



ANNO VICESIMO SEXTO

GEORGII V REGIS.

A.D. 1935.

No. 2253.

An Act to consolidate and amend certain Acts relating to the Supreme Court.

[Assented to, 21st December, 1935.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Supreme Court Act, 1935", and shall come into operation on a day to be fixed by the Governor by proclamation. Short titles and commencement.

2. This Act is divided into Parts as follows :—

- PART I.—Constitution of the court.
- PART II.—Jurisdiction and powers of the court.
- PART III.—Sittings and distribution of business.
- PART IV.—Procedure generally.
- PART V.—Proceedings by and against the Crown.
- PART VI.—Officers of the court.
- PART VII.—Miscellaneous provisions.

Division of Act into Parts.

3. The Acts mentioned in the schedule to this Act are repealed to the extent shown in that schedule : Repeal.

Provided that—

- (a) the repeal shall not affect any principle or rule of law, or any established jurisdiction, notwithstanding

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that the same may have been affirmed by, or derived from, any of the repealed enactments; and

- (b) any rule, order, or regulation made, and any commission issued, direction given, or thing done, under any enactment repealed by this Act shall continue in force so far as it could have been made, issued, given, or done under this Act, and shall have effect as if it had been so made, issued, given, or done.

Savings.**4. (1) Nothing in this Act shall—**

- (a) take away or impair any substantive right or privilege of any person :
- (b) affect any rule of practice or procedure existing at the time of the passing of this Act except to the extent expressly mentioned in this Act or in any rules of court made under this Act :
- (c) revive any law, enactment, regulation, or rule of court not in force at the time of the passing of this Act :
- (d) affect in any way anything done or suffered before the passing of this Act under any Act repealed by this Act :
- (e) affect in any way any proceedings pending at the time of the passing of this Act.

(2) Save as otherwise expressly provided, nothing in this Act shall affect the operation of any enactment, which is in force at the commencement of this Act, and is not repealed by this Act.

Interpretation.
116, 1878, s. 39.
1358, 1919,
s. 7.

5. In this Act, unless the context otherwise requires, or some other meaning is clearly intended—

- “ court ” means the Supreme Court of South Australia :
- “ cause ” includes any action, suit, or other original proceeding between a plaintiff and a defendant :
- “ defendant ” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceeding :
- “ existing ” means existing at the time of the passing of this Act :
- “ formerly ”, when used in relation to the courts or the law or practice in England, means prior to the Supreme Court of Judicature Act, 1873, and when used in relation to the court or the law or practice in South Australia, means before the passing of the Supreme Court Act, 1878 :

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“ Full Court ” means the Supreme Court consisting of—

(a) not less than three judges; or

(b) if three judges are not available to sit in the Full Court, any two judges:

“ judge ” includes the Chief Justice and any puisne judge of the court:

“ judgment ” includes decree:

“ jurisdiction ” includes every power and authority vested in, or capable of being exercised by, all or any one or more of the judges whether sitting in court or in chambers or elsewhere, when acting as judges or a judge, in pursuance of any enactment, law, or custom, and also any ministerial powers, duties, and authorities incident to any part of the jurisdiction:

“ master ” includes deputy master:

“ matter ” includes every proceeding in the court not in a cause:

“ order ” includes rule:

“ parties ” includes as well as the plaintiff and defendant in the action any person not originally a party against whom any counterclaim is set up, or who has been served with notice to appear under any of the rules of court; and also every person served with notice of or attending any proceeding, although not named on the record:

“ petitioner ” includes every person making any application to the court, either by petition, motion, or summons, otherwise than as against any defendant:

“ plaintiff ” includes every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise:

“ pleading ” includes any petition or summons, and also the statement in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto, and also any other matter by rules of court to be included under the term “ pleading ”:

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“ rules of court ” includes forms :

“ suit ” includes action :

“ suitors’ funds ” means all money which is for the time being in the custody or charge of the court or any judge or the master and has been received by them or him, by virtue of their or his offices or office, for or on account of, or to the use or credit of, any person in any cause or matter, or in exercise of the powers conferred on them or him by any enactment at any time in force and all interest and income accrued whether before or after the passing of this Act from the investment of any such money.

PART I.**PART I.****CONSTITUTION OF THE SUPREME COURT.**

Continuance
of Supreme
Court.
31, 1855-6, s. 1.

6. The Supreme Court of South Australia as by law established is hereby continued as the superior court of record, in which has been vested all such jurisdiction (whether original or appellate) as is at the passing of this Act vested in, or capable of being exercised by that court.

Judges of the
Supreme
Court.
31, 1855-6, s. 1.
13, 1858, s. 1.
1958, 1919, s. 3.
1761, 1926, s. 3.
Cf U.K. 15 and
16, Geo. 5,
c. 49, s. 2.

7. (1) The court shall be constituted of the following judges, that is to say, the Chief Justice and not more than four puisne judges.

(2) Subject to any express provision in this or any other Act, all the judges shall have, in all respects, equal power, authority, and jurisdiction.

(3) The puisne judges shall be styled “ Justices of the Supreme Court of South Australia ”.

Qualification
of judges.

8. (1) No person shall be qualified for appointment as a puisne judge of the court unless he is a practitioner of the court of not less than ten years’ standing.

(2) No person shall be qualified for appointment as Chief Justice unless he is a practitioner of the court of not less than fifteen years’ standing or a puisne judge of the court.

Appointment
of Judges.
31, 1855-6, s. 1.

9. Whenever the office of a judge of the court is vacant the Governor shall appoint a qualified person to hold that office, with the tenure prescribed by the Constitution Act, 1934.

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10. (1) If the Chief Justice is absent on leave, or for any reason is unable for the time being to perform the duties of his office, the Governor may appoint a puisne judge of the court to be Acting Chief Justice thereof until the Chief Justice returns to the execution of the duties of his office.

Acting Chief Justice.

(2) Upon every such appointment any power or duty, which is attached by this or any other Act to the office of the Chief Justice, shall devolve upon the judge so appointed, and in default of any such appointment, shall devolve (during the absence or inability of the Chief Justice) upon the senior puisne judge.

11. (1) If any judge is absent on leave or is for any other reason unable for the time being to discharge the duties of his office the Governor may appoint a fit and proper person to act in the stead of that judge until he returns to the execution of his duties.

Acting Judges.
31, 1855-6, s. 5

(2) Every person so appointed shall be an acting judge of the court and whilst holding office under this section shall have the same powers and jurisdiction as a puisne judge of the court.

(3) The appointment of an acting judge shall not be determined by the death or resignation of the judge, in whose stead he has been appointed, but the Governor may, if he thinks fit, continue the appointment until a successor is appointed to the vacant office :

Provided that no acting judge shall be continued in that office under this subsection for longer than three months.

12. (1) The salary of the Chief Justice shall be at the rate of two thousand five hundred pounds a year, and the salary of every puisne judge shall be at the rate of two thousand pounds a year.

Salaries of Judges.
1503, 1922,
ss. 2, 3.

(2) Such salaries shall be paid by the Treasurer out of the General Revenue of the State on the warrant of the Governor, which warrant the Governor is hereby authorised and required to issue from time to time.

13. The salaries of the judges, and of the officers of the court, shall be in lieu of all fees or other emoluments whatsoever, it being the intent of this Act that the judges and the officers of the court shall derive no emolument from any fees payable under the authority of this Act, but that such fees shall be paid to the Treasurer in aid of the general revenue of the State.

Salaries of Judges, and officers to be in lieu of fees.
31, 1855-6, s. 4.

14. A judge of the court shall not be incapable of acting in his judicial office in any proceeding by reason of his being one of several ratepayers or taxpayers or one of any other class

Certain interests not to disqualify.
U.K. 15 and 16, Geo. 5.
C. 49, s. 17.

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of persons liable in common with others to contribute to or to be benefited by any rate or tax which may be increased diminished or in any way affected by that proceeding.

Seal of Court.
31, 1855-6, s. 6

15. (1) The court shall continue to have and use a seal bearing a device or impression of the Royal Arms, within an exergue or label surrounding the same, and with the following inscription:—"Supreme Court, South Australia"; and the said seal shall be kept in the custody of the chief officer of the court for the time being.

(2) There shall also be kept and used such other seals as are required for the business of the court, and such seals shall be in such form and kept in such custody as the Chief Justice directs.

(3) All documents and exemplifications and copies thereof purporting to be sealed with any such seal shall be receivable in evidence without further proof of the seal.

Councils of
Judges to
consider
procedure and
administration
of justice.
116, 1878,
s. 34.

16. The judges shall—

(a) assemble once at least in every year for the purpose of considering the operation of this Act and of the rules of court for the time being in force, and also the working of the several offices, and the arrangements relative to the duties of the officers of the court respectively, and of inquiring and examining into any defects which appear to exist in the system of procedure or the administration of the law in the said court; and

(b) report annually to the Attorney-General of the State what (if any) amendments it would, in their judgment, be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provisions (if any) which cannot be carried into effect without the authority of Parliament, it would be expedient to make for the better administration of justice.

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PART II.

JURISDICTION AND POWERS OF THE COURT.

Jurisdiction.

