ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

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CAP. XCIX.

An Act to confer on the County Courts a limited Jurisdiction in Equity. [5th *July* 1865.]

WHEREAS it is desirable to confer on the County Courts Jurisdiction in Equity: Be it 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, and by the Authority of the same, as follows:

Jurisdiction in Equity to be exercised in County Courts in certain Suits and Matters.

1. The County Courts held by virtue of an Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her Majesty, Chapter Ninety-five, shall have and exercise all the Power and Authority of the High Court of Chancery in the Suits or Matters herein-after mentioned; that is to say,

1. In all Suits by Creditors, Legatees (whether specific, pecuniary, or residuary), Devisees (whether in trust or otherwise), Heirs at Law, or Next of Kin, in which the Personal or Real or Personal and Real Estate against or for an Account or Administration of which the Demand may be made shall not exceed in Amount or Value the Sum of Five hundred Pounds:

2. In all Suits for the Execution of Trusts in which the Trust Estate or Fund shall not exceed in Amount or Value the Sum of Five hundred Pounds:

3. In all Suits for Foreclosure or Redemption, or for enforcing any Charge or Lien, where the Mortgage, Charge, or Lien shall not exceed in Amount the Sum of Five hundred Pounds:

4. In all Suits for specific Performance, or for the delivering up or cancelling any Agreement for the Sale or Purchase of any Property, where the Purchase Money shall not exceed the Sum of Five hundred Pounds:

5. In all Proceedings under the Trustees Relief Acts, or under the Trustee Acts, or under any of such Acts, in which the Trust Estate or Fund to which the Proceeding relates shall not exceed in Amount or Value the Sum of Five hundred Pounds:

6. In all Proceedings relating to the Maintenance or Advancement of Infants in which the Property of the Infant shall not exceed in Amount or Value the Sum of Five hundred Pounds:

7. In all Suits for the Dissolution or Winding-up of any Partnership in which the whole Property, Stock, and Credits of such Partnership shall not exceed in Amount or Value the Sum of Five hundred Pounds:

8. In all Proceedings for Orders in the Nature of Injunctions, where the same are requisite for granting Relief in any Matter in which Jurisdiction is given by this Act to the County Court, or for Stay of Proceedings at Law to recover any Debt provable under a Decree for the Administration of an Estate made by the Court to which the Application for the Order to stay Proceedings is made.

In Matters under this Act, Judge and Officers of the County Courts to have the Powers and Authorities of a Judge and Officers of the Court of Chancery.

2. In all such Suits or Matters the Judge of a County Court shall, in addition to the Powers and Authorities now possessed by him, have all the Powers and Authorities, for the Purposes of this Act, of a Judge of the High Court of Chancery; and the Treasurer, Registrar, and High Bailiff shall, in all Matters in which the County Court has Jurisdiction under this Act, discharge any Duties which an Officer of the Court of Chancery can discharge, either under the Order of a Judge of such Court or the Practice thereof, and all Officers of the County Courts shall in discharging such Duties conform to any Rules or Orders to be framed as herein-after provided.

3. Any

3. Any One of the Vice-Chancellors, on the Application at Chambers of any Party to any Suit or Matter pending under this Act, shall have Power, then and there, or, if he shall think fit, after hearing a Summons served upon the other Party or Parties, to transfer the same to the Court of Chancery, upon such Terms, if any, as to Security for Costs or otherwise, as he may think fit.

Power to a Vice-Chancellor to order Transfer of Suits from County Court to Court of Chancery.

4. The Judge and Officers of the Court held under the Provisions of "The *London* (City) Small Debts Extension Act, 1852," herein-after called the "City Court," shall respectively have and exercise the like Jurisdiction, Powers, and Authorities in all respects, except the Power of appointing Officers, as are for the Time being possessed and exercised by the Judge and Officers respectively of a Metropolitan County Court; and the Chief Clerk and the Chief Bailiff of the City Court shall henceforth be respectively styled the Registrar and High Bailiff thereof, the Word "Registrar" being interpreted to include the Assistant Clerks, and the Words "High Bailiff" the Bailiffs of the City Court; and the Fees which may be from Time to Time taken in a County Court in any Proceeding in which Jurisdiction is hereby given to the Judge and Officers of the City Court shall be taken in the City Court, and shall be paid into the General Fund thereof, and the Judge and Officers of the City Court shall, out of the said General Fund, be respectively paid additional Salaries of such Amount as the Mayor, Aldermen, and Commons of the City of *London*, in Common Council assembled, from Time to Time shall think fit to direct; and such Judge and Officers of the City Court shall conform to the Rules and Orders made under the Authority of this Act.

City Small Debts Court to have same Jurisdiction in all Matters as a Metropolitan County Court.

