Chapter 1 : A Book of Chancery Costs : William Shaen :

*A Book of Chancery Costs [ ] [William Shaen] on calendrierdelascience.com *FREE* shipping on qualifying offers. Originally published in This volume from the Cornell University Library's print collections was scanned on an APT BookScan and converted to JPG format by Kirtas Technologies.*

March 22, S. The Supreme Court ordered the cause remanded to Chancery for further consideration and the defendants were ordered to pay the costs of the suit. It appeared in Chancery that C. It appeared to the Court that on April 15, P. The Court ordered the acres to be sold to pay the debt. October 6, P. The defendants had filed their own bill of complaint against the Louisville merchants. March 29, These two suits were "consolidated," i. DAY, county surveyor, to lay out and survey this acreage for P. DAY surveyed a homestead tract in consultation with a committee appointed to determine a fair homestead which included the "mansion, storehouse and outbuildings" in Wildersville on the "waters of Sandy River" in Civil District 9, Henderson County. Minute Book 8, The Clerk and Master was ordered Page 53 to sell all the land in this. September 25, On June 23, the Clerk and Master held a sale at Wildersville at which time acres on the north side of Sandy River, in which was included the 12 acre homestead tract, bounds as described included "the old water mill" on Sandy River and a corner "of the old store house used now as a crib. March 26, J. He had sixty days to pay this amount and if he did not the Clerk and Master was ordered to sell enough of the land to meet this amount. October 1, It was noted that J. Minute Book 9, None of the parties ever did. In the year the late P. Parker established a business just West of Sandy River, building a large storehouse and putting therein one of the largest and most complete stocks of general merchandise ever offered to the people of Henderson County. He also established a saloon, or "grocery" as it was then called and built a large steam mill on the West bank of Sandy. He had a complete milling outfit for grinding corn and wheat, a large sawmill, a cotton gin, a carding factory for carding wool, a spinning outfit and loom for weaving cloth. This was doubtless the most extensive manufacturing establishment or plant ever located in Henderson County, even to this good day. Wilder, a wholesale druggist and patent medicine man of Louisville, Ky. Parker soon after he commenced business and he asked and was given permission to name the town and it was called Wildersville, when it should have been Parkersburg. Parker owned all the land in the community. He erected a commodious two-story residence building for his family and several houses for those who worked for him. Parker continued to do a general merchandising business for several years. The Court agreed that it was to the benefit of his heirs for the administrator to finish paying for the tract. Of the real estate: Homestead interest, four acres, was sold to Mrs. Reversionary interest in dower tract, acres, was sold to Mrs. Second dower tract, acres, was sold to Mrs. Tract Three of unit survey, 31 acres, was sold to W. A five acre tract, the SMITH lot with steam mill and house and other lands were not sold as it was [not] necessary to do so to pay expenses of the estate. A reversionary interest of dower, 49 acres, was sold to Mrs. Provision was made to pay taxes in the estate for the years and The town lot was sold to A. The town lot was sited on the town square in Lexington, on Main Street at the corner of Mrs. March 24, T. March 24, B. HENRY was appointed as their guardian. March 29, This cause was heard in this court. The business of the estate was moved from the County Court to the Chancery Court. March 30, By recommendation of committee appointed to determine whether or not it was feasible to divide the land among the various heirs it was suggested that it could not be so Page 56 divided because at least one-third of the land had been cleared and was "worn out" and the rest could not be equitably divided by value. Census, Civil District 11, Henderson County, page Census, Civil District 10, Henderson County, page March 24, W. Title to land vested in them. March 25, L. His parents were deceased and he had no siblings. It was ordered that these lands be sold. All three tracts were located in Civil Districts 8 and 9, Henderson County. The first tract and a corner of the second tract had belonged to E. The third tract, acres, was part of the acres bought by E. BRITT jointly owned a one-ninth interest. All these shares constituted an undivided land-holding the three tracts. The Court allowed "that it would be manifestly to the interest and advantage of the complainants and defendants for said several above described tracts to be sold for partition and division or proceeds" instead of being divided among so many heirs. September 26, This cause was removed from the

