

No. , 1931.

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## A BILL

To amend the law with respect to the administration of justice and certain other matters; to abolish capital punishment; to amend the Legal Practitioners Act, 1898; the Common Law Procedure Act, 1899; the Crimes Act, 1900; the Equity Act, 1901; the Justices Act, 1902; the Defamation Act, 1912; the District Courts Act, 1912; the Judges Retirement Act, 1918; the Moratorium Act, 1930; the Usury, Bills of Lading, and Written Memoranda Act, 1902; the Poor Persons' Legal Remedies Act, 1918; the Oaths Act, 1900; the Companies Act, 1899, and certain other Acts; and for purposes connected therewith.

[MR. LYSAGHT;—12 *May*, 1931.]

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**B**E 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 :—

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## PART I.

## PRELIMINARY.

Short title.

**1.** (1) This Act may be cited as the "Administration of Justice Act, 1931."

(2) Except where otherwise expressly provided, 10 this Act shall commence upon the first day of July, one thousand nine hundred and thirty-one.

(3) This Act is divided into Parts as follows :—

PART I.—PRELIMINARY—s. 1.

PART II.—DISTRICT COURTS—ss. 2-4. 15

PART III.—SUPREME COURT—ss. 5-8.

PART IV.—COURTS OF QUARTER SESSIONS,  
STIPENDIARY AND POLICE MAGISTRATES—ss.  
9-11.

PART V.—CONCURRENT ADMINISTRATION OF LAW 20  
AND EQUITY—s. 12.

PART VI.—LEGAL PRACTITIONERS—ss. 13-35.

DIVISION 1.—*Introductory*—s. 13.

DIVISION 2.—*Amalgamation of profession*—ss.  
14-22. 25

DIVISION 3.—*Conveyancers*—s. 23.

DIVISION 4.—*Enrolment and insurance*—ss. 24-  
35.

PART VII.—WAGES AND SALARIES (ATTACHMENT  
LIMITATION)—s. 36.

PART 30



PART VIII.—AMENDMENT OF SMALL DEBTS  
RECOVERY ACT, 1912—*ss.* 37, 38.

PART IX.—ABOLITION OF CAPITAL PUNISHMENT  
—*ss.* 39-50.

5 PART X.—MISCELLANEOUS AMENDMENTS—*ss.*  
51-68.

PART II.

DISTRICT COURTS.

10 **2.** The District Courts Act, 1912, as amended by Amendment  
subsequent Acts, is amended— of Act No. 23,  
1912.

(a) by omitting section forty-one and by inserting Sec. 41.  
in lieu thereof the following new section:—

15 41. (1) All personal actions, where the Ordinary  
debt, demand, or damage claimed is not more jurisdiction  
than ten thousand pounds, whether on balance of the court.  
of account or otherwise, may be commenced in  
a district court, and all such actions shall be  
heard and determined in a summary way  
according to the provisions of this Act.

20 (2) Where in any action the debt or  
demand claimed consists of a balance not  
exceeding ten thousand pounds after an  
admitted set-off of any debt or demand claimed  
25 or recoverable by the defendant from the  
plaintiff a district court shall have jurisdiction  
to try such action.

(b) by omitting from section forty-two the words Sec. 42.  
“four hundred pounds” and by inserting in  
lieu thereof the words “ten thousand pounds”;

30 (c) by omitting from section forty-three the words Sec. 43.  
“two hundred” wherever occurring and by  
inserting in lieu thereof the words “ten  
thousand”;

(d)



- Sec. 44 (2). (d) by omitting from subsection two of section forty-four the words "two hundred pounds" and by inserting in lieu thereof the words "ten thousand pounds";
- Sec. 55. (e) by omitting from section fifty-five the words "four hundred pounds" and by inserting in lieu thereof the words "ten thousand pounds." 5
- Sec. 57. (f) by omitting from section fifty-seven the words "not exceeding four hundred pounds";
- Sec. 58. (g) by omitting from section fifty-eight the words "not exceeding four hundred pounds"; 10
- Sec. 73. (h) by omitting from section seventy-three the words "four hundred pounds" and by inserting in lieu thereof the words "ten thousand pounds"; 15
- Sec. 139. (i) by omitting from section one hundred and thirty-nine the words "two hundred pounds," wherever occurring, and by inserting in lieu thereof the words "ten thousand pounds";
- Sec. 149. (j) by omitting subsection three of section one hundred and forty-nine and by inserting in lieu thereof the following subsection:—
- (3) The rules shall—
- (a) be published in the Gazette;
- (b) take effect from the date of publication or 25 from a later date specified in the rules;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication, if Parliament is in session, and if not, then within fourteen sitting days 30 after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the 35 rules have been laid before such House disallowing any rule or part thereof, the rule or part shall thereupon cease to have effect.



3. The District Courts Act, 1912, is amended by— Further amendment of Act No. 23, 1912.

(a) inserting next after section one hundred and thirty-one the following new Part :— New Part IIIA;

PART IIIA.

5 JURISDICTION IN EQUITY.

131A. (1) A district court shall have and exercise all the powers and authorities of the Supreme Court in the actions or matters hereinafter mentioned, that is to say— Jurisdiction in Equity.

10 (a) by creditors, legatees (whether specific, pecuniary, or residuary), devisees (whether in trust or otherwise), or next-of-kin, in which the personal or real or personal and real estate against or for an account or administration of which the demand may be made shall not exceed in amount or value the sum of ten thousand pounds ;

15 (b) for the execution of trusts in which the trust estate or fund shall not exceed in amount or value the sum of ten thousand pounds ;

20 (c) for foreclosure or redemption or for enforcing any charge or lien where the mortgage, charge, or lien shall not exceed in amount the sum of ten thousand pounds ;

25 (d) for specific performance of or for the reforming, delivering up, or cancelling of any agreement for the sale, purchase, or lease of any property, where in the case of a sale or purchase the purchase money, or in the case of a lease, the value of the property, shall not exceed the sum of ten thousand pounds ;

30 (e)

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- (e) under the Trustee Act, 1925, in which the trust estate or fund to which the action or matter relates shall not exceed in amount or value the sum of ten thousand pounds; 5
- (f) relating to the maintenance or advancement of infants in which the property of the infant shall not exceed in amount or value the sum of ten thousand pounds; 10
- (g) for the dissolution or winding up of any partnership in which the whole property, stock, and credits of such partnership shall not exceed in amount or value the sum of ten thousand pounds; 15
- (h) actions for relief against fraud or mistake in which the damage sustained or the estate or fund in respect of which relief is sought shall not exceed in amount or value the sum of ten thousand pounds. 20

(2) In all such actions or matters the judge shall, in addition to the powers and authorities possessed by him, have all the powers and authorities, for the purposes of this Act, of the Chief Judge in Equity, and the registrar and bailiff respectively shall in all such actions or matters discharge any duties which an officer of the Supreme Court can discharge, either under the order of the said Chief Judge in Equity or under the practice of the Supreme Court in Equity, and all officers of district courts shall, in discharging such duties, conform to any rules or orders made in that behalf under this Act. 25 30 35

(3) If during the progress of any action or matter under subsection one of this section it shall be made to appear to the judge



5 judge that the subject-matter exceeds the  
limit in point of amount to which the jurisdic-  
tion of the court is therein limited, it shall not  
affect the validity of any order made, but it  
shall be the duty of the judge to direct the  
action or matter to be transferred to the  
Supreme Court in its equitable jurisdiction,  
and the whole of the procedure in the said  
10 action or matter when so transferred shall be  
regulated by the rules of the Supreme Court  
made under the Equity Act, 1901 :

15 Provided always that it shall be lawful for  
any party to apply to the Chief Judge in  
Equity at chambers for an order authorising  
and directing the action or matter to be carried  
on and prosecuted in the district court, not-  
withstanding such excesses in the amount of  
the limit to which equitable jurisdiction is  
given by subsection one of this section ; and  
20 the Chief Judge in Equity, if he shall deem it  
right to summon the other parties, or any of  
them, to appear before him for that purpose,  
after hearing such parties, or on default of the  
appearance of all or any of them, shall have  
25 full power to make such order.

(4) Where any action or matter is  
pending in the Supreme Court in its equitable  
jurisdiction which might have been commenced  
in a district court under this Act, it shall be  
30 lawful for any of the parties thereto to apply  
at chambers to the Chief Judge in Equity to  
have the same transferred to the district court  
in which the same might have been com-  
menced, and the Chief Judge in Equity shall  
35 have power upon such application, or with-  
out such application, if he shall think fit  
to make an order for such transfer, and there-  
upon such action or matter shall be carried on  
in the district court to which the same shall be  
40 ordered to be transferred, and the parties thereto  
shall



shall have the same right of appeal as they would have had if the action or matter had been commenced in such district court.