General
jurisdiction
31, 1855-6,
ss. 7, 8, 15, 27.
20, 1866-7, s. 7
7, 1868, s. 1.
Cf. U.K. 15
and 16, Geo. 5,
c. 49, s. 18

17. (1) The court shall be a court of law and equity.

(2) There shall be vested in the court—

(a) the like jurisdiction, in and for the State, as was formerly vested in, or capable of being exercised by, all or any of the courts in England, following:—

(i.) The High Court of Chancery, both as a common law court and as a court of equity:

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- (ii.) The Court of Queen's Bench :
 - (iii.) The Court of Common Pleas at Westminster :
 - (iv.) The Court of Exchequer both as a court of revenue and as a court of common law :
 - (v.) The courts created by commissions of assize :
- (b) such other jurisdiction, whether original or appellate, as is vested in, or capable of being exercised by the court :
- (c) such other jurisdiction as is in this Act conferred upon the court.

18. The court shall, in relation to probates and letters of administration, have the following jurisdiction, that is to say :—

Probate jurisdiction.
11, 1867, s. 6
1367, 1919,
s. 20.
Cf. U.K. 15
and 16, Geo. 5
c. 49, s. 20.

- (a) The like voluntary and contentious jurisdiction and authority in and for the State in relation to the granting or revoking of probate of wills, and administration of the effects of deceased persons, as was vested in or exerciseable by the Court of Probate established in England under the Court of Probate Act, 1857, together with full authority to hear and determine all questions relating to testamentary causes and matters :
- (b) The like jurisdiction and powers with respect to the real estate of deceased persons as it has with respect to the personal estate of deceased persons :
- (c) All probate jurisdiction which, under or by virtue of any enactment not repealed by this Act, is vested in or capable of being exercised by the court.

19. There shall be vested in the court—

- (a) the like jurisdiction in relation to matrimonial causes and matters as was immediately before the commencement of the Matrimonial Causes Act, 1857, vested in or exerciseable by any ecclesiastical court or person in England in respect of divorce *a mensa et thoro*, nullity of marriage, jactitation of marriage or restitution of conjugal rights, and in respect of any matrimonial cause or matter except marriage licences :

Matrimonial jurisdiction.
1946, 1929,
s. 5.
Cf. U.K. 15
and 16, Geo. 5,
c. 49, s. 21.

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(b) all such jurisdiction in relation to matrimonial causes and matters as under or by virtue of any enactment not repealed by this Act, is vested in or capable of being exercised by the court.

Law and Equity.

Concurrent administration of law and equity.
116, 1878, s. 5.
U.K. 15 and 16, Geo. 5, c. 49, s. 36.

20. In every civil cause or matter commenced in the court, law and equity shall be administered by the court according to the provisions of the seven sections of this Act next following.

Equities of plaintiff.
116, 1878, s. 5, I.
U.K. 15 and 16, Geo. 4, c. 49, s. 37.

21. If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever, asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right which formerly could only have been given by the court in its equitable jurisdiction, the court shall give to the plaintiff or petitioner the same relief as ought formerly to have been given by the court in its equitable jurisdiction in a suit or proceeding properly instituted for the like purpose.

Equitable defences.
116, 1878, s. 5, II.

22. If a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in the cause or matter, or alleges any ground of equitable defence to any such claim of the plaintiff or petitioner, the court shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged the same effect by way of defence against the claim of the plaintiff or petitioner as the court in its equitable jurisdiction ought formerly to have given if the same or the like matters had been relied on by way of defence in a suit or proceeding instituted in that court for the like purpose.

Counter-claims and third parties.
116, 1878, s. 5, III.
U.K. 15 & 16, Geo. 5, c. 49, s. 39.

23. (1) The court shall have power to grant to any defendant, in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him—

(a) all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleading, and as the court or judge might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and

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(b) all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim, pursuant to any rules of court, as might properly have been granted against that person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose.

(2) Every person served with any such notice shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim, as if he had been duly sued in the ordinary way by the defendant.

24. The court shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter pending before it, in the same manner in which the said court in its equitable jurisdiction would formerly have recognised and taken notice of the same in any suit or proceeding duly instituted therein.

Equities
appearing
incidentally.
116, 1878,
s. 5, IV.
U.K. 15 and
16, Geo. 5,
c. 49, s. 40.

25. No cause or proceeding at any time pending in the court shall be restrained by prohibition or injunction, but every matter of equity on which an unconditional injunction against the prosecution of any such cause or proceeding might formerly have been obtained, may be relied on by way of defence thereto :

Defence
instead of
injunction or
prohibition.
116, 1878,
s. 5, V. and
VI.
U.K. 15 and
16, Geo. 5,
c. 49, s. 41

Provided that—

- (a) nothing in this Act shall disable the court, if it thinks fit, from directing a stay of proceedings in any cause or matter pending before it ; and
- (b) any person, whether a party or not to any such cause or matter, who would formerly have been entitled to apply to the court, in any of its jurisdictions, to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, in contravention of which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the court, in a summary way, for a stay of proceedings in the cause or matter, either generally or so far as may be necessary for the purposes of justice, and the court shall thereupon make such order as is just.

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Common law
and statutory
rights and
duties.

116, 1878,
s. 5, VII.
U.K. 15 and
16, Geo. 5,
c. 49, s. 42.

26. Subject to the provisions of this Act for giving effect to equitable rights and other matters of equity, the court shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities, existing by the common law, or by any custom, or created by any statute, in the same manner as those matters would formerly have been recognised and given effect to by the court in any branch of its jurisdiction.

Court to do
complete
justice in
cause so as
to avoid
multiplicity
of suits.

116, 1878,
s. 5, VIII.
U.K. 15 and 16,
Geo. 5, c. 49,
s. 43.

27. The court in every cause or matter pending before it shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as it deems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of every legal or equitable claim properly brought forward by them respectively, in such cause or matter, so that, as far as possible, all matters so in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

Rules of
equity to
prevail where
in conflict
with common
law.

116, 1878,
s. 6, X, XI.
U.K. 15 and
16, Geo. 5,
c. 49, s. 44.

28. Subject to the express provisions of any other Act, in questions relating to the custody and education of infants, and generally in all matters not particularly mentioned in this Act in which there was formerly any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in all the courts of the State, so far as the matters to which those rules relate, are cognizable by those courts.

Miscellaneous Powers.

Court may
make orders
to have effect
of mandamus
or injunction,
and may
appoint
receivers.

116, 1878,
s. 6, VIII.
U.K. 15 and
16, Geo. 5,
c. 49, s. 45.

29. (1) The court may grant a mandamus, or an injunction, or appoint a receiver, by an interlocutory order in all cases in which it appears to the court to be just or convenient so to do.

(2) Any such order may be made either unconditionally or upon such terms and conditions as the court thinks just.

(3) If an application is made (whether before, or at, or after the hearing of any cause or matter for an injunction) to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the court thinks fit, whether the person against whom the order is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

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30. In any action arising out of the breach of any covenant, contract, or agreement, or instituted to prevent the commission or continuance of any wrongful act or for the specific performance of any covenant, contract, or agreement, the court shall have power to award damages to the party injured either in addition to or substitution for the injunction or specific performance, and those damages may be assessed by the court or in such manner as it directs.

Damages in certain cases.
20, 1866-7,
s. 141.

31. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the court shall have power to make binding declarations of right whether any consequential relief is or could be claimed or not.

Declaratory orders.
Cf. 20, 1866-7
s. 93

32. In any proceeding in which the court has power to order a sale of any real or personal property, the court shall have power, instead of ordering a sale, to make such order, as is just and convenient, for a mortgage of the property, with power of sale to the mortgagee; and, for the purpose of perfecting such mortgage, to order the execution of all deeds and documents in the same manner as in the case of a sale of property.

Court may order mortgage instead of sale in certain cases.
20, 1866-7,
s. 149.

33. (1) Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract, or other document, or to indorse any negotiable instrument, the court may, on such terms and conditions, if any, as are just, order that the conveyance, contract, or other document shall be executed or that the negotiable instrument shall be indorsed by such person as the court nominates for that purpose.

Execution of instruments by order of the court.
Cf. U.K. 15 and 16, Geo. 5,
c. 49, s. 47.

(2) A conveyance, contract, document, or instrument so executed or indorsed shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.

34. In any action for the foreclosure of the equity of redemption in any mortgaged property, and upon the request of the mortgagee, or of any subsequent encumbrancer, or of the mortgagor, or any person claiming under any such person, the court may direct a sale of the property, or a transfer of the mortgage debt and security, instead of a foreclosure of the equity of redemption, on such terms as the court thinks fit, and, if the court thinks fit, without previously determining the priorities of encumbrances, or giving the usual or any time to redeem: Provided that if the request is made by any subsequent encumbrancer, or by the mortgagor, or by any person claiming under any such encumbrancer or mortgagor, no such sale shall be directed without the consent of the mortgagee or

Court may direct sale of mortgaged property, &c.
20, 1866-7
s. 91.

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the persons claiming under him, unless the party making such request deposits in court a reasonable sum of money, to be fixed by the court, for the purpose of securing the performance of such terms as may be imposed on the party making such request.

