

made for a distinct Equity Judge, who was to make rules to govern the practice in Equity before him, and to hear and determine all matters of Equity jurisdiction, and to preside in the Court when business required, and in the absence of the Judges of the Supreme Court from Halifax, to perform all the duties there that might be required of a Judge of the Supreme Court.

There was to be an appeal from his decisions to the Supreme Court, in which he was to sit as one of the Judges of Appeal. He was also to sit in Supreme Court in Banc, and at Chambers, but not to preside at trials or on circuit, except in cases of illness of a Judge, or other sufficient cause.

In full Bench, in cases civil or criminal, legal or equitable, the Chief Justice was to preside; the Judge in Equity next to him, and, in case of the Chief Justice's absence, to preside.

Two years afterwards, in 1866, by 29 Vic., chap. 11, amending chapters 124 and 125, the above four sections, 1, 2, 3, 7, of chapter 124 were repealed, and the Equity Court 29 Vic. ch. 11. and jurisdiction again re-established. Sect. 7 enacts, "That the 'Supreme Court,' and 'the Court,' and the 'Judges' or 'Judge,' in such chapter, except when herein otherwise expressed, or when inconsistent with the enactments hereof, are confined, in all cases of exclusive chancery jurisdiction, to the Court of the Equity Judge, or the Court or Judge occasionally exercising the equity jurisdiction; and in all cases of concurrent jurisdiction, those terms apply alike to such Court and Judge, and to the Supreme Court and its Judges; and in all cases purely at Common Law, contradistinguished from chancery jurisdiction, those terms mean the Supreme Court and its Judges alone; and all suits or other proceedings for the redemption or the foreclosure of mortgages under the 24th section, and for specific performance under the 25th section; and in relation to real estates of infants, under the sections from the 51st to the 55th, both inclusive, of said chap. (124); and all proceedings, matters and things relating to the custody, care, and disposal of persons of unsound mind, and their estates and effects, under the sections from 2 to 9, both inclusive, of chap. 152 of the Revd. Statutes; and also, all proceedings under chap 131 of the Revd. Statutes, third series, 'of trusts and trustees,' are under the equity jurisdiction only, and shall be prosecuted and conducted accordingly; and the terms, 'the Supreme Court,' and 'the Court,' and the 'Judges,' or 'Judge,' used in the said sections and chapter, mean the Equity Judge, or the Equity Court, or the Court or Judge occasionally exercising the equity jurisdiction.

"But nothing in either of the said chapters, 124 or 125, applies to or affects chapter 114 of the Revised Statutes, third series, 'Of the sale of lands under foreclosure of mortgages,' the proceedings under which may continue to be in the Supreme Court and before the Judges thereof.

"In case of the illness of the Equity Judge, or in case of his absence from Halifax, Sect. 8. "either within the Province on judicial duty, or for other cause, or abroad, and also in cases requiring attention in the country on circuit, and when the Equity Judge does not preside, the duties imposed on him may be exercised by the other Judges, or any of them, as the cases may require."

"The Equity Judge has jurisdiction in all cases formerly cognizable by the Court Sect. 9. "of Chancery, and exercises the like powers, and applies the same principles of equity as justice may require, which were formerly administered in that Court."

Section 6 of chapter 124, which provided, that in the absence of the Judges of the Supreme Court from Halifax, the Equity Judge should perform all the duties of a Judge of the Supreme Court, was repealed; and in place of it, it was enacted in section 3 of said chapter 11, 29 Vic. that the Court of the Equity Judge should "be always open, and the other Judges of the Supreme Court or any of them, in cases, where empowered to exercise the functions of the Equity Judge, should have the full powers of the Court."

The right of the Supreme Court to admit of equitable defences, was still retained, section 10 says: