

SAORSTÁT EIREANN.

BILLE CUIRTEANNA BREITHIUNAIS, 1934.

COURTS OF JUSTICE BILL, 1934.

Mar do leasúidh i gCoiste.

As amended in Committee.

ARRANGEMENT OF SECTIONS.

PART I.

PRELIMINARY AND GENERAL.

Section.

1. Short title and citation.
2. The Principal Act.
3. Repeals.

PART II.

THE SUPREME COURT AND THE HIGH COURT.

4. Increase in number of judges of the Supreme Court.
5. Sitting of Supreme Court judges in the High Court.
6. Qualification of judge of the High Court for appointment as judge of the Supreme Court.
7. The Judicial Commissioner of the Irish Land Commission.
8. Pensions of judges of the High Court and the Supreme Court.
9. Transfer of certain jurisdictions from Chief Justice to High Court.
10. Constitution of the Court of Criminal Appeal.
11. Appeals against fishery by-laws.
12. Appeals to Law Officer under the Industrial and Commercial Property (Protection) Act, 1927.
13. Remittal and transfer of actions by the High Court.
14. Remittal and transfer of actions by the Master of the High Court.
15. Limitation on amount of plaintiff's costs in certain High Court actions.

PART III.

THE CIRCUIT COURT.

16. Increase of number of circuits.
17. Appointment of persons to act temporarily as additional judges of the Circuit Court.
18. Assignment of Circuit Judges to circuits.
19. Temporary assignment of a judge outside his own circuit.
20. Pensions of judges of the Circuit Court.
21. Cesser of jurisdiction of the Circuit Court in winding-up of companies and lunacy.
22. Transfer of action from one circuit to another circuit.
23. Jurisdiction of Circuit Court in certain remitted actions.
24. Power to strike out with costs actions in excess of jurisdiction.

Section.

25. Case stated by judge of the Circuit Court.
26. Right to abandon excess in Circuit Court.
27. Duration of judgments of the Circuit Court.
28. Confirmation of grant of new licence.
29. Amendment of section 48 of the Principal Act.
30. Amendment of section 52 of the Principal Act.

PART IV.

APPEALS FROM THE CIRCUIT COURT.

31. Commencement of this Part of this Act.
32. "The Dublin Circuit."
33. Appeals from the Circuit Court in workmen's compensation cases.
34. Finality of decision of Circuit Court in certain cases.
35. Appeal towns.
36. High Court Circuits.
37. The High Court on Circuit.
38. The judges of the High Court on Circuit.
39. Commissioners of the High Court on Circuit.
40. Appeals from the Circuit Court in civil cases heard without oral evidence.
41. Appeals from the Circuit Court in cases not otherwise provided for.
42. Finality of decisions on appeals under this Part of this Act.
43. Miscellaneous provisions in relation to appeals.
44. Non-availability of suitable courthouse accommodation.
45. Registrars to the High Court on Circuit.
46. Servants of judges of the High Court on Circuit.
47. Provision of accommodation for judges of the High Court on Circuit.
48. Pending appeals.

PART V.

THE DISTRICT COURT.

49. Assignment of justices to districts.
50. Pension rights of justices of the District Court.
51. Removal, etc., of justices of the District Court.
52. Appointment of persons to act temporarily as additional justices of the District Court.
53. Amendment of section 77 of the Principal Act.
54. Amendment of section 79 of the Principal Act.
55. Justice of District Court acting for another justice at request of latter.
56. Amendment of section 83 of the Principal Act.
57. Amendment of section 84 of the Principal Act.
58. Amendment of section 18 of the Courts of Justice Act, 1928.
59. Appeals in licensing and club cases.
60. Power to strike out with costs in cases of excess of jurisdiction.

Section.

61. Duration of decree or dismiss of District Court.
62. Power to Attorney-General to send forward for trial.
63. Attendance of witnesses in civil cases.
64. The Dublin Metropolitan Area and the Dublin district.

PART VI.

RULES OF COURT.

65. Power of Minister for Justice to prescribe Court fees.
66. Fees under the Local Registration of Title (Ireland) Act, 1891.
67. Supreme Court Rules Committee.
68. Rule-making authorities under section 36 of the Principal Act.
69. Circuit Court Rules Committee.
70. Rule-making authority for the Circuit Court.
71. District Court Rules Committee.
72. Rule-making authority for the District Court.
73. Local Registration of Title Rules Committee.
74. Rules under the Local Registration of Title (Ireland) Act, 1891.
75. Reports by rule-making committees.

PART VII.

MISCELLANEOUS PROVISIONS.

76. Duration of imprisonment for non-payment of revenue penalty.
77. Payments to judges, etc., for recoupment of expenses.
78. Verdict of nine members of jury.
79. Liability of unsuccessful defendant for costs of successful defendant.
80. Clearing of Court at certain trials.
81. Prohibition of imitation of court documents.

PART VIII.

AMENDMENT OF CERTAIN ENACTMENTS.

82. Amendment of section 53 of the Dublin Police Act, 1842.
83. Amendment of the Fatal Accidents Act, 1846.
84. Amendment of section 86 of the Probates and Letters of Administration Act (Ireland), 1857.
85. Application of section 336 of the Irish Bankrupt and Insolvent Act, 1857, to Circuit Court judgments.
86. Amendment of section 9 of the Summary Jurisdiction (Ireland) Amendment Act, 1871.
87. Amendment of section 14 of the Agricultural Credit Act, 1929.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

SECOND SCHEDULE.

APPEAL TOWNS.

SAORSTÁT EIREANN.

BILLE CURTEANNA BREITHIUNAIS, 1934.

COURTS OF JUSTICE BILL, 1934.

BILL

entitled

5

AN ACT TO MAKE FURTHER AND BETTER PROVISION IN RELATION TO THE ADMINISTRATION OF JUSTICE AND FOR THAT PURPOSE TO AMEND THE COURTS OF JUSTICE ACTS, 1924 TO 1931, AND OTHER ENACTMENTS.

10

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT EIREANN AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

Short title and citation.

1.—(1) This Act may be cited as the Courts of Justice Act, 1935. 15

(2) The Courts of Justice Acts, 1924 to 1931, and this Act may be cited together as the Courts of Justice Acts, 1924 to 1935.

The Principal Act.

2.—In this Act the expression “ the Principal Act ” means the Courts of Justice Act, 1924 (No. 10 of 1924). and, save where the context otherwise requires, shall be construed as referring to that Act as amended or extended by subsequent Acts. 20

Repeals.

3.—The enactments specified in the First Schedule to this Act are hereby repealed to the extent mentioned in the third column of the said Schedule and, in regard to the enactments specified in Part I of the said Schedule, as from the passing of this Act and, in regard to the enactments specified in Part II of the said Schedule, as from the commencement of Part IV of this Act. 25

PART II.

THE SUPREME COURT AND THE HIGH COURT.

30

Increase in number of judges of the Supreme Court.

4.—(1) So much of section 5 of the Principal Act as enacts that the Supreme Court shall consist of three judges is hereby repealed, and in lieu thereof it is hereby enacted that the Supreme Court shall consist of five judges, of whom the president shall be the Chief Justice. 35

(2) The provisions of Part I of the Principal Act in relation to the Supreme Court and the judges thereof (including the provisions of section 5 thereof in relation to the respective titles of the Chief Justice and of each of the other judges) shall, save as expressly repealed by this section, continue to apply and have effect notwithstanding the increase made by this section in the number of the said judges. 40

(3) Notwithstanding the increase made by this section in the number of the judges of the Supreme Court, any appeal to or other matter cognisable by the Supreme Court may be heard and determined by such number, not less than three nor more than 45

five, of the judges of the Supreme Court (including judges who are, by virtue of section 6 or section 7 of the Principal Act, additional judges of the Supreme Court) as the Chief Justice or, in his absence, the senior ordinary judge of the Supreme Court for the time being available shall determine in respect of each such appeal or other matter.

(4) Section 2 of the Courts of Justice Act, 1928 (No. 15 of 1928), is hereby amended by the deletion of all words from the words " or in the event " where they secondly occur to the end of the section and the substitution therefor of the words " who is for the time being available ", and the said section shall be construed and have effect accordingly.

5.—(1) Whenever, owing to the illness of a judge of the High Court or for any other reason, the full number of the judges of that Court is not available for the transaction of the business thereof or, on account of the volume of business to be transacted in the High Court or for any other reason arising from the state of business in that Court, it is expedient to increase temporarily the number of judges available for the purposes of the High Court, the Chief Justice may request any ordinary judge or judges of the Supreme Court to sit in the High Court as an additional judge thereof, and every judge of the Supreme Court so requested shall sit in the High Court.

Sitting of
Supreme Court
judges in the
High Court.

(2) Whenever an ordinary judge of the Supreme Court sits in the High Court in pursuance of this section he shall be an additional judge of the High Court for all the purposes of that Court.

(3) No ordinary judge of the Supreme Court who holds office as such judge at the passing of this Act shall be required by virtue of this section to sit in the High Court save with his own consent.

6.—It is hereby enacted and declared that a judge of the High Court shall be and be deemed always to have been qualified for appointment as a judge of the Supreme Court.

Qualification of
judge of the
High Court for
appointment as
judge of the
Supreme Court.

7.—(1) Every judge of the High Court who, at any time after the commencement of Part I of the Principal Act and before the passing of this Act, discharged the office of Judicial Commissioner of the Irish Land Commission shall be deemed to have been, while so discharging such office, duly assigned in manner prescribed by law within the meaning of section 3 of the Land Law (Commission) Act, 1923 (No. 27 of 1923), to discharge that office.

The Judicial
Commissioner of
the Irish Land
Commission.

(2) The President of the High Court shall, from time to time as occasion requires, assign a judge of the High Court to discharge the office of Judicial Commissioner of the Irish Land Commission, and the President of the High Court may, whenever he thinks proper so to do, terminate any such assignment previously made by him.

(3) The President of the High Court may, whenever the judge for the time being assigned by him under the next preceding sub-section of this section to discharge the office of Judicial Commissioner of the Irish Land Commission is temporarily unable because of illness, absence, or any other cause to discharge the duties of the said office, assign temporarily (without terminating the assignment of the said judge) another judge of the High Court to discharge during such inability the said office.

(4) Every judge of the High Court who shall be assigned under this section to discharge the office of Judicial Commissioner of the Irish Land Commission (including a judge so assigned temporarily) shall be deemed to have been and to be so assigned in manner prescribed by law within the meaning of section 3 of the Land Law (Commission) Act, 1923 (No. 27 of 1923), and that section shall apply and have effect accordingly.

Pensions of judges of the High Court and the Supreme Court.