Power to
arrest debtors
about to leave
the State.
U.K. 32 and
33; Vict., c. 62,
s. 6.
9, 1845, s. 2.

35. (1) Where the plaintiff in any action in the court proves at any time before final judgment by evidence on oath, to the satisfaction of a judge—

- (a) that the plaintiff has a good cause of action against the defendant to the amount of fifty pounds or more; and
- (b) that there is probable cause for believing that the defendant is about to quit the State unless he is apprehended; and
- (c) that the absence of the defendant from the State will materially prejudice the plaintiff in the prosecution of his action,

the judge may in the manner prescribed by rules of court order the defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he has sooner given the prescribed security, not exceeding the amount claimed in the action, that he will not go out of the State without the leave of the court.

(2) Where the action is for a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from the State will materially prejudice the plaintiff in the prosecution of his action, and the security given (instead of being that the defendant will not go out of the State) shall be to the effect that any sum recovered against the defendant in the action shall be paid, or that the defendant shall be rendered to prison.

Appointment
of commis-
sioners for
taking
affidavits.
23, 1859, s. 1.
116, 1887,
s. 36.

36. (1) Any two or more judges of the court, of whom the Chief Justice shall be one, may by commission under the seal of the court from time to time empower such persons as they think fit and necessary, whether within or outside the State, to take all such affidavits as any person desires to make before any person so empowered in or concerning any cause, matter or thing pending in the court.

(2) Every person so appointed shall be a commissioner for taking oaths in all causes and matters whatsoever in every jurisdiction of the court.

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37. The court and every judge thereof and every master, registrar, and chief clerk thereof, and every person appointed to take any evidence, or make any inquiry on behalf of the court, in any cause or matter pending therein, or under or by virtue of any enactment relating to the particular case, shall have power to administer oaths.

Power of certain persons to administer oaths.
8, 1887, s. 10.

38. (1) For the purpose of any proceeding therein, the court may order a view or inspection of any land or chattel, and any judge, juryman, or other person authorised by the order, may enter on any land or premises which it is necessary or convenient to enter on for the purpose of such inspection.

Inspection of property in legal proceedings.
Cf. 20, 1866-7, s. 70.

(2) Every person in possession of any such land or premises shall allow such entry for the purposes aforesaid, and in case of any obstruction or refusal of such entry, the person or persons so obstructing or refusing such entry, shall be deemed guilty of a contempt of court, and be liable to punishment accordingly.

39. (1) If, on an application made by the Attorney-General under this section, the court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the Supreme Court or in any inferior court, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall, without the leave of the court or a judge thereof, be instituted by him in any court, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

Restriction on institution of vexatious actions.
U.K. 15 and 16, Geo. 4, c. 49, s. 51.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain counsel, the court shall assign counsel to him.

(3) A copy of any order made under this section shall be published in the *Government Gazette*.

40. Subject to the express provisions of this Act, and to the rules of court, and to the express provisions of any other Act whenever passed, the costs of and incidental to all proceedings in the court, including the administration of estates and trusts, shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and to what extent such costs are to be paid.

Power of court with regard to costs.
1739, 1926, s. 4.

41. When any judgment or order for the payment of any costs or money has been made in any cause or matter, and the suit afterwards becomes abated, it shall be lawful for the

Power to revive orders on abatement of cause.
Cf. 33 and 34, Vic. c. 28, s. 13

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court or a judge, upon the application of any person interested under the judgment or order, to make an order reviving the cause or matter, and permitting the applicant to prosecute and enforce the judgment or order, upon such terms (if any) as the court or judge thinks fit.

PART III.

PART III.

SITTINGS AND DISTRIBUTION OF BUSINESS.

Abolition of terms.
116, 1878, s. 7.

42. The division of the legal year into terms is abolished as far as relates to the administration of justice, and there shall be no terms applicable to any sitting or business of the court.

Reference to terms for computing time.
116, 1878, s.

43. In all cases in which the terms into which the legal year was formerly divided, are used as a measure for determining the time at or within which any act is required to be done, those terms may continue to be referred to for the same or the like purpose, unless provision is otherwise made by law.

Sitting in vacation.
116, 1878, s. 9.
Eng. s. 54.

44. Provision shall be made by rules of court for the hearing during vacation of all such applications as require to be immediately or promptly heard.

Place and time of sittings, and power to adjourn.
20, 1866-7,
s. 106.
116, 1878, s. 7.

45. (1) The court may sit and act at any time and at any place for the transaction of any part of the business of the court, or for the discharge of any duty under this or any other enactment.

(2) The hearing or further hearing or determination of any cause or matter commenced in the court may be adjourned from time to time, and from place to place, as the court thinks fit.

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(3) A judge sitting in open court may adjourn for consideration in chambers any matter which in his opinion may be more conveniently disposed of in chambers; and any judge sitting in chambers may adjourn any matter to be heard in open court.

46. Subject to this Act and to the rules of court the civil sittings of the court for the trial of causes and questions or issues of fact shall be held in Adelaide, and such sittings shall, so far as is reasonably practicable, and subject to vacations, be held continuously throughout the year by as many judges as the business to be disposed of renders necessary.

Civil sittings
of court.
116, 1878,
s. 11.

47. Any two or more of the judges may sit at the same time, as separate courts or divisions of the court, for the despatch of its business, either in the same jurisdiction or in different jurisdictions, and, in particular, the Full Court may sit in two divisions.

Power to
sit in several
jurisdictions at
one time.
7, 1868-9, s. 3.

48. Subject to any express enactment, and to the rules of court, the jurisdiction vested in, or exercisable by the court, shall be exercisable either by the Full Court or by a single judge sitting in court:

Jurisdiction of
full court and
single judge.

Provided that—

- (1) the Full Court shall hear and determine—
 - (a) all motions for new trials:
 - (b) all appeals from a single judge whether sitting in court or chambers:
 - (c) all rules and orders to show cause returnable before the Full Court:
 - (d) all special cases and points and questions of law referred to or reserved for the consideration of, or directed to be argued before the Full Court:
 - (e) all trials at bar:
 - (f) all causes and matters which are required by the rules of court, or by the express provision of any other Act, to be heard or determined by the Full Court:
- (2) the jurisdiction of the Court may be exercised by a judge in chambers in all such causes or matters, and in all such proceedings in any cause or matter, as are authorised by statute or by the rules or practice of the court.

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Cases or points
of law
reserved for
Full Court.
116, 1878,
s. 13.

49. (1) Any judge of the court sitting in the exercise of any jurisdiction may reserve any case or any point in a case for the consideration of the Full Court, or may direct any case or point in a case to be argued before the Full Court, and the Full Court may hear and determine any such case or point so reserved or so directed to be argued.

(2) Subject to any express enactment the like powers may be exercised in relation to any appeal or matter whatsoever, which comes before a judge, under any enactment by which a judge of the court is designated as the judge, arbitrator, or person appointed to hear and determine the appeal or matter, notwithstanding that the determination of the judge is expressed to be final or without appeal.

Appeals to
Full Court.

50. Subject to the rules of court an appeal shall lie to the Full Court against every judgment, order, or direction of a judge, whether in court or chambers, and also from the refusal of any judge to make any order :

Provided that—

(1) No appeal shall lie from—

- (a) an order allowing an extension of time to appeal from a judgment or order :
- (b) an order giving unconditional leave to defend an action :
- (c) any judgment or order which is by statute, or by agreement of the parties, final or without appeal.

(2) No appeal shall lie without the leave of the judge from any order—

- (a) made by consent of the parties :
- (b) as to costs only which by law are left to the discretion of the judge.

(3) No appeal shall lie without the leave of the judge or of the Full Court from—

- (a) any order upon appeal from a court of summary jurisdiction under the Justices Act, 1921 :
- (b) any interlocutory order or interlocutory judgment except in the following cases, namely :—

- (i.) Any order refusing unconditional leave to defend :

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- (ii.) Where the liberty of the subject or the custody of infants is concerned :
- (iii.) Where an injunction or the appointment of a receiver is granted or refused :
- (iv.) Any decision determining the claim of any creditor or the liability of any contributory or the liability of any director or other officer under the Companies Act, 1934, in respect of misfeasance or otherwise :
- (v.) The grant or refusal of a decree or order *nisi* in a matrimonial cause :
- (vi.) Such other cases to be prescribed by rules of court as are, in the opinion of the authority making such rules, of the nature of final decisions.

51. Any application for leave to appeal may be made *ex parte* unless the judge or the Full Court otherwise directs.

Applications
for leave to
appeal.

Circuit Sessions of the Court.

52. (1) The Governor may by proclamation—

- (a) declare any portion of the State defined or described in the proclamation to be a circuit district :
- (b) abolish any circuit district :
- (c) alter any circuit district by including any additional territory therein or excluding any territory therefrom :
- (d) appoint a town in each circuit district at which sessions of the court shall be held.

Circuit
districts.
6, 1868-9, s. 2.

(2) Until otherwise proclaimed, the circuit districts existing at the time of the passing of this Act shall be circuit districts for the purposes of this Act, and the towns at which circuit courts were usually held before the passing of this Act, shall be deemed to be towns appointed under subsection (1) of this section.

