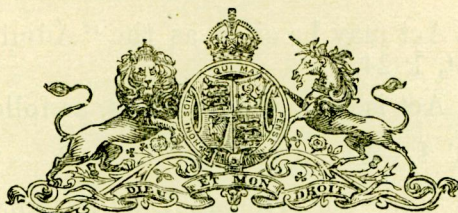


I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 12 December, 1924, A.M.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII V REGIS.

Act No. 42, 1924.

An Act to amend the law with respect to the administration of justice; to facilitate the reciprocal enforcement of judgments and awards in the State of New South Wales and in the United Kingdom and other parts of His Majesty's dominions or territories under His Majesty's protection; to amend the Common Law Procedure Act, 1899, the Supreme Court Procedure Act, 1900, the Inter-state Debts Recovery Act, 1901, the Interpleader Act, 1901, the District Courts Act, 1912, and certain other Acts; to repeal the Interest on Judgments Amendment Act, 1900; and for purposes connected therewith. [Assented to, 19th December, 1924.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. B. WALKER,
Chairman of Committees of the Legislative Assembly.

Administration of Justice.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title.¹

1. This Act may be cited as the "Administration of Justice Act, 1924."

Division into Parts.

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

PART I.—PRELIMINARY—ss. 1, 2.

PART II.—RECIPROCAL ENFORCEMENT OF JUDGMENTS IN NEW SOUTH WALES AND IN OTHER PARTS OF HIS MAJESTY'S DOMINIONS—ss. 3-7.

PART III.—AMENDMENT AND REPEAL OF ACTS.

DIVISION 1.—*Inter-state Debts Recovery Act*, 1901—ss. 8, 9.

DIVISION 2.—*District Courts Act*, 1912—s. 10.

DIVISION 3.—*Supreme Court Procedure Act*, 1900—ss. 11-14.

DIVISION 4.—*Interpleader Act*, 1901—s. 15.

DIVISION 5.—*Common Law Procedure Act*, 1899, and *Interest on Judgments Amendment Act*, 1900—ss. 16, 17.

DIVISION 6.—*Equity Act*, 1901—s. 18.

PART IV.—MISCELLANEOUS PROVISIONS—ss. 19, 20.

SCHEDULE.

PART

Administration of Justice.

PART II.

RECIPROCAL ENFORCEMENT OF JUDGMENTS IN NEW
SOUTH WALES AND IN OTHER PARTS OF HIS
MAJESTY'S DOMINIONS.

3. (1) In this Part of this Act, unless the context otherwise requires—

“Judgment” means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

Interpreta-
tion.

cf. 10 & 11
Geo. V, c. 81,
s. 12;
N.Z. 1922,
No. 11, s. 1.

“Judgment creditor” means the person by whom the judgment was obtained, and includes the successors and assigns of that person.

“Judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given.

“Supreme Court” means the Supreme Court of New South Wales.

“Original court,” in relation to any judgment, means the court by which the judgment was given.

“United Kingdom” does not include the Irish Free State or Northern Ireland.

(2) Subject to rules of court, any of the powers conferred by this Part of this Act on the Supreme Court may be exercised by a judge of the court.

4. (1) This Part of this Act applies with respect to—

- (a) the United Kingdom;
- (b) any other part of His Majesty's dominions with respect to which this Part of this Act is applied under this section;
- (c) any territory with respect to which this Part of this Act is applied under this section.

Application
of this Part,

cf. *ibid.*
ss. 13, 14.
cf. *ibid.* s. 3.

(2)

Administration of Justice.

(2) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions other than the United Kingdom for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court, the Governor may, by proclamation, declare that this Part of this Act shall apply with respect to that part of His Majesty's dominions, and on any such proclamation this Part of this Act shall apply accordingly.

(3) The Governor may, by proclamation, declare that this Part of this Act shall apply with respect to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions, as if that territory were part of His Majesty's dominions, and on the making of any such proclamation this Part of this Act shall, subject to the provisions of the proclamation, apply accordingly.

(4) The Governor may, by proclamation, revoke or vary any proclamation made under this section.

(5) A copy of the Gazette purporting to contain a copy of a proclamation under this section shall be conclusive evidence of the validity, contents, making and publication of such proclamation, and of the fulfilment of all conditions precedent to the valid making thereof.

(6) Nothing in this section shall authorise the Governor to declare that this Part of this Act shall apply with respect to—

- (a) any part of His Majesty's dominions within the Commonwealth of Australia;
- (b) any territory in respect of which a mandate is being exercised by the Government of the Commonwealth of Australia.

Enforcement in
New South
Wales of judg-
ments obtained
in superior
courts of other
British
dominions.
cf. *ibid.* s. 9.
cf. *ibid.* s. 4.

5. (1) Where a judgment has been obtained in a superior court in any part of His Majesty's dominions with respect to which this Part of this Act applies, the judgment creditor may apply in manner prescribed by rules of court or, until so prescribed, by motion to the Supreme Court at any time within twelve months after the

Administration of Justice.

the date of the judgment or such longer period as may be allowed by the court, to have the judgment registered in the court, and on any such application the court may, if in all the circumstances of the case the court thinks it is just and convenient that the judgment should be enforced in New South Wales, and subject to the provisions of this section, order the judgment to be registered accordingly.

(2) No judgment shall be ordered to be registered under this section if—

- (a) the original court acted without jurisdiction; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
- (e) the judgment debtor satisfies the Supreme Court either that an appeal is pending or that he is entitled and intends to appeal against the judgment; or
- (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the Supreme Court.