8.—Where a person in receipt of a pension under section 14 of the Principal Act is employed in a situation remunerated out of moneys provided by the Oireachtas, then—

- (a) such pension shall not be payable in respect of any period during which the remuneration of such person in such situation is equal to or greater than his remuneration in the judicial office in respect of which he is entitled to such pension, and
- (b) so much only of such pension shall be payable in respect of any period during which the remuneration of such person in such situation is less than his remuneration in the said judicial office as with his remuneration in such situation will amount to his remuneration in the said judicial office.

Transfer of certain jurisdictions from Chief Justice to High Court.

9.—(1) The jurisdiction which was transferred to and vested in the Chief Justice by sub-section (1) of section 19 of the Principal Act shall, on the appointed day, become and be transferred to the High Court and shall thenceforth be exercised by the President of the High Court or, if and whenever the said President so directs, by an ordinary judge of the High Court for the time being assigned in that behalf by the said President.

(2) As on and from the appointed day—

(a) references in the Lunacy Regulation (Ireland) Act, 1871, and the Acts amending the same and any rules and orders made thereunder to “the Lord Chancellor entrusted as aforesaid” shall, notwithstanding anything contained in section 3 of the Courts of Justice Act, 1928 (No. 15 of 1928), be construed and have effect as references to the judge of the High Court for the time being exercising the jurisdiction transferred to the High Court by this section, and

(b) the powers conferred on the Chief Justice by section 4 of the Courts of Justice Act, 1928, shall become and be transferred to and exercisable by the President of the High Court.

(3) Unless or until otherwise provided by the Oireachtas, the office of the Registrar to the Chief Justice shall, on and after the appointed day, continue to exist and be constituted as it exists and is constituted immediately before the appointed day, save that on and after the appointed day—

(a) the said office shall be styled and known as the Office of Wards of Court, and

(b) the Registrar to the Chief Justice shall be styled and known as the Registrar of Wards of Court, and

(c) the said office shall cease to be attached to the Chief Justice and shall become and be attached to the President of the High Court, but shall not be or become an office attached to the High Court within the meaning of the Court Officers Act, 1926 (No. 27 of 1926), and shall not be or become subject to the superintendence or control of the Master of the High Court, and

(d) all jurisdictions and powers in relation to the said office and the said Registrar respectively which are, immediately before the appointed day, exercisable by the Chief Justice shall become and be exercisable by the Judge of the High Court who is for the time being exercising the jurisdiction transferred to the High Court by this section.

(4) The Minister for Justice may, by order made after consultation with the Chief Justice and the President of the High Court, appoint a day not later than six months after the passing of this Act to be the appointed day for the purposes of this section.

(5) On and after the appointed day, the authority for the time being having power to make rules of court in relation to the High Court shall be the rule-making authority in relation to the jurisdiction transferred to the High Court by this section, and for that purpose the exercise of that jurisdiction shall be included in the business of the High Court.

10 **10.**—Notwithstanding anything contained in section 8 of the Principal Act, the Court of Criminal Appeal constituted under that section may, on any occasion, consist of two judges of the Supreme Court (whether the Chief Justice and an ordinary judge or two ordinary judges) and one judge of the High Court (whether the President of the High Court or an ordinary judge), and the said section 8 shall be construed and have effect accordingly.

Constitution of the Court of Criminal Appeal.

15 **11.**—(1) The appeal under sub-section (4) of section 28 of the Fisheries Act, 1925 (No. 32 of 1925), against a bye-law, definition, rule, regulation, or order shall lie to the High Court in lieu of the court constituted under that sub-section and the High Court shall have, in respect of every such appeal, all the powers conferred by the said sub-section on the said court constituted thereunder.

Appeals against fishery bye-laws.

20 (2) An appeal to the High Court by virtue of this section may be heard by one or by two or more judges of the High Court as may be convenient, and the order of the High Court on any such appeal shall be final and conclusive and not appealable.

25 (3) Sub-section (5) of the said section 28 of the Fisheries Act, 1925, shall apply to every order of the High Court on an appeal by virtue of this section in like manner as the said sub-section applies to the orders mentioned therein.

30 **12.**—(1) No appeal shall lie under the Industrial and Commercial Property (Protection) Act, 1927 (No. 16 of 1927), to the law officer as defined by that Act, and in lieu thereof an appeal shall lie to the High Court wherever an appeal would have lain under the said Act to the law officer as so defined if this section had not been enacted.

Appeals to law officer under the Industrial and Commercial Property (Protection) Act, 1927.

35 (2) An appeal to the High Court under this section may be heard by one or by two or more judges of the High Court as may be convenient, and the order of the High Court on any such appeal shall be subject to appeal to the Supreme Court.

40 **13.**—(1) An application under section 25 of the Principal Act for the remittal or transfer of an action pending in the High Court may be made at any time after an appearance is entered therein and before service of notice of trial therein and, where the summons in such action is required by rules of court to be set down for hearing before the Master of the High Court, notwithstanding that such summons has not been so set down.

Remittal and transfer of actions by the High Court.

45 (2) Notwithstanding anything contained in section 25 of the Principal Act, an action for the recovery of a liquidated sum shall not be remitted or transferred under that section unless the plaintiff consents thereto or the defendant either satisfies the High Court that he has a good defence to such action or some part thereof or discloses facts which, in the opinion of the High Court, are sufficient to entitle him to defend such action.

50 **14.**—Where an action shall be pending in the High Court which might have been commenced in the Circuit Court, the Master of the High Court, on the application of any party to such action made at any time after an appearance is entered therein and before service of notice of trial therein and notwithstanding that the summons (in cases in which the summons is required by rules of court to be set down for hearing before the Master of the High Court) has not been so set down, may, if all parties to such

Remittal and transfer of actions by the Master of the High Court.

action so consent, remit or transfer such action to the Circuit Court upon such terms and subject to such conditions as to costs or otherwise as may be agreed upon by the said parties.

Limitation on amount of plaintiff's costs in certain High Court actions.

15.—(1) The following provisions shall have effect in relation to the amount of the costs recoverable by the plaintiff in an action commenced and heard in the High Court, that is to say:— 5

(a) in any action of tort or of breach of promise of marriage, where the amount of the damages recovered by the plaintiff is not less than one hundred pounds and not more than three hundred pounds the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the Circuit Court, unless the judge hearing the action grants a special certificate under this section; 10

(b) in any action of tort or of breach of promise of marriage, where the amount of the damages recovered by the plaintiff is less than one hundred pounds the plaintiff shall not be entitled to recover more costs than whichever of the following amounts is the lesser, that is to say, the amount of such damages or the amount of costs which he would have been entitled to recover if the action had been brought in the Circuit Court, unless the judge hearing the action grants a special certificate under this section; 15 20

(c) in any action founded on contract (other than actions for the recovery of a liquidated sum) or for damages for breach of contract (other than for breach of promise of marriage), where the amount recovered by the plaintiff does not exceed three hundred pounds the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the Circuit Court unless the judge hearing such action grants a special certificate under this section; 25 30

(d) in any action for the recovery of a liquidated sum, where the amount recovered by the plaintiff exceeds one hundred pounds but does not exceed three hundred pounds the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the Circuit Court, unless the judge hearing such action grants a special certificate under this section; 35 40

(e) in any action for the recovery of a liquidated sum, where the amount recovered by the plaintiff exceeds twenty-five pounds but does not exceed one hundred pounds, the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the Circuit Court; 45

(f) in any action for the recovery of a liquidated sum, where the amount recovered by the plaintiff does not exceed twenty-five pounds the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the District Court; 50

(g) in any action of ejectment, where such action is within the jurisdiction of the Circuit Court the plaintiff shall not be entitled to recover more costs than he would have been entitled to recover if the action had been brought in the Circuit Court, unless the judge hearing such action grants a special certificate under this section. 55 60

(2) In any action referred to in the next preceding sub-section of this section in relation to which the grant of a special certificate by the judge is mentioned, the judge hearing such action may, on the application of the plaintiff, grant a special certificate in

writing that, in the opinion of such judge, it was reasonable, owing to the substantial or important nature of the action or the importance of any question of law involved therein that the action should have been commenced in the High Court.

- 5 (3) It shall not be lawful for rules of court to contain or impose any restriction on the amount of the costs recoverable by any party from any other party in any action or other proceeding, but nothing in this sub-section shall prevent the insertion in rules
10 of court of a restriction on the amount of the costs recoverable which is identical with a restriction imposed by this section nor
the fixing by rules of court of the amount recoverable by any
15 person as and for the costs and expenses incurred by him in the doing of any specified thing in any particular form of action or other proceeding.

15

PART III.

THE CIRCUIT COURT.

16.—(1) As soon as conveniently may be after the passing of this Act the Executive Council shall by order do all of the following things, that is to say:—

Increase of
number of
circuits.

- 20 (a) appoint a day to be the appointed day for the purpose of this section;
- (b) divide the several counties and county boroughs in Saorstát Eireann into nine convenient groups (in this section referred to as circuits) for the purposes of the
25 Circuit Court, but subject to the limitations that one such circuit (to be known as the Dublin Circuit) shall consist of the county borough of Dublin and the county of Dublin, and that no county or county borough shall be divided between two or more circuits;
- 30 (c) attach to every circuit, other than the Dublin Circuit, a convenient name or a number by which such circuit shall be known;
- (d) assign to the Dublin Circuit two of the judges of the Circuit Court holding office on the appointed day;
- 35 (e) assign to each of the circuits other than the Dublin Circuit one of the judges of the Circuit Court holding office on the appointed day.

(2) If at the making by the Executive Council of their order under the first sub-section of this section a vacancy exists amongst
40 the judges of the Circuit Court, the said order may be expressed and, if so expressed, shall operate to assign to a circuit the judge who shall be appointed to fill that vacancy, and if a judge assigned by such order to a circuit vacates his office by death or otherwise before the appointed day such order shall operate to
45 assign to such circuit the judge who is appointed (whether before or after the appointed day) to fill the place of the judge so vacating his office.

(3) On the appointed day the division of Saorstát Eireann into circuits effected by Part II of the Principal Act and the
50 Schedule to that Act shall cease to have effect and the order made by the Executive Council under the first sub-section of this section shall come into operation and have effect and the circuits created by that order shall for the purposes of the Courts of Justice Acts, 1924 to 1931, and this Act be substituted for the circuits
55 mentioned in the Schedule to the Principal Act and all references in the Courts of Justice Acts, 1924 to 1931, and this Act to circuits in relation to the Circuit Court shall be construed and have effect accordingly.

(4) On the appointed day, sub-section (2) of section 9 of the
60 Courts of Justice Act, 1928 (No. 15 of 1928), shall cease to have effect.

(5) In this section, the expression "the appointed day" means the day appointed by the Executive Council under this section to be the appointed day for the purposes of this section.

Appointment of persons to act temporarily as additional judges of the Circuit Court.

