

THE JURISDICTION OF THE MASTERS IN CHAMBERS.

subject, is held up to public scorn and contempt as one who for his misconduct will "probably have his gown stripped off his back." We are sure Mr. Macdonell never supposed that such use would be made of his hasty letter, but he must be held responsible for the natural result of his action, in case the result of the investigation should prove that the charge he has made against Mr. Blake does not result in the event alluded to.

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A very important question was recently raised before the Chancellor upon an appeal from the order of a Local Master in the case of *Freel v. Macdonald*, affecting the jurisdiction of the Master in Chambers, but, as the case went off on another ground, no decision was given regarding it. The point taken, however, must sooner or later be discussed and receive judicial consideration, and the sooner the better.

The case of *Freel v. Macdonald* was one affecting more immediately the jurisdiction of Local Masters, in respect to applications before them in Chambers, and the question raised, to which we refer, was whether they have in any case jurisdiction to entertain applications for speedy judgment, in actions when the writ of summons has been specially indorsed, under Rule S. C. 80. Under Rule S. C. 422 the judges of the County Courts and Local Masters are empowered to exercise the same jurisdiction as the Master in Chambers in certain cases, and subject to certain restrictions. Ever since the passing of the Judicature Act the Master in Chambers has assumed to exercise jurisdiction under Rule S. C. 80 without question. There are, however, certain limitations upon his jurisdiction, and it certainly is not free from doubt whether his right to act under Rule S. C.

80 is quite as clear as has hitherto been supposed.

The Judicature Act and Rules have been construed on the principle that wherever any power or duty is conferred on "a judge," or "the Court or a judge," by the Act or Rules, the words imply that a judge in Chambers may exercise the jurisdiction, and that whatever a judge in Chambers may do, may also be done by the Master in Chambers, unless the contrary is expressed.

Under this canon of construction no doubt many matters have been transacted by the Master in Chambers to the relief of the judges, and to the satisfaction of suitors and the profession. At the same time there is a doubt, and a grave doubt, how far it is a correct mode of interpreting the Act and Rules.

If we turn to Rule S. C. 420 we find the jurisdiction of the Master in Chambers is defined. He is to have the power, authority and jurisdiction heretofore in like cases possessed in the Superior Courts respectively by the Clerk of the Crown and Pleas of the Court of Queen's Bench, and by the Referee in Chambers of the Court of Chancery, and the latter part of Rule 420 expressly excludes from his jurisdiction the matters excepted from the jurisdiction of the Clerk of the Crown and Pleas of the Queen's Bench, and the Referee in Chambers by the Reg. Gen. of Trinity Term 1870, and Chancery Order 560.

It seems, therefore, to be clear that the jurisdiction of the Master in Chambers, is the same as that formerly possessed by the Clerk of the Crown and Pleas of the Court of Queen's Bench, and the Referee in Chambers of the Court of Chancery, and no wider and no greater, but on the contrary subject to the like restrictions.

In construing Chancery Order 560 (and it will be seen that Reg. Gen. Trinity Term 1870 is in similar terms) it was held