ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

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C A P. LXXXIV.

An Act to alter and amend the Practice and Course of Proceeding under Commissions in the Nature of Writs De lunatico inquirendo.

[5th *August* 1842.]

Power to Lord Chancellor to appoint Two Commissioners.

WHEREAS it is expedient to alter and amend the Practice and the Course of Proceeding under Commissions in the Nature of Writs De lunatico inquirendo; 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, and by the Authority of the same, That it shall be lawful for the Lord Chancellor to appoint Two fit and proper Persons, being respectively Serjeants or Barristers at Law of not less than Ten Years Standing at the Bar, to be called "The Commissioners in Lunacy," and that in future all Commissions in the Nature of Writs De lunatico inquirendo shall be directed or addressed to such Commissioners, or One of them; and that such Commissioners shall hold their Offices during good Behaviour, and shall, jointly and severally, have, perform, and execute all the Powers, Duties, and Authorities now had, performed, and executed by Commissioners named in Commissions in the Nature of Writs De lunatico inquirendo.

Oath of Commissioners.

II. And be it enacted, That every Commissioner to be appointed by virtue of this Act shall, before he shall be capable of acting in the

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the Execution of any of the Powers and Authorities given by this Act, take the following Oath; (that is to say,)

'I do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Knowledge, execute the several Powers and Trusts reposed in me as One of the Commissioners in Lunacy, and that without Favour or Affection, Prejudice or Malice. So help me GOD.'

And that such Oath shall be taken before the Lord Chancellor, in like Manner as the usual Oaths are administered before the Lord Chancellor to Masters in Ordinary of the said Court of Chancery.

Power to Lord Chancellor to direct that the Commissioners shall perform the Duties in Lunacy usually referred to Masters in Chancery.

III. And be it declared and enacted, That it shall and may be lawful for the Lord Chancellor from Time to Time to order and direct that any of the Inquiries and Matters connected with the Persons and Estates of Lunatics, usually referred to the Masters in Ordinary of the High Court of Chancery, shall be referred to such Commissioners, or One of them; and such Commissioners shall, jointly or severally, have, perform, and execute all the Powers, Duties, and Authorities relating to the said Inquiries and Matters so to be referred to them as aforesaid, now had, performed, and executed by the Masters in Ordinary of the said Court of Chancery, and such other Duties for the Security and Advantage of Lunatics and their Estates as the Lord Chancellor shall from Time to Time order and direct.

Commissioners to be ex officio Visitors of Lunatics.

IV. And be it enacted, That the said Commissioners shall, by virtue of their Appointments to be such Commissioners as aforesaid, be and become Visitors for superintending, inspecting, and reporting upon, under the Order and Direction of the Lord Chancellor, the Care and Treatment of all Persons found idiot, lunatic, or of unsound Mind by Inquisition, jointly with the Three Visitors appointed under the Authority of an Act passed in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, and intituled *An Act to diminish the Inconvenience and Expence of Commissions in the Nature of Writs De lunatico inquirendo; and to provide for the better Care and Treatment of Idiots, Lunatics, and Persons of unsound Mind found such by Inquisition*, and shall severally have, perform, and execute the like Powers, Duties, and Authorities as are had, performed, and executed by the One of the said Visitors being a Barrister.

3 & 4 W. 4. c. 36.

Commissioners to execute such Duties as the Lord Chancellor shall order.

V. And be it enacted, That the Commissioners to be appointed by virtue of this Act shall execute Commissions in the Nature of Writs De lunatico inquirendo, and shall conduct Inquiries connected with Lunatics or their Estates, and shall perform all other Duties to be committed to them by virtue of this Act, either separately or together, and at such Places, and within such Times, and in such Manner as the Lord Chancellor shall from Time to Time order and direct: Provided always, and it is hereby declared, that nothing in this Act contained shall be deemed or taken to prevent the Lord Chancellor from issuing any Commission in the Nature of a Writ De lunatico inquirendo, addressed to any fit and

Lord Chancellor may appoint Special Commissioners.

proper

proper Person or Persons, in addition to such Commissioners so to be appointed as aforesaid, if he shall, upon any Occasion, deem it proper to do so.