(3) Where a judgment is registered under this section—

- (a) the judgment shall, as from the date of registration, be of the same force and effect and proceedings may be taken thereon as if it had been a judgment originally obtained or entered on the date of registration in the Supreme Court;
- (b)

Administration of Justice.

- (b) the Supreme Court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section ;
 - (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.
- (4) In paragraph (c) of subsection three of this section a certified copy of the judgment means a copy—
- (a) proved to be an examined copy of the judgment ; or
 - (b) sealed with the seal of the original court ; or
 - (c) signed by a judge of the original court with a statement in writing attached by him to his signature on the copy that he is such judge and that the court has no seal.
- (5) Rules of court shall provide—
- (a) for service on the judgment debtor of notice of the registration of a judgment under this section ; and
 - (b) for enabling the Supreme Court, on an application by the judgment debtor, to set aside the registration of a judgment under this section on such terms as the court thinks fit ; and
 - (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.
- (6) In any action in any court in New South Wales on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the court otherwise orders.

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6. (1) Where a judgment has been obtained in the Supreme Court against any person, the court shall, on an application made by the judgment creditor, issue to the judgment creditor a certified copy of the judgment. Issue of certificate of judgments obtained in New South Wales.

(2) In this section a certified copy of the judgment includes any copy authenticated in the manner prescribed by the law for the time being in force in any part of His Majesty's dominions, or in any territory, to which this Part of this Act applies. cf. *Ibid.* s. 10. cf. *Ibid.* s. 6.

7. Provision may be made by rules of court for regulating the practice and procedure (including scales of fees and evidence) in respect of proceedings of any kind under this Part of this Act. Power to make rules.

PART III.

AMENDMENT OF ACTS.

DIVISION 1.—*Inter-state Debts Recovery Act, 1901.*

8. This Division of this Part of this Act shall commence and take effect on a day to be appointed by the Governor and notified in the Gazette. Commencement of Division 1 of Part III.

9. (1) Section one of the Inter-state Debts Recovery Act, 1901, is amended by omitting the words and figures "Part II.—Enforcement of Inter-state Supreme Court Judgments—ss. 6–11." Amendment of Act 1901 No. 48. Sec. 1.

(2) Section three of that Act is amended by omitting the words "'Judgment' in Part II means a judgment, decree, rule, or order whereby any sum of money is made payable." Sec. 3.

(3) Section four of that Act is amended— Sec. 4.
(a) by omitting the words "except Part II thereof";

(b) by omitting the figures "1901" and by inserting in lieu thereof the figures "1912."

(4) Section five of that Act is amended by omitting subsection three. Sec. 5.

(5) That Act is amended by omitting the whole of Part II. Secs. 6–11.

(6)

Administration of Justice.

Sec. 12.

(6) Section twelve of that Act is amended by omitting the figures "1901" and inserting in lieu thereof the figures "1912."

DIVISION 2.—*The District Courts Act, 1912.*

Amendment
of Act 1912
No. 23.
New section
8A.
Jurisdiction
where
defendant
outside the
State.

10. (1) The District Courts Act, 1912, is amended by inserting after section eight the following new section:—

8A. (1) A District Court shall have jurisdiction as provided in this section, notwithstanding that the defendant is not within New South Wales.

(2) If the defendant is within any other State or part of the Commonwealth, the jurisdiction shall only extend to the following cases, that is to say—

- (a) when the debt sued for was contracted, or the liability for damages arose, within the district for which the court is held; or
- (b) when the defendant has given an engagement or promise in writing to pay any debt or sum at a particular place specified, and such place is within the district for which the court is held.

(3) In any case coming within subsection two of this section it shall not be necessary to comply with the provisions of Part III of the Inter-state Debts Recovery Act, 1901, and it shall be sufficient to comply with the provisions of any Act of the Parliament of the Commonwealth for the time being in force applying to such case.

(4) In any case not coming within subsection two of this section the jurisdiction shall only extend to such case if it comes within the provisions of Part III of the Inter-state Debts Recovery Act, 1901, and subject to compliance therewith.

(5) Nothing in this section shall authorise the service outside New South Wales of any default summons.

(6) This section applies whether the defendant has or has not ever been resident or carried on business in New South Wales.

(7)

Administration of Justice.

(7) This section applies whether the cause of action arose before or after the commencement of this Act.

(8) In this section "defendant" means, where there are more than one, any defendant not within New South Wales.

(2) The District Courts Act, 1912, is amended by inserting after section one hundred and one the following new section:—

New section
101A.

101A. (1) Every judgment debt shall carry interest at the rate of seven pounds per centum per annum from the time when the judgment or verdict is given, or if there has been no trial, from the time of entering up judgment; and such interest may be enforced in the same manner as a judgment.

Interest on
judgment.

(2) The rate of interest mentioned in this section may be varied by rules of court.

(3) The District Courts Act, 1912, is amended by omitting section one hundred and eleven and by inserting the following new section in place thereof:—

Sec. 111.

111. (1) No writ of execution under this Act shall bind any lands until entered or registered as in this section provided.

New section
111.

Execution
not to bind
land until
registered.

(2) Where the land is subject to the provisions of the Real Property Act, 1900, the writ shall be entered in the Register Book, in accordance with and subject to the provisions of that Act.

(3) Where the land is not subject to the provisions of the Real Property Act, 1900, the writ shall be registered in the Register of Causes, Writs, and Orders affecting land established by the Conveyancing Act, 1919.

