other Instruments incidental to or arising out of such Causes of Appeal shall be issued in the Name of Her Majesty, and under Seal of Her Majesty in Ecclesiastical and Maritime Causes, and shall be of full Authority in all Places throughout the Dominions of Her Majesty.

X Monitions for Payments into the Registry of the Admiralty Court under Orders, &c.

And be it enacted, That in all Appeals in Ecclesiastical and Maritime Causes to Her Majesty in Council it shall be lawful for Her Majesty in Council, and the said Judicial Committee or their Surrogates, at the Petition of any Person interested in the same, to decree Monitions for the Transmission of any Sum or Sums of Money respecting which any Order or Decree may be made, or any Questions may be depending arising out of such Causes, and the Proceeds of all Ships or Vessels, Goods, and Cargoes respecting which any Appeals may be depending, into the Registry of the High Court of Admiralty and Appeals, for the Benefit of the Person or Persons who may be ultimately entitled thereto, or for Payment thereof to the Person to whom the same may be lawfully due.

XI All Appeals from Ecclesiastical and Admiralty Courts may be referred to the Judicial Committee by an Order in Council.

And be it enacted, That it shall be lawful for Her Majesty, by Order in Council, to direct that all Causes of Appeal from Ecclesiastical Courts, and from the Vice Admiralty Court of the *Cape of Good Hope*, and all Vice Admiralty Courts to the Westward

thereof, in which the Appeal and Petition of Reference to Her Majesty shall have been lodged in the Registry of the High Court of Admiralty and Appeals within Twelve Calendar Months from the giving or pronouncing of any Order, Decree, or Sentence appealed from, and all Causes of Appeal from Vice Admiralty Courts to the Eastward of the *Cape of Good Hope*, in which the Appeal and Petition of Reference to Her Majesty shall have been lodged in the Registry of the High Court of Admiralty and Appeals within Eighteen Calendar Months from the giving or pronouncing any Order, Decree, or Sentence appealed from, shall be referred to the Judicial Committee of the Privy Council, and the said Judicial Committee and their Surrogates shall have full Power forthwith to proceed in the said Appeals, and the usual Inhibition and Citation shall be decreed and issued, and all usual Proceedings taken, as if the same had been referred to the said Judicial Committee by a special Order of Her Majesty in Council in each Cause respectively.

XII Costs maybe awarded by the Judicial Committee, and taxed.

And be it declared and enacted, That as well the Costs of defending any Decree or Sentence appealed from as of prosecuting any Appeal, or in any Manner intervening in any Cause of Appeal, and the Costs on either Side, or of any Party, in the Court below, and the Costs of opposing any Matter which shall be referred to the said Judicial Committee, and the Costs of all such Issues as shall be tried by Direction of the said Judicial Committee respecting any such Appeal or Matter, shall be paid by such Party or Parties, Person or Persons, as the said Judicial Committee shall order, and that such Costs shall be taxed as in and by the said Act for the better Administration of Justice in the Privy Council is directed respecting the Costs of prosecuting any Appeal or Matter referred by Her Majesty under the Authority of the said Act, save the Costs arising out of any Ecclesiastical or Maritime Cause of Appeal, which shall be taxed by the Registrar herein-after named, or his Assistant Registrar.

XIII Appointment of Registrar and Assistant Registrar in Ecclesiastical and Maritime Causes.

And be it enacted, That the Registrar of the High Court of Admiralty of *England* for the Time being may be appointed by Her Majesty to be Registrar of Her Majesty in Ecclesiastical and Maritime Causes, and shall have Power to appoint an Assistant Registrar, as provided by an Act passed in the Fourth Year of the Reign of Her Majesty, intituled *An Act to make Provision for the Judge, Registrar, and Marshall of the High Court of Admiralty of England*, and shall during his good Behaviour, and while he shall be Registrar of the said High Court of Admiralty, hold his Office of Registrar of Her Majesty in Ecclesiastical and Maritime Causes, and shall do all such Things, and shall have the same Powers and Privileges in respect to the same, as belong to his Predecessors in the Office of Registrar of His Majesty in Ecclesiastical and Maritime Causes.

XIV Custody of Records, &c. of the Court of Delegates and Appeals.

And be it enacted, That all Records, Muniments, Books, Papers, Wills, and other Documents remaining in the Registry of the High Court of Admiralty and Appeals, appertaining to the late High Court of Delegates and Appeals for Prizes, shall be and remain in the Custody and Possession of the said Registrar of Her Majesty in Ecclesiastical and Maritime Causes.

XV Judicial Committee empowered to make Rules, &c. respecting Practice and Mode of proceeding in Appeals, &c. Proviso.

And be it enacted, That it shall be lawful for the said Judicial Committee from Time to Time to make such Rules, Orders, and Regulations respecting the Practice and Mode of proceeding in all Appeals from Ecclesiastical and Admiralty and Vice Admiralty Courts, and the Conduct and Duties of the Officers and Practitioners therein, and to appoint such Officer or Officers as may be necessary for the Execution of Processes under the said Seal of Her Majesty, and in respect to all Appeals and other Matters referred to them, as to them shall seem fit, and from Time to Time to repeal or alter such Rules, Orders, or Regulations : , Provided always, that no such Rules, Orders, or Regulations shall be of any Force or Effect until the same shall have been approved by Her Majesty in Council.

XVI Judicial Committee of Privy Council to proceed with Causes depending before late High Court of Delegates.

And whereas, in certain Causes which were depending before the late High Court of Delegates, certain Decrees or Orders were made and interposed, and are not yet fully carried into effect: And whereas, in consequence of the Death of the Judges Delegate, or some of them, named in the several Commissions under the Great Seal, such Decrees or Orders cannot be carried into effect; be it enacted, That all such Causes of Appeal and Complaint which were depending before the High Court of Delegates, and in which any Decree, Order, or Thing, for the Reason lastly herein-before mentioned, is outstanding and not fully ended and determined, shall be transferred to the Judicial Committee of the Privy Council; and the said Judicial Committee shall take up and proceed with the said Causes in the same Manner as if the same had been originally Causes of Appeal and Complaint depending before the said Judicial Committee.

XVII Definition of Terms.

And be it enacted, That in this Act all Words denoting a Male Person shall be taken to include a Female also, and all Words denoting one Person or Thing shall be taken to include also several Persons or Things, unless a contrary Sense shall clearly appear from the Context; and that the Words " Arches Court of *Canterbury*," used in this Act, shall be construed to extend to such Court as shall exercise the Jurisdiction of the said Court or be substituted for the same; and that wherever the Words " Ecclesiastical Court " have been used in this Act the same shall be construed to extend to such Court as shall exercise the Jurisdiction or any Part of the Jurisdiction exercised by any Ecclesiastical Court or be substituted for the same; and the Words " Ecclesiastical and Maritime Cause of Appeal " shall be construed to extend to Causes appealed from Ecclesiastical Courts and such Court as shall exercise the Jurisdiction or any Part of the Jurisdiction exercised by any Ecclesiastical Court or be substituted for the same.