17.—(1) Whenever it appears to the Executive Council that, owing to the temporary absence from duty for 5 any cause of a judge of the Circuit Court, or an unusual and temporary increase in the business of the Circuit Court on any circuit, or any other cause, it is necessary, in order to prevent the work of the Circuit Court getting into arrears either generally or on any particular circuits or circuit, to increase temporarily the number of the judges of the Circuit Court, one or more persons who are practising barristers of at least ten years' standing at the date of appointment may be appointed to act as a judge or judges of the Circuit Court for such period as the Executive Council shall think proper in 15 respect of each such person.

(2) Every person appointed under this section to act as a judge of the Circuit Court may, during the period for which he is so appointed, be assigned by the Minister for Justice from time to time as occasion requires to any circuit, and every person shall while so assigned to a circuit have, in relation to such circuit and concurrently with the judge permanently assigned to such circuit and any judge temporarily assigned under section 9 of the Courts of Justice Act, 1928 (No. 15 of 1928), to such circuit, all the privileges, powers and duties for the time being conferred or imposed by law on the judge permanently assigned to such circuit. 20

(3) Every person appointed under this section to act as a judge of the Circuit Court shall, during the period for which he is so appointed, be paid out of moneys provided by the Oireachtas such remuneration as the Minister for Justice shall, with the sanction of the Minister for Finance, determine. 30

Assignment of Circuit Judges to circuits.

18.—(1) Every person who is appointed to be a judge of the Circuit Court shall—

(a) so long as sub-section (2) of section 9 of the Courts of Justice Act, 1928 (No. 15 of 1928), continues to have effect, be so appointed either to be the judge permanently assigned to a particular circuit or to be a judge who may, by virtue of the said sub-section (2), be temporarily assigned by the Minister for Justice to any circuit, and 40

(b) after the said sub-section (2) has ceased to have effect, be so appointed to be the judge assigned to a particular circuit.

(2) So long as the said sub-section (2) of section 9 of the Courts of Justice Act, 1928, continues to have effect, the Executive Council may assign permanently to any circuit a judge of the Circuit Court who is for the time being a judge of that Court liable, by virtue of the said sub-section (2), to be temporarily assigned by the Minister for Justice to any circuit. 50

(3) Any judge of the Circuit Court who is for the time being permanently assigned to a particular circuit may at any time, if he so consents but not otherwise, be transferred by the Executive Council to another circuit, and shall upon such transfer become and be permanently assigned to such other circuit in lieu of the first-mentioned circuit. 55

Temporary assignment of a judge outside his own circuit.

19.—(1) The Minister for Justice may at any time, with the consent of the judge concerned, temporarily assign to any circuit (whether there is or is not a judge permanently assigned thereto) any judge of the Circuit Court who is permanently assigned to another circuit. 60

(2) A judge of the Circuit Court who is temporarily assigned under this section to a circuit shall, while so temporarily assigned, have in relation to such circuit and concurrently with the judge

(if any) permanently assigned to such circuit and any judge temporarily assigned thereto under section 9 of the Courts of Justice Act, 1928 (No. 15 of 1928), all the privileges, powers, and duties for the time being conferred or imposed by law on the judge permanently assigned to such circuit.

(3) The temporary assignment under this section of a judge to a circuit shall not terminate or effect the permanent assignment of such judge to the circuit to which he is for the time being permanently assigned nor deprive or relieve him of any of the privileges, powers, and duties vested in or imposed on him by virtue of such permanent assignment.

20.—Where a person in receipt of a pension under section 41 of the Principal Act is employed in a situation remunerated out of moneys provided by the Oireachtas, then—

Pensions of judges of the Circuit Court.

15 (a) such pension shall not be payable in respect of any period during which the remuneration of such person in such situation is equal to or greater than his remuneration in the judicial office in respect of which he is entitled to such pension, and

20 (b) so much only of such pension shall be payable in respect of any period during which the remuneration of such person in such situation is less than his remuneration in the said judicial office as with his remuneration in such situation will amount to his remuneration in the said judicial office.

25

21.—(1) The jurisdiction in the winding-up of companies which, immediately before the passing of this Act, was exercisable by the Circuit Court shall, on the passing of this Act, cease to be exercisable by that Court.

Cesser of jurisdiction of the Circuit Court in winding-up of companies and lunacy.

30 (2) Every proceeding for the winding-up of a company which was commenced in the Circuit Court before and is pending in that Court at the passing of this Act may be proceeded with and completed as if this section had not been enacted.

22.—Where an action is pending before a judge for the time being assigned to a particular circuit and application is made by any party to such action for the transfer of such action to another circuit for hearing before the judge for the time being assigned to such other circuit, such first mentioned judge may, with the consent of such other judge, transfer such action accordingly, and thereupon such action shall be heard and determined in such other circuit by such other judge.

Transfer of action from one circuit to another circuit.

23.—Where an action claiming unliquidated damages is remitted or transferred by the High Court to the Circuit Court, the Circuit Court shall have jurisdiction to award damages in excess of three hundred pounds.

Jurisdiction of Circuit Court in certain remitted actions.

24.—(1) Where an action is brought in the Circuit Court which that Court has not jurisdiction to hear and determine, the judge shall, on the application of the defendant or one of the defendants or on his own motion, as soon as such want of jurisdiction becomes apparent (unless such consent as may be sufficient to cure such want of jurisdiction is duly lodged within such time as the judge shall allow) order the action to be struck out and may, if he thinks proper, make an order awarding to the defendant such costs as the Court could have awarded if it had had jurisdiction to hear and determine such action and the plaintiff either had not appeared or had appeared and failed to prove his demand.

Power to strike out with costs actions in excess of jurisdiction.

(2) Whenever a judge of the Circuit Court is required by the foregoing sub-section of this section to order an action to be struck out, such judge may, if he so thinks proper having regard to all the circumstances of the case, in lieu of making such order

as aforesaid, transfer such action to the High Court and make such order as to the costs of the proceedings theretofore had in the Circuit Court as shall appear to him to be proper.

Case stated by judge of the Circuit Court.

25.—(1) A judge of the Circuit Court shall, if an application in that behalf is made by any party to any matter pending before 5 him and all other parties to such matter consent, refer any question of law arising in such matter to the High Court by way of case stated for the determination of the High Court.

(2) The decision of the High Court upon any question referred to it under this section shall be final and conclusive, unless the 10 High Court gives leave to appeal to the Supreme Court.

Right to abandon excess in Circuit Court.

26.—(1) No cause of action for a liquidated sum in excess of three hundred pounds shall be split or divided, so as to be made the ground of two or more different actions, in order to bring such action within the jurisdiction of the Circuit Court and, if any 15 cause of action is so split or divided, proceedings shall not (save as is authorised by the next following sub-section of this section) be sustainable in the Circuit Court in respect of any portion of such cause of action.

(2) A person having a cause of action for a liquidated sum in 20 excess of three hundred pounds may institute one proceeding in the Circuit Court founded on such cause of action if the amount claimed in such proceeding does not exceed three hundred pounds and it is stated in the document originating such proceeding that the plaintiff thereby abandons all claims founded on such 25 cause of action and not included in such proceeding.

(3) If in any such proceeding as is authorised by the next preceding sub-section of this section the Court gives judgment in favour of the plaintiff, the Court shall state in such judgment that the amount thereby awarded to the plaintiff is in full satis- 30 faction of all claims which, in pursuance of the said sub-section, are stated in the document originating such proceeding to be thereby abandoned by the plaintiff.

Duration of judgments of the Circuit Court.

27.—Every judgment made (whether before or after the passing of this Act) by the Circuit Court in a civil proceeding shall continue and, in the case of any such judgment made before the 35 passing of this Act, be deemed always to have continued to be in force and to have effect for so long as such judgment would so continue or have so continued if it had been a judgment of the High Court. 40

Confirmation of grant of new licence.

28.—Where the Circuit Court grants under section 50 of the Principal Act a new licence for the sale of intoxicating liquor for consumption on the premises, such licence shall, notwithstanding anything contained in any enactment, not require confirmation at any subsequent sitting of the Circuit Court. 45

Amendment of section 48 of the Principal Act.

29.—Section 48 of the Principal Act is hereby amended by the substitution, in paragraph (i) of the said section, of the words “either before or at any time during the hearing” for the words “before the hearing” now contained therein, and the said section shall be construed and have effect accordingly. 50

Amendment of section 52 of the Principal Act.

30.—Notwithstanding anything contained in paragraph (vi) of section 52 of the Principal Act, any action founded on tort which is within the jurisdiction of the Circuit Court may be brought, heard, and determined (at the election of the plaintiff) either before and by the judge mentioned in the said paragraph (vi) or 55 before and by the judge of the Circuit Court for the time being assigned to the circuit wherein the tort was alleged to have been committed.

PART IV.

APPEALS FROM THE CIRCUIT COURT.

- 31.—This Part of this Act shall come into operation on such date as shall be fixed in that behalf by the Minister for Justice by order made after consultation with the President of the High Court. Commencement of this Part of this Act.
- 32.—In this Part of this Act the expression “ the Dublin Circuit ” means the circuit which consists of the county of Dublin and the county borough of Dublin. “ The Dublin Circuit.”
- 33.—Nothing in this Part of this Act shall apply to appeals from decisions of the Circuit Court under the Workmen’s Compensation Act, 1934 (No. 9 of 1934), nor prejudice or affect the provisions of that Act in respect of such appeals. Appeals from the Circuit Court in workmen’s compensation cases.
- 34.—(1) Notwithstanding anything contained in this Part of this Act, no appeal shall lie from any judgment or order of the Circuit Court in any civil action or matter which is final and conclusive by virtue of an Act of the Oireachtas whether passed before or after this Act, nor from any judgment or order of the Circuit Court made on a petition to the Circuit Court under section 6 of the Labourers (Ireland) Act, 1906, or under the Sixth Schedule to the Local Government Act, 1925 (No. 5 of 1925). Finality of decision of Circuit Court in certain cases.
- (2) Notwithstanding anything contained in this Part of this Act, no appeal shall lie from any decision of the Circuit Court on an appeal to that Court under an enactment relating to a tax or duty under the care and management of the Revenue Commissioners, save only such (if any) appeal (including an appeal by way of case stated) as may lie under any such enactment as aforesaid in force immediately before the commencement of this Part of this Act.
- (3) Notwithstanding anything contained in this Part of this Act, no appeal shall lie from any decision of the Circuit Court on an appeal to that Court under the Valuation Acts, but in lieu of such appeal the right to a case stated conferred by sections 10 and 11 of the Annual Revision of Rateable Property (Ireland) Amendment Act, 1860, shall, on the commencement of this Part of this Act, become and be exerciseable and the said sections 10 and 11 and also section 12 (to the words “ case under this Act ”) of the same Act, as adapted or modified by or under any Act passed before this Act, shall, as on and from such commencement, have full force and effect with and subject to the following modifications, that is to say:—
- (a) references to a court of general or quarter sessions shall be construed as references to the Circuit Court, and
 - (b) references to the chairman of a court of general or quarter sessions shall be construed as references to the judge of the Circuit Court, and
 - (c) references to a superior court of law shall be construed as references to the High Court, and
 - (d) the decision of the High Court shall be subject to appeal to the Supreme Court.
- 35.—(1) Each city and town specified in the first column of the Second Schedule to this Act shall be an appeal town for the purposes of this Part of this Act. Appeal towns.
- (2) In this Part of this Act the expression “ the appeal town ” means, in relation to any county or county borough specified in the second column of the Second Schedule to this Act, the city or town specified in the first column of the said Schedule opposite the mention of such county or county borough.