Sec. 7.

- (b) by inserting next after subsection one of section seven the following new subsection :— 5

(1A) The provisions of subsection one of this section shall not apply to any of the following proceedings, but—

- (a) proceedings which relate to the recovery or sale of any mortgage, charge, or lien on any lands, tenements, or hereditaments, or to partition, shall be taken in a court for a district within which the lands, tenements, or hereditaments, or any part thereof, are situate; 10 15
- (b) proceedings under the Trustee Act, 1925, shall be taken in a court for the district in which the persons making the application, or any of them, reside or resides; 20
- (c) proceedings for the administration of the assets of a deceased person shall be taken in a court for the district within which the deceased person had his last place of abode in New South Wales, or within which the executors or administrators, or any one of them, shall have their or his place of abode; 25
- (d) proceedings in any partnership case shall be taken in a court for the district within which the partnership business was or is carried on : 30

Provided that if during the progress of any such proceedings it shall be made to appear to the court that the same could be more conveniently heard in some other court it shall be competent for the court to transfer the same to such other court, and thereupon the proceedings shall be taken in such other court. 35



4. The District Courts Act, 1912, is further amended <sup>Further amendment of Act No. 23, 1912.</sup>  
by—

5 (a) by omitting section one hundred and forty-two <sup>Sec. 142.</sup>  
and by inserting in lieu thereof the following  
new section :—

10 142. (1) If any party in any action or matter <sup>Appeals.</sup>  
shall be dissatisfied with any ruling, order,  
direction, decision, or determination of the  
judge in point of law or equity, or upon the  
admission or rejection of any evidence, such  
party may appeal from the same to the Supreme  
Court either by special case or upon notice of  
motion as in this Part provided :

15 Provided that there shall be no appeal in any  
action of contract or tort other than an action  
of ejectment or an action in which the title  
to any corporeal or incorporeal hereditament  
shall have come in question where the debt or  
20 damage claimed does not exceed ten pounds,  
nor in any action of replevin where the damage  
or value of the goods seized does not exceed  
ten pounds, nor in any action for the recovery  
of tenements where the yearly rent or value of  
25 the premises does not exceed ten pounds, nor  
in proceedings in interpleader where the  
money claimed or the value of the goods or  
chattels in question or the proceeds thereof  
does not exceed ten pounds, unless the judge  
shall think it reasonable and proper to and  
30 shall grant leave to appeal.

(b) by inserting in subsection three of section one <sup>Sec. 144 (3).</sup>  
hundred and forty-four after the word "Action"  
the words "or matter" ;

35 (c) (i) by omitting from paragraph one of section <sup>Sec. 145.</sup>  
one hundred and forty-five the words "for  
costs of the appeal and the amount of the  
judgment or" and by inserting in lieu  
thereof the words "for a sum to be fixed  
by the judge of the district court not  
40 exceeding the amount of the money or the  
value



value of the property affected by the judgment, ruling, order, direction, decision, or determination appealed from, or in the case of an action may” ;

- (ii) by omitting paragraph two of the same section and by inserting in lieu thereof the following new paragraph :—

(2) the Supreme Court shall have power to draw any inference of fact, and may either order a new trial on such terms as the court may think just, or may order judgment to be entered for any party as the case may be, or may make a final or other order on such terms as the court may think proper to ensure the determination on the merits of the real questions in controversy between the parties, and may make such order with respect to the said appeal or of the action or matter as the court may think proper, and such orders shall be final.

### PART III.

#### SUPREME COURT.

District court procedure to be adopted in the Supreme Court.

**5.** (1) Notwithstanding the provisions of any Act any action, suit, or matter shall be instituted and conducted in the Common Law or Equitable jurisdiction of the Supreme Court in the same manner as is provided by the District Courts Act, 1912, for the institution and conduct of an action in a district court.

(2) Rules of court shall be framed by the judges of the Supreme Court to assimilate the procedure in the Supreme Court in its Common Law and Equitable jurisdictions to the procedure of district courts.

**6.**



5 **6.** (1) After the commencement of this Act, and notwithstanding any Act, rules, or regulations to the contrary, there shall be no terms in the Supreme Court and no vacations in the Supreme Court or any district court.

Abolition of terms and vacation in Supreme and district courts.

(2) The Governor may grant any judge such leave of absence from duty as to the Governor seems fit.

10 **7.** The Supreme Court and Circuit Court Act, 1900, is amended—

Amendment of Act No. 35, 1900, s. 18A.

(a) by inserting next after section eighteen the following new section:—

15 18A. The Supreme Court shall sit in banco at such time in each month as shall be prescribed by rules of court or appointed in pursuance thereof;

Sittings in banco.

(b) by omitting from section nineteen the words “that it may be term time or”;

Sec. 19.

(c) by omitting section twenty and by inserting in lieu thereof the following new section:—

20 20. Every judge shall in case of exigency at any time have power to make all such orders and grant all such writs as can only under ordinary circumstances be made or granted respectively by the court:

Powers of single judge.

25 Provided that no order made or writ granted under this section shall continue in force after the then next ensuing sitting day in banco of the court.

30 (d) by omitting from section twenty-one the words “during term.”

Sec. 21.

**8.** (1) The plaintiff or applicant in any action or proceeding in the Supreme Court shall not be entitled to recover any costs of the action or proceeding unless a judge of that court certifies that the action or proceeding is one which a district court is not competent to entertain.

Costs.

(2) This section shall apply only to and in respect of actions and proceedings brought or instituted after the commencement of this Act.



## PART IV.

COURTS OF QUARTER SESSIONS, STIPENDIARY AND  
POLICE MAGISTRATES.Amendment of  
Act No. 40, 1900.Sec. 568.  
(Jurisdiction  
of courts of  
quarter  
sessions.)Sec. 476.  
(Indictable  
offences  
punishable  
summarily by  
consent of  
accused.)**9.** The Crimes Act, 1900, is amended—(a) by omitting from subsection three of section 5  
five hundred and sixty-eight the words “not  
punishable with death”;(b) by omitting from paragraph two of section  
four hundred and seventy-six the words “one  
hundred pounds” and by inserting in lieu 10  
thereof the words “two hundred and fifty  
pounds”;Amendment  
of Act No. 33,  
1912, s. 7.  
(Jurisdiction  
of S.M. or  
P.M.)**10.** The Small Debts Recovery Act, 1912, is  
amended by omitting from subsection two of section  
seven the words “under subsection one (a) of this section 15  
to an amount in any case not exceeding fifty pounds”  
and by inserting in lieu thereof the words “under sub-  
section one of this section to an amount in any case not  
exceeding one hundred pounds.“In the case of an action under paragraph (b) or 20  
paragraph (c) of subsection one of this section where  
the amount in dispute exceeds fifty pounds, the juris-  
diction conferred by this subsection shall not be  
exercised unless both parties consent thereto.“The consent of the parties shall be specially entered 25  
in the record book at the commencement of the hear-  
ing.”Amendment  
of Act No. 5,  
1901, s. 32.**11.** The Police Offences Act, 1901, is amended by  
inserting at the end of section thirty-two the following 30  
new subsection :—(6) A stipendiary or police magistrate sitting in  
some place appointed in that behalf by the  
Governor may, in addition to the power and  
authority conferred upon a justice by the preceding  
provisions of this section, exercise the power and 35  
authority thereby conferred when the value of the  
goods detained is not greater than one hundred  
pounds,



pounds, not being deeds, muniments or papers relating to any property of greater value than one hundred pounds.

PART V.

5 CONCURRENT ADMINISTRATION OF LAW AND EQUITY.

12. (1) Subject to the express provisions of any other Act, in every civil cause or matter commenced in the Supreme Court or in a district court law and equity shall be administered according to the provisions of this section.

Law and equity to be concurrently administered. 15 & 16 Geo. V, c. 49, s. 36.

(2) If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief on 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 court of equity, the court or judge shall give to the plaintiff or petitioner the same relief as ought formerly to have been given by the Supreme Court in its equitable jurisdiction in a suit or proceeding for the like purpose properly instituted.

Equities of plaintiff. *Ibid.* s. 37.

(3) If a defendant claims to be entitled to any equitable estate or right, or to relief on 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 or judge 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 Supreme Court in its equitable

Equitable defences. *Ibid.* s. 38.



equitable jurisdiction ought formerly to have given if the like matters had been relied on by way of defence in any suit or proceeding instituted in that court for the like purpose.