5. Any Legacy or Sum of Money to which any Person who is an Infant or absent beyond Seas may be found or declared entitled by any County Court in any Suit or Matter under this Act may be ordered by the Court to be paid to the Accountant General of the Court of Chancery, in accordance with the Provisions of Section Thirty-two of an Act passed in the Session of Parliament held in the Thirty-sixth Year of the Reign of His Majesty King *George* the Third, Chapter Fifty-two; and the Person ordered to pay the same shall, within such Time as the Court shall direct, produce to the Registrar of the Court the Certificate of the Accountant General of the Payment of such Money; and if Default be made in such Payment the Judge may direct a Warrant of Execution to issue to the High Bailiff of the Court, who by such Warrant shall be empowered to levy or cause to be levied by Distress and Sale of the Goods and Chattels of such Person a Sum of Money equal in Amount

Power to Judge of a County Court to order any Legacy, &c. to which an Infant or Person beyond the Seas may be entitled to be paid into the Bank of England, in accordance with Provisions of Sect. 32. of 36 G. 3. c. 52.

Amount to the Sum which he was ordered to pay to the said Accountant General and to the Costs incurred by reason of such Default, and the Sum so levied shall be paid to and be receivable by the said Accountant General under the Direction of the Court; and all Amounts so paid or transferred into the Court of Chancery, with any Dividends thereon, shall be paid or transferred to the Person or Persons entitled thereto, or otherwise applied for his or their Benefit, on Application by Summons to One of the Vice-Chancellors while sitting at Chambers.

Act not to impair Jurisdiction of Stannaries Court.

6. Nothing in this Act contained shall be construed to impair the Jurisdiction of the Stannaries Court, or to give Authority to any County Court Judge to entertain Jurisdiction in any Case to which the Equitable Jurisdiction of the said Court at present extends.

Provisions of County Court Acts as to Juries, Suitors, and Witnesses extended to Suitors and Witnesses under this Act.

7. Whenever it is required that a Jury should be summoned for the Trial of any Matter arising out of the Jurisdiction given to the County Courts by this Act, it shall be summoned from the List of Jurors in the Possession of the Registrar of the County Court in which the Suit or Matter has been brought; and all the Enactments relating to the summoning, impannelling, and swearing of a Jury in a County Court, and to the Number of the Jury and the Unanimity of their Verdict, shall apply to every Jury summoned under this Act; and the Duties and Obligations of and upon all Jurors, Suitors, and Witnesses, and their Liability to Penalty and Punishment, shall, in any Proceeding under this Act, be the same as those created, authorized, and imposed by the several Statutes now in force relating to County Courts.

Power to enforce Judgments of County Courts in Equity.

8. For the due Execution of any Judgment, Decree, or Order made under the Authority of this Act, or of the Rules and Orders to be framed as herein-after provided, the Court shall have Power to order, and the Registrar upon such Order shall have Authority to seal and issue, and the High Bailiff to execute, any Writ or Warrant of Possession, Writ or Warrant of Execution, or other Process of Execution for carrying into effect any Judgment, Decree, or Order of the said Court; and such Writs, Warrants, and Processes shall be in the Form and executed at the Time and in the Manner to be set forth in the Rules and Orders to be framed as herein-after provided.

Where Amount of Subject Matter of Suit exceeds

9. If during the Progress of any Suit or Matter it shall be made to appear to the Court that the Subject Matter exceeds the Limit in point of Amount to which the Jurisdiction of the County Courts

Courts is hereby limited, it shall not affect the Validity of any Order or Decree already made, but it shall be the Duty of the Court to direct the said Suit or Matter to be transferred to the Court of Chancery, and thereupon the said Suit or Matter shall proceed in such One of the Vice-Chancellors Courts as the Lord Chancellor may by General Order direct; and such Vice-Chancellor shall have Power to regulate the whole of the Procedure in the said Suit or Matter when so transferred: Provided always, that it shall be lawful for any Party to apply to such Vice-Chancellor at Chambers for an Order authorizing and directing the Suit or Matter to be carried on and prosecuted in the County Court, notwithstanding such Excess in the Amount of the Limit to which Jurisdiction in the Matter is hereby given to the County Courts; and the Vice-Chancellor, if he shall deem it right to summon the other Parties or any of them to appear before him for that Purpose, after hearing such Parties, or on default of the Appearance of all or any of them, shall have full Power to make such Order.

Limit of the Jurisdiction of County Court, Suit may be remitted to Court of Chancery, &c.

10. With respect to the Court in which Proceedings in Equity shall be taken—

In what Courts Proceedings shall be taken.

