



ANNO TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

A.D. 1870.

No. 12.

An Act to further amend the "Local Court Act, 1861."

[Assented to, 12th October, 1870.]

WHEREAS the provisions of the "Local Court Act, 1861," relating to the holding of Local Courts, and the establishment of the same, and the organization thereof, have been found cumbrous and expensive, and it is expedient to amend the same—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

1. In addition to the powers given to the Governor by the "Local Courts Act, 1861," it shall be lawful for the Governor, from time to time, by Proclamation in the *South Australian Government Gazette*, to constitute and establish Local Courts to be held within certain parts or Districts of the said Province, to be in such Proclamation mentioned, for the trial of causes cognizable by Local Courts of full and limited jurisdiction, and to fix the places at which the office of any Local Court shall be situate, and the times and days during which such office shall be opened; and also by Proclamation to appoint a Jury District, from which jurors for the trial of any causes cognizable by the Court, by or before which the cause shall be triable, shall be summoned, and in such Proclamation to appoint the time and place when and where the Jury Lists shall be revised.

Governor may establish Local Courts within Districts to be defined.

2. In every such District there shall be an office of the Local Courts appointed to be held within the District, which office shall be open for the dispatch of business on such days and times as the Governor shall appoint by notice in the *South Australian Govern-*

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Offices of Local Courts to be open at such times as Governor shall appoint.

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Process to issue from such office in respect of actions within the District.

ment Gazette, and at which office all complaints, appearances, and pleas shall be entered, and all summonses and other process shall be issued relating to actions arising and triable within the District at any of the Local Courts established therein, and at which office all moneys shall be received and paid in and out of Court in respect of all actions commenced at any Local Court within the District, and where the Record Book shall be kept, and from which office all warrants of execution shall issue.

Governor to appoint clerks and bailiffs.

3. It shall be lawful for the Governor, by notice in the *South Australian Government Gazette*, to appoint one or more than one clerk, and one or more than one bailiff, to discharge the respective duties of such officers, within the particular District for which he or they shall respectively be appointed.

Cause to be tried at Court within the District of which the plaintiff shall give notice.

4. At the time of entering a plaint in any Local Court, the plaintiff shall give notice to the Clerk of the Court within the District at which he is desirous that the cause shall be tried, and in the event of the defendant entering an appearance or defence to the action, the cause shall be tried at such Court, and notice of trial given accordingly.

Summonses may be served by plaintiff or by person employed by him.

5. It shall not be necessary for a bailiff of the Court to serve any summons, but the same may be served by the plaintiff or by any person appointed or employed by him for the purpose; and the plaintiff or the person so appointed or employed shall, forthwith after service of any summons, endorse on the duplicate summons the day of the month and year of such service, and shall, within four days of the service, swear an affidavit of such service, and shall as soon after such service as practicable file the said duplicate summons together with the affidavit of service of such summons with the Clerk of the Court whence such summons shall have issued.

Forms in Schedule to Local Court Act, 1861, may be altered.

6. It shall not be necessary that the several forms contained in the Schedules to the "Local Court Act, 1861," shall be strictly adhered to; but the same may from time to time be altered or amended by a Magistrate or Clerk of any Local Court to meet the exigency of the case, and for the purpose of rendering them conformable to the requirements of this Act.

Jury lists.

7. There shall be one juror's roll prepared for each such district, and the jurors named in such roll, or a sufficient number thereof, shall be summoned on all causes triable within such district.

In what Courts actions to be commenced.

8. Every action shall be commenced in the Court having jurisdiction to the amount claimed nearest in a direct line to the place where the defendant or one of the defendants shall dwell or carry on business at the time of the action brought, or where the cause of action arose, or, in the case of replevin, in the Court nearest in a direct line to the place where the distress was taken, or if the plaintiff dwells more than twenty miles from where the defendant dwells,

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dwells, or where the cause of action did not arise wholly or in some material point within the like distance of the Court nearest to which the defendant dwells or carries on business at the time of the action brought, the action may be commenced in the Adelaide Local Court, but no defendant shall be allowed to object that the action has not been commenced in the proper Court unless he shall file a memorandum of such objection, setting out the grounds thereof at the time of entering his appearance: Provided always that if, in the opinion of the Court in which the action was commenced, the plaintiff might, at the time the action was commenced, have had any reasonable ground for supposing that such Court was the Court having jurisdiction in the cause, such Court may proceed to hear and determine such cause and shall have jurisdiction therein.

9. If the plaintiff in any action shall not at the time of entering his plaint be within the said Province, or if he shall before judgment is signed leave the said Province, a Special Magistrate may order such plaintiff to give security for the costs, to such amount and in such manner as such Special Magistrate may order, and may stay all proceedings in the action until such security be given. Security for costs.

10. The bailiff of any Court, or any person having served any process under the "Local Court Act, 1861," may swear the affidavit of such service before a Commissioner appointed to take affidavits in the Supreme Court, or before any Justice of the Peace. Affidavit of service before Commissioner.

11. The service of any notice required in the trial in any action in a Local Court may be proved by affidavit, and such affidavit shall be received in evidence on the trial of any action in a Local Court. Affidavit of service evidence.

12. The contents of any document in the custody of the Clerk of any Local Court, may be proved in any Court by a certified copy of the same, under the hand of the Special Magistrate or Clerk of such Local Court, and the seal of such Local Court. Certain certified copies evidence.

13. Except as herein provided, and except so far as the same relates to the place at which the offices of Local Courts shall be situate, and the time during which such offices shall be opened, the "Local Court Act, 1861," and all the provisions and enactments thereof shall continue and be in force, and the last-mentioned Act (except as aforesaid) and the "Local Courts Amendment Act, 1863," shall (except in so far as the same are inconsistent with this Act) be incorporated and read herewith as one Act. Local Courts Act, 1861, and Local Courts Amendment Act, 1863, incorporated with this Act.

14. This Act may be cited as the "Local Courts Amendment Act, 1870." Short title of Act.

In the name and on behalf of the Queen I hereby assent to this Act.

JAMES FERGUSSON, Governor.