docket, i. March 27, A. There were acres in Civil District 11 and another tract in the same district in Henderson County. DODD The Court had granted the complainant a divorce from the defendant, granting her the custody of their two children. DODD was ordered vested in E. Their husbands were made parties to this cause. BELL and three other daughters noted above had also been married. The Clerk and Master was ordered to sell land in the estate to settle these debts. No bids were cast for lots 3 and 4. These sales were confirmed by the Court. March 31, G. Census, Civil District 2, Henderson County, page These Sherrods lived on the west side of what is now Hopper Road near old Juno. March 30, J. Two tracts were not sold, being 50 and acres. Title to land vested in him. Census, Civil District 18, Henderson County, page The Clerk and Master was ordered to sell the land. The Court ordered the six tracts of land sold for the benefit of the heirs. The heirs believed that better bids could be obtained for the land and the Court ordered a re-bidding of the tracts. Census, Civil District 4, Henderson County, page BRAY, age 18, Tenn. BRAY, age 16, Tenn. April 2, E. On September 18, these tracts were sold: The Court confirmed all these sales. She filed for divorce which the Court granted. Her heirs were S. LARUE was appointed administrator of his estate. It appeared to the Court that H. The Court ordered the Clerk and Master to sell this land so settle the debt due J. Title was vested in him. The former Clerk and Master, J. He was a prominent farmer. The father was born in North Carolina in , and came to Tennessee with his parents when eight years old. He was a carpenter in his early life, his latter days being spent on the farm; he died in Henderson County in The mother of our subject was born in Montgomery County, Tenn. She died in The grandfather of our subject, Athelston Andrews, was born in North Carolina in , and came to Tennessee in ; he was reared on the sea by a sea captain; at the age of fourteen he volunteered in the Revolutionary war; his wife was Polly Jones Hill, of North Carolina, and became the mother of eight children. Her first husband, Mr. Hill, was killed by a runaway negro.

Chapter 2 : Court of Chancery - Wikipedia

A book of chancery costs: comprising the costs of plaintiff and defendant of suit./by W. Shaen and Eden Kaye Greville.

Its jurisdiction was virtually unlimited, with executive, judicial and legislative functions. As a result, a smaller curia was formed to deal with the regular business of the country, and this soon split into various courts: And if the matters are so great, or so much of grace, that the Chancellor and the others cannot do what is asked without the King, then they shall take them to the King to know his will, and that no petition come before the King and his Council except by the hands of the said Chancellor and the other chief ministers; so that the King and his Council may be able, without the embarrassment of other business, to attend to the important business of his kingdom and his foreign lands. The early Court of Chancery dealt with verbal contracts, matters of land law and matters of trusts, and had a very liberal view when setting aside complaints; poverty, for example, was an acceptable reason to cancel a contract or obligation. The Chancery writs were in French, and later English, rather than the Latin used for common law bills. Under Richard II it became practice to consider the Chancery separate from the curia; academic William Carne considers this a key moment in confirming the independence of the Court of Chancery. The King gave evasive answers to the requests, and made no decision. He gives complaints about the perversion of justice in the common law courts, along with growing mercantile and commercial interests, as the main reason for the growth, arguing that this was the period when the Chancery changed from being an administrative body with some judicial functions to "one of the four central courts of the realm By the 15th century, the City of Westminster had been the seat of government administration for about three centuries. After about , the use of English in administrative documents replaced French which had been used since the Norman conquest. By the s and s comparative regularisation of spelling had begun to emerge. It had been the practice under Henry VI that plaintiffs in the common-law courts could not execute judgments given by the common-law judges if the Lord Chancellor felt their claim was "against conscience". This had been vehemently opposed by the common-law judges, who felt that if the Lord Chancellor had the power to override their decisions, parties to a case would flock to the Court of Chancery. At the same time, the common-law judges ruled that the Chancery had no jurisdiction over matters of freehold. In , he heard the case of Courtney v. In the 17th century Robert Atkyns attempted to renew this controversy in his book An Enquiry into the Jurisdiction of the Chancery in Causes of Equity, but without any tangible result. During the 16th century the Court was vastly overworked; Francis Bacon wrote of 2, orders being made a year, while Sir Edward Coke estimated the backlog to be around 16, cases. This was exacerbated by the appointment to the Court of useless, highly paid officials by the Lord Chancellor or Master of the Rolls, many of whom were their friends. Most were from the doctrines set out by Francis Bacon as Lord Chancellor, but there were some more modern reforms: Parliament also fixed the fees that officers could charge, in an attempt to reduce the expense of a case. In August another debate took place in Parliament, lasting two days, in which a paper titled "Observations concerning the Court of Chancery" was circulated; this concerned the costs, workings, and officers of the Court. A second paper was given out, "for the regulation or taking away of the Court of Chancery, and settling the business of Equity according to the original and primitive constitution of it; and for taking away all unnecessary fees, offices and officers and formalities now used, and for the speedy dispatch of business". Rather than the mass of clerks on the staff, a sufficient number of godly, able, honest and experienced clerks, which be working attorneys and clerks and not overseeing officers" would be appointed, and the Bar would elect two supervising Chief Clerks to advise on points of practice. A far-reaching and heavily criticised draft, this was eventually replaced by an even more thorough-going bill. All Justices of the Peace would be allowed to submit cases to the court, with cases to be heard within 60 days. This bill was never put into effect, as Parliament was dissolved. Oliver Cromwell did appoint a Commission to institute similar provisions in , but the Commission refused to perform its duties. The situation was much improved, nonetheless, because many of the faults were down to the machinery of the court rather than the spirit, which Lord Clarendon soon rectified. This was based on the code set by the Cromwellian Commissioners, and limited the fees charged by the court and the amount of time they could take on a case. Before this there had