Power to appoint Successors to Commissioners.

VI. And be it enacted, That upon the Death, Resignation, or Removal from Office of any such Commissioner as aforesaid to be appointed under the Authority of this Act, it shall be lawful for the Lord Chancellor to appoint a fit and proper Person, qualified as aforesaid, to supply such Vacancy.

Power to Lord Chancellor to regulate the Practice in Lunacy.

VII. And be it declared and enacted, That it shall and may be lawful for the Lord Chancellor from Time to Time to make such Orders as to him shall seem fit and proper for regulating the Form and Mode of proceeding before and by the said Commissioners, and the Practice in Matters in Lunacy: Provided always, that a Copy of such Orders shall be laid before both Houses of Parliament within Fourteen Days after the same are made, if Parliament be then sitting, or if not, within Fourteen Days after the Commencement of the next Session of Parliament.

Power to regulate the Number on Juries (not being less than Twelve).

VIII. And be it enacted, That it shall and may be lawful for the Lord Chancellor from Time to Time to make such Order or Orders as he shall deem fit for regulating and fixing the Number of Jurymen who shall be sworn to try Inquests on Commissions in the Nature of Writs De lunatico inquirendo; provided that every Inquisition on such Commissions shall be found by the Oaths of Twelve Men.

Appointing Officers, Clerks, and Messengers.

IX. And be it enacted, That from and after the passing of this Act such Officers, Clerks, and Messengers in the Office of the said Commissioners as the Lord Chancellor and the Commissioners of Her Majesty's Treasury shall determine to be necessary and proper, shall and may be from Time to Time appointed.

The Office of Clerk of the Custodies abolished. 2 & 3 W. 4. c. 111.

X. And whereas by an Act passed in the Second and Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office*, it was enacted, that (amongst other Offices) the Office of the Clerk of the Custodies of Lunatics and Idiots should cease and determine after the Twentieth Day of *August* One thousand eight hundred and thirty-three; provided that nothing in that Act contained should be construed to determine any of the aforesaid Offices then held in Possession or Reversion by any Person appointed thereto on or before the First Day of *June* One thousand eight hundred and thirty-two, until the Decease or Resignation of such Person: And whereas the present Clerk of the Custodies of Idiots and Lunatics held the said Office in Possession before the said First Day of *June* One thousand eight hundred and thirty-two: And whereas by an Act passed in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been* 3 & 4 W. 4. c. 84.

been abolished, it was enacted, that from and after the Death, Resignation, or Removal of the Person then holding the Office of Clerk of the Custodies of Idiots and Lunatics the Duties of such Office should be performed by the Secretary of Lunatics, in addition to such other Duties as such Secretary should be required to perform; and that the Fees and Emoluments of the said Office of Clerk of the Custodies should be accounted for and paid into the Revenue of Her Majesty's Exchequer, to be carried to and made Part of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*: And whereas the said Office of Clerk of the Custodies of Idiots and Lunatics is productive of unnecessary Expence to the Estates of Idiots, Lunatics, and Persons of unsound Mind, found such by Inquisition, and it is fit and desirable that such Office and the Fees thereof should be abolished as soon as can be: Be it therefore enacted, That it shall be lawful for the Lord Chancellor to order and direct, as soon as he may find it practicable so to do, having regard to the State of the Funds herein-after mentioned, that the said Office of Clerk of the Custodies of Idiots and Lunatics and the Fees thereof shall cease and determine, and that the said Commissioners or the Secretary of Lunatics shall thenceforth do and perform any of such Acts, Deeds, Matters, and Things as have heretofore been done and performed in execution of the Duties of the said Office of Clerk of the Custodies, and all such Acts to be done by the said Commissioners and the Secretary of Lunatics shall in all respects have the same Force and Effect as if the same had been done by the Clerk of the Custodies or his Deputy; and that all the Records, Proceedings, Books, Papers, and Documents in the said Office of Clerk of the Custodies shall thereupon be by him delivered to such Person or Persons as the Lord Chancellor shall by any Order appoint; and that so much of the said last-recited Act as enacts that there shall be paid out of the said Consolidated Fund to the Secretary of Lunatics, for Expences attending the Office of Clerk of the Custodies of Idiots and Lunatics, the yearly Sum of Two hundred Pounds, shall be and the same is hereby repealed.