High Court
Circuits.

36.—(1) At or before the commencement of this Part of this Act, the Minister for Justice shall by order, made after the consultation with the President of the High Court, group the several counties and county boroughs (other than the county of Dublin and the county borough of Dublin) in Saorstát Eireann into 5 such and so many High Court Circuits as he thinks proper.

(2) At any time after the commencement of this Part of this Act, the Minister for Justice may by order, made after consultation with the President of the High Court, either—

(a) alter the number of High Court Circuits and make such redistribution of the several counties and county boroughs (other than the county of Dublin and the county borough of Dublin) amongst the several High Court Circuits as he shall think proper having regard to such alteration of the number of such circuits, or 15

(b) without altering the number of the High Court Circuits, make such variation as he thinks proper of the distribution of the several counties and county boroughs (other than the county of Dublin and the county borough of Dublin) amongst such circuits. 20

(3) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House shall, within the next twenty-one days on which such House sits after such order is laid before it, pass a resolution annulling such order, such order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 25

The High
Court on
Circuit.

37.—(1) Twice in every year the High Court shall sit in every county and county borough (other than the county of Dublin and the county borough of Dublin) in Saorstát Eireann to hear 30 appeals from the Circuit Court and to transact such other business as shall lawfully be brought before it, and for that purpose one or more judges of the High Court shall, at the times appointed under this section, travel each High Court Circuit and hold a sitting of the High Court in every appeal town in such 35 circuit.

(2) The High Court when sitting in an appeal town in pursuance of this section shall be known and is in this Act referred to as the High Court on Circuit, and the sittings of the High Court in any such appeal town in pursuance of this section shall be 40 known and are in this Act referred to as sittings of the High Court on Circuit.

(3) The half-yearly sittings of the High Court on Circuit in the respective High Court Circuits shall, so far as is practicable, take place simultaneously in all the High Court Circuits, and shall be 45 held at intervals of time as nearly equal as is convenient having regard to all the circumstances, but in the calculation of such intervals the months of August and September shall not be counted.

(4) The Minister for Justice shall by order made after consultation with the Chief Justice and the President of the High Court appoint, in respect of each half-yearly sittings of the High Court on Circuit, the number of judges who shall travel and sit on each High Court Circuit for the purposes of such sittings and the day and hour at which such sittings shall commence in each 55 appeal town on each such Circuit.

(5) Save so far as may be rendered necessary by unforeseen events occurring during the half-yearly sittings of the High Court on Circuit, the High Court shall not at any one time sit for the purposes of such sittings in more than one appeal town on any 60 one High Court Circuit.

The judges of
the High Court
on Circuit.

38.—(1) The President of the High Court shall, if and when he thinks proper, travel and sit as a judge of the High Court on

Circuit, and every other judge of the High Court shall travel and sit as a judge of the High Court on Circuit when requested by the President of the High Court so to do.

5 (2) Every ordinary judge of the Supreme Court shall travel and sit as a judge of the High Court on Circuit whenever requested by the Chief Justice so to do, and every such judge when so travelling and sitting shall be an additional judge of the High Court.

10 (3) The Chief Justice and the President of the High Court, after such consultation as they think proper with the judges concerned, shall determine, in respect of every half-yearly sittings of the High Court on Circuit, the several judges of the Supreme Court and of the High Court who shall be requested to travel and sit for the purposes of such sittings and the particular
15 judge or judges who shall so travel and sit on each High Court Circuit.

(4) At any time during a half-yearly sittings of the High Court on Circuit, the Chief Justice and the President of the High Court, after consultation with the judges concerned, may make
20 such rearrangement of the judges travelling and sitting for the purposes of such sittings and their allocation to particular High Court Circuits as may have become necessary or desirable owing to unforeseen circumstances.

25 **39.**—(1) Whenever before or during a half-yearly sittings of the High Court on Circuit the Executive Council is satisfied, on representations made by the Chief Justice and the President of the High Court, that for any reason the number of judges of the Supreme Court and of the High Court available for travelling and sitting for the purposes of such half-yearly sittings is or
30 has become insufficient for those purposes, a practising barrister of not less than twelve years' standing may be appointed to be a Commissioner of the High Court on Circuit for the purposes of those half-yearly sittings.

Commissioners of the High Court on Circuit.

35 (2) Every Commissioner of the High Court on Circuit shall, during the half-yearly sittings or the remainder of the half-yearly sittings (as the case may be) of the High Court on Circuit for the purposes of which he is appointed, be an additional judge of the High Court and be entitled to the privileges and immunities of a judge of the High Court, but shall not sit or act as such
40 judge elsewhere than in the High Court on Circuit.

(3) Every Commissioner of the High Court on Circuit shall travel and sit on such High Court Circuit as shall be determined by the Chief Justice and the President of the High Court.

45 (4) Every Commissioner of the High Court on Circuit shall receive out of moneys provided by the Oireachtas such remuneration as the Minister for Justice, with the sanction of the Minister for Finance, shall determine.

50 **40.**—(1) An appeal shall lie to the High Court sitting in Dublin from every judgment given or order made (other than judgments and orders in respect of which it is declared by this Part of this Act that no appeal shall lie therefrom) by the Circuit Court in any civil action or matter at the hearing or for the determination of which no oral evidence was given.

Appeals from the Circuit Court in civil cases heard without oral evidence.

55 (2) Every appeal under this section to the High Court shall be heard and determined by one judge of the High Court sitting in Dublin and shall be so heard by way of rehearing of the action or matter in which the judgment or order the subject of such appeal was given or made, but no evidence which was not given and received in the Circuit Court shall be given or received on
60 the hearing of such appeal without the special leave of the judge hearing such appeal.

Appeals from the Circuit Court in cases not otherwise provided for.

41.—(1) An appeal shall lie from every judgment or order (other than judgments and orders in respect of which it is declared by this Part of this Act that no appeal shall lie therefrom and judgments and orders in respect of which other provision in relation to appeals is made by this Part of this Act) of the Circuit Court in a civil action or matter— 5

(a) where such judgment or order is given or made by a judge of the Circuit Court for the time being assigned to and sitting in the Dublin Circuit, to the High Court sitting in Dublin, and 10

(b) in every other case, to the High Court on Circuit sitting in the appeal town for the county or county borough in which the action or matter resulting in such judgment or order was heard and determined.

(2) Every appeal under the section shall be heard and determined by one judge of the High Court and shall be so heard by way of a rehearing of the action or matter in which the judgment or order the subject of such appeal was given or made. 15

(3) The judge hearing an appeal under this section may, if he so thinks proper on the application of any party to such appeal, refer any question of law arising in such appeal to the Supreme Court by way of case stated for the determination of the Supreme Court and may adjourn the pronouncement of his judgment or order on such appeal pending the determination of such case stated. 20 25

(4) In the case of an appeal under this section to the High Court on Circuit, the judge hearing such appeal may if he so thinks fit, at any stage of the hearing of such appeal, adjourn the hearing or any part of the hearing of such appeal or the pronouncement of his judgment or order on such appeal to any other appeal town on the same Circuit or to Dublin and there hear and determine such appeal or part thereof or pronounce such judgment or order, as the case may be. 30

Finality of decisions on appeals under this Part of this Act.

42.—The decision of the High Court or of the High Court on Circuit on an appeal under this Part of this Act shall be final and conclusive and not appealable. 35

Miscellaneous provisions in relation to appeals.

43.—The following provisions shall apply and have effect in relation to all appeals under this Part of this Act to the High Court sitting in Dublin or to the High Court on Circuit, that is to say:— 40

(a) any such appeal may be limited to a specified part of the judgment or order which is the subject of such appeal;

(b) where there are several plaintiffs or several defendants, any one or more of such plaintiffs or such defendants (as the case may be) may appeal although the other or others of such plaintiffs or defendants refuse to join in such appeal; 45

(c) where there are several appellants or several respondents, and one or more but not all of such appellants or of such respondents dies or die before such appeal is determined, such appeal shall not abate by reason of such death or deaths; 50

(d) every notice in writing given by any party to the suit or matter to another such party for the purposes of the trial or hearing in the Circuit Court shall be good for the hearing of the appeal without renewal; 55

(e) the judge hearing the appeal shall have full powers of amendment in respect of summonses, civil bills, pleadings, notices, and other documents.

44.—(1) Whenever suitable courthouse accommodation is, for some temporary reason, not available in an appeal town for the purposes of a particular sitting of the High Court on circuit in that appeal town, the judge or judges assigned to sit in such appeal town for the purposes of such sitting may adjourn such sitting to any other convenient place (in the same or another county) at which suitable courthouse accommodation is available, and may so adjourn such sitting at any time after it comes to his or their knowledge that such courthouse accommodation is not or will not be available in such appeal town, and whether such judge has or has not, or such judges have or have not, entered such appeal town for the purposes of such sitting.

(2) Whenever, during a sitting of the High Court on circuit in an appeal town, suitable courthouse accommodation ceases to be available in such appeal town for the purposes of such sitting or the courthouse accommodation available in such appeal town becomes or is found to be unsuitable for the purposes of such sitting, the judge or judges sitting in such appeal town for the purposes of such sitting may adjourn the remainder of such sitting to any other convenient place (whether in the same or another county) at which suitable courthouse accommodation is available.

(3) Whenever a sitting or any part of a sitting of the High Court on circuit is adjourned under this section from an appeal town, the place to which such sitting or part of a sitting is so adjourned shall become and be the appeal town within the meaning of this Act for the holding of such sitting or part of a sitting, and such sitting or part of a sitting shall be held at such place accordingly.

45.—(1) In every county and county borough (other than the county of Dublin and the county borough of Dublin) the county registrar for such county or county borough shall act as registrar to the High Court on Circuit when sitting in such county or county borough, and shall perform and fulfil such other duties and functions in relation to that Court as shall be assigned to him by Rules of Court.

Registrars to the High Court on Circuit.