1. Proceedings under this Act which relate to the Recovery or Sale of any Mortgage, Charge, or Lien on Lands, Tenements, or Hereditaments shall be taken in that County Court within the District of which the Lands, Tenements, or Hereditaments, or any Part thereof, are situate:
2. Proceedings under the Trustee Acts, 1850 and 1852, shall be taken in the County Court within the District of which the Persons making the Application, or any of them, reside or resides:
3. Proceedings for the Administration of the Assets of a deceased Person shall be taken in the County Court within the District of which the deceased Person had his last Place of Abode in *England*, or in which the Executors or Administrators, or any One of them, shall have their or his Place of Abode:
4. Proceedings in Partnership Cases shall be taken in the County Court within the District of which the Partnership Business was or is carried on:
5. Proceedings for the specific Performance or the Delivery up or cancelling of Agreements shall be taken in the County Court within the District of which the Defendants, or any One of them, reside or resides, or carry on or carries on Business:

6. Proceedings in any Suit or other Matter under this Act, which are not otherwise provided for, shall be taken or instituted in the County Court within the District of which the Defendants, or any or either of them, shall reside or carry on Business.

As to Transfer of Suit from one County Court to another.

11. If during the Progress of a Suit or Matter it shall be made to appear to the Court that the same could be more conveniently prosecuted in some other County Court, it shall be competent for the Court to transfer the same to such other County Court, and thereupon the Suit or Matter shall proceed in such other County Court.

Remuneration of Registrars and High Bailiffs in Matters of Equity.

12. The Registrars and High Bailiffs of the County Courts shall be remunerated for the Duties to be performed by them under the Jurisdiction in Equity given to the Courts by this Act, by receiving for their own Use such Fees as may be from Time to Time authorized to be taken by any Orders to be made by the Commissioners of the Treasury, with the Consent of the Lord Chancellor; and the Commissioners of the Treasury are hereby authorized and empowered, with such Consent as aforesaid, from Time to Time to make such Orders.

Certain Fees to be taken, and to be paid over to the Consolidated Fund, and the Salaries of the Judges to be increased by 300*l.* a Year.

13. In addition to the Fees to be authorized to be taken by Order of the Commissioners of Her Majesty's Treasury as aforesaid, there shall be paid by the Suitors the several Fees which are specified and set forth in the Schedule to this Act, or such further or other Fees as the said Commissioners, with the Consent of the Lord Chancellor, shall from Time to Time by Order direct, which Fees shall be received by the Registrar of the Court, and accounted for and paid over by him to the Treasurer of the Court, who shall, at such Times as the said Commissioners shall direct, pay such Fees into the Bank of *England* to the Credit of the Paymaster General, to be by him paid over to the Credit of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and the Salaries paid out of such Fund to the Judges of the County Courts shall be increased by Three hundred Pounds a Year: Provided always, that the Salary of the Successor to any Judge who under this Act shall receive a larger Salary in the whole than One thousand five hundred Pounds shall not exceed One thousand five hundred Pounds: Provided also, that if any Judge heretofore appointed shall resign his Office by reason of any permanent Infirmity before he shall have received or become entitled to receive the increased Amount of Salary payable to him under this Act for the

the full Period of Five Years, any Annuity which the Lord Chancellor may recommend to be paid to him upon such Retirement shall be calculated with reference to the average Amount of Salary received or receivable by him for the Five Years next preceding the Date of such Retirement, and not with reference to the yearly Salary which he shall be entitled to as a Judge of County Court at the Time of presenting his Petition for the Grant of an Annuity.

Judge not obliged to hold Courts in the Month of September.

14. No Judge of any County Court shall be obliged to hold any Courts during the Month of *September* in any Year, unless he shall be ordered by the Lord Chancellor so to do; and if any Judge shall be desirous of holding Courts in the said Month of *September*, and of being relieved from the Obligation to do so at some other Period of the Year, it shall be lawful for such Judge, with the Sanction of the Lord Chancellor, to close the Courts upon his Circuit for any Period or Periods of Time of which the Lord Chancellor shall approve, not exceeding in the whole Four Weeks in any One Year: Provided always, that every County Court shall always be open for the Receipt and Payment out of Money due under any Order of the Court, pursuant to the Rules and Orders in force for the Time being, or for any Proceeding in Bankruptcy before the Registrar.

As to Registry of Judgments in London.

15. Such of the Judgments and Decrees as may be directed by any Rule or Order shall be registered with the Registrar of County Court Judgments in *London* in such Manner as may be therein directed.

Power to frame Rules and Orders under 19 & 20 Vict. c. 108.

16. The County Court Judges appointed or to be appointed by the Lord Chancellor from Time to Time to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceeding therein, under the Thirty-second Section of an Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter One hundred and eight, shall frame the Rules and Orders for regulating the Practice of the County Courts under this Act, and Forms of Proceedings therein, and from Time to Time amend such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or of any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same, and so from Time to Time; and the Rules, Orders, and Forms, or amended Rules, Orders, and Forms, so allowed or altered, shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

17. The

Scale of Costs to be framed by the Judges.

