CHAP. 37.

An Act to authorize the appointment of District Prothonotaries of the Court of Common Pleas of the county palatine of Lancaster, and to provide for the better despatch of business therein. [26th July 1869.]

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WHEREAS the Court of Common Pleas of the county palatine of Lancaster is an ancient court, and has been found greatly beneficial to the inhabitants of the said county palatine, and it is expedient to amend the practice thereof:

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, as follows:

Power to the Chancellor to appoint district prothonotaries and assign districts.

1. The Chancellor of the duchy and county palatine of Lancaster for the time being may from time to time appoint, by writing under his hand, such competent persons as he shall think fit, to act as district prothonotaries of the said Court of Common Pleas of the said county palatine during good behaviour, and may assign a district to the persons so appointed, and every district prothonotary shall be paid by salary as herein-after provided.

Power to the Chancellor to appoint clerks to act within districts.

2. The Chancellor of the said duchy and county palatine for the time being may also from time to time appoint, by writing under his hand, such competent persons as he shall think fit to act during the pleasure of the said Chancellor for the time being as clerks for the efficient despatch of business within any district, and every person so appointed shall be paid such sum by way of salary or remuneration as herein-after provided.

Every district prothonotary to have an office within his district.

3. Every district prothonotary shall have an office in some convenient situation within his district, to be approved of by the Chancellor of the said duchy and county palatine for the time being, and the rent and taxes of and other expenses and outgoings connected with such office shall be paid as herein-after provided.

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Duties of district prothonotaries and clerks.

4. Each of the district prothonotaries and his clerk or clerks shall within his district discharge such of the duties and have and exercise such of the powers and authorities which heretofore have been discharged, or had and exercised by the prothonotary, as shall be assigned to him by the Chancellor of the said duchy and county palatine for the time being: Provided always, that the duties and powers and authorities of associate are to be discharged, had, and exercised by the prothonotary as they have been heretofore discharged, had, and exercised by the prothonotary or acting prothonotary of the said court.

Additional duties and powers to be discharged and exercised by district prothonotaries.

5. In addition to the duties and powers to be discharged and exercised by the respective district prothonotaries, within their respective districts, as herein-before mentioned, each of the said district prothonotaries shall, with reference to the business of the said court within the district to which he shall be so appointed, discharge all the duties and have and exercise all the powers which now are or may be at any time discharged or exercised by any master of Her Majesty's Courts of Queen's Bench, Common Pleas, or Exchequer at Westminster; but every order made or process issued by virtue of this section shall be subject to appeal, and liable to be discharged as herein-after provided.

Power to the Chancellor to make and publish general rules.

6. It shall be lawful for the Chancellor of the said duchy and county palatine for the time being, with the advice and consent of the chief justice and one of the justices for the time being of the Court of Common Pleas at Lancaster, from time to time to make and publish general rules for the following purposes; that is to say,

1. For empowering the prothonotary or district prothonotary, or some one or more of them, to do any of such things, and to transact any of such business, and to exercise any of such authority and jurisdiction in respect of the Court of Common Pleas at Lancaster, as by virtue of any statute or custom, or by the rules and practice of Her Majesty's Courts of Queen's Bench, Common Pleas, and Exchequer of Pleas at Westminster, or any of them respectively, are now done, transacted, or exercised by a judge of the said courts sitting at chambers, and as shall be specified in any such rule; but every order made and thing done under this power shall be subject to appeal, and liable to be discharged as herein-after provided:

2. For regulating the attendance of the said prothonotary or district prothonotary at their respective offices, the course of practice to be there pursued, and the scale of costs to be there adopted:

3. For fixing, with the sanction of the Lords Commissioners of Her Majesty's Treasury, the table of fees to be taken in respect of business to be transacted before the prothonotary or district prothonotary, and for abolishing or altering from time to time (with the like sanction) such table of fees:

4. For providing for the hearing by one or more of the judges of the court, either within the county palatine or in London or Westminster, of any appeal or application to the court, or for the hearing of any demurrer or special case, or obtaining or hearing of any rule or order or application of or to the said court.

Matters referred to in preceding section may be heard and determined by superior courts at Westminster.

7. Any such matter as last aforesaid may be heard and determined by any of the superior courts at Westminster, either sitting in banco, or by any one of the judges of the said courts at chambers, when according to the practice of such court such matter would be heard by a single judge at chambers. Upon the hearing of any such matter the court or such superior court at Westminster or judge may make such order as to costs as may be just.

Rules to be published in London Gazette.

8. Every general rule to be made under this Act shall be published in the London Gazette within fourteen days at least before the day fixed for such rule coming into operation, and a copy of every such rule shall be hung up in some conspicuous place in the office of the prothonotary and of every district prothonotary.

Rules to be laid before Parliament.

9. Every general rule to be made under this Act shall be laid before both Houses of Parliament within one month after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within one month after the commencement of the next session of Parliament.

Table of fees to be hung up in offices of prothonotaries.

10. A table of all fees for the time being authorized to be taken by the prothonotary or district prothonotary shall be hung up in some conspicuous place in the office of the prothonotary and of every district prothonotary.