(2) It shall be lawful for the Minister for Justice, whenever he shall think proper so to do after consultation with the President of the High Court, to direct one or more of the officers for the time being serving in the Central Office of the High Court to travel to a particular appeal town for a particular sitting of the High Court on circuit in that appeal town and there perform such duties as are mentioned in that behalf in this section.

(3) It shall be lawful for the Minister for Justice, whenever he shall think proper so to do after consultation with the Chief Justice, to direct one or more of the officers for the time being serving in the Office of the Registrar of the Supreme Court to travel to a particular appeal town for a particular sitting of the High Court on circuit in that appeal town and there perform such duties as are mentioned in that behalf in this section.

(4) Every officer who is directed under this section to travel to an appeal town for a sitting of the High Court on circuit shall travel to such appeal town in accordance with such directions and shall there act as registrar (in addition to the county registrar) to the High Court on circuit during the said sitting of that Court, and shall be and stay in such appeal town for such time before, during, and after such sitting as shall be necessary for the proper discharge of his duties as such registrar.

(5) Every officer travelling to and staying in an appeal town in pursuance of this section shall receive, out of moneys provided by the Oireachtas, such travelling expenses and subsistence allowance in respect of such travelling and staying as the Minister for Justice shall, with the sanction of the Minister for Finance, direct.

Servants of judges of the High Court on Circuit.

46.—There shall be attached to every judge travelling and sitting as a judge of the High Court on Circuit and to every Commissioner of the High Court on Circuit one servant to perform such duties in relation to such judge or commissioner while travelling and sitting as such judge or commissioner as the Minister for Justice may appoint, and every such servant shall be appointed by the said Minister and shall hold office on such terms and conditions and receive out of moneys provided by the Oireachtas such remuneration and travelling expenses as the said Minister, with the sanction of the Minister for Finance, shall determine.

Provision of accommodation for judges of the High Court on circuit.

47.—(1) On the occasion of every sitting of the High Court on circuit in an appeal town, it shall be the duty of the county registrar within whose functional area such appeal town is situate to arrange, with the sanction of the Minister for Finance, for the provision of suitable lodgings, meals, and other accommodation for the judges (including commissioners of the High Court on circuit) constituting the said Court at such sitting and for the servants attached to each such judge or commissioner in pursuance of this Part of this Act while they respectively are in such appeal town for the purposes of their duties as such judges, commissioners; or servants.

(2) All expenses incurred in the provision of accommodation for judges (including commissioners) of the High Court on circuit and their servants in pursuance of this section shall, to such extent as shall be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Pending appeals.

48.—The following provisions shall have effect in relation to appeals from judgments and orders of the Circuit Court in civil cases given or made before the commencement of this Part of this Act, that is to say:—

(a) if notice of appeal from such judgment or order was lawfully served before such commencement, the appeal from such judgment or order shall, if all parties so consent, be heard and determined under and in accordance with this Part of this Act, but if any party does not so consent such appeal shall be heard and determined as if this Part of this Act had not come into operation;

(b) if notice of appeal from such judgment or order is lawfully served after such commencement, the appeal from such judgment or order shall be heard and determined under and in accordance with this Part of this Act.

PART V.

THE DISTRICT COURT.

Assignment of justices to districts.

49.—(1) Every person who is appointed to be a justice of the District Court shall be so appointed to be the justice assigned to a particular district.

(2) Any justice of the District Court may at any time, if he so consents but not otherwise, be transferred by the Minister for Justice from the district to which he is then assigned to another district and shall upon such transfer become and be assigned to such other district in lieu of the first-mentioned district.

(3) Nothing in this section shall apply to persons appointed under section 76 of the Principal Act to be temporary assistant justices of the District Court, or appointed under section 13 of the Courts of Justice Act, 1928 (No. 15 of 1928), to be assistant justices of the District Court.

50.—(1) Subject to the provisions of this section, every justice of the District Court who, after the passing of this Act, resigns or otherwise for any cause vacates his office after having completed thirty or more years of service shall be entitled for his life to a pension amounting to two-thirds of his salary at the time he so resigns or vacates his office.

(2) Subject to the provisions of this section, every justice of the District Court who, after the passing of this Act, vacates his office owing to age or permanent infirmity after having completed ten or more years and less than thirty years of service shall be entitled for his life to a pension calculated at the rate of one-sixth of his salary at the time he so vacates his office with the addition of one-fortieth of his said salary for every completed year of service in excess of ten such years.

(3) Any person who, at the passing of this Act, holds office as a justice of the District Court may, by notice in writing sent to the Minister for Finance not more than three months after such passing, elect to retain the pension rights conferred by section 75 of the Principal Act, and, where any such person so elects, the foregoing sub-sections of this section shall not apply to him and, in lieu thereof, the said section 75 shall (notwithstanding the repeal of that section by this Act) continue to apply to such person subject to the following modifications, that is to say:—

(a) the amount of any pension to which a person becomes entitled under the said section 75 (as so applied) after the passing of this Act shall be ten per cent. greater than the amount of the pension to which he would have been entitled under the said section 75 if this section had not been enacted but subject to the limitation that the amount of such pension shall not, by virtue of the addition of such percentage, exceed one-half of the salary of such person at the time he vacates his office, and

(b) for the purposes of the subsequent provisions of this section, a pension payable under the said section 75 as applied by this section shall be deemed to be a pension under this section and the said provisions shall apply and have effect accordingly.

(4) A justice of the District Court who was formerly a District Justice under the District Justices (Temporary Provisions) Act, 1923 (No. 6 of 1923), shall be entitled to reckon for the purposes of this section or of section 75 of the Principal Act as applied by this Act his services as such District Justice as service as a justice of the District Court, and if he shall vacate his office as such justice of the District Court owing to age or permanent infirmity after less than twenty years' service (reckoned as aforesaid) he shall be deemed, for the purposes of this section, to have served in his said office for twenty years.

(5) Where a person in receipt of a pension under this section is employed in a situation remunerated out of moneys provided by the Oireachtas, then—

(a) such pension shall not be payable in respect of any period during which the remuneration of such person in such situation is equal to or greater than his remuneration in his former office in respect of which he is entitled to such pension, and

(b) so much only of such pension shall be payable in respect of any period during which the remuneration of such person in such situation is less than his remuneration in his said former office as with his remuneration in such situation will amount to his remuneration in his said former office.

(6) This section shall apply and be deemed always to have applied to every justice of the District Court who was formerly a District Justice under the District Justices (Temporary Provisions) Act, 1923 (No. 6 of 1923), and vacated his office owing to age before the passing of this Act, and accordingly every

such justice shall be entitled and be deemed always to have been entitled, as from the date on which he so vacated his office, to such pension as he would have been entitled to if this section had then been in force, but subject to such adjustment as the Minister for Finance shall direct in respect of pension, gratuity, 5 and allowance paid to him under section 75 of the Principal Act before the passing of this Act.

(7) Section 15 of the Principal Act shall apply to pensions payable under this section in like manner as it applies to the pensions mentioned in that section. 10

Removal, etc., of
justices of the
District Court.

51.—(1) The Chief Justice, the President of the High Court, and the Attorney-General shall constitute an advisory committee for the purposes of this section, and when acting as such committee shall have full power to inquire into and investigate in such manner as they think proper, whether by examination of witnesses or otherwise, any matters referred to them under this section or in regard to which they are authorised by this section to take action. 15

(2) The Registrar of the Supreme Court shall act as secretary to the said advisory committee. 20

(3) The Minister for Justice or any member of the said advisory committee may at any time bring to the notice of the said advisory committee either of the following matters in relation to any particular justice of the District Court, that is to say:—

(a) the fitness of such justice to continue to hold his office having regard to his mental or physical health, or 25

(b) the conduct of such justice (whether in the execution of his office or otherwise) either generally or upon a particular occasion.

(4) The said advisory committee shall investigate every matter brought to their notice under the next preceding sub-section of this section and— 30

(a) if such matter is the fitness of a justice of the District court to continue to hold his office having regard to his physical or mental health, the said advisory committee shall either (as they or a majority of them shall think proper) decide that no action should be taken in the matter or decide that such justice is unfit as aforesaid to continue to hold his office, or 35

(b) if such matter is the conduct of a justice of the District Court, the said advisory committee shall either (as they or a majority of them shall think proper)— 40

(i) decide that no action should be taken in the matter, or

(ii) decide that such conduct amounts to misconduct and that such justice be censured in respect thereof, or 45

(iii) decide that such conduct amounts to grave misconduct and that such justice is, on account thereof, unfit to continue to hold his office. 50

(5) Whenever the said advisory committee decides under this section that a justice of the District Court be censured, the said advisory committee shall cause their secretary to communicate such censure to such justice and shall also, if they or a majority of them so think proper, cause their secretary to communicate the particulars of their decision to such persons as they direct. 55

(6) Whenever the said advisory committee decides under this section that a justice of the District Court is unfit to continue to hold his office, the said advisory committee shall make and send to the Executive Council a report of their said decision (including a statement of the nature of such unfitness), and upon receipt of such report— 60

(a) if the nature of the unfitness stated in such report is mental or physical infirmity, the Executive Council

may, if they so think proper, give such justice an opportunity of vacating his office on account of such infirmity and, if he does not or cannot avail himself of such opportunity, remove such justice from office on account of such infirmity, or

5

(b) if the nature of the unfitness stated in such report is grave misconduct, the Executive Council may, if they so think proper, give such justice an opportunity of vacating his office and, if he does not avail himself of such opportunity, remove him from office on account of such misconduct.

10

(7) Whenever a justice of the District Court is removed from office by the Executive Council under this section on account of mental or physical infirmity, he shall be deemed, for the purposes of pension, to have vacated his office owing to permanent infirmity.

15

(8) The said advisory committee may at any time at the request of the Minister for Justice investigate the personal circumstances of any particular justice of the District Court in relation to the district to which he is assigned and may if they or a majority of them consider that the personal circumstances of such justice render the due discharge of his duties difficult in that particular district make a report in writing to the Minister for Justice recommending that for reasons personal to such justice and not involving misconduct on his part or affecting his fitness for his office, such justice should be transferred to another district and thereupon it shall be lawful for the said Minister to transfer such justice, when a convenient opportunity offers, from the district to which he was assigned at the date of such report to another district.

25

30

(9) No decision of or report by the said advisory committee under this section shall be questioned or made the subject of proceedings in any Court.

(10) In this section the expression "justice of the District Court" includes an assistant justice appointed under section 13 of the Courts of Justice Act, 1928 (No. 15 of 1928), but does not include a person appointed under section 76 of the Principal Act to be a temporary assistant justice of the District Court or a person appointed under this Part of this Act to act temporarily as a justice of the District Court.