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Issue of commissions for holding circuit sessions. 13, 1858, s. 2. 116, 1878, s. 10.

Cf. U.K. 15 and 16, Geo. 5, c. 49, s. 70.

53. (1) The Governor may at any time issue a commission directing any judge to hold circuit sessions of the court at a time and in the place named in the commission: Provided that—

(a) it shall be lawful for the Governor upon the recommendation of the judges of the court to issue the commission to a practitioner of the court of at least seven years standing; and

(b) every practitioner so assigned shall, for the purposes of the commission, have all the power, authority, and jurisdiction of a judge of the court.

(2) The judge or practitioner named in any commission is, in the provisions of this Act relating to circuit sessions, called “the commissioner.”

(3) Notice of the issue of the commission shall be given in the *Gazette* at least thirty days before the day appointed therein for the holding of the circuit sessions.

(4) Every commissioner, when engaged in the exercise of any jurisdiction assigned to him by the commission, shall be deemed to have, and to exercise, the jurisdiction of the Supreme Court of South Australia, and any sessions held under the commission shall be sessions of the said court.

Holding of circuit sessions. 13, 1858, s. 2. 286, 1883, s. 1.

54. (1) When the commission is issued, the court shall be held by the commissioner according to the tenor of the commission: Provided that—

(a) if it appears to the commissioner, at any time within seven days before the day fixed for the sessions, that there is no business to be transacted, he may certify accordingly, and it shall not be necessary to hold the court:

(b) if the commissioner does not attend at the time and place appointed for holding the court, any judge may hold the sessions according to the tenor of the commission, and with the like power, authority, and jurisdiction, as if he had been named therein.

(2) Notice of any certificate given under proviso (a) to subsection (1) shall be published in the *Government Gazette*, but, as from the giving of the certificate, the commission shall be deemed to be revoked, as if never issued:

Provided that any judge may make such order, as the circumstances may require, for the purpose of securing an early trial or sentence for any prisoner, who may have been committed, or admitted to bail, for trial or sentence at the sessions in question.

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55. If the commissioner fails to attend at the time and place appointed, and no other judge is in attendance, the court shall be considered as adjourned to the next day, not being Sunday, and if the next day is Sunday, then to the following Monday, and so on from day to day until the commissioner or another judge attends; and all persons summoned, or bound, or having received notice, or having occasion to attend the sessions, shall attend the adjourned sessions in the same manner in all respects as if the commissioner had regularly sat and adjourned the court.

Non-attendance of commissioner.
6, 1868-9, s. 5

56. The court, at any circuit sessions :—

(a) shall be a court of Oyer and Terminer and General Gaol Delivery in and for the circuit district in which the sessions are held with jurisdiction to try or sentence any person ordered under this Act to be tried or sentenced at such sittings :

(b) subject to this Act and to the rules of court, shall have, and may exercise, any civil or criminal jurisdiction which is exercisable by a single judge sitting in court.

Jurisdiction exercisable at circuit sessions

57. (1) Every person who is committed within any circuit district for trial or sentence upon any charge of an indictable offence shall be committed for trial or sentence (as the case may be) at the first circuit sessions to be held within the said district after the expiration of seven days from the day of the committal.

Offenders to be tried at circuit.
Cf. 6, 1868-9, s. 9.

(2) No committal of any person for trial or sentence at any circuit sessions shall be invalid on the ground that that person has been committed for trial in the wrong circuit district or at the wrong sessions, but the commissioner or any judge may make any such order as he thinks just and convenient for the trial or sentence of any such person in that or any other circuit district and at any other sessions or in Adelaide.

58. (1) It shall be lawful for the Attorney-General by writing under his hand to appoint the Crown Prosecutor, or any other person named therein, to represent him at any circuit sessions, and in the name and on behalf of the Attorney-General to—

Power of Crown Prosecutor on circuit as to information.

(a) present any information which the Attorney-General might have presented :

(b) amend any information which has been signed by the Attorney-General, before the information is presented to the court.

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(2) Any information so presented or amended shall be deemed, for all purposes, to have been presented or amended by the Attorney-General.

Change of
venue.
6, 1868-9, s. 10.

59. (1) It shall be lawful for any judge at any time, and for such reasons as he thinks fit, to order—

(a) any person committed, or admitted to bail, for trial or sentence in the court at Adelaide to be tried or sentenced at any circuit sessions ; or

(b) any person committed, or admitted to bail, for trial or sentence at any circuit sessions to be tried or sentenced at circuit sessions in some other district or at Adelaide.

(2) Any commissioner holding circuit sessions shall have the like power with respect to any person committed or admitted to bail for trial or sentence at those sessions.

Effect of order
as to
recognizances.

60. When any order is made changing the place or time of the trial, the recognizances for the appearance of the witnesses shall be effectual to compel them to attend the place or time mentioned in the order as the place of trial, on their being served with a copy of the said order.

Sureties when
venue changed.
6, 1868-9, s. 11.

61. When any person has been admitted to bail to appear for trial or sentence, and any order has been made changing the time or place appointed for the trial or sentence, any justice of the peace may on the application of the Attorney-General, cause that person to be brought before him, and order him to enter into sureties for his due appearance at the place named in the order, and in default of his finding sureties, may commit him to gaol ; and from and after the appearance of such person before any justice of the peace, he and his sureties shall be discharged from the recognizance theretofore entered into for his appearance for trial at the court therein named.

Removal of
persons in
gaol.
6, 1868-9, s. 12.

62. When any person, ordered to be tried or sentenced at any circuit sessions is in gaol, the sheriff, on being served with a duplicate of the order, shall cause him to be conveyed to the place and at the time mentioned in the order.

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PART IV.

PART IV.

PROCEDURE GENERALLY.

63. (1) The practice and procedure in all criminal causes and matters, including the practice and procedure upon appeal, except as expressly altered by this Act, shall be the same as the practice and procedure in similar causes and matters before the passing of this Act.

Criminal
procedure.
116, 1878,
s. 30.
U.K., 15 and
16, Geo. 5,
c. 49, s. 48.

(2) Proceedings in *quo warranto* shall be deemed to be civil proceedings whether for the purposes of appeal or otherwise.

64. Save as is otherwise provided in this or any other Act, the practice and procedure of the court shall be as prescribed in the existing rules, and in all matters, for which no other provision is made, all forms and methods of procedure, which, under or by virtue of any law, general order or rules whatsoever, were formerly in force in the court, may continue to be used in the like cases and for the like purposes :

Saving of
existing
procedure.

Provided that nothing in this section shall be deemed to affect the power of the judges to make rules of court repealing or altering the existing rules.

Inquiries and Trials by Referees and Arbitrators.

65. (1) Subject to rules of court and to any right to have particular cases tried with a jury, the court or a judge may refer to an official or special referee for inquiry or report any question arising in any cause or matter, other than a criminal proceeding by the Crown.

Reference
for report.
U.K. 15 and
16, Geo. 5,
c. 49, s. 88.

(2) The report of an official or special referee may be adopted wholly or partially by the court or a judge, and if so adopted may be enforced as a judgment or order to the same effect.

66. In any cause or matter, other than a criminal proceeding by the Crown—

Reference for
trial.
U.K. 15 and
16, Geo. 5,
c. 49, s. 88

(a) if all the parties interested who are not under disability consent ; or

(b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the court or a judge conveniently be made by the court or conducted through its ordinary officers ; or

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(c) if the question in dispute consists wholly or in part of matters of account ;

the court or a judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator agreed on by the parties, or before an official referee or officer of the court.

Powers and remuneration of referees and arbitrators.
U.K. 15 and 16, Geo. 5, c. 49, s. 88.

67. (1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the court, and subject to rules of court shall have such authority, and conduct the reference in such manner, as the court or a judge may direct.

(2) The report or award of an official or special referee or arbitrator on any reference shall, unless set aside by the court or a judge, be equivalent to the verdict of a jury.

(3) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the court or a judge shall be determined by the court or a judge.

Powers of court in references.
U.K. 15 and 16, Geo. 5, c. 49, s. 91.

68. The court or a judge shall, in relation to references, have all such powers as are conferred by the Arbitration Act, 1891, on the court or a judge in relation to references by consent out of court.

Statement of case pending arbitration.
U.K. 15 and 16, Geo. 5, c. 49, s. 94.

69. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the court or a judge, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference.

Power of court to impose terms as to costs, &c.
U.K. 15 and 16, Geo. 5, c. 49, s. 95.

70. An order made under the provisions of this Part of this Act relating to inquiries and trials by referees and arbitrators may be made on such terms as to costs or otherwise as the court or judge thinks fit.

Assessors.

Assessors.
116, 1878, s. 25.
U.K. 15 and 16, Geo. 5, c. 49, s. 98.

71. (1) Subject to any rules of court, and to the right of having cases submitted to the verdict of a jury in accordance with the Juries Act, 1927, the court may in any cause or matter before the court, in which it thinks it expedient so to do, call in the aid of one or more assessors, specially qualified, and try and hear such cause or matter wholly or partially, with the assistance of such assessors.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the court, and the sum so fixed shall be paid by the sheriff in the same manner as jury fees are paid.