Counter  
claims and  
third parties.  
15 & 16  
Geo. V, c. 49,  
s. 39.

(4) (a) The court or judge shall have power to grant to any defendant in respect of any equitable estate or right or other matter or equity, and also in respect of any legal estate, right, or title claimed or asserted by him— 5

(i) 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 that defendant against the same plaintiff or petitioner; and 15

(ii) all such relief relating to or connected with the original subject of the cause or matter, claimed in like manner against any other person, whether already a party to the cause or matter or not, who has been duly served with notice in writing of the claim pursuant to rules of court or any order of the 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. 20

(b) Every person served with any such notice as aforesaid 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. 30

Equities  
appearing  
incidentally.

(5) The court or judge shall 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, in the same manner in which the Supreme Court in its equitable jurisdiction would formerly have taken notice of those matters in any suit or proceeding duly instituted therein. 35

Defence or  
stay instead  
of injunction  
or pro-  
hibition.

(6) No cause or proceeding at any time pending in the Supreme Court or a district court shall be restrained by prohibition or injunction, but every matter 40



matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained, whether unconditionally or on any terms or conditions, may be relied on by way  
5 of defence thereto :

Provided that—

10 (a) Nothing in this Act shall disable either of the said courts, if it thinks fit so to do, from directing a stay of proceedings in any cause or matter pending before it ; and

15 (b) any person, whether a party or not to any such cause or matter, who would formerly have been entitled to apply to any court 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 the cause or matter have been taken, may apply to  
20 the Supreme Court or a district court, as the case may be, by motion 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 shall be just.

25 (7) Subject to the provisions of this Act for Common law and statutory rights and duties. giving effect to equitable rights and other matters of equity, a court or judge shall give effect to all legal claims and demands, and all estates, rights, duties, obligations, and liabilities existing by the common law  
30 or by any custom, or created by any statute, in the same manner as those matters would formerly have been given effect to by the Supreme Court. 15 & 16 Geo. V, c. 49, s. 42.

(8) The Supreme Court and a district court  
35 respectively, in the exercise of the jurisdiction vested in them by any Act, shall, in every cause or matter pending before the court, grant, either absolutely or on such terms and conditions as the court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal  
40 or equitable claim brought forward by them in  
the



the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

Rules of equity to prevail.  
15 & 16  
Geo. V, c. 49,  
s. 44.

(9) 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 or is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail in all courts whatsoever in New South Wales so far as the matters to which those rules relate are cognizable by those courts.

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## PART VI.

### LEGAL PRACTITIONERS.

#### DIVISION 1.—*Introductory.*

Construc-  
tion.

**13.** This Part of this Act shall be read and construed with the Legal Practitioners Act, 1898.

20

#### DIVISION 2.—*Amalgamation of profession.*

Rights,  
powers, and  
privileges of  
persons  
previously  
admitted.

Vict. Act No.  
3715, s. 4.

**14.** (1) Every person admitted as a barrister of the Supreme Court prior to the commencement of this Act shall be deemed to have been admitted as a solicitor as from such commencement, and subject to any order made by such court, shall, in addition to his right to practise as a barrister, be entitled to practise as a solicitor, and to all the rights, powers, and privileges of a solicitor.

25

(2) Every person admitted as a solicitor of the Supreme Court prior to such commencement shall be deemed to have been admitted as a barrister as from such commencement, and, subject to any order made by such court, shall, in addition to his right to practise as a solicitor, be entitled to practise as a barrister, and to all the rights, powers, and privileges of a barrister.

35

15.



15. (1) After the commencement of this Act no person shall be admitted to practise as a barrister or a solicitor solely, but every person admitted by the Supreme Court shall be admitted to practise as a barrister and solicitor.

No person to be admitted as barrister or solicitor solely.

Vict. Act No. 3715, s. 5.

(2) Any person who has been admitted as a student-at-law, or whose articles of clerkship to a solicitor have been filed in the Supreme Court under the rules in force at the date on which the assent of His Majesty to this Act is signified, may, subject to compliance with such rules, be admitted by the court as a barrister and solicitor.

(3) Except so far as may be otherwise specially enacted, every person shall before he is admitted and enrolled as a barrister and solicitor take the oath of allegiance and an oath that he will well and honestly demean himself in the practice of the profession of a barrister and solicitor according to the best of his knowledge and ability, and admission shall be deemed not to be complete until an order of the court for admission has been taken out and the roll signed.

(4) Subject to this Act, every person duly admitted as a barrister or solicitor or as a barrister and solicitor shall, while his qualification continues, be entitled to practise in or before any court, commission, or person acting judicially in New South Wales on compliance with the special provisions, if any, relating to the right to practise in such court or before such commission or person.

Right to practise in all courts.

16. Subject to the rights of precedence of His Majesty's Attorney-General and Solicitor-General and His Majesty's counsel, a barrister and solicitor shall take precedence amongst barristers and solicitors, as follows:—

Precedence.

Where he was called to the bar or admitted as a solicitor prior to the commencement of this Act, in accordance with the date of his first call or admission in New South Wales; and

Where he is admitted as a barrister and solicitor after the commencement of this Act, in accordance with the date of his admission.



As between persons admitted on the same day precedence shall be regulated by rules of court.

Barrister and solicitor to be officer of the court.

**17.** Every barrister and solicitor shall, after the commencement of this Act, be an officer of the Supreme Court.

5

The Supreme Court shall have and exercise the same summary jurisdiction over every barrister and solicitor as on such commencement the court could have exercised in the case of solicitors.

Restriction as to costs.

**18.** No barrister and solicitor shall be entitled to any costs whether as between party and party or between solicitor and client for instructions to or attendances upon counsel he or his partner or partners being such counsel or for attendances at court on trial or hearing or in chambers as solicitor where he or his partner or partners are also acting and receiving a fee as counsel for the like attendance and for the same client.

15

Provision as to attendance to case in court by barrister and solicitor.  
Vict. Act No. 3715, s. 12.

**19.** (1) Any barrister and solicitor who in any cause or matter has received or agreed to receive a fee for work, the whole or any portion of which involves attendance in court, and who does not give substantial attendance to such cause or matter in court, shall return to the client by or on whose behalf he has been employed or shall be deprived of the whole or such portion of such fee as the taxing master or other taxing officer may determine on the application of such client.

20

(2) The question whether or not any barrister and solicitor has given such substantial attendance to any cause or matter in court shall be decided by the taxing master or other taxing officer subject to an appeal to a judge of the Supreme Court in chambers.

30

Any such decision shall not affect any liability which such barrister and solicitor has incurred for negligence.

(3) No contract or agreement between a barrister and solicitor and any other person shall have any force or effect insofar as such contract or agreement is contrary to the provisions of this section.

35

Restriction on costs and fees.

**20.** (1) No barrister and solicitor shall be entitled to demand or take for any work done by him as a barrister and solicitor any costs or fees in excess of two-thirds of the amount which, if this Act had not been passed, he would be entitled to demand and take for such work.

40

This



This subsection shall not extend to work specified in the Third Schedule to the Small Debts Recovery Act, 1912.

5 (2) No barrister and solicitor shall be entitled to demand or take for any work specified in Part I of the Schedule to this Act any fee in excess of the amounts in Part I of the said Schedule prescribed.

10 (3) Any sum paid to a barrister and solicitor by way of costs or fees in excess of the amount prescribed by or under this section may be recovered from the barrister and solicitor by the person by whom or on whose behalf the same was paid as a debt in any court of competent jurisdiction.

15 (4) The maximum charge which may be made by a judge's associate, the clerk of the peace, a clerk of petty sessions, a court reporter, or an officer of any court for preparing and supplying a copy of any of the documents referred to in Part II of the Schedule to this Act shall be as set out in Part II of the said Schedule.

20 **21.** Notwithstanding anything enacted prior to this Act to the contrary, any solicitor or barrister and solicitor of five years' standing shall be eligible to be appointed a judge of the Supreme Court or district court or to any other judicial office. Eligibility for office. cf. Q. 45 Vic., No. 5, s. 2.

25 **22.** After the commencement of this Act and notwithstanding any custom or usage no barrister and solicitor shall appear in wig or gown or other distinctive attire in any court or before any commission or person acting in a judicial office, and if he does so appear he Wig and gown.

30 shall not be entitled to audience.

DIVISION 3.—*Conveyancers.*

**23.** The Legal Practitioners Act, 1898, is amended— Amendment of Act No. 22, 1898.

(a) by inserting after section thirteen the following New s. 13A.  
new section:—

35 **13A.** (1) A conveyancer who has attained the age of thirty years and is desirous of being admitted as a barrister and solicitor shall not be required to pass any examination before entering into articles of clerkship, or to serve Conveyancers.