35

40

52.—(1) Whenever it appears to the Executive Council that, owing to the temporary absence from duty for any cause of a justice of the District Court or an unusual and temporary increase in the business of the District Court in any district or any other cause, it is necessary, in order to prevent the work of the District Court getting into arrear either generally or in any particular districts or district, to increase temporarily the number of the justices of the District Court, one or more persons who are practising barristers or solicitors of six years' standing at least at the date of appointment may be appointed to act as a justice or justices of the District Court for such period as the Executive Council shall think proper in respect of each such person.

45

50

Appointment of persons to act temporarily as additional justices of the District Court.

(2) Every person appointed under this section to act as a justice of the District Court may, during the period for which he is so appointed, be assigned by the Minister for Justice from time to time as occasion requires to any district, and every such person shall while so assigned to a district have, in relation to such district and concurrently with the justice permanently assigned to such district, all the privileges, powers, and duties for the time being conferred or imposed by law on the justice permanently assigned to such district.

55

60

(3) Every person appointed under this section to act as a justice of the District Court shall, during the period for which he is so appointed, be paid out of moneys provided by the

65

Oireachtas such remuneration as the Minister for Justice shall, with the sanction of the Minister for Finance, determine.

(4) Every person appointed under section 76 of the Principal Act to be a temporary assistant justice of the District Court who, at the passing of this Act, is holding office under such appointment shall continue to hold such office for the duration of such appointment in all respects as if this section had been in force at the date of such appointment and such appointment had been made thereunder. 5

Amendment of section 77 of the Principal Act.

53.—Paragraph A of section 77 of the Principal Act is hereby amended by the insertion at the end of the said paragraph of a new clause as follows, that is to say:— 10

“(v) in proceedings at the suit of the council of a county, a county or other borough, or an urban district, or the commissioners of a town or a board of conservators of fisheries or a drainage board constituted under the Drainage Improvement of Land (Ireland) Acts, 1863 to 1892, for the recovery of any rates due to such council, commissioners or board, irrespective of the amount thereof.” 15 20

Amendment of section 79 of the Principal Act.

54.—Notwithstanding anything contained in section 79 of the Principal Act—

(a) any civil proceedings founded on contract which is within the jurisdiction of the District Court may be brought, heard, and determined (at the election of the plaintiff) either before and by the justice mentioned in that behalf in the said section 79 or before and by the justice for the time being assigned to the district wherein the contract is alleged to have been made, and 25 30

(b) any civil proceedings founded on tort which is within the jurisdiction of the District Court may be brought, heard, and determined (at the election of the plaintiff) either before and by the justice mentioned in that behalf in the said section 79 or before and by the justice for the time being assigned to the district wherein the tort is alleged to have been committed, and 35

(c) any civil proceedings in ejection which is within the jurisdiction of the District Court may be brought, heard, and determined (at the election of the plaintiff) either before and by the justice mentioned in that behalf in the said section 79 or before and by the justice for the time being assigned to the district wherein the lands the subject of such proceedings are situate. 40 45

Justice of District Court acting for another justice at request of latter.

55.—(1) Where a justice of the District Court assigned to a particular district requests another justice of the District Court to exercise, during such period not exceeding seven days as such first-mentioned justice may specify, the privileges, powers, and duties for the time being conferred by law on such first-mentioned justice in relation to such district, such other justice may, in addition to exercising the privileges, powers, and duties conferred by law on him in relation to the district to which he is for the time being assigned, exercise during the said period the privileges, powers, and duties for the time being conferred by law on such first-mentioned justice in relation to such first-mentioned district. 50 55

(2) The provisions of this section are in addition to and not in substitution for the provisions of section 15 of the Courts of Justice Act, 1928 (No. 15 of 1928). 60

56.—Notwithstanding anything contained in section 83 of the Principal Act, an appeal shall lie by leave of the High Court to the Supreme Court from every determination (pronounced on or after the date of the passing of this Act) of the High Court on a question of law referred to the High Court under that section.

Amendment of section 83 of the Principal Act.

57.—Section 84 of the Principal Act is hereby amended by the substitution of the words “ the courthouse in which such decision was given is situate ” for the words “ the district or any part of the district of the justice lies ” now contained therein, and the said section shall be construed and have effect accordingly.

Amendment of section 84 of the Principal Act.

58.—Sub-section (3) of section 18 of the Courts of Justice Act, 1928 (No. 15 of 1928), is hereby amended by the substitution of the words “ the courthouse in which such order was made is situate ” for the words “ the district or any part of the district of such justice lies ” now contained therein, and the said section shall be construed and have effect accordingly.

Amendment of section 18 of Courts of Justice Act, 1928.

59.—Notwithstanding anything contained in any other enactment and, in particular, notwithstanding anything contained in section 18 of the Courts of Justice Act, 1928 (No. 15 of 1928), as amended by this Act, every appeal which lies to the Circuit Court from an order of the District Court in a criminal case under the Licensing (Ireland) Acts, 1833 to 1927, or under the Registration of Clubs Acts, 1904 to 1927, shall lie to the judge of the Circuit Court within whose circuit is situate the licensed premises or the club premises on or in respect of which the offence the subject of such order was committed or to which such order otherwise relates.

Appeals in licensing and club cases.

60.—Where a civil proceeding is brought in the District Court which that court has not jurisdiction to hear and determine, the justice shall, as soon as such want of jurisdiction becomes apparent, order such proceeding to be struck out and may, if he thinks proper, make an order awarding to the defendant such costs as the court could have awarded if it had jurisdiction to try and determine such proceeding and either the plaintiff did not appear or appeared and failed to prove his demand.

Power to strike out with costs in cases of excess of jurisdiction.

61.—Every decree and every dismiss made (whether before or after the passing of this Act) by the District Court in a civil proceeding shall continue and, in the case of every such decree or dismiss made before the passing of this Act, be deemed always to have continued to be in force and to have effect for so long as such decree or dismiss would so continue or have so continued if it had been a judgment of the High Court.

Duration of decree or dismiss of District Court.

62.—(1) Where a person is brought before a justice of the District Court charged with an indictable crime, and such charge either cannot lawfully be or is not disposed of summarily by such justice, and such justice refuses to send such person forward for trial on such charge, then and in every such case it shall be lawful for the Attorney-General to direct that such person be sent forward for trial to a specified Court to which such justice could lawfully have so sent such person.

Power to Attorney-General to send forward for trial.

(2) Whenever the Attorney-General gives a direction under this section that a person be sent forward for trial to any particular Court on any particular charge, the Attorney-General shall cause such direction to be communicated to the district court clerk for the district court area in which such person was brought before the District Court on such charge, and thereupon such direction shall have the same operation and effect in all respects as an order of a justice of the District Court sending such person forward for trial to such Court on such charge would have had, and all persons concerned shall act accordingly.

Attendance of witnesses in civil cases.

63.—A justice of the District Court shall have the same powers of procuring the attendance of witnesses in the District Court in the exercise of his jurisdiction in civil cases as are vested in him in the exercise of his jurisdiction in criminal cases.

The Dublin Metropolitan Area and the Dublin district.

64.—(1) In this section—
the word “enactment” means an enactment contained in a British Statute or in an Act of the Oireachtas; 5

(2) The Minister for Justice may, if and when he thinks proper, by order declare that as on and from a specified day (in this section referred to as the appointed day) a specified district prescribed under section 68 of the Principal Act or under sub-section (3) of section 47 of the Court Officers Act, 1926 (No. 27 of 1926), shall be styled and known as the Dublin Metropolitan District. 10

(3) If and when the Minister for Justice makes such order as is authorised by the next preceding sub-section of this section. the following provisions shall have effect as on and from the appointed day, that is to say:— 15

(a) the said Minister may, at any time or times, by order transfer the title “Dublin Metropolitan District” to any other district prescribed under the said section 68 or the said section 47 differing wholly or partially from the district to which such title was previously attached; 20

(b) so much of any Act of the Oireachtas as requires, expressly or by implication, that one of the districts so prescribed as aforesaid shall consist of or include or be delimited by reference to the Dublin Metropolitan area shall cease to have effect; 25

(c) every reference in section 72 or section 74 of the Principal Act to the Police District of Dublin Metropolitan (now styled the Dublin Metropolitan Area) shall be construed as a reference to the Dublin Metropolitan District, and the said sections shall have effect accordingly; 30 35

(d) every enactment which shall, on the day before the appointed day, be in force in and apply to the Dublin Metropolitan Area and in and to no other part of Saorstát Eireann shall, on and after the appointed day, cease to apply to the Dublin Metropolitan Area and in lieu thereof shall be in force in and apply to the Dublin Metropolitan District, and every reference in any such enactment to the Police District of Dublin Metropolitan or to the Dublin Metropolitan Area shall be construed as a reference to the Dublin Metropolitan District; 40 45

(e) every enactment which shall, on the day before the appointed day, be in force in and apply to the whole of Saorstát Eireann except the Dublin Metropolitan Area shall, on and after the appointed day, be in force in and apply to the whole of Saorstát Eireann except the Dublin Metropolitan District, and every reference in any such enactment to the Police District of Dublin Metropolitan or to the Dublin Metropolitan Area shall be construed as a reference to the Dublin Metropolitan District; 50 55

(f) nothing in either of the two next preceding paragraphs of this sub-section shall operate to keep in force any enactment or any provision in any enactment after the time at which such enactment or provision would have ceased to be in force if this section had not been enacted. 60

PART VI

RULES OF COURT.

65.—(1) It shall be lawful for the Minister for Justice, by order made with the consent of the Minister for Finance, to prescribe and from time to time as occasion requires vary or otherwise revise the fees to be charged in the several offices established by the Court Officers Act, 1926 (No. 27 of 1926), as amended by subsequent enactments (including this Act), and the persons by whom and the occasions on which such fees are to be paid and the officers by whom and the manner in which such fees are to be collected.

Power of Minister for Justice to prescribe court fees.

(2) An order made by the Minister for Justice under this section may provide that in every financial year commencing after the making of such order there shall be payable, by way of court fees, a percentage on the annual income arising in such year from the property of every person of unsound mind and every minor under the jurisdiction transferred by sub-section (1) of section 19 of the Principal Act to the Chief Justice, and such order may prescribe and from time to time vary the amount, method of calculation, collection, and disposal of such percentage, and, if thought fit, general or special exemptions therefrom, and such order may, in relation to the property of persons of unsound mind, be made by way of variation or extension of or in substitution for all or any of the provisions of sections 109 to 114 of the Lunacy Regulation (Ireland) Act, 1871.

(3) Unless and until the fees to be charged in any office established by the Court Officers Act, 1926, as amended by subsequent enactments (including this Act) are prescribed by an order made under this section, there shall be charged in such office the fees which were chargeable therein immediately before the passing of this Act, and all such fees shall be paid by the persons and on the occasions and be collected by the officers and in the manner by whom and on and in which such fees were payable and collectable immediately before such passing.