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PART IV.

Rules of Court.

72. (1) Rules of court may be made under this Act by any three or more judges of the Supreme Court for any of the following purposes :—

Rules of court.
116, 1878,
ss. 29, 32, 33.
Cf. Vic., s. 25.
1739, 1926,
s. 4.

- I. For regulating the sittings of the court, and of the judges sitting in chambers and the vacations to be observed by the court and the officers of the court :
- II. For regulating the pleading practice and procedure of the court in any jurisdiction, and the initiating of actions and proceedings therein :
- III. For regulating and directing the means by which particular facts may be proved, and the mode in which evidence thereof may be given in any proceedings, or at any stage of the proceedings, and in relation to the purposes aforesaid for allowing examinations, affidavits, or depositions to be read at any trial or hearing, or in any cause or matter, or allowing secondary evidence to be given, and for providing that the court or a judge may give special directions or make special orders in relation to any of the matters aforesaid :
- IV. For empowering the master to do any such thing and to transact any such business and to exercise any such authority and jurisdiction in respect of the same, including the jurisdiction to refer a bill of costs for taxation, or to refer any other matter to the master, as by virtue of any statute, custom, or rule or practice of court may be done, transacted, or exercised by a judge sitting in chambers :
- V. For regulating the duties of the officers of the court and the costs of proceedings therein (including the costs to be allowed to practitioners of the court in respect of business transacted in the court or the offices hereof), and the conduct of any business coming within the cognizance of the court, for which provision is not expressly made by any Act :
- VI. For regulating and prescribing the fees and percentages to be taken in the court or by any officer thereof, and the fees to be taken by commissioners of the court, and any examiner, special magistrate, or other person appointed by the court to make or conduct any inquiry or examination :
- VII. And generally for any purpose mentioned in this Act or for carrying its provisions into effect.

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(2) The power to make rules conferred by this section shall be deemed to include power to make rules in respect of any jurisdiction conferred upon the court or a judge thereof by any Act whenever passed.

(3) Where any provisions in respect of the practice or procedure of the court are contained in this or any other Act of Parliament, or in general orders or rules made under the authority of any Act, rules of court may be made for modifying such provision to any extent that may be deemed necessary.

(4) All rules of court made in pursuance of this section —

(a) shall be published in the *Gazette* :

(b) shall be laid before both Houses of Parliament within fourteen days after that publication if Parliament is in Session, and if not then within fourteen days after the commencement of the next Session of Parliament :

(c) subject to the power of disallowance provided in this section, shall, as from the date of publication in the *Gazette*, or from any later date mentioned in the rules, have the force of law, be judicially noticed and be conclusively deemed to be valid.

If either House of Parliament within one month after any rules of court are laid before it passes a resolution disallowing all or any of those rules, the rules disallowed shall cease to have effect but without affecting the validity or curing the invalidity of anything done or the omission of anything in the meantime.

PART V.

PART V.

PROCEEDINGS BY AND AGAINST THE CROWN.

Proceedings by the Crown in the Revenue Jurisdiction.

Actions by the
Crown against
subjects.

73. (1) After the passing of this Act all proceedings which before such passing were cognizable by the court in its revenue jurisdiction, on the information of the Attorney-General on behalf of His Majesty, or which might have been instituted, by or on behalf of the Crown, by writ of extent, or *diem clausit extremum* or *scire facias*, shall be instituted by an action in the name of the Attorney-General, and subject to this Part the action shall be maintained and prosecuted in accordance with the ordinary practice and procedure of the court in an action between subjects.

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(2) An action under this section shall lie for the recovery of any debt, damages, duty, penalty, or other sum of money, or of any land or goods, due or payable or forfeited or belonging to the Crown; but without prejudice to any criminal proceedings, or to any summary remedy for the recovery or enforcement of any fine penalty, or forfeiture, inflicted or adjudged by any court of competent jurisdiction, whether by estreatment of recognizances or otherwise, in the manner prescribed by law or custom.

Petition of Right.

74. (1) If any dispute or difference, touching any pecuniary claim or any claim to the restitution of real or personal property arises in the State between any subject of His Majesty and the Government of the State, the claimant may set forth the particulars of his claim in a petition to the Governor.

Petitions to
Governor for
redress.
6, 1853, s. 2.

(2) The petition—

(a) shall give an address for service, as required by the rules of court, in the case of a writ of summons :

(b) shall be, as nearly as may be, in the form of a statement of claim :

(c) shall be accompanied by a certificate from some practising practitioner of the court to the effect that the petitioner has, in the opinion of that practitioner, a proper case for redress or cause of complaint against the Government.

(3) The petition shall, within fourteen days from the presentation thereof, be referred by the Governor to the court for trial :

Provided that if the Governor certifies in writing endorsed on any petition that in his opinion the subject-matter of the petition affects the Royal prerogative, he may transmit the petition to His Majesty's Secretary of State for the Dominions for the significance of His Majesty's approval or disapproval; and if the petition is returned with His Majesty's approval, it shall be referred to the court for trial of the matter thereof; but if the petition is returned without such approval, it shall, together with the endorsement thereon and the reasons assigned for withholding such approval, be forthwith published in the *Gazette*, in which case the remedy provided by the provisions of this Act relating to petitions of right shall not be had.

75. (1) By the reference for trial the Governor shall name some person to be a nominal defendant in the matter of the petition.

Governor to
name nominal
defendant.
6, 1853, s. 2.

PART V.

Supreme Court Act.—1935.

(2) Nothing in this Act shall be so construed as to subject any person so named to any individual responsibility by reason of his being a nominal defendant.

Proceedings upon reference to court and costs.
6, 1853, s. 5.

76. (1) The proceedings subsequent to the reference shall be entitled as in an action between the petitioner (who shall be styled the plaintiff) and the nominal defendant, and subject to this Act and the rules of court the proceedings may be prosecuted, or disposed of, in accordance with the ordinary practice and procedure of the court in an action between subjects.

(2) Upon the application of either party and at any stage of the proceedings the court or a judge may make such order or orders as the case may require, for the delivery of pleadings or particulars or otherwise for the conduct of the proceedings or for disposing of the case.

(3) Subject to any such order the nominal defendant shall deliver his defence and the action shall proceed as though the petition had been a statement of claim filed and delivered on the day of the reference.

(4) The costs of and incidental to the proceedings shall be in the discretion of the court as in cases between subjects.

Payment of claims out of General Revenue.
6, 1853, s. 6.

77. The Governor may satisfy and pay any judgment recovered by any petitioner, out of the General Revenue of the State, for which payment this Act shall be a sufficient authority and appropriation of revenue, and may perform the order or direction of the court or judge, in terms of such order or direction.

Equitable proceedings by or against the Crown.

Proceedings in equity by or against the Crown.
20, 1866-7, s. 29.

78. All proceedings by or against the Crown which might formerly have been instituted in the Supreme Court in its equitable jurisdiction by information or bill shall be prosecuted by action in the name of or brought against the Attorney-General.

General Provisions.

The Attorney-General.
20, 1866-7, s. 29
7, 1866, s. 2.
6, 1868-9, s. 8.

79. (1) Subject to the provisions of this Act and to the rules of court, the Attorney-General for the State may appear in the Supreme Court and act for and represent the Crown as fully and effectually and in the like manner as the Attorney-General of England could formerly have appeared and represented the Crown in any of the superior courts of Common Law or Equity in England; and for that purpose the Attorney-General shall have the like powers, authorities, status, duties, and liabilities as the Attorney-General of England had in the like proceedings in the courts in England.

Supreme Court Act.—1935.

PART V.

(2) No proceedings (whether civil or criminal) by or against the Attorney-General shall abate or be affected by any change in the person holding the office.

(3) Upon production by the Attorney-General to the Supreme Court of the commission of his appointment as Attorney-General it shall be noted in the record book of the court, and thereupon the court and every judge thereof in all jurisdictions of the court shall take judicial notice of such appointment.

80. Nothing in this Part shall—

Savings.

- (a) authorise the issue of any writ of execution or attachment or other process in the nature thereof for enforcing any judgment or order against the Crown ; or
- (b) affect any substantive right of any person or any substantive right or prerogative of the Crown whether with respect to any remedy against the person or property of its debtor or otherwise, but the ordinary practice and process of the court shall be modified where necessary for the purpose of giving effect to the right or prerogative as the case may be.

81. When any doubt or difficulty arises with respect to the procedure to be adopted, or the form of the process to be used, for the purpose of giving effect to any provision of this Part, any party, or person claiming to be affected, may apply to the court or a judge for all necessary directions, and the ordinary practice or process shall be modified as the court or judge may direct or approve.

Provision as to cases of doubt or difficulty.

PART VI.

PART VI.

OFFICERS OF THE COURT.

The Master.

82. (1) The court shall have a master and a deputy master.

Master and Deputy Master.

(2) No person shall be qualified for appointment as master or deputy master unless he is a practitioner of the court of at least six years' standing.

(3) Appointments to the offices of master and deputy master shall be made by the Governor whenever necessary.