Duties and power of prothonotary.

11. The prothonotary shall continue to discharge and have and exercise the duties, powers, and authorities not expressly assigned to some district prothonotary; and the Chancellor of the said duchy

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and county palatine for the time being may from time to time assign a district to the prothonotary, within which he shall keep an office as herein-before provided with respect to every district prothonotary, and shall discharge the duties and have and exercise all the powers and authorities by this Act given to a district prothonotary.

No prothonotary or district prothonotary to practise or take fees.

12. It shall not be lawful for any prothonotary or district prothonotary, or his partner, during the time he shall hold and exercise his office, either directly or indirectly, by himself, his partner, clerk, or other person, to practise in the said court, either as attorney originally retained for any party in any matter pending in the said court, or as agent for any other attorney practising in the said court, nor to participate in any costs payable to any attorney in respect of any such matters; and any prothonotary or district prothonotary being proved to the satisfaction of the said Chancellor to have so practised, or to have participated in any costs as aforesaid, contrary to the meaning and intent of this Act, shall be deemed to have committed and shall be punishable as and for a contempt of court, and shall be liable to dismissal from his office.

Power to appoint deputy prothonotary.

13. In case of the illness or unavoidable absence of the prothonotary or district prothonotary, it shall be lawful for him from time to time to appoint by writing under his hand any fit person to be his deputy, and such deputy while acting under such appointment shall have all the powers and shall perform all the duties of such prothonotary or district prothonotary.

Seal to be provided.

14. A proper seal shall be provided for the use of each of the districts of the said court, whereon shall be engraved the name of the court, together with the name of the district for which the same shall be provided, and all writs of summons or other process and papers requiring the seal of the said court shall in future be stamped with the seal of the said court for the district within which the action or other proceeding shall be commenced or carried on, in lieu of the seal of the court with which the process of the court has heretofore been stamped.

How writs, judgments, rules, and orders to be enforced.

15. Every writ and judgment and every rule and order and process of the court shall and may be enforced in the same manner, and shall have the same effect, as if it were a writ, judgment, rule, or order or process of one of the superior courts at Westminster, and all sheriffs and others shall obey the same and act accordingly.

Prothonotary and district prothonotaries to make out account of fees, and have the same audited.

16. The prothonotary and every district prothonotary for the time being shall once in every year, or oftener if required by the Chancellor of the said duchy and county palatine for the time being, on such day as shall be appointed for that purpose by the auditor for the time being of the duchy of Lancaster, make out a full and true account of all fees received by him or them by virtue of his or their office, including the fees received by the prothonotary as associate as aforesaid, during the preceding year or subsequent to his last account, and shall have such account audited by such auditor for the time being, who is hereby required to audit the same, and if found correct, to allow the same by putting his signature thereto, and to a duplicate copy thereof.

Fees to be paid to "The Prothonotary's Fee Fund Account."

17. The prothonotary and every district prothonotary shall from time to time, when so required by the Chancellor for the time being of the said duchy and county palatine, pay over to the credit of "The Prothonotary's Fee Fund Account of the County Palatine of Lancaster," which account shall be kept at the Bank of England, all fees which shall be received by such prothonotary or district prothonotary in virtue of his office, including the fees received by the prothonotary as associate or acting associate as aforesaid, and every such prothonotary or district prothonotary shall give such security, by bond or otherwise as to the said Chancellor shall seem fit, for the due accounting for and payment of all fees for all sums of money which shall be received by such prothonotary or district prothonotary by virtue of his office, including the fees received by the prothonotary as associate or acting associate as aforesaid; the fees received by the prothonotary since the death of Sir Charles Phipps, and which shall remain in the prothonotaries hands on the twenty-fourth day of October next, shall be also paid to the aforesaid prothonotary fee fund account; any monies from time to time standing to such account may be invested, and such investments may from time to time be realized and got in, as circumstances may require, and the said Chancellor shall from time to time by any writing direct.

Payments to be made out of "The Prothonotary's Fee Fund Account."

18. There shall be paid out of "The Prothonotary's Fee Fund Account" such sums as shall be directed by the said Chancellor and sanctioned by the said Lords Commissioners for the rents and taxes of and all other expenses and outgoings connected with the offices to be kept in the several districts, as herein-before provided; and, secondly, there shall be paid out of the prothonotary's fee fund account to the prothonotary and the district prothonotaries and

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clerks for the time being such sum by way of salary or remuneration as the Chancellor for the time being of the said duchy and county palatine, with the sanction of the said Commissioners, shall from time to time by warrant under his hand authorize and direct.

No person to be entitled to compensation in case of alteration of duties, &c.

19. No person shall be entitled to any compensation in respect of the emoluments of any office under this Act in case any alteration shall be made in the duties thereof, or the same shall be abolished.

Costs of Act.

20. The costs of this Act shall be the first charge on and be paid out of the monies paid to "The Prothonotary's Fee Fund Account."

Short title.

21. This Act may be cited for all purposes as "The Common Pleas at Lancaster Amendment Act, 1869."

Act to commence 24th Oct. 1869.

22. This Act shall come into operation on the twenty-fourth day of October next.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1869.