

**A PRACTICAL TREATISE ON THE
JURISDICTION OF THE
ECCLESIASTICAL COURTS,
RELATING TO PROBATES AND
ADMINISTRATIONS**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9781760576127

A Practical Treatise on the Jurisdiction of the Ecclesiastical Courts, Relating to Probates and Administrations by Robert Swan

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

ROBERT SWAN

**A PRACTICAL TREATISE ON THE
JURISDICTION OF THE
ECCLESIASTICAL COURTS,
RELATING TO PROBATES AND
ADMINISTRATIONS**

A

1830

PRACTICAL TREATISE

ON THE

Jurisdiction of the Ecclesiastical Courts,

RELATING TO

PROBATES AND ADMINISTRATIONS.

WITH

AN APPENDIX,

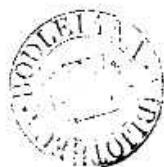
CONTAINING AN ACCOUNT OF

ALL THE COURTS IN THE DIOCESE OF LINCOLN,

THE EXTENT OF THEIR JURISDICTION,

AND THE PLACES WHERE THE WILLS ARE PROVED AND DEPOSITED.

—
BY ROBERT SWAN,
Registrar of the Diocese of Lincoln.



—
Reverum ordo confunditur, si unicuique Jurisdictione non servetur.—Procerius, 4 Inst.

—
LONDON :

S. SWEET, LAW BOOKSELLER, 3, CHANCERY-LANE ;
AND J. W. DRURY, LINCOLN.

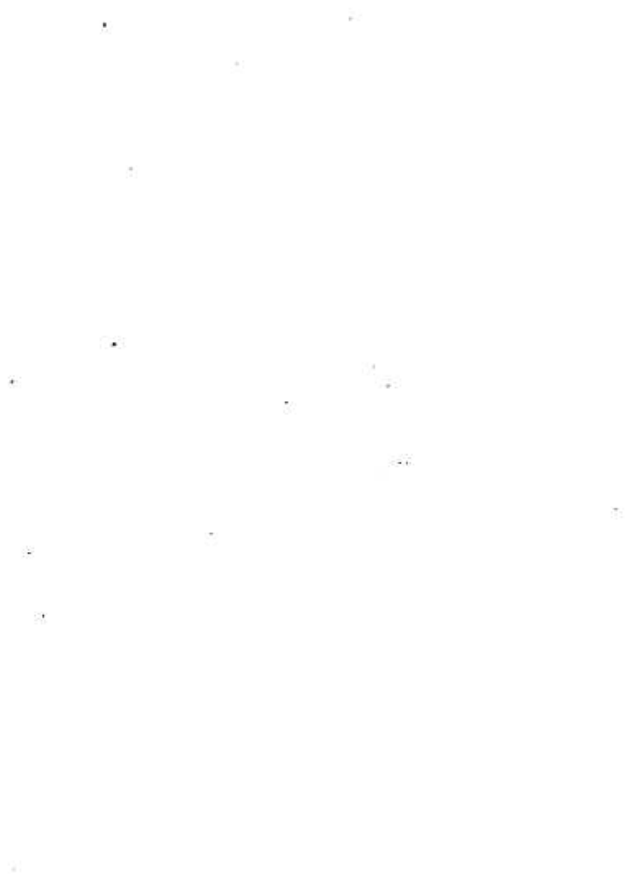
—
1830.

LONDON:
PRINTED BY BRADBURY AND CO., OXFORD ARMS PASSAGE.

PREFACE.

THE Author was led to investigate the subject of this Pamphlet for his own information, and in the belief that it will be found useful to the Profession, is now induced to publish it.

LINCOLN,
January 29, 1830.



CONTENTS.

Chapter	Page
INTRODUCTION	7
I. TESTAMENTARY JURISDICTIONS	13
II. PREROGATIVE COURT	33
III. BONA NOTABILIA	38
Cases in which Probates and Administrations are to be granted by the Prerogative Court . . .	ib.
Cases in which Probates and Administrations are not to be granted by the Prerogative Court . .	41
IV. WHETHER PROBATES AND ADMINISTRATIONS GRANTED BY THE PREROGATIVE COURT, WHERE THERE ARE NOT BONA NOTABILIA IN ANOTHER DIOCESE, are void or voidable . . .	45
1. Cases deciding such Probates and Admini- strations to be voidable only by sentence . .	ib.
2. Cases deciding such Probates and Admini- strations to be void	48
3. Observations on the Cases	55
V. THE BISHOP'S DIOCESAN COURT	60
VI. THE JURISDICTION OF THE DEAN AND CHAP- TER AND PREBENDARIES	64
VII. COURTS OF THE COMMISSARIES FOR THE ARCH- DEACONRIES	66
VIII. COURTS OF THE ARCHDEACONS	71
IX. PECULIAR JURISDICTIONS	72
1. What is a Peculiar and Exempt Jurisdiction	ib.
2. What Jurisdictions come under the denomi- nation of a Peculiar and Exempt Jurisdiction	74

	Page
3. What Jurisdictions are not exempt from, but are subordinate to, the Bishop of the Diocese	76
4. What Peculiars are subject to the Prerogative Court, where the person dying has, at the time of his death, goods to the value of 5 <i>l.</i> in another Peculiar or Diocese	79
APPENDIX I.	
Copy of the Composition between the Archbishop of Canterbury and Bishop of Lincoln, in 1319, acknowledging the right of the Bishop to grant Probates and Administrations where the deceased left goods in another Diocese	81
Copy of the Statement made by the Bishops in Convocation, in the Controversy of 1612, between them and the Archbishop, respecting the Probates of Wills, &c.	87
The 92d and 93d Canons	98
Grant of Jurisdiction to the Dean and Chapter and Prebendaries, in 1160, by the Bishop	101
APPENDIX II.	
An account of the several Jurisdictions empowered to grant Probates, &c., in the Diocese of Lincoln	103
In the County of Lincoln	104
In the County of Leicester	106
In the County of Buckingham	107
In the County of Huntingdon	108
In the County of Hertford	109
In the County of Bedford	110
In the County of Oxford	111
In the Counties of Northampton and Rutland	112

INTRODUCTION.

No part of the laws of this kingdom seems so much involved in doubt, or so little understood, as the laws which regulate the jurisdiction of Ecclesiastical Courts, in matters relating to the Probates of Wills and Administration to Intestates' effects. Considering the immense amount of personal property, in continual distribution by executors and administrators, a due understanding of these laws is of great importance; for, if a probate or administration be obtained from a Court not having competent jurisdiction, such probate or administration is by the Canons void, and the executor or administrator acting under it, must be involved in much difficulty; more particularly in the case of an administrator, where an administration may be granted by the proper Court to another person in equal degree of relationship, and the administrator so appointed must supersede the administrator who may have acted under the administration granted by the Court not having jurisdiction. And in these cases, when any dispute may arise, either in the collection or distribution of the