(4) All fees collected under this section or under an order made under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

(5) The Public Offices Fees Act, 1879, shall not apply to any fees chargeable under this section or an order made under this section.

66.—(1) From and after the passing of this Act, the power of fixing fees conferred by section 8 of the Local Registration of Title (Ireland) Act, 1891, on the Land Judge with the approval of the Lord Chancellor and the consent of the Treasury shall be exercisable only by the Minister for Justice with the consent of the Minister for Finance, and the power of altering such fees conferred by the said section shall be similarly exercisable.

Fees under the Local Registration of Title (Ireland) Act, 1891.

(2) The reference in sub-section (1) of the said section 8 to the Land Judge (where that expression secondly occurs in the said sub-section) shall be construed and have effect as a reference to the Minister for Justice.

67.—(1) There shall be and is hereby constituted a committee to be styled and in this Part of this Act referred to as the Superior Courts Rules Committee to fulfil the functions assigned to it by this Part of this Act.

Supreme Court Rules Committee.

(2) The Superior Courts Rules Committee shall consist of five ex-officio members and six nominated members.

(3) The ex-officio members of the said committee shall be—

(a) the Chief Justice, who shall be the chairman of the said committee;

- (b) the President of the High Court, who shall be the vice-chairman of the said committee;
- (c) the President of the Incorporated Law Society of Ireland;
- (d) the Master of the High Court; 5
- (e) the Registrar of the Supreme Court, who shall be the secretary of the said committee.

(4) Two of the nominated members of the said committee shall be ordinary judges of the Supreme Court nominated by the Chief Justice, and two of the said nominated members shall be ordinary judges of the High Court nominated by the President of the High Court. 10

(5) Two of the nominated members of the said committee shall be practising barristers nominated by the Council of the Bar of Saorstát Eireann, of whom one shall be a member of the Senior Bar and the other shall be a member of the Junior Bar. 15

(6) Every nominated member of the said committee shall, unless he sooner dies, resigns, or ceases to be (as the case may be) an ordinary judge of the Supreme Court, an ordinary judge of the High Court, a practising barrister, or (in the case of the member of the Junior Bar) a member of the Junior Bar, hold office as such member for five years from the date of his nomination. 20

(7) A nominated member of the said committee whose membership thereof expires by effluxion of time shall be eligible for renomination. 25

(8) The quorum of the said committee shall be six members.

(9) The said committee may act notwithstanding one or more vacancies in its membership.

Rule making authorities under section 36 of the Principal Act.

68.—(1) From and after the passing of this Act the power of making, annulling, or altering rules of court and making new rules conferred by section 36 of the Principal Act shall cease to be exercisable by the Minister for Justice, and in lieu thereof it is hereby enacted that, subject and without prejudice to the provisions of this Act in regard to the fees chargeable in court offices, the said power shall be exercisable by the Superior Courts Rules Committee with the concurrence of the Minister for Justice. 30 35

(2) The reference in sub-section (1) of section 12 of the Approved Investments Act, 1933 (No. 34 of 1933), to the Committee mentioned in section 36 of the Principal Act shall be construed and have effect as a reference to the Superior Courts Rules Committee. 40

Circuit Court Rules Committee.

69.—(1) There shall be and is hereby constituted a committee to be styled and in this Part of this Act referred to as the Circuit Court Rules Committee to fulfil the functions assigned to it by this Part of this Act. 45

(2) The Circuit Court Rules Committee shall consist of two ex-officio members and six nominated members.

(3) The ex-officio members of the said committee shall be—

(a) the judge or (if more than one) the senior of the judges of the Circuit Court for the time being assigned to the Circuit which includes the county borough of Dublin, who shall be the chairman of the said committee. 50

(b) the county registrar for the county and city of Dublin, who shall be the secretary of the said committee. 55

(4) Two of the nominated members of the said committee shall be judges of the Circuit Court nominated by the judges of the Circuit Court, and two others of the said nominated members

shall be practising barristers nominated by the Council of the Bar of Saorstát Eireann, and two others of the said nominated members shall be practising solicitors nominated by the Council of the Incorporated Law Society of Ireland.

- 5 (5) Every nominated member of the said committee shall, unless he sooner dies, resigns or ceases to be (as the case may be) a judge of the Circuit Court, a practising barrister, or a practising solicitor, hold office as such member for five years from the date of his nomination.
- 10 (6) A nominated member of the said committee whose membership thereof expires by effluxion of time shall be eligible for renomination.
- (7) The quorum of the said committee shall be four members.
- (8) the said committee may act notwithstanding one or more
15 vacancies in its membership.

70.—Subject and without prejudice to the provisions of this Act in regard to the fees chargeable in court offices, the rule-making authority for the Circuit Court for the purposes of section 66 of the Principal Act shall be the Circuit Court Rules
20 Committee with the concurrence of the Minister for Justice.

Rule-making
authority for
the Circuit
Court.

71.—(1) There shall be and is hereby constituted a committee to be styled and in this Part of this Act referred to as the District Court Rules Committee to fulfil the functions assigned to it by this Part of this Act.

District Court
Rules Committee.

25 (2) The District Court Rules Committee shall consist of two ex-officio members and seven nominated members.

(3) The ex-officio members of the said Committee shall be—

30 (a) that one of the justices of the District Court for the time being assigned to the district which comprises or includes the county borough of Dublin who is, for the purposes of section 74 of the Principal Act as amended by this Act, the senior of such justices, who shall be the chairman of the said committee;

35 (b) the District Court clerk for the district which comprises or includes the county borough of Dublin, who shall be the secretary of the said committee.

40 (4) Four of the nominated members of the said committee shall be justices of the District Court nominated by the Minister for Justice, and one other of the said nominated members shall be a practising barrister nominated by the Council of the Bar of Saorstát Eireann, and two others of the said nominated members shall be practising solicitors nominated by the Council of the Incorporated Law Society of Ireland.

45 (5) Every nominated member of the said committee shall, unless he sooner dies, resigns, or ceases to be (as the case may be) a justice of the District Court, a practising barrister, or a practising solicitor, hold office as such member for five years from the date of his nomination.

50 (6) A nominated member of the said committee whose membership thereof expires by effluxion of time shall be eligible for renomination.

(7) The quorum of the said committee shall be four members.

(8) The said committee may act notwithstanding one or more vacancies in its membership.

55 72.—Subject and without prejudice to the provisions of this Act in regard to the fees chargeable in court offices, the rule-making authority for the purposes of section 91 of the Principal Act shall be the District Court Rules Committee with the concurrence of the Minister for Justice.

Rule-making
authority for
the District
Court.

Local
Registration of
Title Rules
Committee.

73.—(1) There shall be and is hereby constituted a committee to be styled and in this Part of this Act referred to as the Local Registration of Title Rules Committee to fulfil the functions assigned to it by this section.

(2) The Local Registration of Title Rules Committee shall consist of two ex-officio members and two nominated members. 5

(3) The ex-officio members of the said committee shall be—

(a) the Judge of the High Court for the time being assigned to discharge the office of Judicial Commissioner of the Irish Land Commission, who shall be the chairman of the said committee; 10

(b) the Registrar of Titles, who shall be the secretary of the said committee.

(4) One of the nominated members of the said committee shall be a practising barrister nominated by the Council of the Bar of Saorstát Eireann, and the other of the said nominated members shall be a practising solicitor nominated by the Council of the Incorporated Law Society of Ireland. 15

(5) Every nominated member of the said committee shall, unless he sooner dies, resigns, or ceases to be (as the case may be) a practising barrister or a practising solicitor, hold office as such member for five years from the date of his nomination. 20

(6) A nominated member of the said committee whose membership thereof expires by effluxion of time shall be eligible for renomination. 25

(7) The quorum of the said committee shall be three members.

(8) The said committee may act notwithstanding one vacancy in its membership.

Rules under
the Local
Registration of
Title (Ireland)
Act, 1891.

74.—From and after the passing of this Act, the power of making general rules conferred by section 94 of the Local Registration of Title (Ireland) Act, 1891, on the Land Judge with the approval of the Lord Chancellor shall be exercisable only by the Local Registration of Title Rules Committee with the concurrence of the Minister for Justice. 30

Reports by rule-
making
committees.

75.—(1) The secretary of each of the several committees established by this Part of this Act shall summon a meeting of such committee once at least in every year on such day as may be fixed by the chairman of such committee, for the purpose of the general consideration by such committee of the practice, procedure, and administration of the court in relation to which such committee is constituted and the law affecting or administered by such court. 35 40

(2) As soon as conveniently may be after every meeting of any such committee in pursuance of this section, such committee shall report to the Minister whether any and if so what amendments or alterations should, in the opinion of such committee, be made in the practice, procedure, or administration of the court in relation to which such committee is constituted or in the law affecting or administered by such court with a view to the improvement of the administration of justice. 45

PART VII.

50

MISCELLANEOUS PROVISIONS.

Duration of
imprisonment for
non-payment of
revenue penalty.

76.—Where any person was or shall be committed to prison (whether before or after the passing of this Act) by a justice of the District Court for non-payment of a penalty incurred under an Act relating to a tax or duty under the care and management of the Revenue Commissioners and the Revenue Commissioners have by law power to order the discharge of such person from prison, the Revenue Commissioners are hereby authorised and required on the passing of this Act or at the expiration of six 55

months from the date of the committal of such person to prison (whichever is the later), to order the discharge of such person from prison, whether the penalty for the non-payment of which such person was so committed to prison shall or shall not have been paid.

5

Payments to judges, etc., for recoupment of expenses.

77.—There shall be paid out of moneys provided by the Oireachtas, to judges of the Supreme Court, the High Court, and the Circuit Court, to justices of the District Court, and to Commissioners of the High Court on Circuit such sums (in addition to remuneration) by way of recoupment of expenses incurred in travelling or otherwise for the purpose of the execution of their respective offices as the Minister for Justice, with the sanction of the Minister for Finance, shall from time to time determine.

Verdict of nine members of jury.

78.—(1) In every trial before a judge and jury, whether of a civil case or of a person charged with a crime or offence, the jury shall consist of twelve members, and (save as is otherwise provided by this section) a majority vote of nine members or upwards of those twelve members shall be necessary and sufficient to determine the verdict, and the judge shall so inform the jury, and the verdict of such nine members or upwards shall be taken and recorded as the verdict of the jury without disclosure of the number or identity of the dissentients, if any.

(2) The foregoing sub-section of this section shall not apply to any trial of a person charged with a crime for which the penalty provided by law is death (whether such person is or is not also charged with another crime or with an offence), and on every such trial the jury shall consist of twelve members and a unanimous vote of those twelve members shall be necessary to determine the verdict and the judge shall so inform the jury.

