

PRIVY COUNCIL—JUDICIAL COMMITTEE.

See *Admiralty*.

3 and 4 Will. IV., c. 41.

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IV., c. 41.

AN ACT for the better Administration of Justice in His Majesty's  
Privy Council. [14th August, 1833.]

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And whereas matters of appeal or petition to His Majesty

in Council have usually been heard before a Committee of the whole of His Majesty's Privy Council, who have made a report to His Majesty in Council, whereupon the final judgment or determination hath been given by His Majesty : And whereas it is expedient to make certain provisions for the more effectual hearing and reporting on appeals to His Majesty in Council and on other matters, and to give such powers and jurisdiction to His Majesty in Council as hereinafter mentioned : . . . .

Certain persons to form a committee, to be styled "The Judicial Committee of the Privy Council."

The President for the time being of His Majesty's Privy Council, the Lord High Chancellor of Great Britain for the time being, and such of the members of His Majesty's Privy Council as shall from time to time hold any of the offices following, that is to say, the office of Lord Keeper or First Lord Commissioner of the Great Seal of Great Britain, Lord Chief Justice or Judge of the Court of King's Bench, Master of the Rolls, Vice-Chancellor of England, Lord Chief Justice or Judge of the Court of Common Pleas, Lord Chief Baron or Baron of the Court of Exchequer, . . . . Judge of the High Court of Admiralty, and Chief Judge of the Court in Bankruptcy, and also all persons members of Her Majesty's Privy Council who shall have been President thereof or held the office of Lord Chancellor of Great Britain, or shall have held any of the other offices hereinbefore mentioned, shall form a Committee of His Majesty's said Privy Council, and shall be styled "The Judicial Committee of the Privy Council :"

Provided, nevertheless, that it shall be lawful for His Majesty from time to time, as and when he shall think fit, by his Sign-Manual, to appoint any two other persons, being Privy Councillors, to be members of the said Committee.

Appeals from Vice-Admiralty Courts abroad, &c., to be made to the King in Council.

2. . . . All appeals or applications in prize suits and in all other suits or proceedings in the Courts of Admiralty, or Vice-Admiralty Courts, or any other Court in the plantations in America and other His Majesty's dominions or elsewhere abroad, which may now, by virtue of any law, Statute, Commission, or usage, be made to the High Court of Admiralty in England, or to the Lords Commissioners in prize cases, shall be made to His Majesty in Council, and not to the said High Court of Admiralty in England or to such Commissioners as aforesaid;

And such appeals shall be made in the same manner and form and within such time wherein such appeals might, if this Act had not been passed, have been made to the said High Court of Admiralty or to the Lords Commissioners in prize cases respectively ; and all laws or Statutes now in force with respect to any such appeals or applications shall apply to any appeals to be made in pursuance of this Act to His Majesty in Council.

3. All appeals or complaints in the nature of appeals whatsoever, which, either by virtue of this Act, or of any law, Statute, or custom, may be brought before His Majesty or His Majesty in Council, from or in respect of the determination, sentence, rule, or order of any Court, Judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this Act be referred by His Majesty to the said Judicial Committee of his Privy Council; and such appeals, causes, and matters shall be heard by the said Judicial Committee, and a report or recommendation thereon shall be made to His Majesty in Council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by His Majesty to the whole of his Privy Council or a Committee thereof (the nature of such report or recommendation being always stated in open Court).

All appeals from sentence of any Judge, &c., to be referred by His Majesty to the Committee to report thereon.

4. It shall be lawful for His Majesty to refer to the said Judicial Committee for hearing or consideration any such other matters whatsoever as His Majesty shall think fit, and such Committee shall thereupon hear or consider the same, and shall advise His Majesty thereon in manner aforesaid.

His Majesty may refer any other matters to Committee.

5. . . . No report or recommendation shall be made to His Majesty unless a majority of the members of such Judicial Committee present at the hearing shall concur in such report or recommendation: Provided always that nothing herein contained shall prevent His Majesty, if he shall think fit, from summoning any other of the members of his said Privy Council to attend the meetings of the said Committee.

No report to be made unless with concurrence of majority present.

6. In case His Majesty shall be pleased, by directions under his Sign-Manual, to require the attendance at the said Committee for the purposes of this Act of any member or members of the said Privy Council who shall be a Judge or Judges of the Court of King's Bench, or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such Judge or Judges upon his or their ordinary duties during the time of such attendance at the Privy Council as aforesaid shall be made by the Judges of the Court or Courts to which such Judge or Judges shall belong respectively in regard to the business of the Court, and by the Judges of the said three Courts, or by any eight or more of such Judges, including the chiefs of the several Courts, in regard to all other duties, as may be necessary and consistent with the public service.

In case the King directs the attendance of any Judge, a member of the Committee, arrangements to be made by the other Judges of the Court.

7. It shall be lawful for the said Judicial Committee, in any matter which shall be referred to such Committee, to examine witnesses by word of mouth (and either before or after examina-

Evidence may be taken *vid voce*, or upon written depositions.

tion by deposition), or to direct that the depositions of any witness shall be taken in writing by the Registrar of the said Privy Council, to be appointed by His Majesty as hereinafter mentioned, or by such other person or persons, and in such manner, order, and course, as His Majesty in Council or the said Judicial Committee shall appoint and direct; and the said Registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an Examiner of the High Court of Chancery or of any Court Ecclesiastical.

Committee may order any particular witnesses to be examined, and as to any particular facts, and may remit causes for rehearing.

