

ney not to consent to a reference; but he did so notwithstanding the prohibition. She was held to be bound by this act; but the attorney was said by the court to be liable for negligence; (cf. *Laluche v. Parker*, 1, Salk. 86; *Griffith v. Williams*, 1 T. R. 170; *Furill v. Eastern Counties Railway*, 2 Exch. 344; *Chambers v. Mason*, 28 L. J. 10, C. P.) It is to be remarked, however, that in *Fray v. Voules* it was doubted by some members of the court whether the client is bound, even as to third parties, when the attorney has acted clearly *ultra vires*, as in compromising, notwithstanding an express prohibition from the client. If this be so, then, according to common law doctrine (*Swinfen v. Swinfen*), if counsel compromise, notwithstanding the express veto of the client or his attorney, or both, the principal client is bound by the counsel's act. But if the compromise be by the attorney, it is void, if made against the client's instructions.

It is clear from these cases that while the courts of common law are indisposed to admit any limit of counsel's authority, they are ready to enquire strictly into the extent of the attorney's authority to bind his client. It is assumed that the client is bound, as to third persons, in all cases by his attorney's act, unless clearly beyond the scope of his authority. But what makes an act beyond the scope of an attorney's authority? Not the client's express veto: for until the attorney be changed by order of the court, there are numerous well-known cases in which a client cannot stultify his attorney's discretion. But an express veto by a client is a dangerous thing for an attorney to disregard; and if that veto be directed against a contemplated compromise, *Fray v. Voules* shows that even the sanction of counsel will not save the attorney from a liability at least for nominal damages to the client, and perhaps even for substantial damages: (*Riley v. Steward*, 23 L. J. 148, C. P.) How far counsel would be liable in such a case is a very different question, which may perhaps be settled if the action of *Swinfen v. Lord Chelmsford* should ever be tried.

DIVISION COURTS.

OFFICERS AND SUITORS.

THE JURISDICTION OF THE DIVISION COURTS.

The subject of jurisdiction in the Division Courts is in no small degree complicated from the number of enactments and the want of logical arrangement in all. Although the consolidation is not yet proclaimed, the work as it passed both Houses may be relied on for a correct exposition of the law as it is. We shall therefore be doing good service to suitors and officers in these Courts by exhibiting to them the subject in the clear and intelligible shape in which it is presented by the Report as adopted by the Legislature.

CASES IN WHICH THE COURTS HAVE NO JURISDICTION, OR HAVE ONLY A QUALIFIED JURISDICTION.

The Division Courts shall not have jurisdiction in any of the following cases:

1. Actions for any gambling debt; or
2. For spirituous or malt liquors drunk in a tavern or ale house; or

3. On notes of hand given wholly or partly in consideration thereof.

4. Actions of ejectment, or actions in which the right or title to any corporeal or incorporeal hereditaments; or any toll, custom, or franchise, comes in question; or

5. In which the validity of any devise, bequest or limitation under any will or settlement may be disputed; or

6. For malicious prosecution, libel, slander, criminal conversation, seduction, or breach of promise of marriage.

7. Actions against a Justice of the Peace for anything done by him in the execution of his office, if he objects thereto.

CASES IN WHICH THE COURTS HAVE JURISDICTION.

The Judge of every Division Court may hold plea of, and may hear and determine in a summary way, for or against persons, bodies corporate or otherwise.

1. All personal actions where the debt or damages claimed do not exceed ten pounds; and

2. All claims and demands of debt account or breach of contract, or covenant or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed twenty-five pounds; and except in cases in which a jury is legally demanded by a party as hereinafter provided, he shall be sole judge in all actions brought in such Division Courts, and shall determine all questions of law and fact in relation thereto, and he may make such orders, judgments or decrees thereupon as appear to him just and agreeable to equity and good conscience, and every such order, judgment and decree shall be final and conclusive between the parties.

SPECIAL PROVISION AS TO JURISDICTION.

Upon any contract for the payment of a sum certain in labor, or in any kind of goods or commodities, or in any other manner than in money, the Judge, after the day has passed on which the goods or commodities ought to have been delivered, or the labor or other thing performed, may give judgment for the amount in money as if the contract had been so originally expressed.

No privilege shall be allowed to any person to exempt him from suing and being sued in a Division Court, and any executor or administrator may sue or be sued therein, and the judgment and execution shall be such as in like cases would be given or issued in the Superior Courts.

A minor may sue in a Division Court for any sum not exceeding twenty-five pounds, due to him for wages, in the same manner as if he were of full age.

A cause of action shall not be divided into two or more suits for the purpose of bringing the same within the jurisdiction of a Division Court and no greater sum than £25 shall be recovered in any action for the balance of an unsettled account, nor shall any action for any such balance be sustained where the unsettled account in the whole exceeds fifty pounds.

A judgment of the Court upon a suit brought for the balance of an account shall be a full discharge of all demands in respect of the account of which such suit was for the balance, and the entry of judgment shall be made accordingly.