17. The County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys with respect to all Proceedings which are herein authorized to be taken, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who from Time to Time may allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Parties aggrieved may appeal.

18. If any Party in a Suit or Matter under this Act shall be dissatisfied with the Determination or Direction of a Judge of a County Court on any Matter of Law or Equity, or on the Admission or Rejection of any Evidence, such Party may appeal from the same to the Vice-Chancellor authorized as aforesaid, provided that such Party shall, within Thirty Days after such Determination or Direction, give Notice of such Appeal to the other Party or his Attorney, and also deposit with the Registrar of the County Court the Sum of Ten Pounds as Security for the Costs of the Appeal; and the said Court of Appeal may make such final or other Decree or Order as it shall think fit, and may also make such Order with respect to the Costs of the said Appeal as such Court may think proper; and such Orders shall be final: Provided that nothing herein contained shall authorize any Party to appeal against any Decision of a County Court, given upon any Question as to the Value of any Real or Personal Property, for the Purpose of determining the Question of the Jurisdiction of the Court under this Act, nor to appeal against the Decision of a County Court on the Ground that the Proceedings might or should have been taken in any other County Court.

Appeal to be made either to the High Court of Chancery or a Vice-Chancellor.

19. In any Case which may be the Subject of an Appeal under this Act in Causes arising within the County Palatine of *Lancaster*, the Appeal may be made either to the High Court of Chancery or a Vice-Chancellor thereof, or to the Court of Chancery of the County Palatine of *Lancaster* or the Vice-Chancellor thereof; and that in case of an Appeal to the Court of Chancery for the said County Palatine or the Vice-Chancellor thereof, the Order on such Appeal shall have the same Effect as if it had been made by a Vice-Chancellor of the High Court of Chancery; but no Appeal shall be made to the Court of Chancery of the said County Palatine or the Vice-Chancellor thereof unless the Consent thereto in Writing of the Respondent or Respondents on such Appeal, or of his or their Solicitor or Solicitors, shall be first obtained.

20. The

Registrar of the Bloomsbury County Court of Middlesex, not being an Attorney or Solicitor, to be entitled to retire from his Office with Compensation.

20. The present Registrar of the *Bloomsbury* County Court of *Middlesex*, not being an Attorney or Solicitor, but holding his Office by virtue of Section Twelve of the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of Her present Majesty, Chapter Ninety-five, shall be entitled on the passing of this Act to claim and receive Compensation for the Loss of such Office in the same Manner as is provided by Section Thirty-eight of the said Act; and the Amount of Compensation to be awarded shall be paid out of Monies that may be voted by Parliament for that Purpose.

This Act and 9 & 10 Vict. c. 95., and any Act amending or altering the same, to be construed together.

21. This Act and the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, and any Act amending or altering the same, shall be read and construed as One Act, as if the several Provisions contained in the said Acts referred to, not inconsistent with the Provisions of this Act, were repeated and re-enacted in this Act.

Salary of T. Rodgers, Esq., as Joint Registrar of the County Court of Yorkshire, holden at Sheffield, to be 700*l.* a Year.

22. The Salary of *Thomas Rodgers* Esquire, who in respect of his abolished Office of Deputy Steward of the Court Baron of the Manor of *Ecclesall* in the County of *York* became, under the Provisions of Section Eleven of the Act passed in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, Joint Registrar of the County Court of *Yorkshire* holden at *Sheffield*, shall, in consideration of the great Increase of Labour and Responsibility of the said last-mentioned Office, be from the passing of this Act Seven hundred Pounds a Year, notwithstanding the Restriction contained in Section Eighty-two of the Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter One hundred and eight; and upon the Death, Removal, or Resignation of either of the Persons now in possession of the Office of Registrar of the said County Court no other Person shall be appointed to such Office of Registrar, jointly or otherwise, until both the Persons holding such Office on the First Day of *June* in the Year One thousand eight hundred and sixty-five shall have died, been removed, or have resigned.

Commencement of Act.

23. The Provisions of this Act shall come into operation on the First Day of *October* One thousand eight hundred and sixty-five, except the Provisions relating to framing a Scale of Costs and making Rules and Orders of Practice and Forms of Proceeding, and except the Provision which relieves the Judges from the

Obligation of holding Courts during the Month of *September* without the Order of the Lord Chancellor, which Provisions shall come into operation on the passing of this Act.

SCHEDULE.

	£	*s.*	*d.*
On the Commencement of every Suit or Matter - -	0	10	0
On setting down any Matter for Hearing - -	1	0	0
On Application for Final Decree or Decretal Order -	1	0	0

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