8. In any matter which shall come before the said Judicial Committee it shall be lawful for the said Committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said Committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts, in a previous stage of the matter;

And it shall also be lawful for His Majesty in Council, on the recommendation of the said Committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the Court from the decision of which such appeal shall have been made, and at the same time to direct that such Court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as His Majesty in Council shall direct; and further, on any such remitting or otherwise, it shall be lawful for His Majesty in Council to direct that one or more feigned issue or issues shall be tried in any Court in any of His Majesty's dominions abroad, for any purpose for which such issue or issues shall to His Majesty in Council seem proper.

Witnesses to be examined on oath, and to be liable to punishment for perjury.

9. Every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or, if a Quaker or Moravian, upon solemn affirmation, which oath and affirmation respectively shall be administered by the said Judicial Committee and Registrar, and by such other person or persons as His Majesty in Council or the said Judicial Committee shall appoint; and every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

Committee may direct an issue to try any fact;

10. It shall be lawful for the said Judicial Committee to direct one or more feigned issue or issues to be tried in any Court of Common Law, and either at bar, before a Judge of Assize, or at the Sittings for the Trial of Issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the High Court of Chancery.

11. It shall be in the discretion of the said Judicial Committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence; and, further, that such deeds, evidences, and writings shall be produced, and that such facts shall be admitted, as to the said Committee shall seem fit.

and may, in certain cases, direct depositions to be read at the trial of the issue;

12. It shall be lawful for the said Judicial Committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the Lord High Chancellor or the Court of Chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the Lord Chancellor or the Court of Chancery.

and may make such orders as to the admission of evidence as is made by the Court of Chancery;

13. It shall be lawful for the said Judicial Committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only; and in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said Committee to direct that parol evidence of the testimony of such witness shall be received.

and may direct new trials of issues.

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15. The costs incurred in the prosecution of any appeal or matter referred to the said Judicial Committee, and of such issues as the same Committee shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid Registrar, or such other person or persons, to be appointed by His Majesty in Council or the said Judicial Committee, and in such manner, as the said Committee shall direct.

Costs to be in the discretion of the Committee.

16. The orders or decrees of His Majesty in Council made, in pursuance of any recommendation of the said Judicial Committee, in any matter of appeal from the judgment or order of any Court or Judge, shall be enrolled, for safe custody, in such manner, and the same may be inspected and copies thereof taken under such regulations, as His Majesty in Council shall direct.

Decrees to be enrolled.

17. It shall be lawful for the said Committee to refer any matters to be examined and reported on to the aforesaid Registrar, or to such other person or persons as shall be appointed by His Majesty in Council or by the said Judicial Committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a Master of the said Court; and for the purposes of this Act the said Registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a Master in Chancery.

Committee may refer matters to Registrar in same manner as matters are referred by Court of Chancery to a Master.

The King  
may appoint  
Registrar.

Attendance of  
witnesses, and  
production of  
papers, &c.,  
may be com-  
pelled by  
subpœna.

18. It shall be lawful for His Majesty, under his Sign-Manual, to appoint any person to be the Registrar of the said Privy Council as regards the purposes of this Act, and to direct what duties shall be performed by the said Registrar.

19. It shall be lawful for the President for the time being of the said Privy Council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such President in such and the same form, or as nearly as may be, as that in which a writ of subpœna *ad testificandum* or of subpœna *duces tecum* is now issued by His Majesty's Court of King's Bench at Westminster; and every person disobeying any such writ so to be issued by the said President shall be considered as in contempt of the said Judicial Committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said Court.

Time of  
appealing.

20. All appeals to His Majesty in Council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and, where no such law or usage shall exist, then within such time as shall be ordered by His Majesty in Council; and, subject to any right subsisting under any charter or Constitution of any colony or plantation, it shall be lawful for His Majesty in Council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to His Majesty in Council.

Decrees on  
appeals from  
Courts abroad  
to be carried  
into effect as  
the King in  
Council may  
direct.

21. The order or decree of His Majesty in Council on any appeal from the order, sentence, or decree of any Court of justice in the East Indies, or of any colony, plantation, or other His Majesty's dominions abroad, shall be carried into effect in such manner and subject to such limitations and conditions as His Majesty in Council shall, on the recommendation of the said Judicial Committee, direct; and it shall be lawful for His Majesty in Council, on such recommendation, by order, to direct that such Court of justice shall carry the same into effect accordingly, and thereupon such Court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to His Majesty in Council:

Act not to  
abridge  
powers of  
Privy Council.

Provided always that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of His Majesty's Privy Council as heretofore exercised by such Council, or in anywise alter the constitution or duties of the said Privy Council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

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24. It shall be lawful for His Majesty in Council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of . . . any other Courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope (from the decisions of which an appeal lies to His Majesty in Council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

His Majesty empowered to make orders for regulating the mode, &c., of such appeals.

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28. The said Judicial Committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and His Majesty in Council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the High Court of Chancery or the Court of King's Bench (and both *in personam* and *in rem*).

Power of enforcing decrees.

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31. Nothing herein contained shall be held to impeach or render void any treaty or engagement already entered into by or on behalf of His Majesty, or be taken to restrain His Majesty from acceding to any treaty, with any foreign prince, potentate, or Power, in which treaty it shall be stipulated that any person or persons other than the said Judicial Committee shall hear and finally adjudicate appeals from His Majesty's Courts of Admiralty in causes of prize; but the judgments, decrees, and orders of such other person or persons so appointed by treaty shall be of the same force and effect of which they would respectively have been if this Act had not been passed.

Nothing herein shall prevent the King's acceding to treaties appointing certain persons to hear prize appeals.