(4) After the commencement of this Act no person shall be appointed to the office of master or deputy master except on the recommendation of the Public Service Commissioner, concurred in by the Chief Justice, and no master or deputy master, whether appointed before or after the commencement of this Act, shall be dismissed or reduced in status nor shall his office be abolished except on the recommendation of the Chief Justice.

(5) Nothing in this section shall restrict the application to the master and deputy master of the provisions of the Acts prescribing the retiring age for public servants.

Effect of, and
appeal from,
orders of
Master.
1864, 1928,
s. 5.

83. Subject to the rules made under this Act every order or decision made or given by the master sitting in chambers in exercise of any power conferred upon him pursuant to this Act shall be as valid and binding on, and be enforceable in the same manner against, all parties concerned as an order or decision made by a judge sitting in chambers: Provided that any person affected by any such order or decision of the master may forthwith, or within such time as is prescribed by any rules made under this Act, and subject to any conditions prescribed by those rules, appeal from that order or decision to a judge sitting in chambers.

The Sheriff and Bailiffs.

Appointment
of sheriff and
officers.

84. (1) The Governor may appoint a sheriff, one or more deputy sheriffs, and as many bailiffs and other sheriff's officers as he deems necessary to act in aid of the sheriff.

(2) All persons appointed under this section shall be appointed on the recommendation of the Public Service Commissioner, and shall, unless the Governor otherwise determines, be subject to the Acts relating to the appointment and control of the public service.

Power of
sheriff to
appoint
bailiffs.

85. The sheriff may by writing under his hand appoint any person to be a deputy sheriff, bailiff, or other sheriff's officer, for the purpose of any particular proceeding or during any period specified in the instrument of appointment.

Duties of
sheriff.
Cf. 15, 1842,
s. V.

86. The sheriff shall be an officer of the court and shall execute all process, civil or criminal, directed to him by the court and shall perform all such other duties as are imposed upon him by rules of court or the direction of the court or any judge.

Power of
sheriff to
act throughout
whole State.

87. The sheriff shall have power to execute the office of sheriff through the whole State.

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PART VI.

88. (1) A deputy sheriff may be appointed for the whole State or any part thereof, and, subject to any directions of the sheriff, may exercise, within the whole State or, as the case may be, that part of the State for which he is appointed, any power of the sheriff.

Power of
deputy sheriff.

(2) In particular a deputy sheriff may execute any process of any court in the State directed to the sheriff, and make return of the same together with the manner of the execution thereof, and receive and detain in prison any person who is committed to the custody of the sheriff and do and perform any other thing which the sheriff is bound or permitted to do and perform.

Vic., 3783,
1928, s. 199.

(3) Every reference in this Act to the sheriff shall, in relation to any matter in which a deputy sheriff has acted, be construed as a reference to the deputy sheriff.

89. Every bailiff appointed under this Act shall for purposes of this Act be deemed to be an officer of the sheriff, and shall, by himself or his deputies, execute all lawful warrants orders and precepts of the sheriff directed to him, and shall in all respects perform the same duties as were before the passing of this Act performed by the officers of the sheriff.

Status and
duties of
bailiffs.

90. (1) The Attorney-General may require any bailiff to give security to the Attorney-General by bond of himself and two responsible sureties or in such other manner as the Attorney-General requires for the due performance by him of the duties of his office, and for the due payment by him to the sheriff, or as the sheriff directs, of all moneys which come into his hands in the execution of the duties of his office.

Security by
bailiffs.

(2) The Attorney-General may sue on any bond in the name of the Attorney-General by action in any court having jurisdiction up to the amount claimed.

(3) All moneys recovered on any such bond shall be paid into the general revenue of the State.

91. (1) Where any process is awarded against the sheriff, or in any circumstances which render it improper for the sheriff to execute that process, the court or any judge may direct that process to any fit person appointed by the court or judge.

Provision for
cases where
sheriff ought
not to execute
process.
15, 1842, s. 5.

(2) Every reference in this Act to the sheriff shall, in relation to any matter in which a person appointed under this section has acted, be construed as a reference to that person.

PART VI.

Supreme Court Act.—1935.

Power to
commit
arrested
persons to
prison at once.
N.Z. 89, 1908,
s. 36.

92. Where the sheriff or any of his officers have arrested any person under or by virtue of any process whatever he may forthwith convey that person or cause him to be conveyed to the prison to which he ought to be sent by virtue of the process issued against him.

Resistance to
process.
Vic. 3783,
1928, s. 207.

93. (1) If a sheriff finds any resistance in the execution of any process he shall take with him such assistants as he thinks desirable and shall go in person to the execution and may arrest the resisters and bring them before a justice to be dealt with according to law.

(2) Every person who resists the sheriff in the execution of any process shall be guilty of a misdemeanour.

Neglect to aid
sheriff.
Vic. 3783,
1928, s. 206.

94. Every person who, having reasonable notice that he is required to assist the sheriff or any deputy sheriff in arresting any person or in preserving the peace omits without reasonable excuse so to do shall be liable on summary conviction to a penalty of not more than one hundred pounds; and if he is a bailiff or assistant of the sheriff or a member of the police force, he shall be guilty of a misdemeanour and liable to a fine of not more than one hundred pounds or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

Receipt for
process.
Vic. 3873,
1928, s. 208.

95. The sheriff shall at the request of a person delivering any process to him for execution give a receipt for such process stating the day and time of its delivery.

Duties of
sheriff on
receipt of
Crown debt.
Vic. 3783,
1928, s. 209.

96. (1) Where the sheriff or any other person employed in collecting by process from any court any debt due to the Crown receives from any person a sum as being due to the Crown he shall give a receipt to such person for that sum, and the sheriff shall forthwith take all necessary steps to procure in respect of that sum the effective discharge of the debtor paying it.

(2) Any officer receiving such sum shall account first to the sheriff and the sheriff shall give a receipt for such sum.

Duty of
sheriff to
attend court.
Cf. N.Z. 89,
1908, s. 43.

97. (1) The sheriff shall by himself or his deputy attend upon all criminal sittings of the court and upon other sittings when required to do so by the court or any judge.

(2) If at any time the sheriff is not in attendance upon the court, the court or a judge thereof may appoint some fit person to exercise and perform in the name and on behalf of the sheriff during any period or in any matter ordered by the court or judge, all or any of the powers and duties of the sheriff.

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(3) The court or judge may issue to the person so appointed instead of to the sheriff any process, precept, or command authorised to be issued to the sheriff.

98. (1) Every sheriff shall at the expiration of his term of office make out and deliver to the incoming sheriff a correct list and account of all prisoners in his custody or lodged in gaol by him, and of all writs and attachments in his hands not wholly executed by him, with all such particulars as may be necessary to explain to the incoming sheriff the several matters intended to be transferred to him, and shall thereupon transfer to the custody of the incoming sheriff all such prisoners so in custody and all such writs and attachments and all records, books, and matters appertaining to the office of sheriff.

Duty of outgoing sheriff to turn over process and prisoners to incoming sheriff.
Vic., 3783, 1928, s. 216.

(2) The incoming sheriff shall thereupon sign and give to the outgoing sheriff a duplicate of such list and account which shall be a good and sufficient discharge to him of and from all the prisoners therein mentioned and the execution of the writs and other matters therein contained, and thereupon the incoming sheriff shall stand charged with the said prisoners so in custody and with the execution and care of the said writs and attachments and other matters contained in the said list and account.

99. The sheriff by himself or his deputy may without holding an auctioneer's licence sell by auction property of any kind taken by him in execution.

Sale by sheriff without auctioneer's licence.
Vic. 3783, 1928, s. 203.

100. (1) The sheriff shall not be personally liable for any wrongful act or default of any deputy sheriff; and neither the sheriff nor any deputy sheriff shall be personally liable for the wrongful act or default of any bailiff or other officer of the sheriff or of a deputy sheriff.

Liability of sheriff and officers.

(2) The sheriff and every deputy sheriff, bailiff, and other officer of the sheriff or a deputy sheriff shall be liable for his own wrongful acts and defaults in the same manner and to the same extent as heretofore.

101. If a person in the custody of the sheriff or any of his officers or of any other person either in execution or for non-performance of a judgment or order of the court or for contempt of court or otherwise in the course of a civil proceeding escapes out of legal custody, the sheriff or other person shall be liable to pay the damages sustained by the person at whose suit the prisoner was taken into custody and all costs of any proceedings to recover those damages but no further sum: Provided that there shall be no liability under this section for the escape of any prisoner when confined in any gaol.

Liability for escape.
Vic. 3783, 1928, s. 212.

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Liability of
 Crown to
 satisfy
 judgments
 against the
 sheriff.

102. (1) The Treasurer shall satisfy any judgment obtained against the sheriff or any bailiff or other officer of the sheriff for any wrongful act done or default committed by such sheriff, bailiff, or other person in the execution or intended execution of his duties, and this Act shall be sufficient appropriation of such amount out of the general revenue of the State as is required for the purpose of satisfying such judgment.

(2) The sheriff, bailiff, or other officer of the sheriff in respect of whose wrongful act or default the Treasurer has paid any money under this section shall be liable to indemnify the Treasurer for any money so paid; but the Attorney-General may if in his opinion it is just to do so, exempt any sheriff, bailiff or other officer from his liability under this section in any particular case.