Lord Chancellor to fix Tables of Fees, to be paid into Suitors Fee Fund.

XI. And be it enacted, That it shall be lawful for the Lord Chancellor from Time to Time to order such Fees to be received and taken by the Clerks to the Commissioners to be appointed under this Act, and also such Fees to be received and taken by the Secretary of Lunatics, as the Lord Chancellor shall in either Case judge reasonable and proper; and that the said Clerks to the Commissioners and the Secretary of Lunatics shall and may thereafter take and receive such Fees respectively, and shall pay into the Bank of *England*, at such Times, and in such Manner, and under such Regulations, as the Lord Chancellor shall from Time to Time order and direct, all Fees or Sums of Money so received by them, and that the several Sums, when so paid in, shall be placed to the Credit of the Accountant General of the Court of Chancery, to the Account intituled "The Suitors Fee Fund Account."

Fees formerly payable to Lord High Chan-

XII. And whereas by an Act passed in the Second and Third Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making further Provision for the Lord High Chancellor*

Chancellor of England *in lieu of Fees heretofore received by him*, it is enacted (amongst other things), that the Fees and Emoluments accruing due and payable as therein mentioned for Business done in the Offices of the Clerk of the Crown, the Clerk of the Letters Patent, the Secretary of Fines, and the Pursebearer to the Lord Chancellor for the Time being, shall be paid into the Bank of *England*, in the Name of the Accountant General of the said Court, to an Account to be intituled "An Account of Fees formerly payable to the Lord Chancellor;" be it enacted, That all such Fees and Emoluments now due, and henceforth to accrue due and payable, as in the said last-mentioned Act mentioned, when paid into the Bank of *England* in the Name of the Accountant General of the said Court, shall be placed to the Account of "The Suitors Fee Fund Account," instead of the said Account intituled "An Account of Fees formerly payable to the Lord Chancellor," and be applied as Part of the Fund standing to the Credit of the said Account intituled "The Suitors Fee Fund Account."

cellor to be paid into Fee Fund. 2 & 3 W. 4. c. 122.

XIII. And be it enacted, That out of the said Fund standing to the Credit of the Accountant General of the Court of Chancery, intituled "The Suitors Fee Fund Account," there shall be paid (but subject and without prejudice to the Payment of all Salaries and Sums of Money which by any Act or Acts now in force are authorized to be paid thereout), by the Governor and Company of the Bank of *England*, by virtue of any Order or Orders of the Court of Chancery to be from Time to Time made for that Purpose, to each of the Commissioners for the Time being to be appointed under this Act the yearly Sum or Salary of Two thousand Pounds, such yearly Sums or Salaries to be payable free from all Taxes, Deductions, and Abatements whatsoever out of the same or any Part thereof, and to be paid by equal quarterly Payments on the Third Day of *February*, the Third Day of *May*, the Third Day of *August*, and the Third Day of *November* in every Year; the First of such Payments, or proportionate Parts thereof, to be computed from the Time of their respective Appointments, to be made on such of the same Days of Payment as shall first happen after the Dates of such Appointments.

Salaries of Commissioners.

XIV. And be it enacted, That the Officers, Clerks, and Messengers who shall be appointed as herein-before directed, and the Secretary of Lunatics and his Clerks, shall receive by way of Salary for the Performance of their several Duties such annual Sums as the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury shall from Time to Time fix and determine; and that the same and such Allowances to the said Commissioners for their travelling and other Expences, and to the said Commissioners and the Secretary of Lunatics for providing Offices, and for the other Expences incident to the Discharge of the Duties of their respective Offices as the Lord Chancellor shall think reasonable, and shall from Time to Time order and direct, shall be paid and payable at such Times and in such Manner as the Lord Chancellor shall direct, under an Order of the Court of Chancery, out of the said Fund intituled "The Suitors Fee Fund Account."