40 under such articles for more than three years.

(2)



(2) If a conveyancer who has attained the age of thirty years and is desirous of being admitted as a barrister and solicitor—

(a) has for at least five years since he became entitled to practise as a conveyancer been a managing clerk in the office of a solicitor practising in New South Wales; or 5

(b) has for at least ten years practised as a conveyancer in New South Wales, or 10  
has for at least ten years since he became entitled to practise as a conveyancer been employed in New South Wales, whether in the Public Service or otherwise, in work relating to conveyancing or to documents of title, 15

such conveyancer shall not be required to enter or serve under any articles of clerkship.

(3) Subject to the provisions of this section a conveyancer who is desirous of being admitted as a barrister and solicitor shall— 20

(a) pass such examinations as may be prescribed in the following subjects:—

(i) torts and criminal law and practice; 25

(ii) bankruptcy, probate, and divorce, including practice;

(iii) procedure (in civil cases before the Supreme Court in its common law jurisdiction, in civil and criminal cases before the inferior courts, and in civil cases on appeal to the High Court); and 30  
the law of evidence; and

(b) comply with such conditions as may be prescribed, 35

and thereupon, if the court is satisfied that he is a fit and proper person to practise as a barrister and solicitor, he shall, upon having his name on his own application removed from the roll of conveyancers, be entitled to be admitted as a barrister and solicitor. 40

(4)



(4) This section shall apply to conveyancers to whom a certificate has been granted either before or after the commencement of the Administration of Justice Act, 1931.

5 (b) by inserting after section twenty the following new sections :—

New ss. 20A,  
20B.

10 20A. A certificate to practise as a conveyancer shall not be granted after the commencement of the Administration of Justice Act, 1931, except in the case of an applicant who has made an application under section seventeen of this Act before such commencement or within twelve months thereafter, and except in the case of a person whose name is restored to the roll of conveyancers.

Discon-  
tinuance of  
grant of  
certificates.

15 20B. (1) The court shall have the like summary jurisdiction over a conveyancer as it has over a barrister and solicitor, including power to remove his name from the roll of conveyancers and to cancel his certificate to practise as a conveyancer, or to suspend him from practice for any period.

Summary  
jurisdiction  
over con-  
veyancers.

20 (2) The court may, if it sees fit restore to the roll of conveyancers the name of any person whose name has been removed therefrom.

25 (c) by omitting from section one the figure "20" and by inserting in lieu thereof the figure and symbol "20B."

Sec. 1.

30 DIVISION 4.—*Enrolment and insurance.*

**24.** (1) It shall be the duty of the Prothonotary to keep a roll of barristers and solicitors and to issue certificates of enrolment to persons who are entitled to take out certificates under this Division.

Roll.

35 (2) The duties imposed by this section shall be executed and performed in accordance with rules of court.



Certificate of  
enrolment.

**25.** (1) No person shall on or after the first day of October, one thousand nine hundred and thirty-one, act or practise as a barrister and solicitor unless he has obtained from the Prothonotary, upon application in the manner and form prescribed, a certificate of enrolment 5 which is then in force, setting out that he is on the roll of the Supreme Court as a barrister and solicitor, and entitled to practise as a barrister and solicitor.

(2) The certificate of enrolment shall be in or to the effect of the form prescribed, and shall be in force 10 from the date of such certificate until the thirtieth day of September next following such date.

Penalty for  
practising  
without  
certificate.

**26.** Every person who directly or indirectly acts or practises as a barrister and solicitor without having at the time a certificate of enrolment then in force issued 15 by the Prothonotary shall be guilty of an offence, and shall be liable on summary conviction to a penalty not exceeding *fifty* pounds.

Application  
for certificates

**27.** (1) An application for a certificate of enrolment shall be accompanied by a fee of two guineas. 20

(2) A person shall not be entitled to take out a certificate of enrolment unless he has paid the fee prescribed by subsection one of this section and has lodged with the Prothonotary a bond or a policy in accordance with this Part of this Act, or where he has previously 25 furnished such a bond or policy a certificate of renewal thereof.

(3) This section shall apply with respect to every barrister and solicitor who is for the time being engaged in the practise of his profession, either on his 30 own account or in partnership with any other person, but shall not apply to any barrister and solicitor who is not so engaged.

(4) It shall be the duty of the Prothonotary from time to time to obtain on his own behalf bonds or 35 policies in accordance with this Part.

All moneys paid by way of fees under this section (less two shillings of the amount of each fee, which shall be deducted and paid to Consolidated Revenue Fund) shall be applied by the Prothonotary in obtaining 40 and renewing such bonds or policies in accordance with this Act.

**28.**



28. (1) Every bond or policy required to be lodged with or obtained by the Prothonotary under this Part of this Act shall be obtained from the Government Insurance Office of New South Wales. <sup>Policy of indemnity.</sup>

5 (2) Every bond or policy, and every certificate of renewal, shall be in or to the effect of the form prescribed by regulations made under the Government Insurance Act, 1927-1930.

10 (3) The bond or policy lodged by a barrister and solicitor with the Prothonotary shall be framed to secure the payment of a sum of one thousand pounds, to reimburse persons who may suffer pecuniary loss by reason of the theft, misappropriation, or misapplication by the barrister and solicitor named in the bond or policy  
15 or by his clerk, servant, or agent, of any money or other property entrusted to him (or to his clerk, servant, or agent) in the course of his practice as a barrister and solicitor, including any money or other property as aforesaid which comes to his hand as a  
20 solicitor-trustee.

(4) Every bond or policy obtained by the Prothonotary shall be framed to secure the payment of the sum specified in the bond or policy to reimburse persons who may suffer pecuniary loss by reason of the theft,  
25 misappropriation, or misapplication by any barrister and solicitor or by the clerk, servant, or agent of any barrister and solicitor of money or other property entrusted to him or to such clerk, servant, or agent in the course of his practice as a barrister and solicitor,  
30 including any money or other property as aforesaid which comes to his hand as a solicitor-trustee.

(5) The bonds or policies obtained by the Prothonotary shall be deemed to be supplemental to the bonds or policies lodged with the Prothonotary by  
35 barristers and solicitors, and where an order is made under subsection two of section thirty-two of this Act the liability of the Government Insurance Office under the bond or policy lodged with the Prothonotary by the barrister and solicitor in respect of whom the claim  
40 arose shall be exhausted before the amounts secured by the bonds or policies obtained by the Prothonotary are resorted to. (6)



(6) The Government Insurance Office of New South Wales is hereby authorised to issue and renew bonds or policies for the purposes of this Part of this Act.

(7) Where an applicant for a certificate of enrolment satisfies the Prothonotary—

- (a) that he is entitled under the law for the time being in force in any neighbouring State to act or practise as a barrister, or solicitor, or barrister and solicitor in that State; and 10
- (b) that, in pursuance of the requirements of any Act for the time being in force in such neighbouring State which has for its object the reimbursing of persons against any such pecuniary loss as is mentioned in subsection 15 three of this section or any loss occasioned in a like manner, he is a contributor to any fund, or has furnished any bond or policy which is in force at the date of the application; and
- (c) that such fund bond or policy may be resorted 20 to by persons residing elsewhere than in such neighbouring State as well as by persons residing therein,

the Prothonotary may in his absolute discretion—

- (i) exempt the applicant from the payment of 25 so much of the fee referred to in subsection one of section twenty-seven of this Act as the Prothonotary thinks fit; and
- (ii) permit the applicant to furnish a bond as described in subsection three of this section 30 which is framed to secure the payment of such sum being less than one thousand pounds as the Prothonotary deems appropriate to the case.

Refusal of certificate.

**29.** (1) The Prothonotary may refuse to issue a 35 certificate of enrolment under this Part of this Act if the applicant for such certificate—

- (a) has been adjudicated bankrupt or insolvent, and has not received a certificate of discharge; 40
- (b)



- 5 (b) is in prison or is under sentence for any felony or misdemeanour ;
- (c) has failed to comply with any Act, regulation, or order relating to his trust funds or the trust funds of any partnership of which he was a member, and such failure still continues ;
- 10 (d) has, when called upon by the Prothonotary so to do, failed to give a satisfactory explanation touching any matter relating to his conduct as a barrister and solicitor, and such failure still continues ;
- (e) has failed to comply with section twenty-seven of this Act ;
- 15 (f) is sharing receipts from a business of a nature usually performed by practising barristers and solicitors with an unqualified person.

(2) The Prothonotary shall, if required by an applicant, state in writing the grounds for refusing a certificate of enrolment at the time of such refusal.