been no records of appeals to the Lords, and a committee had concluded that there was no precedent to give the Lords jurisdiction over equity matters, except when problems and cases were sent directly to Parliament as occasionally had been the case. After disputes which lasted into the next Parliament, this second measure was dropped, but the right to hear equity appeals was confirmed. The Act significantly amended the existing law and court procedure, and while most of it was aimed at the common-law courts, it did affect the Chancery. For equity, the Act provided that a party trying to have his case dismissed could not do so until he had paid the full costs, rather than the nominal costs that were previously required; at the same time, the reforms the Act made to common-law procedure such as allowing claims to be brought against executors of wills reduced the need for parties to go to equity for a remedy. The Committee reported that fees and costs had increased significantly since the last review under Charles I , a number of expensive honorary positions had been created, and on many occasions court officers had not known what the correct fees were. At the same time, proceedings had grown to several thousand pages in length, necessitating additional expense. The Committee concluded "that the interest which a great number of officers and clerks have in the proceedings of the Court of Chancery, has been a principal cause of extending bills, answers, pleadings, examinations and other forms and copies of them, to an unnecessary length, to the great delay of justice and the oppression of the subject". They recommended that a list of permissible fees be published and circulated to the court officials. The permissible fees list contained over 1, items, which Kerly describes as "an appalling example of the abuses which the unrestrained farming of the Offices of the Court, and the payment of all officials by fees had developed". Although complaints had been common since the time of Elizabeth I , the problems had become more unrestrained, at the same time as politically neutral law reformers first arose in any great number. While the upper classes had been struggling with the Court for centuries, and regarded it as a necessary evil, the growing middle and merchant classes were more demanding. With increasing court backlogs, it was clear to many law reformers and politicians that serious reform was needed. In a Chancery Commission was appointed to oversee the Court, which the political opposition maintained was simply to protect it; the membership included the Lord Chancellor, the Master of the Rolls and all senior Chancery judges. A year later, when the common law courts were each gaining a judge, he repeated his proposal, but the bill was strongly opposed by judges who maintained that the court backlog did not justify the additional expense of a fourth judge. Shadwell, appointed under the Act of Parliament, could be replaced, but a principal in the Act under which Wigram had been appointed meant that it provided for two life appointments to the court, not two open positions; after the retirement or death of the judges, no more could be appointed. Again, the backlog became a problem, particularly since the Lord Chancellor was distracted with the appellate cases through the Court of Appeal in Chancery and the House of Lords , leaving a maximum of three Chancery judges who were available to hear cases. Further structural reforms were proposed; Richard Bethell suggested three more Vice-Chancellors and "an Appellate Tribunal in Chancery formed of two of the Vice Chancellors taken in rotation", but this came to nothing. The s saw a reduction in the "old corruption" that had long plagued the court, first through the Chancery Sinecures Act which abolished a number of sinecure offices within the court and provided a pension and pay rise for the Lord Chancellor, in the hope that it would reduce the need for the Chancellor to make money by selling court offices and then through the Chancery Regulation Act The government had initially intended the bill to go further and abolish the Six Clerks , but the Clerks successfully lobbied to prevent this. As a result, the Court of Chancery Act was passed in the same year that abolished the office of the Six Clerks completely. In , a new set of Chancery orders were produced by the Lord Chancellor, allowing Masters to speed up cases in whatever way they chose and allowing plaintiffs to file a claim, rather than the more expensive and long-winded bill of complaint. His novel revolves around a fictional long-running Chancery case, Jarndyce and Jarndyce. He observed that at the time he was writing there was a case before the Chancery court "which was commenced nearly twenty years ago He concluded that "If I wanted other authorities for Jarndyce and Jarndyce, I could rain them on these pages, to the shame of a parsimonious public". They partially succeeded with the Common Law Procedure Act and Chancery Amendment Act , which gave both courts access to the full range of remedies. Until then, the common-law courts were limited to granting damages , and the Chancery was limited to granting specific performance or