Salaries of Officers, Clerks, &c., and Allowances to Commissioners and Secretary of Lunatics.

XV. And

Retiring Annuities to Commissioners.

XV. And be it enacted, That it shall be lawful for the Lord Chancellor, by any Order or Orders to be made from Time to Time on a Petition presented to him for that Purpose, to order (if he shall so think fit) an Annuity or clear yearly Sum of Money, not exceeding Twelve hundred Pounds, to be paid out of the said Account intituled "The Suitors Fee Fund Account," (but subject as aforesaid,) to any Person or Persons executing the said Office of a Commissioner in Lunacy, if and when such Person or Persons shall be afflicted with some permanent Infirmity disabling him from the due Execution of his Office, and shall be desirous of resigning the same; and the Annuity or yearly Sum mentioned in such Order or Orders shall be paid by the Governor and Company of the Bank of *England* out of the said Fund intituled "The Suitors Fee Fund Account," (but subject as aforesaid,) by equal quarterly Payments, on the Third Day of *February*, the Third Day of *May*, the Third Day of *August*, and the Third Day of *November* in every Year, to such Person or Persons, from the Period when he or they shall resign his said Office, for the Term of his Life, free from Taxes, or proportionate Part of the First quarterly Payment of such Annuity or yearly Sum, calculated from the Day of the Resignation of such Person or Persons, to be made on the quarterly Day of Payment which shall first happen after the Day of such Resignation as aforesaid.

Compensations to Officers.

XVI. And be it enacted, That it shall be lawful for any Officer or Person whose Office or Appointment may be abolished or affected by virtue of this Act, and who may not be appointed to any Office under this Act, to make a Claim for Compensation, within Six Months after the passing of this Act, to the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury, who shall proceed, in such Manner as they may think proper, to inquire whether any Compensation ought to be made to any such Claimant, and if any, what were the lawful Fees and Emoluments in respect of which the same should be allowed; and in every Case in which such Claim shall be established to the Satisfaction of the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury, they are hereby authorized and empowered to fix and determine, by an Order under their Hands, the Amount of the annual Compensation which shall seem to them to be just and reasonable for the Loss sustained by such Claimant, not being in any Case, where his Office is wholly abo lished by this Act, less than Three Fourth Parts of the full net annual Value of the lawful Fees and Emoluments of the Office so abolished; and the Amount of the net annual Value of the Emoluments of such Office shall be ascertained and fixed by the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury according to such an Average of yearly Receipts and Disbursements prior to the passing of this Act as they shall think proper; and the Times when such annual Compensations shall commence and also be payable (whether quarterly or otherwise) shall also be fixed by the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury; and all the Compensations fixed and determined as aforesaid shall be issued and paid and payable by the Governor and Company of the Bank of *England*, by virtue of an Order or Orders for that

Purpose to be made by the said Court of Chancery, out of the said Account intituled "The Suitors Fee Fund Account" (but subject and without prejudice to the Payment of all Salaries and Sums of Money which by any Act or Acts now in force are authorized to be paid thereout): Provided nevertheless, that an Account of all such Compensations shall, within Fourteen Days next after the same shall be so granted, be laid upon the Table of the House of Commons, if Parliament shall be then assembled, or if Parliament shall not be then assembled then within Fourteen Days after the Meeting of Parliament then next following.

Construction of Act.

XVII. And be it enacted, That in the Construction of this Act the Words "Lord Chancellor" shall be taken to mean and include also the Lord Keeper or Lords Commissioners for the Custody of the Great Seal of the United Kingdom of *Great Britain*, or other the Person or Persons for the Time being intrusted by virtue of the Queen's Sign Manual with the Care and Commitment of the Custody of the Persons and Estates of Persons found idiot, lunatic, or of unsound Mind; and that all Powers hereby given to or vested in the Commissioners of Her Majesty's Treasury by this Act may be executed by any Three of such Commissioners for the Time being.

Act may be amended, &c. this Session.

XVIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

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