20 **30.** If the Prothonotary shall refuse any application Appeal. for a certificate of enrolment, the applicant therefor may appeal to a judge in chambers, who is hereby authorised to make such order in the matter as he may think fit.

25 **31.** (1) No person acting as a barrister and solicitor for a client shall, on or after the first day of Barrister and solicitor must hold certificate. October, one thousand nine hundred and thirty-one, sue, prosecute, defend, or carry on any action or suit or any proceedings in any court without having

30 previously obtained a certificate of enrolment which shall be then in force, or shall be capable of maintaining any action or suit for the recovery of any fee, reward, or disbursement, or in respect of any business, matter, or thing done by him as a barrister and solicitor whilst he

35 shall have been without such certificate of enrolment.

(2) No person acting as a barrister and solicitor for a client on or after the first day of October, one thousand nine hundred and thirty-one, without having previously obtained a certificate of enrolment which

40 shall be then in force, shall be capable of maintaining any



any action or suit for the recovery of any fee, reward, or disbursement for or in respect of instructions for, or drawing, preparing, engrossing, stamping, registering, or recording any deed, document, or instrument whilst he shall have been without such certificate of enrolment. 5

Application  
by person  
claiming to  
have suffered  
pecuniary  
loss.

**32.** (1) Any person (in this section referred to as the claimant) who claims that he has suffered any such pecuniary loss as is referred to in subsections three and four of section twenty-eight of this Act, may make application to the Prothonotary in the manner prescribed for an order under this section. 10

(2) If the Prothonotary is satisfied after the prescribed investigation and inquiry that a claimant has suffered any such pecuniary loss, he may, if in his absolute discretion he thinks fit, make an order in the manner and form prescribed, directing the Government Insurance Office of New South Wales to pay to the claimant such sum not exceeding the total amount then secured by the bond or policy lodged with the Prothonotary by the barrister and solicitor in respect to whom the claim arose and the bonds or policies obtained by the Prothonotary as is sufficient to cover the pecuniary loss suffered by the claimant, or such part thereof as the Prothonotary in his absolute discretion may determine. 15 20 25

(3) The Government Insurance Office of New South Wales shall comply with the order of the Prothonotary within a period specified in the order, and to the extent of any payment made in compliance with the order shall cease to be liable upon such bonds or policies. 30

(4) Upon payment to a claimant by the Government Insurance Office of New South Wales of any sum in compliance with an order under this section, the Government Insurance Office of New South Wales shall be subrogated to the extent of such payment to all the rights and remedies of the claimant against the barrister and solicitor in respect to whom the claim arose, or in the event of his death or insolvency or other disability against his personal representatives or other persons having authority to administer his estate. 35 40

(5)



(5) No person shall be entitled to make an application under this section in respect of any theft, misappropriation, or misapplication committed before the first day of October, one thousand nine hundred and  
5 thirty-one.

(6) In respect of any theft, misappropriation, or misapplication that may be committed on or after the first day of October, one thousand nine hundred and thirty-one, an order shall not be made under this section  
10 unless the claimant makes his application for the order within twelve months after he has become aware of the theft, misappropriation, or misapplication.

**33.** (1) Notwithstanding anything contained in this Part of this Act the Prothonotary may at any time, if  
15 in his opinion the circumstances of any particular case so require, by notice in writing under his hand direct a barrister and solicitor to whom a certificate of enrolment has been issued to lodge with him within a time prescribed in the notice an additional bond or policy framed  
20 to secure the payment of such sum as may be specified in the notice.

(2) If at the expiration of the period prescribed in the notice the barrister and solicitor has failed to comply with the directions contained in the notice, the  
25 certificate of enrolment issued to him shall cease to have any force or effect.

(3) The provisions of section twenty-eight of this Act shall apply to any additional policy required to be lodged under this section.

30 (4) Any reference in this Part of this Act to a bond or policy shall be deemed to include a reference to an additional bond or policy required to be lodged under this section.

**34.** (1) The Prothonotary may at any time appoint  
35 an accountant to examine the accounts of any specified barrister and solicitor who holds a certificate of enrolment under this Part of this Act, and to furnish to the Prothonotary a confidential report as to any irregularity or alleged or suspected irregularity in the accounts of  
40 such barrister and solicitor that may be disclosed by such



such examination or as to any other matter that in the opinion of such accountant should, in the interest of the clients of such barrister and solicitor, be further investigated.

(2) Every appointment made under this section shall be in writing and shall be signed by the Prothonotary. 5

(3) Upon production by such accountant of the instrument of his appointment as aforesaid he may require the barrister and solicitor in respect of whom the appointment has been made, or any servant or agent of such barrister and solicitor, to produce to the accountant and any assistant of the accountant all books, papers, accounts, securities, or other documents relating to the business or accounts of such barrister and solicitor, and to give all information in relation thereto that may be reasonably required of him or them, and if any such person without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails so to do, or otherwise hinders, obstructs, or delays the accountant in the performance of his duties or the exercise of his powers under this section, he shall be guilty of an offence and shall be liable to a penalty under subsection six of this section. 10 15 20

Such offence shall also be professional misconduct and shall accordingly, if the court thinks fit, be ground for the exercise of the summary jurisdiction of the court. 25

(4) No accountant appointed to make any examination of accounts for the purposes of this section, and no person assisting the accountant or employed by him, shall communicate any matter which may come to his knowledge in the course of such examination to any person except in the course of his report to the Prothonotary. 30

(5) It shall not be lawful for the Prothonotary to publish to any person any information disclosed in such report except in the performance of his duty. 35

(6) Every person who commits a breach of any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding *fifty* pounds. 40

(7)



(7) The prescribed costs and expenses of an accountant in conducting an examination and furnishing a report under this section shall be paid by the barrister and solicitor in respect of whom the accountant has been appointed :

Provided that if the accountant reports that his examination has not disclosed any irregularity in the accounts of the barrister and solicitor, nor any matter which in his opinion requires further investigation, the Prothonotary may in his discretion waive the payment by the barrister and solicitor of such costs and expenses, and cause the same to be paid out of funds provided by Parliament.

**35.** (1) Any person who desires an investigation of the conduct of a barrister and solicitor in relation to any matter shall lodge with the Prothonotary a complaint in the manner prescribed. Investigation of conduct.

(2) It shall be the duty of the Prothonotary to receive all such complaints and to make such investigation in relation thereto as in his discretion seems proper.

(3) If as a result of such investigation the Prothonotary is of opinion that the complaint is one which reveals improper conduct on the part of the barrister and solicitor, he may refer the complaint to the court in the manner prescribed, and the court may make such order as in the circumstances it deems just.

(4) In any proceedings upon such reference it shall not be necessary to join or serve the Incorporated Law Institute of New South Wales or any association of members of the bar of New South Wales, nor shall either of such bodies have any status to appear or be heard in respect of such proceedings.



## PART VII.

## WAGES AND SALARIES (ATTACHMENT LIMITATION).

Amendment of  
Act No. 23, 1912.  
Sec. 117.

**36.** (1) The District Courts Act, 1912, is amended—

- (a) by omitting from subsection two of section one hundred and seventeen the words “two pounds” wherever occurring and by inserting in lieu thereof the words “four pounds”;  
(b) by omitting the proviso to the same subsection.

Amendment of  
Act No. 33, 1912.  
Sec. 56.

(2) The Small Debts Recovery Act, 1912, is amended—

- (a) by omitting from subsection five of section fifty-six the words “two pounds” wherever occurring and by inserting in lieu thereof the words “four pounds”;  
(b) by omitting the proviso to the same subsection.

Amendment  
of Act No. 6,  
1900.

(3) The Attachment of Wages Limitation Act, 1900, is amended by omitting from section one the word “two,” wherever occurring, and by inserting in lieu thereof the word “four.”

Saving.

(4) The amendments made by this section shall not affect any proceedings taken to enforce the payment of the amount of any judgment obtained before the commencement of this Act.

## PART VIII.

## AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912.

Construction  
and citation.

**37.** (1) This Part of this Act shall be read and construed with the Small Debts Recovery Act, 1912, as amended by the Bills of Sale (Amendment) Act, 1919, and the Small Debts Recovery (Amendment) Act, 1922.

(2) The Small Debts Recovery Act, 1912, as so amended is in this Part of this Act referred to as the Principal Act.

(3)



(3) The Principal Act as amended by this Act may be cited as the Small Debts Recovery Act, 1912-1931.

5 **38.** (1) The Principal Act is amended by omitting from subsection two of section seven the words "sitting in some place appointed in that behalf by the Governor." Amendment of Act No. 33, 1912, s. 7 (2). (Jurisdiction.)