(4) The District Courts Act, 1912, is amended by inserting after section one hundred and twenty-eight the following new section:—

New section
128A.

128A. Relief by way of interpleader may be granted though the titles of the persons claiming to the moneys, goods, or chattels in question, or to the proceeds or value thereof have not a common origin, but are adverse to and independent of each other.

Adverse
titles.
cf. C.L.P.
Act, 1860
(Eng.), s. 12.

DIVISION

Administration of Justice.

DIVISION 3.—*Supreme Court Procedure Act, 1900.*

Amendment
of Act 1900
No. 49, s. 5.

11. The Supreme Court Procedure Act, 1900, is amended by inserting at the commencement of section five the figure and words “(1) Subject to the provisions of this section,” and by inserting at the end of section five the following new subsections:—

(2) Nothing in this section shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.

(3) The court may direct judgment to be entered for any or either party, and for that purpose the court may be held and its jurisdiction exercised by the judge, and either at or after the trial.

(4) The judge may adjourn the case for further consideration, or may leave any party to move the court for judgment, or may refer the case to the court for its determination.

(5) Any judgment directed by the judge to be entered under the provisions of this section shall, unless there is an appeal as provided in this section against the judgment, have the same force and effect in all respects as a judgment of the court.

(6) Any party may appeal to the court against any judgment so directed by the judge to be entered.

(7) The appeal shall be by way of rehearing, and on the appeal the court shall—

(a) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;

(b) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the court.

(8)

Administration of Justice.

(8) The court may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined, or the amount of any damages or compensation to be assessed, by a judge either with or without a jury, as it may think fit.

(9) The court may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—

(a) any order which it might make under section seven of this Act;

(b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.

(10) The powers conferred by this section may be exercised by the court, notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.

(11) Where the judge leaves any party to move the court for judgment, or refers the case to the court for its determination, the powers conferred on the court by subsections seven and eight of this section shall extend to the motion or reference.

(12) Except as rules of court otherwise specially provide, every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the court and not otherwise.

(13) An appeal, motion for judgment, or reference to the court under the provisions of this section shall be to the court in Banco.

Administration of Justice.

Amendment
of Act 1900
No. 49, s. 7.

12. The Supreme Court Procedure Act, 1900, is further amended by omitting subsection two of section seven thereof.

Amendment
of Act 1900
No. 49.
New s. 11A.

13. The Supreme Court Procedure Act, 1900, is further amended by inserting the following heading and new section after section eleven :—

Costs.

Statutory
proceedings.

11A. (1) Where by any Act now or hereafter in force, any cause matter or other proceeding may be brought before the court or a judge, and no provision is made in the Act for the costs of such cause matter or proceeding, the costs shall be in the discretion of the court or judge.

(2) This section shall not apply to any proceeding in the criminal jurisdiction of the court.

Amendment
of Act 1900
No. 49, Sch.

14. The Supreme Court Procedure Act, 1900, is further amended by inserting after rule one of the Schedule thereto the heading and new rules set forth in the Schedule to this Act.

DIVISION 4.—*Interpleader Act, 1901.*

Amendment
of Act 1901
No. 7.
New sections
8A, 8B.
Adverse
titles.
cf. C.L.P.
Act, 1860
(Eng.), s. 12.

15. The Interpleader Act, 1901, is amended by inserting in Part III thereof before section nine the following new sections :—

8A. Relief under this Act may be granted though the titles of the claimants to the moneys goods or chattels in question or to the proceeds or value thereof have not a common origin but are adverse to and independent of one another.

8B. (1) Any issue directed under this Act may be remitted by the court or a judge to be tried by a judge of a District Court without a jury or by a jury before a judge of a District Court.

(2) The provisions of sections one hundred and thirty-three, one hundred and thirty-four and one hundred and thirty-five of the District Courts Act, 1912, shall extend to any such issue so remitted.

DIVISION

Trial of issue
in a District
Court.

Administration of Justice.

DIVISION 5.—*Common Law Procedure Act, 1899, and Interest on Judgments Amendment Act, 1900.*

16. The Common Law Procedure Act, 1899, is amended— Amendment of Act 1899 No. 21, ss. 142 (1) and 143 (1).

- (a) by omitting subsection one of section one hundred and forty-two and by inserting in lieu thereof the following new subsection:—

(1) Every plaintiff who obtains judgment upon a verdict shall be entitled to interest at the rate of seven per centum per annum on the amount of the verdict from the time of obtaining the verdict until the time of entering up judgment thereon. Verdicts to carry interest. cf. 24 Vic. No. 8, s. 1.

- (b) by inserting after subsection two of section one hundred and forty-two the following new subsection:—

(3) The rate of interest mentioned in this section may be varied by rules of court.

- (c) by omitting subsection one of section one hundred and forty-three and by inserting in lieu thereof the following new subsection:—

(1) Every judgment debt recovered in the court shall carry interest at the rate of seven per centum per annum from the time of entering up the judgment until the same is satisfied. Judgment debts to carry interest.

- (d) by inserting after subsection two of section one hundred and forty-three the following new subsection:—

(3) The rate of interest mentioned in this section may be varied by rules of court.

17. The Interest on Judgments Amendment Act, 1900, is hereby repealed. Repeal of Act 1900 No. 5.

DIVISION 6.—*Equity Act, 1901.*

18. The Equity Act, 1901, is amended by omitting from section ten the words “without granting consequential relief” and by inserting in lieu thereof the words “whether any consequential relief is or could be claimed or not.” Amendment of Act 1901 No. 24, s. 10.

