

THE ENGLISH JUDICATURE ACTS.

In the High Court of Justice.

Chancery Division.

(Name of Judge.)

Writ issued 22nd December, 1876.

In the matter of the estate of A. B., deceased,
between

E. F.,

Plaintiff,

AND

G. H.,

Defendant.

STATEMENT OF CLAIM.

1. A. B., of K., in the County of K., died on the 1st of July, 1875, intestate. The defendant, G. H., is the administrator of A. B.

2. A. B. died entitled to lands in the said county for an estate of fee simple, and also to some other real estate and to personal estate. The defendant has entered into possession of the real estate of A. B., and received the rents thereof. The legal estate in such real estate is outstanding in mortgages under mortgages created by the intestate.

3. A. B. was never married; he had one brother only, who predeceased him without being married; and two sisters only, both of whom also predeceased him, namely, M. N. and P. Q. The plaintiff is the only child of M. N., and the defendant is the only child of P. Q.

The plaintiff claims:

1. To have the real and personal estate of A. B. administered in this Court, and for that purpose to have all proper directions given and accounts taken.

2. To have a receiver appointed of the rents of his real estate.

3. Such further or other relief as the nature of the case may require.

We may add that no pleading beyond a replication seems to be contemplated.

Improvements have been made in the method of obtaining discovery, as well of facts as of documents, and fetters which formerly embarrassed a party in getting discovery have been removed.

There are a great number of other matters dealt with by these Acts, such as the trial of actions, references, evidence (evidence in the Chancery Division will be given orally at the trial, as in Common Law causes), judgment, motions for new trial, execution, appeals and costs, which we can merely indicate.

We may mention, however, specially, a provision recommended by the Commission and carried into effect. We mean

the enactment that in cases where the judge has reserved leave to move, there should no longer be a motion for a rule to show cause, but that upon notice given to the opposite party the question should be disposed of. In a late case of *Lindsey v. Cundy*, the Lord Chief Justice caused some surprise by asserting that it was difficult to say what the Legislature meant, and that nothing would be gained by this innovation.

The Court of Appeal consists of five ex-officio and three ordinary judges. The ex-officio judges are the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Chief Justice of the Common Pleas, and the Chief Baron of the Exchequer. The first ordinary judges are to be the present Lords Justices and one other person, who has since been appointed, namely Mr. Justice Bagallay. Power is also given to the Lord Chancellor to call for the attendance of one judge from each division except the Chancery division as additional judges of the Court of Appeal.

This Court has jurisdiction to hear an appeal from any judgment or order, whether final or interlocutory, of the High Court, or any judges or judge of that court, except where it has been made by consent, or relates to costs only, when discretionary, and except judgments in criminal appeals, and in appeals from inferior courts, unless in the last mentioned cases leave to appeal is given.

By the Judicature Act of 1873, the decisions of the Court of Appeal were to be final, and all recourse to any higher court was taken away. The Act of 1875 has suspended for a year the operation of the sections affecting this, and for that time a further appeal to the House of Lords is preserved.

The Acts themselves, with the body of rules promulgated by the Judges (to whom was left the working out of the Acts in detail—a work equal in extent and import