

of by a single Judge. He exercises a subordinate and generally a delegated power. But of late his jurisdiction is much increased under powers expressly or impliedly given by Statute. No words are of more frequent occurrence in our C.L.P. Act, 1856, than the words "Court or Judge." The jurisdiction acquired by a Judge under an Act of Parliament must be governed by the provisions of the particular Act. In some cases the powers conferred are concurrent with those of the Court and exercisable subject to the control of the Court. Whilst in others the jurisdiction of the Judge is complete and supreme in itself—admitting of no appeal. The nature and extent of the jurisdiction must be gathered from the language of the Statute. The Court, it seems, may delegate its power to a single Judge without any express enactment for that purpose. And where a Statute confers authority, unless a distinction is made in the Statute between the powers of the Judge and those of the Court, the Judge has the same power as the Court; (*Smelton v. Callier*, 1 Ex., 457.) Where a motion is to be made in open Court in *term time* it may be urged that the Legislature contemplated that such authorities should be confined to the Court, (*Jones v. Fitzaddam*, 1 Cr. & M. 555); or where the power as in Prov. Stat. 7 Vic., cap. 30, sec. 6, for relief of Sheriffs on adverse claims, is directed to be exercised by *rule of Court*; (*Shaw v. Roberts*, 2 Dowl. P. C., 25.)

No better example can be adduced of the distinction to be observed between the powers of the Court and a Judge than that of the Interpleader Act, 7 Vic., cap. 30, already mentioned. The first section enacts that it shall be lawful for "the Court or any Judge thereof" to make rules and orders; but the sixth section before amendment enacted that "the Court" should have the power to call the parties before them by "rule of Court." The inference that the legislature contemplated a distinction between the powers to be exercised by the Court and the Judge was irresistible. To remove the effect of such a construction, and to confer upon a single Judge power to deal with applications under sec. 6, an express enactment was passed, (9th Vic., chap. 56, section 4.) Wherever the legislature give powers in general terms, and without any express limitation, it is the

same as if those powers were given by common law. The legislature is aware of the powers the Courts are accustomed to exercise. When fresh powers are given by the legislature they are to be exercised in the usual and ordinary way. When special limitations are intended to be imposed the legislature express themselves to that effect, (per Alderson B., in *Smelton v. Callier*, *ubi sup.*) Therefore it has been held under Stat. 7 Geo. II, cap. 20, empowering the "Court," upon payment of principal money, interest and costs, due on any mortgage, &c., sued upon, to discharge the defendant from the action that a Judge in Chambers has power to entertain the application, (*Smelton v. Callier*, *ubi sup.*) Where a Judge exercises duties which belong to the Court, it is to be taken that he is to exercise them in the same manner as the Court itself, unless there is something in the context of the Statute which leads to a different conclusion, (*Ib.* Parke B.) A Judge in Chambers has the same jurisdiction in respect of the costs of a summons as the Court whom he represents has over the costs of a rule; (*Doc dem. Prescott v. Roe*, 9 Bing, 104; *In re Bridge and Wright*, 24 A. & E., 48; *Sheriff v. Gresley*, 1 A. & W., 588; *Davy v. Brown*, 1 Bing., N. C., 460; *Wilson v. Wortharp*, 4 Dowl. P. C. 441.) And if a party make application to the Court in a vexatious and oppressive manner, for an object that might be obtained at far less costs from a single Judge, the Court may refuse the application with costs; (*The Duke of Brunswick v. Sloman*, 5 C. B. 218.) Though a Statute direct something to be done before a Judge of a particular Court, such as Court in which action is instituted, it does not follow that a Judge in Chambers, though of a different Court, has no power to act. On the contrary, it is enacted, "that the Chief Justice and Judges of the Queen's Bench and Common Pleas shall sit in rotation, or otherwise as they shall agree among themselves, and that every Judge of either Court, to whatever Court he may belong, shall be authorized to transact such business at Chambers or elsewhere depending in either of such Courts, as may be, according to the course and practice of the said Courts, transacted by a single Judge"; (12 Vic., cap. 63, sec. 9.) This Statute, if it mean anything at all, must mean that a Judge in Chambers is in effect a Judge of each of the Courts, no matter to which Court he may in