PART

Administration of Justice.

PART IV.

MISCELLANEOUS PROVISIONS.

Court to
direct
procedure
in certain
cases.
cf. C.S.R.
Q. 57, r. 8.

19. Whenever the manner or form of procedure for taking any step in any civil cause or matter in the Supreme Court or a District Court is not prescribed by the Act under which such step is to be taken or by rules of court or by the practice of the court, the court or a judge thereof may direct what manner or form of procedure is to be followed, and any step taken in accordance with the direction given shall be deemed to be regular and sufficient.

Questions of
foreign law to
be decided by
judge.
10 & 11
Geo. V, c. 81,
s. 15.

20. Where, for the purpose of disposing of any suit, action, or other matter which is being tried by a judge with a jury in any court in New South Wales it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge alone.

Sec. 14.

SCHEDULE.

Appeals from a judgment directed to be entered by a judge pursuant to section 5 of this Act.

1A. An appeal shall be instituted by notice of appeal, which shall be served and filed as hereinafter provided. The appellant may by the notice of appeal appeal from the whole or any part of the judgment appealed from, and the notice of appeal shall state whether the whole or part only of the judgment is complained of, and in the latter case shall specify the part complained of. The notice of appeal shall state shortly the grounds on which the appellant intends to rely.

1B. The notice of appeal shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Full Court may direct notice of appeal to be served on all or any parties to the cause or matter, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as are just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties. The notice of appeal may be amended at any time as the Full Court thinks fit.

1c.

Administration of Justice.

1c. The notice of appeal shall be served within fourteen days from the date of the judgment. The period shall be reckoned from the date when the judgment was pronounced, and the time of a vacation shall be reckoned in the computation of the period.

1d. The appellant shall within the time prescribed by the last preceding rule for serving the notice of appeal, file a copy of the notice, and upon such service and filing the appeal shall be deemed to be duly instituted.

1e. The notice of appeal shall be for the first sitting of a Full Court held after the expiration of sixteen days from the institution of the appeal, unless the respondent consents to take shorter notice.

1f. It shall not be necessary for a respondent to give notice of cross appeal, but if a respondent intends upon the hearing of an appeal to contend that the judgment appealed from should be varied, he shall within the time prescribed by the next following rule, or such time as is allowed by special order of the court or a judge in any case, give notice of his intention to such of the parties as may be affected by such contention. The omission to give such notice shall not diminish the powers of the court when hearing the appeal, but may, in the discretion of the court, be ground for an adjournment of the appeal or for a special order as to costs.

1g. Subject to any special order which is made in any case, notice by a respondent under the last preceding rule shall be given ten clear days before the day for which the notice of appeal is given.

1h. Four days at least before the commencement of the sitting for which the notice of appeal is given the appellant shall, unless otherwise ordered by the court or a judge, lodge in the office of the court five printed copies of the judge's notes taken at the trial, including the notes of evidence, if any, and also a copy of the pleadings, if any, and of such other documents as may be necessary for the purposes of the appeal. The cost of copies of unnecessary documents will not be allowed.

1i. The court or a judge may in any case upon such terms as it or he thinks fit dispense with the printing of such documents, or any portion thereof, and may direct a greater or less number of printed copies to be lodged, and may also direct printed copies to be served upon any person not a party to the cause or matter.

1j. An interlocutory order from which there has been no appeal shall not operate to prevent the court, upon hearing an appeal, from giving such decision upon the appeal as is just.

1k. The appeal shall not operate as a stay of proceedings unless the court or a judge so orders. Any such order may be made as to the whole or part of the proceedings in the cause or matter, and may be made upon such terms as the court or judge granting the stay thinks fit. No intermediate act or proceeding shall be invalidated except so far as the Full Court directs.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR,
Governor,

Government House,
Sydney, 19th December, 1924.

Administration of Justice Bill, 1924.

EXPLANATORY NOTE.

THIS is a Bill to effect several amendments in Acts relating to the administration of justice.

Provision is made for the enforcement of judgments obtained in the United Kingdom and other parts of His Majesty's dominions; also for the amendment of the Inter-state Debts Recovery Act, 1901, in certain respects, and by omitting Part II, which is the part dealing with the enforcement of Supreme Court judgments of the other States of the Commonwealth and of New Zealand.

So far as the other States are concerned, the provisions of the Commonwealth Service and Execution of Process Act, 1901-1924, provide the necessary machinery; and so far as New Zealand is concerned the provisions of this Bill may be made reciprocal, as New Zealand has already passed an Act in similar terms to Part II of this Bill. See N.Z. 1922 No. 11.

The Bill also provides for the amendment of the District Courts Act, 1912—

- (1) to overcome a difficulty in connection with its jurisdiction when the defendant is at the time of the initiation of the proceedings resident out of the State;
- (2) to make judgments in a District Court carry interest at the rate of seven per cent. from the date of the judgment or verdict until satisfaction. At present there is no provision that such judgments should carry interest. Provision is made that the rate may be varied by rules of Court;
- (3) to bring the interpleader provisions into line with the proposed amendment of the Interpleader Act, 1901, in the Supreme Court. (See below.)
- (4) to make writs of execution bind land as from the registration in the Register of Writs, Causes, and Orders affecting land under the Conveyancing Act, 1919, or the Real Property Act, 1900, according to the title of the land, in lieu of in the General Registry of Deeds, thus obviating a double registration now necessary.