injunctions. The County Courts Equity Jurisdiction Act gave the county courts the authority to use equitable remedies, although it was rarely used. The bill was a weak one, not containing any provision addressing which court would deal with the common law and which with equity, and was also silent on the structure of the court, as Hatherley believed the difference between the common law and equity was one of procedure, not substance. As a result, the bill was heavily opposed from two sides: Rather than fusing the common law and equity, which he saw as impracticable since it would destroy the idea of trusts , he decided to fuse the courts and the procedure. The court of first instance, to be known as the High Court of Justice, would be subdivided into several divisions based on the old superior courts, one of which, the Chancery Division, would deal with equity cases. All jurisdiction of the Court of Chancery was to be transferred to the Chancery Division; Section 25 of the Act provided that, where there was conflict between the common law and equity, the latter would prevail. An appeal from each division went to the appellate level, the Court of Appeal of England and Wales. These provisions were brought into effect after amendment with the Supreme Court of Judicature Act , and the Court of Chancery ceased to exist. The Master of the Rolls was transferred to the new Court of Appeal , the Lord Chancellor retained his other judicial and political roles, and the position of Vice-Chancellor ceased to exist, replaced by ordinary judges. As a result, the idea of joint ownership of land arose. Before the Statute of Wills , many people used feoffees to dispose of their land, something that fell under the jurisdiction of the Lord Chancellor anyway. In addition, in relation to the discovery and accounting of assets, the process used by the Court of Chancery was far superior to the ecclesiastical one; as a result, the Court of Chancery was regularly used by beneficiaries. The common law courts also had jurisdiction over some estates matters, but their remedies for problems were far more limited. Due to the vested interest of the King who would hold the lands the actual lunacy or idiocy was determined by a jury, not by an individual judge. Since these were mainly dealt with orally there are few early records; the first reference comes from , when a curator was appointed to deal with the property of an infant. While the common law courts regularly appointed guardians, the Chancery had the right to remove them, replace them or create them in the first place. Similarly, while there were actions against guardians which the child could undertake in the common law courts, these were regularly undertaken in the Court of Chancery. In Bailiff of Burford v Lenthall, Lord Hardwicke suggested that the jurisdiction of the Court over charity matters came from its jurisdiction over trusts, as well as from the Charitable Uses Act Carne suggests that, as the Court had long been able to deal with such situations, the act was actually just the declaration of pre-existing custom. This was not valid at the common law courts but was in the Court of Chancery; the Lord Chancellor is reported as having said, in , "where there is no remedy at common law there may be good remedy in conscience, as, for example, by a feoffment upon confidence, the feoffor has no remedy by common law, and yet by conscience he has; and so, if the feoffee transfers to another who knows of this confidence, the feoffor, by means of a subpoena, will have his rights in this Court". The remedy of specific performance is, in contractual matters, an order by the court which requires the party in breach of contract to perform his obligations. The idea of damages was first conceived in English law during the 13th century, when the Statutes of Merton and Gloucester provided for damages in certain circumstances. Despite what is normally assumed by academics, it was not just the common law courts that could grant damages under these statutes; the Exchequer of Pleas and Court of Chancery both had the right to do so. Damages were sometimes given as an ancillary remedy, such as in Browne v Dom Bridges in , where the defendant had disposed of waste inside the plaintiffs woods. As well as an injunction to prevent the defendant dumping waste in the woods, damages were also awarded to pay for the harm to the woods. The plaintiff must take that remedy, if he chooses it, at Law. Eventually, the Chancery Amendment Act gave the Court full jurisdiction to award damages; the situation before that was so limited that lawyers at the time commented as if the Court had not previously been able to do so.