Limitation of
 actions
 against
 sheriff and
 bailiffs.
 Vic. 3783,
 1928, s. 202.

103. Every action brought against the sheriff or any of his officers for any act done or default committed in the execution or intended execution of his duty shall be commenced within six months next after the plaintiff knew or could, by the exercise of reasonable diligence, have known the facts constituting the cause of action.

Fees and
 poundage.

104. (1) The sheriff or any officer concerned in the execution of any process directed to the sheriff may demand, take, and receive such fees as are fixed by rules of court.

(2) No poundage shall be payable to the sheriff or any other officer for taking the body of any person in execution.

(3) The judges may make rules of court in accordance with the provisions of this Act relating to making rules of court—

(a) fixing the fees payable to the sheriff or any such officer :

(b) providing for the settlement of disputes as to the amount payable in any case :

(c) prescribing the time for payment of such fees :

(d) requiring execution creditors either generally or in any prescribed cases to give security for payment of such fees, or to lodge a deposit on account of such fees :

(e) empowering the sheriff in cases where he is requested by the execution creditor to withdraw before sale, to require the execution creditor, the execution debtor, and any solicitor concerned to furnish him with particulars of the arrangement between the execution creditor and the execution debtor :

(f) regulating generally the performance of the duties of the sheriff.

Sheriff may be
 justice.

105. Notwithstanding any enactment or other rule of law the sheriff shall not, by reason of holding office as sheriff, be disqualified for appointment as a justice of the peace.

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Messengers and other Officers.

106. The Governor may appoint such messengers of the court as are necessary.

Appointment of messengers.

107. The messengers of the court shall be in attendance on the sittings of the court, and any messenger may, without warrant, apprehend and lodge in prison all persons who, by the court or any judge, are ordered to be apprehended or committed into prison for contempt of court or otherwise.

Duty of messengers.
Cf. 20, 1866-7 s. 22.

108. Every messenger shall perform all such other duties as from time to time are by the court or a judge or rules of court directed to be performed by him.

Other duties.
Cf. *ibid.* s. 23.

Further Provisions as to Officers.

109. (1) The court shall have such other officers as are necessary for the administration of justice therein, and for the due execution of the judgments, decrees, orders, and processes thereof.

Appointment and number of officers.
31, 1855-6, s. 2.
20, 1866-7, s. 15.
120, 1878, s. 1.

(2) Such officers shall except as provided by subsection (3) of this section be appointed by the Governor.

(3) The associates to the judges shall be appointed, and may be removed from office, by the Chief Justice.

110. Subject to this Act, the business to be performed in the court, or in the chambers of any judge, other than that performed by the judges, shall be distributed among the officers of the court, in such manner as is directed by rules of court, or, in any cases not provided for by rules of court, as the court or any judge thereof may direct, and such officers shall perform such duties in relation to such business as is directed by this Act or by rules of court, or by such court or any judge thereof; and, subject to this Act and such rules of court, all such officers respectively shall continue to perform the same duties as nearly as may be in the same manner as if this Act had not passed.

Duties of officers.
116, 1878, s. 35.

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MISCELLANEOUS PROVISIONS.

111. (1) Where, by fault of two or more vessels, damage or loss is caused to one or more vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault :

Rules as to division of loss upon collision at sea.
1 and 2, Geo. 5., c. 57, s. 1.
Com. 4, 1913, s. 259.

Provided that, if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2) Nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed.

(3) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law or as affecting the right of any person to limit his liability in manner provided by law.

(4) For the purposes of this section, the expression "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses consequent upon that fault, recoverable at law by way of damages.

Damages for
personal
injuries.
Com. 4, 1913
s. 280.

112. (1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

Right of
contribution.
Com. 4, 1913,
s. 281.

113. (1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel, and any other vessel or vessels, and a proportion of the damages is recovered against the owner of one of the vessels which exceeds the proportion in which she was in fault, he may recover by way of contribution the amount of the excess from the owners of the other vessels to the extent to which those vessels were respectively in fault :

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any contribution as provided by subsection (1) of this section shall, for the purpose of recovering the

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contribution, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

114. (1) All money, including costs, payable under any judgment or order shall bear interest at the rate from time to time prescribed by the rules of court.

Interest on
judgment
debts.
Cf. 9, 1845
s. X.
8, 1867, s. 33

(2) The interest shall be computed from the following times:—

- (a) in the case of money other than taxed costs, from the time specified in the judgment or order, and if no time is so specified from the date of the judgment or order :
- (b) in the case of taxed costs, from the date of the certificate of the taxing officer by whom the costs were taxed.

115. (1) The sheriff or other officer having the execution of any writ of *feri facias* may by virtue thereof—

Power to
seize money,
bank notes,
and securities
under
writs of
execution.
9, 1845,
s. VIII.

- (a) seize and take any money, bank notes, or securities belonging to the person against whose effects the writ was issued :
- (b) pay or deliver to the party suing out such writ any money or bank notes which are so seized, or a sufficient part thereof :
- (c) hold any securities, so seized, as security for the amount which the writ of *feri facias* directs to be levied, or so much thereof as has not been otherwise levied and raised :
- (d) sue in his own name for the recovery of the sum or sums secured by such securities, if and when the time of payment thereof has arrived.

(2) Payment to the sheriff or other officer by the party liable on any such security with or without suit or execution against the party so liable, shall discharge him to the extent of the amount paid or levied and raised by execution, from his liability on such security.

(3) The sheriff or other officer shall pay over to the party suing out the writ of *feri facias* the money so recovered or such part thereof as is sufficient to discharge the amount directed by the writ to be levied and if after satisfaction of the amount so to be levied together with the sheriff's fees and expenses, any surplus remains in the hands of the sheriff or other officer that surplus shall be paid to the party against whom the writ was issued.

(4) No sheriff or other officer shall be bound to sue any party liable upon any such security unless the party suing out the writ of *feri facias* enters into a bond with two sufficient securities for indemnifying him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof and the expenses of that bond shall be deducted out of any money recovered in the action.

(5) In this section "security" includes any cheque, bill of exchange, promissory note, bond, speciality, or other security for money.

Power to sell
land under
feri facias.
5, 1853.
ss. 184, 185.

116. (1) All land within the State belonging to any person indebted shall be liable to and assets for the payment and satisfaction of all just debts duties and demands owing by him to the Crown or any other person, in like manner as personal property within the State, and shall be subject to the like remedies, proceedings and processes in all courts for seizing, selling, and disposing of the land towards satisfaction of such debts, duties, and demands, as personal property within the State.

(2) The sheriff under any writ of *feri facias* directed to him upon a judgment or order of the court may sell, dispose of and transfer or convey to the purchasers thereof so much of the land which the person against whom execution is issued possessed at the time of the delivery of the writ to the sheriff or at any time thereafter, as is necessary to produce the amount directed by the writ to be levied: Provided that no land shall be sold unless—

- (a) the sheriff has endorsed the writ with a certificate that the party against whom it is issued has no goods whereof the amount directed to be levied can be made, or that the sheriff has caused to be made a part of that amount and there are no further goods whereof he can cause the remainder of that amount to be made; and
- (b) the sheriff has given fourteen days notice by advertisement in the *Gazette* of his intention to sell all the land.

(3) The expenses of the advertisement shall be recoverable by the sheriff together with poundage and other expenses recoverable upon writs of *feri facias*.

(4) It shall not be necessary for the sheriff to make an actual seizure of land under any writ in order to authorise a sale thereof, but the notice in the *Gazette* under this section shall be equivalent to an actual seizure of the land mentioned in that notice.

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(5) In this section "land" includes real property of all kinds and any interest legal or equitable therein and also any chattel interest in land.

117. (1) Any sheriff, gaoler, or other officer, having the custody of any prisoner, whose evidence is required in any action, trial, or proceeding, civil or criminal, shall upon receiving an order of a judge for that purpose, take such prisoner for examination before the court, or any judge thereof, or before any official or special referee or arbitrator or other person appointed to take any examination.

Orders to bring prisoners for examination, 8, 1867, s. 15.

(2) Such an order may be obtained upon affidavit by the party requiring the attendance of such prisoner, and shall set forth the time when and place where such prisoner is to be taken for the purpose of the examination.

(3) The officer so ordered as aforesaid shall be entitled to be paid the like travelling and other expenses, and compensation for loss of time, as upon attendance at a trial.

118. Any person who in any proceedings in the court, or in any examination, wilfully gives false evidence, or wilfully swears, affirms or declares falsely in any affidavit, deposition, affirmation, or declaration, taken within the State, shall be guilty of perjury and punishable accordingly.

Perjury.

Suitors' Funds.

119. All suitors' funds shall be vested in the master on behalf of the court and shall be dealt with by him in accordance with this Act and the rules of court, and any order of the court or a judge.

Suitors' funds to vest in master. U.K. 15 and 16 Geo. 5, c. 49, s. 133 (4).

120. All securities standing in court or at any time deposited in court shall be held by the master in trust to apply the same in accordance with law.

Securities in court.