(2) The Principal Act is amended by inserting New. s. 7A. next after section seven the following new section:—

10 **7A.** (1) A court of petty sessions shall have jurisdiction as provided in this section, notwithstanding that the defendant is not within New South Wales, if the defendant carries on business or usually resides in any other State or part of the Commonwealth within fifty miles of the boundary of the district for which the court is held. Jurisdiction where defendant outside the State. cf. 1924, No. 42, s. 10.

15 (2) Such jurisdiction shall extend only to the following cases, that is to say—

20 (a) where the debt sued for was contracted, or the liability for damages arose, within the district for which the court is held; or

25 (b) where 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 this section the provisions of any Act of the Parliament of the Commonwealth for the time being in force applying to such case shall be complied with.

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

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

(6) This section applies whether the cause of action arose before or after the commencement of the Administration of Justice Act, 1931.

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

(3)



Sec. 11.  
(Limitation  
of jurisdic-  
tion.)

(3) The Principal Act is amended by omitting paragraph four of section eleven and by inserting in lieu thereof the following paragraph:—

(4) In respect of any contract for the sale of any goods unless the buyer has actually accepted part 5 of the goods so sold and actually received the same or given something in earnest to bind the contract or in part payment or some note or memorandum of the contract has been made and signed by the party sought to be charged by such contract or his 10 agent in that behalf.

Sec. 12.  
(Actions not  
to be split.)

(4) The Principal Act is amended by inserting at the end of section twelve the words—

Provided that any plaintiff having a cause of action for more than the amount for which a plaint 15 may be entered under this Act may abandon the excess, which abandonment shall be stated upon the plaint, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding the amount for which a plaint may be so entered, 20 and judgment upon such plaint shall be in full discharge of all demands in respect of such cause of action, and entry of the judgment shall be made accordingly.

New s. 12A.

(5) The Principal Act is amended by inserting 25 after section twelve the following new section:—

Set off.

12A. (1) The defendant in an action in any court may, upon the prescribed notice thereof being given, plead by way of set off any debt or demand against the plaintiff in respect of which the defendant may 30 institute an action in the same court against the plaintiff whether such debt or demand sound in damages or not and whether it arises out of the same subject matter as the claim of the plaintiff or not:

Provided that where a defendant has a debt or 35 demand in respect of which he could institute an action in such court if the amount thereof were not more than that for which a plaint may be entered in that court the defendant may abandon the excess, which abandonment shall be stated upon 40 the



the prescribed notice, and may plead by way of set off such debt or demand to an amount not exceeding that for which a plaint may be entered as aforesaid.

5 (2) No set off shall be pleaded under this section unless the prescribed notice contains or has annexed to it shortly and in substance the cause of action and the items constituting the particulars of claim, and where the grounds of defence or notice  
10 thereof are required to be verified by affidavit unless there is filed with such prescribed notice an affidavit by the defendant or his attorney that such grounds are true in substance and in fact.

15 (3) No debt or demand shall be pleaded by way of set off unless it is owing to or enforceable by all the defendants if there are more than one, or is due from or enforceable against all the plaintiffs if there are more than one.

20 (4) More than one debt or demand may be pleaded by way of set off in the same action.

25 (5) In every action under this Act in which the defendant pleads by way of set off any debt or demand against the plaintiff, the defendant shall be entitled to recover in such action the amount, if any, by which the debt or demand so set off is found to exceed the debt or demand claimed and proved by the plaintiff, and shall have judgment and execution for the same accordingly.

30 (6) The judgment in any action in which the defendant pleads a debt or demand by way of set off shall be in full discharge of the cause of action so pleaded.

35 (7) Where the defendant under this section pleads a debt or demand by way of set off the court may, notwithstanding anything herein contained, direct that such pleading be struck out if the court is of opinion that the matter cannot be conveniently or ought not to be disposed of in the pending action. Where the pleading is so directed to be  
40 struck out the defendant shall be at liberty to take such other proceedings as he may think fit in respect of the debt or demand. (6)



Sec. 13.  
(Venuc.)

- (6) The Principal Act is amended—  
 (a) by omitting from subsection one of section thirteen the words “for debt” and the words “in such action”;  
 (b) by inserting at the end of the same subsection the words “or the liability for the damages arose”;  
 (c) by omitting subsections two and four of the same section.

Sec. 14.

(7) The Principal Act is amended by omitting section fourteen and by inserting the following section in lieu thereof:—

Persons  
jointly liable.  
cf. 1912,  
No. 23, s. 59.

14. (1) Where any plaintiff has any debt or demand recoverable under this Act against two or more persons jointly answerable, it shall be sufficient if any one or more of such persons is served with process, and judgment may be obtained and execution issued against the person or persons so served, notwithstanding that others jointly liable have not been served or sued, or are not within the jurisdiction of the court.

(2) Every such person against whom such judgment is obtained under this Act, and who satisfies the whole or any part of such judgment, shall be entitled to demand and recover in a court having jurisdiction under this Act contribution from any other person jointly liable with him.

Sec. 15.

(8) The Principal Act is amended by omitting section fifteen.

Sec. 19.  
(Service of  
summons.)

(9) (a) The Principal Act is amended by inserting in section nineteen after the word “wife” the word “husband.”

(b) By inserting at the end of the same section the following words:—

Provided that where after calling at least on one previous occasion at the defendant’s usual place of abode the bailiff of the court is unable to effect service in the manner prescribed by this section service may be effected by the said bailiff upon some person apparently of not less than sixteen years of age at the said place of abode.

(10)



- (10) The Principal Act is amended— Sec. 26.  
5 (a) by omitting from section twenty-six the words (Service of default summons.)  
“a stipendiary or police magistrate” and by inserting in lieu thereof the words “the court or the registrar thereof”;  
(b) by omitting from the same section the words “such magistrate” and by inserting in lieu thereof the words “such court or registrar.”
- (11) The Principal Act is amended by omitting Sec. 28.  
10 from section twenty-eight the words: “Where judgment has been entered up by the court or the registrar (Judgment in default of defence.)  
under this section the court may, on the application of the defendant, direct the said amount and costs to be paid at such times and by such instalments as it may  
15 think fit.”
- (12) The Principal Act is amended by omitting Sec. 29.  
from section twenty-nine the words “the next.” (Trial.)
- (13) The Principal Act is amended by inserting at Sec. 31.  
the end of subsection one of section thirty-one the words: (Nonsuit.)  
20 “Provided that where a verdict has been entered for the defendant under this subsection, the court, on sufficient cause being shown, may, on such terms as it thinks fit, set aside such verdict, and set down the action for trial at the same or any subsequent sittings of the  
25 court.”
- (14) The Principal Act is amended by inserting Sec. 38.  
in subsection one of section thirty-eight after the word (Appearance.)  
“actions” the words “applications or proceedings”  
and after the word “his” the words “spouse or.”
- (15) The Principal Act is amended by omitting Sec. 39.  
30 from section thirty-nine the words “but the costs of (Costs.)  
professional assistance shall be paid by the party requiring such professional assistance” and by inserting  
in lieu thereof the following paragraphs—  
35 The costs of professional assistance of an attorney to an amount assessed by the court, having regard to the sums set forth in the Third Schedule, may be awarded by the court (if in its discretion it considers such allowance just and reasonable)—  
40 (a) to a successful plaintiff who has recovered an amount of ten pounds or more;  
(b)



(b) to any other successful party where the amount in dispute is ten pounds or more.

In all other cases the costs of professional assistance shall be paid by the party requiring such professional assistance. 5

Secs. 40, 45.

(Entry of judgment.)

(16) The Principal Act is amended—

(a) by omitting from section forty and also from section forty-five the words “on the cause list” and by inserting in lieu thereof the words “in the record book”; 10

Sec. 40.

(b) by omitting from section forty the words “clerk of such petty sessions” and by inserting in lieu thereof the word “registrar.”

Sec. 41.

(Affidavit of service.)

(17) The Principal Act is amended by inserting in section forty-one after the words “this Act” where first occurring the words “or where the defendant appears at the hearing in the manner prescribed by subsection one of section thirty-eight of this Act.” 15

Sec. 42.

(18) The Principal Act is amended by omitting subsection one of section forty-two and by inserting the following subsection in lieu thereof:— 20

Payment by instalments.

(1) A court of petty sessions may at any time before the issue of execution and upon notice being given to the judgment creditor direct the amount of any judgment to be paid at such times and by such instalments as it thinks fit. 25

The court may at any time upon the application of either party made in the prescribed manner vary any direction given under this subsection.

ec. 43.

(Execution.)