An amendment of the Supreme Court Procedure Act, 1900, is proposed, so that where an action is tried by consent of the parties before a judge without a jury, the judge may give judgment which will be the judgment of the Court. This amendment is designed to place the action tried before a judge without a jury in a similar position to a suit in Equity or in Probate. The Court on appeal will have the power to give such judgment as in its opinion should have been made by the judge. Rules setting out the procedure are set out in the Schedule, and may be altered or added to by the judges under the Supreme Court Procedure Act, 1900. Under a further amendment costs of any civil proceedings under a statute in which no provision is made as to costs are to be in the discretion of the Court or judge.

It is proposed to amend the Interpleader Act, 1901, along the lines of the English Common Law Procedure Act, 1860, extending the relief to certain cases in which it is not presently available, and also to allow of the trial of interpleader issues being remitted to the District Court if the Supreme Court or a judge thereof thinks fit.

The Bill provides for the repeal of the Interest on Judgments Amendment Act, 1900, and the amendment of the Common Law Procedure Act, 1899, to make verdicts and judgments carry interest at the rate of seven per cent. per annum until satisfaction (in lieu of four per cent. as at present). Provision is made that the rate may be varied by rules of Court.

Seven per cent. is the rate of interest allowed on judgments in the High Court (see s. 26A of the High Court Procedure Act, 1903-1921).

The provisions of the Equity Act, 1901, as to a declaratory decree are amended so as to bring them into line with the law now in force in other States of the Commonwealth and in England.

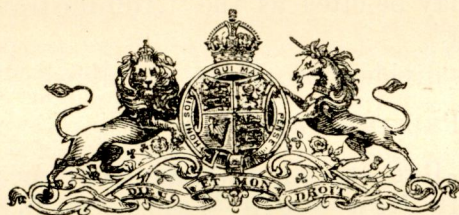
The Bill also provides for the Court making directions as to procedure when no rule of court or of practice meets the particular question of procedure arising, and includes a provision taken from the English Administration of Justice Act, 1920, providing that at the trial of an action before a jury questions of foreign law shall be decided by the judge.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 December, 1924, A.M.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII V REGIS.

Act No. , 1924.

An Act to amend the law with respect to the administration of justice; to facilitate the reciprocal enforcement of judgments and awards in the State of New South Wales and in the United Kingdom and other parts of His Majesty's dominions or territories under His Majesty's protection; to amend the Common Law Procedure Act, 1899, the Supreme Court Procedure Act, 1900, the Inter-state Debts Recovery Act, 1901, the Interpleader Act, 1901, the District Courts Act, 1912, and certain other Acts; to repeal the Interest on Judgments Amendment Act, 1900; and for purposes connected therewith.

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Administration of Justice Act, 1924."

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

Division into
Parts.

PART I.—PRELIMINARY—ss. 1, 2.

PART II.—RECIPROCAL ENFORCEMENT OF JUDGMENTS IN NEW SOUTH WALES AND IN OTHER PARTS OF HIS MAJESTY'S DOMINIONS—ss. 3-7.

15 PART III.—AMENDMENT AND REPEAL OF ACTS.

DIVISION 1.—*Inter-state Debts Recovery Act*, 1901—ss. 8, 9.

DIVISION 2.—*District Courts Act*, 1912—s. 10.

20 DIVISION 3.—*Supreme Court Procedure Act*, 1900—ss. 11-14.

DIVISION 4.—*Interpleader Act*, 1901—s. 15.

DIVISION 5.—*Common Law Procedure Act*, 1899, and *Interest on Judgments Amendment Act*, 1900—ss. 16, 17.

25 DIVISION 6.—*Equity Act*, 1901—s. 18.

PART IV.—MISCELLANEOUS PROVISIONS—ss. 19, 20.

SCHEDULE.

PART

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PART II.

RECIPROCAL ENFORCEMENT OF JUDGMENTS IN NEW
SOUTH WALES AND IN OTHER PARTS OF HIS
MAJESTY'S DOMINIONS.

- 5 **3.** (1) In this Part of this Act, unless the context otherwise requires—
- 10 “Judgment” means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.
- 15 “Judgment creditor” means the person by whom the judgment was obtained, and includes the successors and assigns of that person.
- 20 “Judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given.
- 25 “Supreme Court” means the Supreme Court of New South Wales.
- “Original court,” in relation to any judgment, means the court by which the judgment was given.
- 30 “United Kingdom” does not include the Irish Free State or Northern Ireland.
- (2) Subject to rules of court, any of the powers conferred by this Part of this Act on the Supreme Court may be exercised by a judge of the court.
- 35 **4.** (1) This Part of this Act applies with respect to—
- (a) the United Kingdom;
- (b) any other part of His Majesty's dominions with respect to which this Part of this Act is applied under this section;
- 40 (c) any territory with respect to which this Part of this Act is applied under this section.

Interpreta-
tion.

cf. 10 & 11
Geo. V, c. 81,
s. 12;
N.Z. 1922,
No. 11, s. 1.

Application
of this Part.

cf. *ibid.*
ss. 13, 14.
cf. *ibid.* s. 3.

(2)

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(2) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions other than the United Kingdom for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court, the Governor may, by proclamation, declare that this Part of this Act shall apply with respect to that part of His Majesty's dominions, and on any such proclamation this Part of this Act shall apply accordingly.