Chapter 3 : A Treatise on Costs in Chancery

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Plot[edit] Jarndyce v Jarndyce concerns the fate of a large inheritance. The case has dragged on for many generations before the action of the novel, so that, late in the narrative, legal costs have devoured the whole estate and the case is abandoned. Aside from the lawyers who sue and defend the case, every character who directly associates with it suffers some tragic fate. Miss Flite has long since lost her mind when the narrative begins. Richard Carstone dies trying to win the inheritance for himself after spending much of his life so distracted by the notion of it that he cannot commit to any other pursuit. Dickens introduces the case in the first chapter in terms which make the futility of the matter clear: Jarndyce and Jarndyce drones on. This scarecrow of a suit has, over the course of time, become so complicated, that no man alive knows what it means. The parties to it understand it least; but it has been observed that no two Chancery lawyers can talk about it for five minutes without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause; innumerable young people have married into it; innumerable old people have died out of it. Scores of persons have deliriously found themselves made parties in Jarndyce and Jarndyce without knowing how or why; whole families have inherited legendary hatreds with the suit. The little plaintiff or defendant, who was promised a new rocking-horse when Jarndyce and Jarndyce should be settled, has grown up, possessed himself of a real horse, and trotted away into the other world. Fair wards of court have faded into mothers and grandmothers; a long procession of Chancellors has come in and gone out. The ending of the case reduces the whole court to fits of laughter. We asked a gentleman by us, if he knew what cause was on? He told us Jarndyce and Jarndyce. We asked him if he knew what was doing in it? He said, really no he did not, nobody ever did; but as well as he could make out, it was over. Over for the day? No, he said; over for good. When we heard this unaccountable answer, we looked at one another quite lost in amazement. Could it be possible that the Will had set things right at last, and that Richard and Ada were going to be rich? It seemed too good to be true. Our suspense was short; for a break up soon took place in the crowd, and the people came streaming out looking flushed and hot, and bringing a quantity of bad air with them. Still they were all exceedingly amused, and were more like people coming out from a Farce or a Juggler than from a court of Justice. We stood aside, watching for any countenance we knew; and presently great bundles of paper began to be carried outâ€”bundles in bags, bundles too large to be got into any bags, immense masses of papers of all shapes and no shapes, which the bearers staggered under, and threw down for the time being, anyhow, on the Hall pavement, while they went back to bring out more. Even these clerks were laughing. We glanced at the papers, and seeing Jarndyce and Jarndyce everywhere, asked an official-looking person who was standing in the midst of them, whether the cause was over. Kenge," said Allan, appearing enlightened all in a moment. Do I understand that the whole estate is found to have been absorbed in costs? I believe so," returned Mr. Vholes, what do you say? Real-life cases[edit] In the preface to Bleak House, Dickens cites two Chancery cases as especial inspirations: At the present moment August, there is a suit before the court which was commenced nearly twenty years ago, in which from thirty to forty counsel have been known to appear at one time, in which costs have been incurred to the amount of seventy thousand pounds, which is A FRIENDLY SUIT , and which is I am assured no nearer to its termination now than when it was begun. There is another well-known suit in Chancery, not yet decided, which was commenced before the close of the last century and in which more than double the amount of seventy thousand pounds has been swallowed up in costs. Based on an letter of Dickens , [1] the first of these cases has been identified [2] [3] as the dispute over the will of Charles Day , a boot blacking manufacturer who died in Proceedings were commenced in and not concluded until at least The second of these cases is generally identified [2] as the dispute over the will of the " Acton Miser" William Jennens. Jennens v Jennens commenced in and was abandoned in years later when the legal fees had exhausted the Jennens estate of funds; [4] [5] thus it had been ongoing for 55 years when Bleak House was