(19) The Principal Act is amended— 30

(a) by inserting in subsection one of section forty-three after the word “money” the words “or whenever judgment has been entered under section twenty-eight of this Act by the registrar”; 35

(b) by inserting in the same subsection after the words “decision was made” the words “or such judgment was entered up.”

(20)



- (20) The Principal Act is amended— Sec. 54.
- 5 (a) (i) by omitting from subsection one of section (Examination  
of judgment  
debtor.)  
fifty-four the words “court in which he  
obtained such judgment, or when the court  
is not sitting, to the registrar thereof or a  
justice of the peace” and by inserting in  
lieu thereof the words “registrar thereof”;
- 10 (ii) by omitting from the same subsection the  
word “whether” and by inserting in lieu  
thereof the words “his property or means  
available for the satisfaction of such judg-  
ment and in particular as to”;
- 15 (iii) by omitting from the same subsection the  
words “court, or when it is not sitting, the  
registrar thereof or a justice of the peace”  
and by inserting in lieu thereof the word  
“registrar”;
- 20 (b) by omitting subsection three of the same  
section and by inserting in lieu thereof the  
following subsection :—
- (3) The court which may be constituted by  
one justice of the peace shall cause such judg-  
ment debtor to be orally examined touching  
the premises :
- 25 Provided that no such examination as to the  
property or means of the judgment debtor,  
other than debts due to him, shall be permitted  
without leave of the court.”
- (21) The Principal Act is amended— Sec. 55.
- 30 (a) by inserting in subsection one of section fifty- (Court.)  
five after the words “only by a” the words  
“stipendiary or”;
- (b) by omitting from subsection two of the same  
section the words “when the court is not  
35 sitting.”
- (22) The Principal Act is amended— Sec. 56.
- 40 (a) (i) by omitting from subsection one of section (Garnishee  
orders.)  
fifty-six the words “court, or when it is not  
sitting, the registrar thereof or a justice of  
the peace” and by inserting in lieu thereof  
the words “registrar of a court”;
- (ii)



- (ii) by inserting in the same subsection after the word "residing" the words "or carrying on business";
- (b) (i) by inserting in subsection three of the same section after the word "resident" the words "or carrying on business"; 5
- (ii) by inserting in the same subsection after the words "court to" the words "the registrar of";
- (c) by omitting from subsection four of the same section the words "court, or when it is not sitting, the registrar thereof or a justice of the peace may, in its" and by inserting in lieu thereof the words "registrar may, in his"; 10 15
- (d) by inserting at the end of the same section the following new subsection:—
- (6) In this section the words "wages or salary" include earnings which are not under a contract of employment, but which are, either analogous to or in the nature of wages or salary, and the words "servant or employee" include any person whose earnings are not under a contract of employment, but are either analogous to or in the nature of wages or salary. 20 25
- Sec. 57. (Summons to show cause) (23) The Principal Act is amended by omitting from section fifty-seven the words "The court, or when it is not sitting, the registrar thereof or a justice of the peace may, by the garnishee order or any subsequent order, summon the garnishee to appear" and by inserting in lieu thereof the words "The registrar of the court may, by the garnishee order or any subsequent order, summon the garnishee to appear before the court." 30 35
- Sec. 61. (24) The Principal Act is amended by omitting from section sixty-one the words "when it is not sitting."
- Sec. 63. (25) The Principal Act is amended by omitting from section sixty-three the words "presided over by a police magistrate." 40



(26) The Principal Act is amended by inserting New s. 64A.  
next after section sixty-four the following new  
sections:—

5       64A. Where money has been paid into court by Payment out  
or on behalf of the garnishee the registrar may of court.  
pay the money to the judgment creditor unless  
the person paying the money into court at the  
time of payment in gives to the registrar written  
10       notice that he intends to dispute his liability to  
pay. If such a notice is given the money shall be  
paid out only on the order of the court.

(27) The Principal Act is amended by omitting Sec. 66.  
section sixty-six and by inserting the following section  
in lieu thereof:—

15       66. (1) Any party to an action may obtain at the Witnesses.  
office of the registrar a subpoena to a witness with cf. 1898, No.  
or without a clause requiring the production of 11, s. 13.  
books, deeds, papers, and writings in his possession  
or control, and every person subpoenaed as a witness  
20       to attend any of the courts of petty sessions shall  
attend pursuant to such subpoena unless he has  
just cause or reasonable excuse, and unless he has  
such cause or excuse shall produce any books,  
deeds, papers, or writings required by such subpoena  
25       to be produced.

(2) Every subpoena shall be served personally  
or in such other manner as is directed by the rules.

(3) Where any person duly served with a  
subpoena to attend as a witness fails to appear  
30       when called upon in open court, the court may,  
upon proof of such service, and also that his  
non-appearance is without just cause or reasonable  
excuse, and upon oath that he will probably be able  
to give material evidence, issue a warrant in the  
35       form provided in the Second Schedule to bring him  
before the court to give evidence.

Such warrant may be addressed to the bailiffs and  
deputy bailiffs of any court of petty sessions and  
may be executed by any of them.

When



When apprehended, such person may be released from custody upon giving to the satisfaction of the registrar of any court of petty sessions, or of a justice of the peace, security, in the form provided in the Second Schedule, in the sum of ten pounds, with or without a surety or sureties, for his appearance at such time and place as such registrar or justice may appoint. 5

Such security may be enforced by action for and on behalf of His Majesty the King in the court at which the witness was subpœnaed to attend, and such action may be brought and continued and all proceedings in connection therewith may be carried on, and any judgment recovered may be enforced by the registrar, for the time being, of that court under the title of his office. 15

Any moneys so recovered shall be applied as the court directs.

(4) No witness shall be compelled to attend at any court of petty sessions without tender of his reasonable expenses. The scales of reasonable expenses may be prescribed by the rules. 20

Sec. 67.

(28) The Principal Act is amended by omitting section sixty-seven and by inserting in lieu thereof the following section:— 25

Punishment  
for contempt

67. Every court of petty sessions may punish for contempt in a summary way by fine not exceeding five pounds, recoverable in the same manner as a fine imposed by justices under the Justices Act, 1902, as amended, any plaintiff, defendant, witness, or person who is present in court and required to give evidence refusing without just or reasonable excuse to be sworn or to answer any lawful question or to produce any books, deeds, papers, or writings required to be produced by any subpœna duly served. 30

Sec. 68.

(29) The Principal Act is amended by omitting section sixty-eight and by inserting in lieu thereof the following section:—

Registrar,

68. The clerk of the court of petty sessions shall discharge the duties of registrar. 40



(30) The Principal Act is amended by omitting from section seventy-five the words "cause list" and by inserting in lieu thereof the words "record book."

Sec. 75 (Award of arbitrator.)

(31) The Principal Act is amended—

Form 9. Second Schedule.

5 (a) by omitting Form nine, "Attachment for non-appearance to a subpoena" in the Second Schedule, and by inserting the following form in lieu thereof:—

9. Warrant where a witness has not obeyed a subpoena.

10 Court of petty sessions for the } district of }

Plaint No. of 19 }

Between , Plaintiff, and , Defendant.

15 To the bailiffs of the Court of petty sessions for the district of and their deputies, and to each and every of them.

20 WHEREAS having been duly served with a subpoena to attend as a witness in this action at a court holden at at on the day of 19 , failed to appear when called upon in open Court and the due service of such subpoena on the said having been proved to the Court and it also having been proved to the Court that his non-appearance was without just cause or reasonable excuse and oath having been made that he will probably be able to give material evidence, these are therefore to command you and each of you to apprehend the said 25 wherever you may find him, and safely and securely keep him so that you may bring and have him before the Court of petty sessions holden at , on the day of , 19 , at o'clock, in the noon, to testify what he shall know concerning the above action, or so that he may be otherwise dealt with according to law.

35 Given under the seal of the Court this day of , 19 .

(L.S.)

(L.S.)

Court of petty sessions holden at

(b)



Form 16.  
Second  
Schedule.

(b) by inserting the following new Form sixteen after Form fifteen in the Second Schedule :—

16. *Recognizance of witness who has been apprehended for disobeying subpoena.*

To wit }

5

BE it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_  
in the year of Our Lord, one thousand nine hundred  
and \_\_\_\_\_ of \_\_\_\_\_, in  
the State of New South Wales (*occupation*), of \_\_\_\_\_,  
in the said State (*occupation*), and \_\_\_\_\_, 10  
of \_\_\_\_\_, in the said State (*occupation*),  
personally came before me, Registrar of the Court of  
petty sessions holden at \_\_\_\_\_ [(or) one of His  
Majesty's Justices of the Peace for the said State] and 15  
severally acknowledged themselves to owe to Our Sovereign  
Lord the King the sum of ten pounds each of good and  
lawful money, if the said \_\_\_\_\_ shall fail in  
the condition endorsed.