121. (1) The Treasurer shall be liable to make good to the suitors of the court all suitors' funds and securities in court, and for that purpose may by authority of this Act, and without any further appropriation, make any necessary payments out of the general revenue of the State.

Liability of Treasurer for default of master. Cf. U.K. 15 and 16, Geo. 5, c. 49, s. 134.

(2) If the Chief Justice certifies to the Treasurer in writing that the master has failed to pay any money in court or to transfer or deliver any securities in court required by law or by any order of the court to be paid, transferred, or delivered by him, or has been guilty of any default with respect to any such money or securities, the Treasurer shall pay out of the general revenue to such persons as are named by the Chief

Justice in the certificate, such sums as the Chief Justice certifies in writing to be required for the purpose of paying the money so required to be paid or of replacing the securities so required to be transferred or delivered, or of making good such default.

Banking and investment of suitors' fund.

122. (1) All suitors' funds shall, as soon as practicable after payment into, or deposit in court, be paid into the Treasury or a bank carrying on general banking business in Adelaide.

(2) Such funds or such part thereof as the rules direct shall be invested in such manner and at such times as the rules of court prescribe.

(3) The interest or other income from such investment shall be dealt with as prescribed by rules of court.

(4) Until rules of court are made under this section the law and practice relating to the deposit, payment, delivery and transfer in into and out of court of suitors' funds and securities which belong to suitors, shall continue as at the commencement of this Act.

Investments made under order of the court.
U.K. 15 and 16,
Geo. 5, c. 49, s.
142.

123. Any money in court which under the rules of court or under the order of the court is required to be laid out in any particular investment shall be so laid out notwithstanding anything in this Act.

Validity of payments, &c., pursuant to rules of court.

124. All acts done by the master with reference to funds in court pursuant to and in accordance with rules of court shall be as valid and effectual as if they had been done in pursuance of an order of the court.

Remittances by post.

125. Where by rules of court the master is authorised to make payments of money to persons entitled thereto upon their request by transmitting to them by post crossed cheques or other documents intended to enable them to obtain payment of the sums expressed therein, the posting of a letter containing the cheque or document and addressed to the person entitled thereto at the address given by him in his request shall, as respects the liability of the master and of the treasurer respectively, be equivalent to the delivery of the cheque or document to that person himself.

Power to appoint deputies.
U.K. 15 and 16
Geo. 5, c. 49
s. 133 (5)

126. In sections 120 to 126, inclusive, the term master shall not include the deputy master, but the master may do any act, sign or execute any instrument and exercise any authority required or authorised to be done, signed, executed, or exercised by him in relation to suitors' funds, by a deputy appointed by him in writing under his hand.

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127. The Judges may make rules of court in accordance with the provisions for making rules of court contained in this Act for regulating :—

Rules of Court.
U.K. 15 and 16,
Geo. 5, c. 49,
s. 146.

- (a) the deposit, payment, delivery and transfer in, into, and out of court of money and securities which belong to suitors or are otherwise capable of being deposited in or paid or transferred into court or under the custody of the court;
- (b) the investment of and other dealings with money and securities in court;
- (c) the disposal of the interest or other income from such investments;
- (d) the execution of the orders of the court and the powers and duties of the master with reference to such money and securities; and
- (e) any other matters incidental to or connected with the matters previously mentioned in this section.

128. (1) In the month of July in every year the master shall pay to the Treasurer, as part of the general revenue of the State, all suitors' funds which, on the first day of that month, have been unclaimed for the period of six years next preceding.

Payment to
the Treasurer
of unclaimed
sutors' funds.
514, 1891, s. 3.

(2) Such moneys shall not be afterwards claimable from the Treasurer unless the court otherwise orders.

129. (1) If at any time after any such money has been so paid to the Treasurer, any person applies to the court, by summons, for the payment to him of that money or any part thereof, and the court is satisfied upon affidavit or other sufficient evidence adduced that the applicant is entitled to the whole or any part of the money claimed by him, the court shall make an order for payment of the sum to which the applicant is entitled, with or without simple interest thereon at the rate of three per centum per annum, from the time when the money was paid to the Treasurer as aforesaid.

Parties
subsequently
claiming may
petition the
Supreme
Court, &c.
514, 1891, s. 4.

(2) On any such order being served on the Treasurer he shall issue and pay the money mentioned in the order to the persons to whom it is payable by virtue of the order, and the receipt of any person to whom any such money is so paid shall be a full and valid discharge for the sum stated in the receipt to have been received.

In the name and on behalf of His Majesty, I hereby
assent to this Bill.

W. DUGAN, Governor.

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SCHEDULE.

SUPREME COURT ACT, 1935.

ACTS REPEALED.

Number and Year of Act.	Short or Long Title of Act.	Extent of Repeal.
15 of 1842.....	An Act to regulate the Appointment and the Duties of the Sheriff of the Province of South Australia	The whole
3 of 1843.....	An Ordinance to amend an Ordinance intituled "An Act to regulate the Appointment and Duties of the Sheriff of the Province of South Australia	The whole
9 of 1845.....	An Ordinance for adopting in South Australia certain parts of an Act made and passed in the Imperial Parliament which was held in the First and Second years of the Reign of Her present Majesty intituled "An Act for abolishing Arrest on mesne Process in Civil Actions, except in certain cases; for extending the remedies of Creditors against the property of Debtors; and for amending the laws for the relief of Insolvent Debtors in England	The whole
14 of 1845.....	An Ordinance to provide for the Performance of certain matters in the Supreme Court during the occasional absence of the Judge at a distance from Adelaide	The whole
20 of 1852.....	An Act to enable the Sheriff to appoint a Deputy to perform the Duties of his Office, and to abolish the Poundage now payable on taking the body in execution	The whole
5 of 1853.....	Supreme Court Procedure Amendment Act .	The whole except secs. 162-172, inclusive.
6 of 1853.....	An Act to give relief to Persons having Claims against the Local Government of South Australia by authorising them to try the validity of such Claims in a Court of Law or Equity	The whole
24 of 1855-6	The Supreme Court Procedure Act, 1855 ...	The whole
30 of 1855-6	An Act to facilitate Actions against Persons absent from the Colony and against Persons sued as Joint Contractors	The whole
31 of 1855-6	An Act to consolidate the several Ordinances relating to the establishment of the Supreme Court of the Province of South Australia	The whole
4 of 1858.....	The Summary Procedure on Bills of Exchange Act, 1858	The whole
5 of 1858.....	Supreme Court Procedure further Amendment Act of 1858	The whole
13 of 1858.....	The Third Judge and District Courts Act....	The whole
23 of 1859.....	An Act to provide for the appointment of Commissioners to take Affidavits as well in South Australia as elsewhere, to be made use of in the Supreme Court of South Australia and for the more easy Administration of Oaths to persons appointed to act as Justices of the Peace in South Australia	The whole
5 of 1861.....	An Act to amend the Laws regulating the Court of Appeals of the Province of South Australia, and to extend the powers thereof	The whole
3 of 1862.....	The Common Law Procedure Act, 1862	The whole, except sections 1, 2, and 3

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Number and Year of Act.	Short or Long Title of Act.	Extent of Repeal.
15 of 1865.....	The Court of Appeals Amendment Act, 1865	The whole
12 of 1865-6	An Act to provide for the more speedy administration of justice by means of the Supreme Court	The whole
2 of 1866.....	An Act to protect certain persons from actions by reason of their being elected to Parliament while members of the Court of Appeals	The whole
7 of 1866.....	An Act to regulate and amend the Practice and Procedure of the Supreme Court of the Province of South Australia in its Revenue Jurisdiction	The whole, except sections 15 and 26
20 of 1866-7	The Equity Act, 1866	The whole, except sections 150 and 151
8 of 1867.....	Supreme Court Act, 1867	The whole
6 of 1868-9	An Act to repeal Act No. 11 of 1866-7 intituled "An Act to amend The Third Judge and District Courts Act, and for other purposes" and to make further provision for the trial of Causes, and trial of Offences at places remote from the Supreme Court	The whole
7 of 1868-9	An Act to amend the "Supreme Court Act, 1867"	The whole
23 of 1870-71 ...	An Act to fix the tenure of office of the Primary Judge in Equity, and to provide for the performance of the duties of the office of Primary Judge in Equity in certain cases	The whole
28 of 1873.....	An Act to increase the salaries of the Judges of the Supreme Court, and of certain officers of the Civil Service of the Province of South Australia	The whole
116 of 1878.....	Supreme Court Act, 1878	The whole, except paragraphs I-VII inclusive, of section 6
120 of 1878.....	An Act to amend "The Equity Act, 1866"	The whole
286 of 1883.....	An Act to amend "The Third Judge and District Courts Act" and the Act No. 6 of 1868-9	The whole
514 of 1891.....	The Suitors Unclaimed Funds Act 1891	The whole
1358 of 1919.....	Fourth Judge Act, 1919.....	The whole
1564 of 1923.....	Acts Interpretation Act Amendment Act, 1923	The whole
1739 of 1926.....	Supreme Court Act Amendment Act, 1926 ..	The whole
1761 of 1926.....	Fifth Judge Act, 1926	The whole
1864 of 1928.....	Supreme Court Act, 1928.....	The whole