(3) The Governor may, by proclamation, declare that this Part of this Act shall apply with respect to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions, as if that territory were part of His Majesty's dominions, and on the making of any such proclamation this Part of this Act shall, subject to the provisions of the proclamation, apply accordingly.

(4) The Governor may, by proclamation, revoke or vary any proclamation made under this section.

(5) A copy of the Gazette purporting to contain a copy of a proclamation under this section shall be conclusive evidence of the validity, contents, making and publication of such proclamation, and of the fulfilment of all conditions precedent to the valid making thereof.

(6) Nothing in this section shall authorise the Governor to declare that this Part of this Act shall apply with respect to—

- (a) any part of His Majesty's dominions within the Commonwealth of Australia;
- (b) any territory in respect of which a mandate is being exercised by the Government of the Commonwealth of Australia.

5. (1) Where a judgment has been obtained in a superior court in any part of His Majesty's dominions with respect to which this Part of this Act applies, the judgment creditor may apply in manner prescribed by rules of court or, until so prescribed, by motion to the Supreme Court at any time within twelve months after the

Enforcement in New South Wales of judgments obtained in superior courts of other British dominions.
cf. *ibid.* s. 9.
cf. *ibid.* s. 4.

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the date of the judgment or such longer period as may be allowed by the court, to have the judgment registered in the court, and on any such application the court may, if in all the circumstances of the case the court thinks
5 it is just and convenient that the judgment should be enforced in New South Wales, and subject to the provisions of this section, order the judgment to be registered accordingly.

(2) No judgment shall be ordered to be registered
10 under this section if—

(a) the original court acted without jurisdiction;
or

15 (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or

20 (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or

25 (d) the judgment was obtained by fraud; or
(e) the judgment debtor satisfies the Supreme Court either that an appeal is pending or that he is entitled and intends to appeal against the
30 judgment; or

(f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the Supreme Court.

35 (3) Where a judgment is registered under this section—

(a) the judgment shall, as from the date of registration, be of the same force and effect and proceedings may be taken thereon as if it had
40 been a judgment originally obtained or entered on the date of registration in the Supreme Court;
(b)

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- (b) the Supreme Court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section ;
- (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.
- (4) In paragraph (c) of subsection three of this section a certified copy of the judgment means a copy—
- (a) proved to be an examined copy of the judgment ; or
- (b) sealed with the seal of the original court ; or
- (c) signed by a judge of the original court with a statement in writing attached by him to his signature on the copy that he is such judge and that the court has no seal.
- (5) Rules of court shall provide—
- (a) for service on the judgment debtor of notice of the registration of a judgment under this section ; and
- (b) for enabling the Supreme Court, on an application by the judgment debtor, to set aside the registration of a judgment under this section on such terms as the court thinks fit ; and
- (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.
- (6) In any action in any court in New South Wales on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the court otherwise orders.

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6. (1) Where a judgment has been obtained in the Supreme Court against any person, the court shall, on an application made by the judgment creditor, issue to the judgment creditor a certified copy of the judgment. Issue of certificate of judgments obtained in New South Wales.
- 5 (2) In this section a certified copy of the judgment includes any copy authenticated in the manner prescribed by the law for the time being in force in any part of His Majesty's dominions, or in any territory, to which this Part of this Act applies. cf. *Ibid.* s. 10. f *Ibid.* s. 6.
- 10 7. Provision may be made by rules of court for regulating the practice and procedure (including scales of fees and evidence) in respect of proceedings of any kind under this Part of this Act. Power to make rules.

PART III.

AMENDMENT OF ACTS.

DIVISION 1.—*Inter-state Debts Recovery Act, 1901.*

8. This Division of this Part of this Act shall commence and take effect on a day to be appointed by the Governor and notified in the Gazette. Commencement of Division 1 of Part III.
- 20 9. (1) Section one of the Inter-state Debts Recovery Act, 1901, is amended by omitting the words and figures "Part II.—Enforcement of Inter-state Supreme Court Judgments—ss. 6-11." Amendment of Act 1901 No. 48. Sec. 1.
- (2) Section three of that Act is amended by Sec. 3.
- 25 omitting the words "'Judgment' in Part II means a judgment, decree, rule, or order whereby any sum of money is made payable."
- (3) Section four of that Act is amended— Sec. 4.
- 30 (a) by omitting the words "except Part II thereof";
- (b) by omitting the figures "1901" and by inserting in lieu thereof the figures "1912."
- (4) Section five of that Act is amended by Sec. 5.
- omitting subsection three.
- 35 (5) That Act is amended by omitting the whole of Part II. Secs. 6-11.

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(6) Section twelve of that Act is amended by Sec. 12.
omitting the figures "1901" and inserting in lieu
thereof the figures "1912."

DIVISION 2.—*The District Courts Act, 1912.*

5 **10.** (1) The District Courts Act, 1912, is amended Amendment
by inserting after section eight the following new of Act 1912
section :— No. 23.
New section

8A. (1) A District Court shall have jurisdiction
as provided in this section, notwithstanding that
10 the defendant is not within New South Wales. Jurisdiction
where
defendant
outside the
State.

(2) If the defendant is within any other
State or part of the Commonwealth, the jurisdiction
shall only extend to the following cases, that is to
say—

- 15 (a) when the debt sued for was contracted, or
the liability for damages arose, within the
district for which the court is held ; or
(b) when the defendant has given an engage-
ment or promise in writing to pay any debt
20 or sum at a particular place specified, and
such place is within the district for which
the court is held.