published. Some commentators have theorised that the Jarndyce v Jarndyce case was inspired by the dispute over the will of Richard Smith , a West India merchant. When he died in , the estate was tied up, and his daughter-in-law Charlotte Turner Smith was pushed by financial necessity to write for money; she became a much-praised poet. That Chancery case has been reported to have taken thirty-six years to get through the court, [6] although this may not be correct. He reminded his fellow Law Lords that Jarndyce v Jarndyce, and the pitiful character of Miss Flite, driven mad by the strain of unending litigation, were inspired by real events. Marshall , U.

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Chapter 4 : Chancery equity suits - The National Archives

A Book of Chancery Costs by William Shaen, , available at Book Depository with free delivery worldwide.

For advice on records from onwards see our guide to Chancery cases in the Supreme Court after What was the Court of Chancery? The Court of Chancery was an equity court, presided over by the Lord Chancellor and his deputies, as opposed to a common law court. The court was used by all walks of life, from labourers and bricklayers to peers of the realm. The procedures followed by the Court of Chancery were quite different to those of the common law courts and involved the gathering of written pleadings and evidence. The nature of the records Most Court of Chancery records are in English. Many appear, misleadingly, to be transcripts of speeches made in court â€" in fact these written accounts were themselves what would have been presented to the court for its consideration. Spoken activity before the court was not recorded. The records fall into five main categories: The initial pleadings are the records most often consulted by researchers today, but behind them, and detailed below, is a huge hinterland of investigation and documentation kept by the court. However, some cases did not proceed beyond the initial pleadings. Final decrees and appeals against them. The case related to ownership of property in Blackfriars, London. How to search for records This section provides you with the basic information you will need to search for Chancery records. Consult sections 5 to 10 for more detailed advice on specific record types. The records of any single equity suit heard in Chancery were not kept together. Instead of being filed by the suit, they were filed by the record categories described in section 3 and in more depth in sections 5 to 10 and they remain held in these separate files to this day. You can identify document references for pleadings and some other document types by searching our catalogue. All the main pleadings are searchable in the catalogue at least by surname of the plaintiff and defendant and many by other details â€" forename, status, occupation and subject. A short title consists of the surnames of the first named plaintiff and one of the defendants â€" for example, Smith v Barker. However, the short title can vary depending on whose statements were being recorded, so that several different short titles may exist for the same case. A document entitled Smith v Corbett, for example, may refer to the same case as Smith v Barker. To track a case in the hinterland of Chancery, therefore, you must have some idea of the names of the parties involved. Pleadings are formal written statements made by the parties in a case. They set out the claims of the plaintiff and the defence of the defendant. Anyone wishing to start a suit in Chancery would first get a lawyer to draw up a bill of complaint to submit to the Lord Chancellor â€" this would be the first pleading. Pleadings, also referred to as proceedings, were made in the following sequence though if a dispute was settled out of court, you will find nothing more than a bill of complaint: Bill of complaint â€" often known simply as a bill, this would set out the details in dispute by the plaintiff against the defendant 2. As well as the details of the claims and defence, pleadings contain some personal details for both sides in the case.

Chapter 5 : Court of Chancery of the County Palatine of Durham and Sadberge - Wikipedia

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Chapter 6 : Chancery and the Royal Courts of Justice - MIRLI BOOKS

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Chapter 7 : Full text of "A book of chancery costs "

Book of Chancery Costs Comprising the Costs of Plaintiff and Defendant of Suit by Bill, Original Summons, on Special Motions, Special Petitions, and Special Cases, Appeals, Including Appeals to the House of Lords, Appointment of a

Receiver and Passing His Account, Foreclosure S by W. Shaen.

Chapter 8 : Jarndyce and Jarndyce - Wikipedia

Public Private login. e.g. test cricket, Perth (WA), "Parkes, Henry" Separate different tags with a comma. To include a comma in your tag, surround the tag with double quotes.

Chapter 9 : CHANCERY COURT MINUTE BOOKS

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