ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

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C A P. XLV.

An Act to extend the Jurisdiction of the Judges of the Superior Courts of Common Law; to amend Chapter Fifty-six of the First Year of Her present Majesty's Reign for regulating the Admission of Attornies; and to provide for the taking of Special Bail in the Absence of the Judges.

[27th *July* 1838.]

WHEREAS by an Act passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the more effectual Administration of Justice in* England *and* Wales, it is enacted, that every Judge of the Superior Courts of Common Law, to whatever Court he may belong, shall be authorized to transact such Business, at Chambers or elsewhere, depending in any of the said Courts, as relates to Matters over which the said Courts have common Jurisdiction, and as may according to the Course and Practice of the Court be transacted by a single Judge: And whereas it is expedient that the Authority of the Judges of the said Courts should be extended to any Business which may be transacted by a single Judge in any of the said Courts as herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, (11 G. 4. & 1 W. 4. c. 70. s. 4.)

Every Judge of the Courts at Westminster may transact such Business as may now be transacted by a single Judge, although the Courts have no common Jurisdiction therein.

and by the Authority of the same, That every Judge of the Courts of Queen's Bench, Common Pleas, or Exchequer shall have equal Jurisdiction, Power, and Authority to transact out of Court such Business as may, according to the Course and Practice of the Court, be so transacted by a single Judge, relating to any Suit or Proceeding, in either of the said Courts of Queen's Bench or Common Pleas, or on the Common Law or Revenue Side of the said Court of Exchequer, or relating to the granting Writs of Certiorari or Habeas Corpus, or the admitting Prisoners on Criminal Charges to Bail, or the issuing of Extents or other Process for the Recovery of Debts due to Her Majesty, or relating to any other Matter or Thing usually transacted out of Court, although the said Courts have no common Jurisdiction therein, in like Manner as if the Judge transacting such Business had been a Judge of the Court to which the same by Law belongs.

Any Judge may exercise such Powers for the Relief of Sheriffs, &c. as may by virtue of 1 & 2 W. 4. c. 58. s. 6. be exercised by the several Courts.

II. And whereas by another Act passed in the Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to enable the Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims*, Provision is made for the Relief of Sheriffs and other Officers concerned in the Execution of Process issued out of any of His Majesty's Courts of Law at *Westminster*, or the Court of Common Pleas of the County Palatine of *Lancaster*, or the Court of Pleas of the County Palatine of *Durham*, against Goods and Chattels, by reason of Claims made to such Goods and Chattels, but such Relief can only be given by Rule of Court: And whereas it is expedient that a single Judge should possess the Power of giving Relief in that respect; be it further enacted, That it shall be lawful for any Judge of the said Courts of Queen's Bench, Common Pleas, or Exchequer, with respect to any such Process issued out of any of those Courts, or for any Judge of the said Court of Common Pleas of the County Palatine of *Lancaster*, or Court of Pleas of the County Palatine of *Durham*, (being also a Judge of One of the said Three Superior Courts,) with respect to Process issued out of the said Courts of *Lancaster* and *Durham* respectively, to exercise such Powers and Authorities for the Relief and Protection of the Sheriff or other Officer as may by virtue of the said last-mentioned Act be exercised by the said several Courts respectively, and to make such Order therein as shall appear to be just; and the Costs of such Proceeding shall be in the Discretion of such Judge.

After 1st Nov. 1838 any Person admitted an Attorney in one of the Courts at Westminster may practise in any other Court, upon signing the Roll of such Court.

III. And whereas by another Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act for amending the several Acts for the Regulation of Attornies and Solicitors*, it is enacted, that any Person who shall have been duly admitted an Attorney in One of Her Majesty's Courts of Law at *Westminster* shall be at liberty to practise in any other of Her Majesty's Courts of Law at *Westminster*, although he may not have been duly admitted an Attorney thereof; and that no Person having been duly admitted an Attorney or Solicitor in any of Her Majesty's Courts of Law or Equity at *Westminster* shall be prevented from recovering or receiving the Amount of any Costs which would otherwise have been due to him

by reason of his not being admitted an Attorney or Solicitor of the Court in which such Costs shall have been incurred; provided always, that any Attorney or Solicitor practising in any Court of Law or Equity shall be subject to the Jurisdiction of such Court as fully and completely to all Intents and Purposes whatever as if he had been duly admitted an Attorney or Solicitor of such Court: And whereas it is expedient, in order to secure the Jurisdiction of the said respective Courts over the Attornies practising therein, to have a Record in each Court of the Admission of Attornies; be it further enacted, That after the First Day of *November* next any Person entitled to be admitted an Attorney of any of the said Courts at *Westminster* shall, after being sworn in and admitted as an Attorney of any One of the said Courts, be entitled to practise in any other of the said Courts upon signing the Roll of such Court, and not otherwise, in like Manner as if he had been sworn in and admitted an Attorney of such Court; provided that no additional Fee besides those payable under the said last-mentioned Act shall be demanded or paid, and that the Fees payable for such Admission shall be apportioned in such Manner as the Judges of the said Courts, or any Eight of them, shall, by any Rule or Order made in Term or Vacation, direct and appoint.

Judges of Courts at Westminster may issue Commissions for taking Special Bail.

IV. And whereas Inconvenience and Delay are sometimes experienced during the Absence of the Judges from Town in Vacation, in putting in and justifying Special Bail; be it further enacted, That the Chief Justice and other the Justices of the Court of Queen's Bench for the Time being, or any Two of them, whereof the Chief Justice for the Time being to be One, for the said Court of Queen's Bench, and the Chief Justice of the Court of Common Pleas and other the Justices there for the Time being, or any Two of them, whereof the Chief Justice of the same Court to be One, for the said Court of Common Pleas, and also the Chief Baron and Barons of the Coif of the Court of the Exchequer for the Time being, or any Two of them, whereof the Chief Baron for the Time being to be One, for the said Court of Exchequer, may, by One or more Commission or Commissions under the several Seals of the said respective Courts, from Time to Time, as Need shall require, empower such Persons, not being Attornies or Solicitors, as they shall think fit and necessary, to take and receive during such Time, in Vacation only, as shall be specified in the Commission or Commissions, all and every such Recognizance or Recognizances of Bail or Bails as any Person or Persons shall be willing or desirous to acknowledge or make before any of the Persons so empowered in any Action or Suit depending or hereafter to be depending in the said respective Courts, or any of them, in such Manner and Form, and by such Recognizance or Bail Piece, as the Justices and Barons of the said respective Courts have used to take the same; which said Recognizance or Recognizances of Bail or Bail Piece so taken as aforesaid shall be afterwards filed in the proper Office or Offices where the same are now filed; which Recognizance of Bail or Bail Piece so taken and filed shall be of the like Effect as if the same were taken before any of the said Justices and Barons; and for the taking every such Recognizance or Recognizances of Bail or Bail Piece the Person

or

or Persons so empowered shall receive only the like Fee as is now payable upon taking and filing the Recognizance or Bail Piece, and no more.

Cognisors of Bail may justify before such Commissioners.

V. And be it further enacted, That the Cognisor or Cognisors of such Bail or Bails may justify him or themselves before any of the said Commissioners during such Time only, being in Vacation, as shall be specified in their respective Commissions; and the said Commissioners are hereby empowered to examine the Sureties on Oath, and allow or reject them as shall seem fit.

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