(3) In any case coming within subsection
two of this section it shall not be necessary to
25 comply with the provisions of Part III of the
Inter-state Debts Recovery Act, 1901, and it shall
be sufficient to comply with the provisions of any
Act of the Parliament of the Commonwealth for
the time being in force applying to such case.

30 (4) In any case not coming within sub-
section two of this section the jurisdiction shall
only extend to such case if it comes within the
provisions of Part III of the Inter-state Debts
Recovery Act, 1901, and subject to compliance
35 therewith.

(5) Nothing in this section shall authorise
the service outside New South Wales of any
default summons.

40 (6) This section applies whether the defen-
dant has or has not ever been resident or carried on
business in New South Wales. (7)

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(7) This section applies whether the cause of action arose before or after the commencement of this Act.

5 (8) In this section "defendant" means, where there are more than one, any defendant not within New South Wales.

(2) The District Courts Act, 1912, is amended by inserting after section one hundred and one the following new section:—

10 101A. (1) Every judgment debt shall carry interest at the rate of seven pounds per centum per annum from the time when the judgment or verdict is given, or if there has been no trial, from the time of entering up judgment; and such interest may
15 be enforced in the same manner as a judgment.

(2) The rate of interest mentioned in this section may be varied by rules of court.

(3) The District Courts Act, 1912, is amended by omitting section one hundred and eleven and by
20 inserting the following new section in place thereof:—

111. (1) No writ of execution under this Act shall bind any lands until entered or registered as in this section provided.

25 (2) Where the land is subject to the provisions of the Real Property Act, 1900, the writ shall be entered in the Register Book, in accordance with and subject to the provisions of that Act.

30 (3) Where the land is not subject to the provisions of the Real Property Act, 1900, the writ shall be registered in the Register of Causes, Writs, and Orders affecting land established by the Conveyancing Act, 1919.

(4) The District Courts Act, 1912, is amended by inserting after section one hundred and twenty-
35 eight the following new section:—

128A. Relief by way of interpleader may be granted though the titles of the persons claiming to the moneys, goods, or chattels in question, or to the proceeds or value thereof have not a common origin, but are adverse to and independent of each other.

DIVISION

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DIVISION 3.—*Supreme Court Procedure Act, 1900.*

11. The Supreme Court Procedure Act, 1900, is amended by inserting at the commencement of section five the figure and words “(1) Subject to the provisions of this section,” and by inserting at the end of section five the following new subsections:—

Amendment
of Act 1900
No. 49, s. 5.

(2) Nothing in this section shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.

(3) The court may direct judgment to be entered for any or either party, and for that purpose the court may be held and its jurisdiction exercised by the judge, and either at or after the trial.

(4) The judge may adjourn the case for further consideration, or may leave any party to move the court for judgment, or may refer the case to the court for its determination.

(5) Any judgment directed by the judge to be entered under the provisions of this section shall, unless there is an appeal as provided in this section against the judgment, have the same force and effect in all respects as a judgment of the court.

(6) Any party may appeal to the court against any judgment so directed by the judge to be entered.

(7) The appeal shall be by way of rehearing, and on the appeal the court shall—

(a) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;

(b) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court; by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the court.

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5 (8) The court may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined, or the amount of any damages or compensation to be assessed, by a judge either with or without a jury, as it may think fit.

10 (9) The court may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—

(a) any order which it might make under section seven of this Act;

15 (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.

20 (10) The powers conferred by this section may be exercised by the court, notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.

25 (11) Where the judge leaves any party to move the court for judgment, or refers the case to the court for its determination, the powers conferred on the court by subsections seven and eight of this section shall extend to the motion or reference.

30 (12) Except as rules of court otherwise specially provide, every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to
35 the court and not otherwise.

(13) An appeal, motion for judgment, or reference to the court under the provisions of this section shall be to the court in Banco.

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12. The Supreme Court Procedure Act, 1900, is further amended by omitting subsection two of section seven thereof. Amendment of Act 1900 No. 49, s. 7.

13. The Supreme Court Procedure Act, 1900, is further amended by inserting the following heading and new section after section eleven :— Amendment of Act 1900 No. 49. New s. 11A.

Costs.

11A. (1) Where by any Act now or hereafter in force, any cause matter or other proceeding may be brought before the court or a judge, and no provision is made in the Act for the costs of such cause matter or proceeding, the costs shall be in the discretion of the court or judge. Statutory proceedings.

(2) This section shall not apply to any proceeding in the criminal jurisdiction of the court.

14. The Supreme Court Procedure Act, 1900, is further amended by inserting after rule one of the Schedule thereto the heading and new rules set forth in the Schedule to this Act. Amendment of Act 1900 No. 49, Sch.

20 DIVISION 4.—*Interpleader Act, 1901.*

15. The Interpleader Act, 1901, is amended by inserting in Part III thereof before section nine the following new sections :— Amendment of Act 1901 No. 7. New sections 8A, 8B.

8A. Relief under this Act may be granted though the titles of the claimants to the moneys goods or chattels in question or to the proceeds or value thereof have not a common origin but are adverse to and independent of one another. Adverse titles. cf. C.L.P. Act, 1860 (Eng.), s. 12.

8B. (1) Any issue directed under this Act may be remitted by the court or a judge to be tried by a judge of a District Court without a jury or by a jury before a judge of a District Court. Trial of issue in a District Court.

(2) The provisions of sections one hundred and thirty-three, one hundred and thirty-four and one hundred and thirty-five of the District Courts Act, 1912, shall extend to any such issue so remitted.