Liability of unsuccessful defendant for costs of successful defendant

79.—Where, in a civil proceeding in any court, there are two or more defendants and the plaintiff succeeds against one or more of the defendants and fails against the others or other of the defendants, it shall be lawful for the Court, if having regard to all the circumstances it thinks proper so to do, to order that the defendant or defendants against whom the plaintiff has succeeded shall (in addition to the plaintiff's own costs) pay to the plaintiff by way of recoupment the costs which the plaintiff is liable to pay and pays to the defendant or defendants against whom he has failed.

Clearing of Court at certain trials.

80.—Whenever a person is being tried in any Court on a charge of having committed an offence which is, in the opinion of the judge or justice presiding at such trial, of an indecent or obscene nature, it shall be lawful for such judge or justice, if he thinks proper so to do in the interests of public morality, to exclude from such Court during the whole or any particular part of such trial all persons except the said judge or justice, the accused, the officers of such Court and other persons present at such trial in an official capacity, all persons engaged or concerned in such trial in any capacity, every person who satisfies the judge or justice that he is a bona fide representative of the Press and is present as such representative, and such other persons as the said judge or justice shall, at his discretion, permit to remain in such Court.

Prohibition of imitation of court documents.

81.—(1) It shall not be lawful for any person to issue, send, give, or deliver to or serve on or cause to be issued, sent, given or delivered to or served on any other person any document not issued under lawful authority which by its form, contents, or appearance is calculated or is reasonably likely to lead the person receiving it to believe that it is issued by lawful authority.

(2) Every person who issues, sends, gives, delivers or serves or causes to be issued, sent given, delivered, or served any document in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. 5

(3) In this section the expression "issued by lawful authority" means issued by, from, or by order of any Court of Justice or any judge or justice of any such Court or by or from any officer of or office attached to any such Court.

PART VIII.

10

AMENDMENT OF CERTAIN ENACTMENTS.

Amendment of section 53 of the Dublin Police Act, 1842.

82.—Section 53 of the Dublin Police Act, 1842, is hereby amended by the deletion from the said section of the words "any of the divisional justices"; and the insertion in the said section of the words "a justice of the District Court" in lieu of the words so deleted, and the said section shall be construed and have effect accordingly, and the said section as so amended shall have effect throughout Saorstát Eireann. 15

Amendment of the Fatal Accidents Act, 1846.

83.—(1) Notwithstanding anything contained in the Fatal Accidents Act, 1846, any action under that Act may with the consent of all parties to such action be heard and determined by a judge without a jury, and when any such action is so heard section 2 of the said Act shall be construed and have effect as if the word "judge" were substituted therein for the word "jury" wherever that word occurs and such further modifications were made in the said section as may be necessary in consequence of such substitution. 25

(2) Notwithstanding anything contained in section 2 of the Fatal Accidents Act, 1846, the amount recovered in any action under that Act shall (after deducting the costs not recovered from the defendant) be divided, in pursuance of the said section 2, amongst the parties mentioned in that section in such shares as the judge before or by whom such action is tried shall determine and direct. 30

Amendment of section 86 of the Probates and Letters of Administration Act (Ireland), 1857.

84.—(1) Section 86 of the Probates and Letters of Administration Act (Ireland), 1857, is hereby repealed and in lieu thereof it is hereby enacted as follows, that is to say:— 35

(a) every person (with the exceptions hereinafter mentioned) to whom any grant of administration shall be committed shall give a bond to the President of the High Court to inure for the benefit of the President of the High Court for the time being, and, if the Court or (in the case of a grant from the district registry) the district registrar shall so require, with one or more surety or sureties, conditioned for duly collecting, getting in, and administering the personal estate of the deceased and so much of the real estate of the deceased as shall by law devolve to and vest in his legal personal representative; 40 45

(b) the said bond shall be in such form as the President of the High Court shall, by any special or general order, direct; 50

(c) it shall not be necessary for the Chief State Solicitor or the Solicitor for the Attorney-General to give any such bond as aforesaid when applying for or obtaining administration to the use or benefit of the State. 55

(2) Paragraphs (a), (b), and (c) of the foregoing sub-section of this section shall be read as one with the Probates and Letters of Administration Act (Ireland), 1857, and shall be construed accordingly, and references in that Act or in rules of court to 60

the bond required by section 86 of that Act shall be construed as references to the bond required by the said paragraph (a).

5 **85.**—Section 336 of the Irish Bankrupt and Insolvent Act, 1857, shall apply in respect of a judgment in the Circuit Court for a sum exceeding twenty pounds, over and above costs, and any execution on such judgment in like manner as it applies in respect of a judgment (other than a judgment excepted from the said section) of the High Court and an execution on such judgment. Application of section 336 of the Irish Bankrupt and Insolvent Act, 1857 to Circuit Court judgments.

10 **86.**—Section 9 of the Summary Jurisdiction (Ireland) Amendment Act, 1871, is hereby amended by the deletion from the said section of the words “ any of the divisional justices of the police district of Dublin Metropolis presiding in one of the public courts of the said district ”, and the insertion in the said section of Amendment of section 9 of the Summary Jurisdiction (Ireland) Amendment Act, 1871.
15 the words “ a justice of the District Court ” in lieu of the words so deleted, and the said section shall be construed and have effect accordingly, and the said section as so amended shall have effect throughout Saorstát Eireann.

20 **87.**—(1) Sub-section (1) of section 14 of the Agricultural Credit Act, 1929 (No. 30 of 1929), is hereby amended by the deletion therefrom of paragraph (e) thereof. Amendment of section 14 of the Agricultural Credit Act, 1929.

25 (2) The amendment of sub-section (1) of section 14 of the Agricultural Credit Act, 1929, made by the foregoing sub-section of this section shall have effect as from the passing of the said Act and accordingly the said section 14 shall be construed and have effect and be deemed always to have had effect with and subject to such amendment.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

PART I.

ENACTMENTS REPEALED AS FROM THE PASSING OF THIS ACT.

Session and Chapter or Number and Year	Short Title	Extent of Repeal
14 & 15 Vic., c. 57.	Civil Bill Courts (Ireland) Act, 1851.	Section 60.
16 & 17 Vic., c. 113.	Common Law Procedure Amendment Act (Ireland), 1853.	Sections 126 and 243.
19 & 20 Vic., c. 102.	Common Law Procedure Amendment Act (Ireland), 1856.	Section 97.
27 & 28 Vic., c. 99.	Civil Bill Courts Procedure Amendment Act (Ireland), 1864.	Section 8.
28 & 29 Vic., c. 1.	Civil Bill Courts (Ireland) Act, 1865.	Section 1, the words 'In the eighth section the word "Seventeenth" shall be substituted for the word "Sixteenth."'
31 & 32 Vic., c. 54.	Judgments Extension Act, 1868.	The whole Act.
40 & 41 Vic., c. 57	Supreme Court of Judicature (Ireland) Act, 1877.	Section 53, the words "And provided also; that in all actions for libel where the jury shall give damages under forty shillings, the plaintiff shall not be entitled to more costs than damages."
54 & 55 Vic., c. 66.	Local Registration of Title (Ireland) Act, 1891.	Sub-sections (2), (3), and (4) of Section 94.
No. 10 of 1924.	Courts of Justice Act, 1924.	Section 36, the clause at the end thereof beginning "Such rules of court" and ending "of Ireland"; section 45, all words from the words "In the case of illness" to the end of the section; section 48, in paragraph (v) the words "including winding-up of companies" and the words "and in winding-up cases where the issued capital of the company does not exceed £10,000"; paragraph (iv) of section 52; section 65; section 70 from the words "In case of" to the end of the section; sections 73, 75, 76, 90, 92, 95, and 101.
No. 27 of 1926.	Court Officers Act, 1926.	Section 57.
No. 37 of 1929.	Courts of Justice Act, 1929.	The whole Act.
No. 55 of 1931	Landlord and Tenant Act, 1931.	Sub-sections (3) and (4) of section 5.

PART II.

ENACTMENTS REPEALED AS FROM THE COMMENCEMENT OF PART IV OF THIS ACT.

Number and Year	Short Title	Extent of Repeal
No. 10 of 1924.	Courts of Justice Act, 1924.	Section 48, the words "under section 61 of this Act"; section 61; section 96, the words "or the Circuit Court" wherever those words occur, and all words from the words "and, in the case of" to the words "otherwise perverse."
No. 15 of 1928.	Courts of Justice Act, 1928.	Sections 11 and 12.

SECOND SCHEDULE.

APPEAL TOWNS.

Appeal Towns	Counties and County Boroughs
Carlow	Carlow county.
Cavan	Cavan county.
Ennis	Clare county.
Cork	Cork county.
Cork	Cork county borough.
Lifford	Donegal county.
Galway	Galway county.
Tralee	Kerry county.
Naas	Kildare county.
Kilkenny	Kilkenny county.
Carrick-on-Shannon	Leitrim county.
Port Laoighise	Leix county.
Limerick	Limerick county.
Limerick	Limerick county borough.
Longford	Longford county.
Dundalk	Louth county.
Castlebar	Mayo county.
Trim	Meath county.
Monaghan	Monaghan county.
Tullamore	Offaly county.
Roscommon	Roscommon county.
Sligo	Sligo county.
Nenagh	Tipperary county (North Riding).
Clonmel... ..	Tipperary county (South Riding).
Waterford	Waterford county borough.
Waterford	Waterford county.
Mullingar	Westmeath county.
Wexford	Wexford county.
Wicklow	Wicklow county.

Saorstát Éireann.

BILLE CUIRTEANNA BREITHIUNAIS,
1934.

BILLE

(mar do leasúidh i gCoiste)

dá ngairmtear

Acht ehun socrúithe bhreise agus fheabhsa do dhéanamá maidir le riaradh cirt agus ehun leasúithe do dhéanamh ehuige sin ar na hAchtanna Cúirteanna Breithiúnais, 1924 go 1931, agus ar achtacháin eile.

An tAire Dlí agus Cirt do thug isteach.

Do hordúidh, ag Dáil Éireann, do chlóbhuailadh, 19adh Iúil, 1935.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

Le ceannach tré son díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 5 Sráid Thobair Phódraig, Baile Atha Cliath, C.2.

Clóbhuailte ag CAHILL & Co., LTD.

[*Naoi bPingne Glan.*]

Wt. 26.—541. 600. 7/35. C.&Co. (803).

Saorstát Éireann.

COURTS OF JUSTICE BILL, 1934.

BILL

(as amended in Committee)

entitled

An Act to make further and better provision in relation to the administration of justice and for that purpose to amend the Courts of Justice Acts, 1924 to 1931, and other enactments.

Introduced by the Minister for Justice.

Ordered, by Dáil Éireann, to be printed, 19th July, 1935.

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through any bookseller, or directly from the Government Publications Sale Office, 5 Nassau Street, Dublin, C.2.

Printed by CAHILL & Co., LTD.

[*Ninepence Net.*]