

LOCAL COURTS, AND THE BOUNDS OF THEIR JURISDICTION.

of the County Courts could be excepted to, it seemed justifiable and right. Whether, through actual defects in our system of judicial patronage, or the want of confidence which the profession had in the appointments of County Court Judges, these officials were treated for a long time, both in Westminster Hall and St. Stephen's, as if unfit, to dispose of any but the simplest cases, involving neither large amounts, complicated facts, or serious questions of law.

The Legislature has now gradually increased the jurisdiction of the County Courts, so as to make them certainly something more than what they were originally called. Small Debt Courts and the salaries of the Judges have very properly been augmented. We have a right to expect that, with the large number of really eligible men who now are said to aspire to the office of Judge of County Courts, the appointments will be henceforth in every way free from objection.

Since the original Act of 1846, the legislation upon the subject of the County Courts has been great; the limit in amount and character of their jurisdiction, legal, equitable, and extraordinary, the powers of the Judges, the sittings of courts, the amount of costs, &c., have all been dealt with, and if we are to credit the *on dits* as to the Judicature Commission, greater changes are impending. We pause now, only to refer to the propositions of Mr. Daniel,* who, in his paper, recently read before the Social Science Congress, seems to propose that the County Courts for the purposes for which they were really called into existence (*viz.*, the adjudication of cases of small debts and demands, and the administration of justice in the immediate district where the dispute arose) shall now cease; and that the courts, instead of being held, as now, at short intervals in the places at present appointed shall henceforth be established at *convenient centres*: several of the smaller courts being done away with, and a very considerable portion of the Judge's work being delegated to the Registrar.

We give Mr. Daniel's propositions in his own words:

"(1st.) A reduction in the number of the courts, by doing away with several of the smaller courts. (2nd.) The power to obtain judgment by default extended to all cases of money demand above 5*l.* (3rd.) The period of limitation for the recovery of debts for shop goods should be considerably reduced, in the spirit of the obsolete though unrepealed Statute, 7 Jac. 1, c. 12. (4th.) The principal registrars to have jurisdiction to hear all cases of contract up to 10*l.* and all cases of tort up to 2*l.* and any cases by consent, with power in special cases to refer the hearing to the judge. (5th.) The registrars should hold frequent courts for these purposes, in some places

fortnightly, in all others monthly. (6th.) There should be an appeal from the registrar to the judge, whose decision should be final. (7th.) The judge should hear and dispose of all other business, with the assistance, when required, of commercial assessors, after the manner of nautical assessors in the Court of Admiralty. (8th.) There should be an appeal from his original jurisdiction to a Divisional Court of the High Court of Justice. (9th.) The Courts of First Instance should be established in the metropolitan districts as well as throughout the country. (10th.) By a re-arrangement of circuits and concentration of courts, the Courts of First Instance should be established at *convenient centres*, and thus a considerable reduction would be effected in the number of judges and registrars—probably one-half of the judges and three-fifths of registrars. (11th.) There should be a power of removal from one Court of First Instance to another for cause shown. (12th.) The procedure and practice of all the courts should be simple and uniform, and the process of each court should run through all. The Court of Probate and Matrimonial Causes might be taken as a model for the procedure and practice of Courts of First Instance. (13th.) The judges should be appointed by letters patent, and *selected for their fitness*, and take rank according to seniority among themselves, and next after the youngest puisne judge of the High Court. (14th.) There should be a chief registrar to each Court of First Instance, an assistant registrar, when necessary, and a sufficient staff of clerks. (15th.) The existing County Court judges, who have served ten but less than twenty years, should be allowed to resign upon pensions equal to two-thirds of their present salaries; those who have served twenty years at their full salary; and the Lord Chancellor should have full power to require any others to resign upon such pensions, (not being less than two-thirds of their present salaries), as he shall deem just. (16th.) The judges and chief registrars should be ineligible for Parliament, but the judges should be eligible for the High Court, and the chief registrars excluded from practice."

Mr. Daniel adds—

"A set of courts established on this basis would, I believe, be more efficient and economical than the present, and the diminution in the number of judges would allow of judicial salaries being paid of an amount which would secure the services of able and experienced lawyers."

These propositions are somewhat startling. It is difficult to see how the number of Judges of County Courts required in 1847, when the limit of their jurisdiction was 20*l.*, can now, when that jurisdiction has been so greatly extended and expanded, be reduced, with any security for the work being effectually performed. Mr. Daniel's proposition, in aid of this scheme, that a portion of the present judges' work should be delegated to the registrars, and a number of the courts now held be discontinued, seems open to the most serious objections. There is hardly any judicial abuse more frequently complained of, and more carefully to be guarded against, than that of the judge abandoning to others the work which he ought to perform himself.

* "Local Courts, their Constitution and Jurisdiction," a paper read before the Jurisprudence Department of the Social Science Congress, held at Leeds, October 9, 1871—V. Vernon Harcourt, Esq., Q.C., President—by W. T. S. Daniel, Q.C., Judge of County Courts Circuit, No. 11.