DIVISION

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DIVISION 5.—*Common Law Procedure Act, 1899, and Interest on Judgments Amendment Act, 1900.*

16. The Common Law Procedure Act, 1899, is amended— Amendment of Act 1899 No. 21 ss. 142 (1) and 143 (1).

5 (a) by omitting subsection one of section one hundred and forty-two and by inserting in lieu thereof the following new subsection :—

10 (1) Every plaintiff who obtains judgment upon a verdict shall be entitled to interest at the rate of seven per centum per annum on the amount of the verdict from the time of obtaining the verdict until the time of entering up judgment thereon. Verdicts to carry interest. cf. 24 Vic. No. 8, s. 1.

15 (b) by inserting after subsection two of section one hundred and forty-two the following new subsection :—

(3) The rate of interest mentioned in this section may be varied by rules of court.

20 (c) by omitting subsection one of section one hundred and forty-three and by inserting in lieu thereof the following new subsection :—

25 (1) Every judgment debt recovered in the court shall carry interest at the rate of seven per centum per annum from the time of entering up the judgment until the same is satisfied. Judgment debts to carry interest.

(d) by inserting after subsection two of section one hundred and forty-three the following new subsection :—

30 (3) The rate of interest mentioned in this section may be varied by rules of court.

17. The Interest on Judgments Amendment Act, 1900, is hereby repealed. Repeal of Act 1900 No. 5.

DIVISION 6.—*Equity Act, 1901.*

35 **18.** The Equity Act, 1901, is amended by omitting from section ten the words “without granting consequential relief” and by inserting in lieu thereof the words “whether any consequential relief is or could be claimed or not.” Amendment of Act 1901 No. 24, s. 10.

PART

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PART IV.

MISCELLANEOUS PROVISIONS.

19. Whenever the manner or form of procedure for taking any step in any civil cause or matter in the Supreme Court or a District Court is not prescribed by the Act under which such step is to be taken or by rules of court or by the practice of the court, the court or a judge thereof may direct what manner or form of procedure is to be followed, and any step taken in accordance with the direction given shall be deemed to be regular and sufficient.

Court to direct procedure in certain cases.

cf. C.S.R. O. 57, r. 8.

20. Where, for the purpose of disposing of any suit, action, or other matter which is being tried by a judge with a jury in any court in New South Wales it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge alone.

Questions of foreign law to be decided by judge.

10 & 11 Geo. V, c. 81, s. 15.

20

SCHEDULE.

Sec. 14.

Appeals from a judgment directed to be entered by a judge pursuant to section 5 of this Act.

25 1A. An appeal shall be instituted by notice of appeal, which shall be served and filed as hereinafter provided. The appellant may by the notice of appeal appeal from the whole or any part of the judgment appealed from, and the notice of appeal shall state whether the whole or part only of the judgment is complained of, and in the latter case shall specify the part complained of. The notice of appeal shall state shortly the grounds on which the appellant intends to rely.

30 1B. The notice of appeal shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Full Court may direct notice of appeal to be served on all or any parties to the cause or matter, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as are just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties. The notice of appeal may be amended at any time as the Full Court thinks fit.

1c.

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- 1c. The notice of appeal shall be served within fourteen days from the date of the judgment. The period shall be reckoned from the date when the judgment was pronounced, and the time of a vacation shall be reckoned in the computation of the period.
- 5 1d. The appellant shall within the time prescribed by the last preceding rule for serving the notice of appeal, file a copy of the notice, and upon such service and filing the appeal shall be deemed to be duly instituted.
- 10 1e. The notice of appeal shall be for the first sitting of a Full Court held after the expiration of sixteen days from the institution of the appeal, unless the respondent consents to take shorter notice.
- 15 1f. It shall not be necessary for a respondent to give notice of cross appeal, but if a respondent intends upon the hearing of an appeal to contend that the judgment appealed from should be varied, he shall within the time prescribed by the next following rule, or such time as is allowed by special order of the court or a judge in any case, give notice of his intention to such of the parties as may be affected by such contention. The omission to give such notice shall not diminish the powers of the court when hearing the appeal, but may, in the discretion of the court, be ground for an adjournment of the appeal or for a special order as to costs.
- 20 1g. Subject to any special order which is made in any case, notice by a respondent under the last preceding rule shall be given ten clear days before the day for which the notice of appeal is given.
- 25 1h. Four days at least before the commencement of the sitting for which the notice of appeal is given the appellant shall, unless otherwise ordered by the court or a judge, lodge in the office of the court five printed copies of the judge's notes taken at the trial, including the notes of evidence, if any, and also a copy of the pleadings, if any, and of such other documents as may be necessary for the purposes of the appeal. The cost of copies of unnecessary documents will not be allowed.
- 30 1i. The court or a judge may in any case upon such terms as it or he thinks fit dispense with the printing of such documents, or any portion thereof, and may direct a greater or less number of printed copies to be lodged, and may also direct printed copies to be served upon any person not a party to the cause or matter.
- 35 1j. An interlocutory order from which there has been no appeal shall not operate to prevent the court, upon hearing an appeal, from giving such decision upon the appeal as is just.
- 40 1k. The appeal shall not operate as a stay of proceedings unless the court or a judge so orders. Any such order may be made as to the whole or part of the proceedings in the cause or matter, and may be made upon such terms as the court or judge granting the stay thinks fit. No intermediate act or proceeding shall be invalidated except so far as the Full Court directs.

