CHAPTER 37.

An Act to better define the Jurisdiction and to improve the Procedure of the Court of Passage in the City of Liverpool, and for other purposes connected therewith.

[24th August 1893.]

WHEREAS the Court of Passage in the city of Liverpool is an ancient court of record for the trial of civil actions, and the usefulness of the Court to suitors would be increased if its jurisdiction were better defined and if the procedure of the High Court were made applicable to it, and other amendments made :

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 :

Short title.

1. This Act may be cited as the Liverpool Court of Passage Act, 1893.

As to jurisdiction of court.

2. An action may be commenced and determined in the Court of Passage when the defendant or one of the defendants resides or carries on business at the time of commencing the action within the jurisdiction of the court ; and an action may also be commenced and determined in the court by leave of the judge or registrar when the whole or any part of the cause of action has arisen within the jurisdiction of the court.

Provided that, except where the whole cause of action has arisen within the jurisdiction of the court, no action whereof the county court has cognizance and in which the debt demand or damage claimed does not exceed twenty pounds, shall be commenced in the Court of Passage.

Cases where judge of High Court may order action of contract to be tried in Court of Passage.

3. Where in any action of contract which is brought in the High Court and which might have been brought in the Court of Passage the claim endorsed on the writ does not exceed one hundred pounds, or where the claim in any such action though it originally exceeded one hundred pounds is reduced by payment, an admitted set-off, or otherwise, to a sum not exceeding one hundred pounds, it shall be lawful for either party to the action at any time if the whole or part of the demand of the plaintiff be contested to apply to a judge of the High Court at Chambers to order such action to be tried in the Court of Passage; and on the hearing of the application the judge may, without prejudice to the power of the judge under section sixty-five of the County Courts Act, 1888, order such action to be tried accordingly ; and thereupon the plaintiff shall lodge the original writ pleadings (if any) and the order with the registrar of the Court of Passage; and the action and all proceedings therein shall be tried and taken as if the action had been originally commenced in the Court of Passage, and the costs of the parties in respect of proceedings subsequent to the order of the judge of the High Court shall be allowed according to the scale of costs for the time being in use in the Court of

51 & 52 Vict. c. 43.

Passage, not exceeding such costs as would have been allowed or be payable if the action had been remitted to and tried in the county court, and the costs of the order and all proceedings previously thereto shall be allowed according to the scale of costs for the time being in use in the Supreme Court.

Actions of tort in High Court may in certain cases be remitted to Court of Passage.

4. It shall be lawful for any person against whom an action of tort which might have been brought in the Court of Passage is brought in the High Court to make an affidavit that the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff, and thereupon a judge of the High Court shall have power to make an order that unless the plaintiff shall within a time to be therein mentioned give full security for the defendant's costs to the satisfaction of one of the Masters of the Supreme Court, or satisfy a judge of the High Court that he has a cause of action fit to be prosecuted in the High Court, all proceedings in the action shall be stayed, or, in the event of the plaintiff being unable or unwilling to give such security or failing to satisfy a judge as aforesaid, without prejudice to the power of the judge under section sixty-six of the County Courts Act, 1888, that the action be remitted for trial to the Court of Passage; and thereupon the plaintiff shall lodge the original writ pleadings (if any) and the order with the registrar of such court; and the action and all proceedings therein shall be tried and taken as if the action had originally been commenced in the Court of Passage, and the costs of the parties in respect of the proceedings subsequent to the order of the judge of the High Court shall be allowed according to the scale of costs for the time being in use in the Court of Passage, not exceeding such costs as would have been allowed or be payable if the action had been remitted to and tried in the county court, and the costs of the order and all proceedings previously thereto shall be allowed according to the scale of costs for the time being in use in the Supreme Court.

Where action may be removed on security given.

5. It shall be lawful for the High Court or a judge thereof to order the removal into the High Court by writ of certiorari or otherwise of any action or matter commenced in the Court of Passage if the High Court or a judge thereof shall deem it desirable that the action or matter shall be tried in the High Court, and upon such terms as to payment of costs, giving security, or otherwise, as the High Court or a judge thereof shall think fit to impose.

Presiding judge of court.

6. The assistant barrister or assessor of the Court of Passage shall henceforth be and be styled the presiding judge of the Court of Passage, and shall have and may exercise all powers, authorities, and jurisdictions, belonging or which but for this Act would have belonged to the said court or to the mayor of the city of Liverpool as judge or member of the said court; and he shall have the same power, jurisdiction, and authority in regard to causes in the Court of Passage (subject to rules of court) as is possessed by a judge of the High Court in similar matters sitting in chambers or at Nisi Prius.

7. The registrar of the Court of Passage shall, in dealing with actions or with matters and proceedings in an action, have (subject to rules of court) all the powers which a registrar, district registrar, master, taxing officer, or associate of the High Court has or would have in the same matter if the same were proceeding in the High Court. Powers of registrar.

8. It shall be lawful for the presiding judge of the Court of Passage by order under his hand, made with the concurrence of the authority for the time being empowered to make rules for the Supreme Court, to adopt and apply to the Court of Passage all or any of the rules of the Supreme Court, 1883, or any other rules and orders for the time being in force which regulate the practice and procedure of the High Court, with such modifications (if any) as the judge or the authority aforesaid may think fit, and from and after the coming into operation of such order all existing enactments or rules inconsistent therewith shall be repealed so far as relates to the Court of Passage. Application of practice and procedure of High Court.

No order made under this section with such concurrence as aforesaid shall be held invalid by reason of its extending or otherwise affecting the jurisdiction of the Court of Passage or of the presiding judge or registrar or other officer thereof.

9. All orders made and decisions and directions given by the registrar of the court shall be subject to appeal to the presiding judge. Appeal from registrar to judge.

10. An appeal shall be allowed upon the trial of any issue in the Court of Passage in every case where an appeal would be allowed on a trial at Nisi Prius and subject to the same rules, regulations, and provisions. Appeal from judge of court.

CHAPTER 38.

An Act to make further provision for the Conveyance of Her Majesty's Mails. [24th August 1893.]

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:

1. Where under any Act relating to the conveyance of mails or under the Post Office (Parcels) Act, 1882, it is provided that any matter of difference relating to any remuneration or compensation to be paid by the Postmaster-General to any railway company shall be referred to arbitration, that matter of difference shall at the instance of any party thereto be referred to the Railway and Canal Commission instead of to arbitration, and that Commission shall determine the same, and this provision shall apply to any matter of difference referred to in section eight of the Post Office (Parcels) Act, 1882, where such railway companies as therein mentioned, or Differences as to remuneration for conveyance of mails. 45 & 46 Vict. c. 74.