Taken and acknowledged the day and year first  
abovementioned at \_\_\_\_\_ in the said State 20  
before me.

CONDITION.

The condition of the within written recognizance is such  
that whereas the within named \_\_\_\_\_ has  
been apprehended under and by virtue of a warrant 25  
issued by the Court of petty sessions holden at \_\_\_\_\_  
in the said State for disobeying a subpoena to appear as a  
witness before such Court in a certain action in which  
\_\_\_\_\_ was plaintiff and \_\_\_\_\_ was  
defendant, if therefore the said \_\_\_\_\_ shall appear 30  
before the said Court to be holden at \_\_\_\_\_ on  
the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the  
noon and testify what he shall know concerning the said  
action, then the said recognizance to be void or else to  
stand in full force and virtue. 35



PART IX.

ABOLITION OF CAPITAL PUNISHMENT.

**39.** This Part of this Act shall be read with the Construction. Crimes Act, 1900, as amended by subsequent Acts.

5 **40.** (1) Sentence of death shall not be passed upon Abolition of capital punishment and substitution of other punishments. or recorded against any person for any crime for which, if this Part of this Act had not passed, he would be liable under any Act or Imperial Act in force in this State to suffer death.

10 (2) Where a person is convicted of any crime for which, if this Part of this Act had not passed, he would be liable under any Act or Imperial Act in force in this State to suffer death he shall be liable to penal servitude for life.

15 **41.** This Part of this Act shall apply where pro-Application of Act. ceedings have been instituted before as well as where proceedings are instituted after the commencement of this Act.

20 **42.** Nothing in this Part of this Act shall affect His Prerogative of mercy. Majesty's prerogative of mercy.

**43.** The Crimes Act, 1900, as amended by subsequent Amendment of Act 1900, No. 40. Acts, is amended as follows :—

(a) Section one—

25 (i) After "Part XII, Sentences" omit "(2) Sentences of death—ss. 430, 431";  
(ii) After "Part XIII, Proceedings after sentence" omit "(1) Capital Sentences—ss. 448-452";

(b) Section nine, omit the words "of death or";

30 (c) Section eighteen, subsection one, paragraph (a), omit the words "death or";

(d) Section nineteen, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life";

35 (e) Section twenty-seven, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life";

(f)



- (f) Section twenty-eight, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life";
- (g) Section sixty-three, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life"; 5
- (h) Section sixty-seven, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life";
- (i) Section one hundred and ten, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life"; 10
- (j) Section one hundred and ninety-six, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life"; 15
- (k) Section two hundred and thirty-five, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life";
- (l) Section two hundred and forty, omit the words "suffer death" and insert in lieu thereof the words "penal servitude for life"; 20
- (m) Section three hundred and twenty-eight, omit the words "with death or";
- (n) Section three hundred and forty-five, omit the words "and whether a capital felony or not"; 25
- (o) Section three hundred and seventy, omit the words "not capital";
- (p) Section three hundred and eighty, omit the words "not being capital"; 30
- (q) Sections four hundred and thirty and four hundred and thirty-one, omit these sections and the subheading preceding section four hundred and thirty;
- (r) Section four hundred and forty, omit the words "not punishable with death shall" and insert in lieu thereof the words "shall subject to this Act"; 35
- (s) Section four hundred and forty-one, omit the words "whether punishable with death or otherwise"; 40

(t)



- 5 (t) Sections four hundred and forty-eight, four hundred and forty-nine, four hundred and fifty, four hundred and fifty-one, four hundred and fifty-two, omit these sections, also the subheading "Capital Sentences, preceding section four hundred and forty-eight;
- (u) Section four hundred and fifty-nine, omit this section;
- 10 (v) Section four hundred and sixty, omit this section;
- (w) Section four hundred and sixty-one—
- (i) omit the words "whether under the sentence of a court or under any order made as last aforesaid"; and
- 15 (ii) omit the words "whilst the offender is serving under any such sentence or order" and substitute the words "whilst the offender is serving under any sentence";
- (x) Seventh Schedule, omit this Schedule.
- 20 **44.** The Criminal Appeal Act, 1912, is amended as follows:— Amendment of Act, 1912, No. 16, ss. 10, 26.
- (a) Section ten, subsection two, omit the words "sentence of death or";
- 25 (b) Section ten, subsection three, omit the words "except in the case of conviction involving sentence of death";
- (c) Section twenty-six, omit the words "other than the sentence of death."
- 45.** The Lunacy Act, 1898, is amended by omitting Amendment of Act 1898 No. 45, s. 69. section sixty-nine.
- 30 **46.** The Felons Apprehension Act, 1899, is amended as follows:— Amendment of Act 1899, No. 26, ss. 4 5, 14.
- 35 (a) Section four, omit the words "punishable by law with death" and insert in lieu thereof "punishable by law with penal servitude for life";
- (b) Section five, subsection one—
- 40 (i) omit the words "Australian Colony" and insert in lieu thereof the words "State of the Commonwealth";
- (ii)



- (ii) omit the words "such first-mentioned Colony" and insert in lieu thereof the words "such first-mentioned State";
  - (iii) omit the words "by the law of that Colony with death" and insert in lieu thereof the words "by the law of that State with death or penal servitude for life";
  - (iv) omit the words "proper authority in the Colony" and insert in lieu thereof the words "proper authority in the State";
- (c) Section five, subsection two—
- (i) omit the words "Government Gazette of any Colony" and insert in lieu thereof the words "Government Gazette of any State";
  - (ii) omit the words "with the law of such Colony" and insert in lieu thereof the words "with the law of such State";
- (d) Section fourteen—
- (i) paragraph (a), omit the words "or any circuit";
  - (ii) paragraph (b), omit the words "in the Colony" and insert in lieu thereof the words "in the State."

Amendment  
of Act 1899,  
No. 27, s. 7.

**47.** The Prisons Act, 1899, is amended by omitting section seven.

Amendment  
of Act 1902,  
No. 69, ss. 4,  
6.

**48.** The Piracy Punishment Act, 1902, is amended as follows:—

- (a) Section four, omit the words "shall be liable to suffer death" and insert in lieu thereof the words "shall be liable to penal servitude for life."
- (b) Section six, omit the words "with death or otherwise."

Amendment  
of Act 1912,  
No. 31, s. 55  
(2).

**49.** The Jury Act, 1912, is amended by omitting from subsection two of section fifty-five the words "or if the offence charged be capital" and by inserting in lieu



lieu thereof the words "or if the offence charged be treason, murder, rape, or carnally knowing a girl under the age of ten years."

50. The Coroners' Act, 1912, is amended by 5 omitting section twenty-one. Amendment of Act 1912, No. 36, s. 21.

PART X.

MISCELLANEOUS AMENDMENTS.

*Amendment of Defamation Act, 1912.*

51. (1) The Defamation Act, 1912, is amended by 10 omitting section thirty-two. Amendment of Act No. 32, 1912, s. 32.

(2) The Judgment Creditors' Remedies Act, 1901, is amended by omitting from section twenty-five the brackets and words "(not being a judgment obtained under the Act Eleventh Victoria number thirteen)." Amendment of Act No. 8, 1901, s. 25. (Consequential.)

15 (3) The Defamation Act, 1912, is further amended by inserting next after section twenty-five the following new section:— Further amendment of Act No. 32, 1912. New s. 25A.

20 25A. (1) Whosoever makes or publishes any defamatory statement shall be guilty of a misdemeanour and shall be liable on conviction to imprisonment for *three months* or a fine of *one hundred* pounds or both. Proceedings for defamatory statements in writing.

(2) In this section a defamatory statement does not include an oral statement.

25 (3) This Act, with regard to the publication of a libel, shall apply to proceedings under this section, provided that the provisions of section twenty-five shall not apply to proceedings under this section.

30 (4) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law or shall relieve any person from making a full discovery or from answering any question



question in a civil proceeding: Provided that no evidence of the conviction of any person under this section shall be admissible against him in any civil proceedings for libel.

*Judges retirement.*

5

Amendment  
of Act No. 9,  
1918, s. 3 (2).

**52.** (1) The Judges Retirement Act, 1918, is amended—

- (a) by inserting in subsection two of section three after the word “judge” the words and figures “appointed before the commencement of the 10 Administration of Justice Act, 1931”;
- (b) by inserting at the end of the same section the following new subsection:—

(3) Any judge appointed after the commencement of the Administration of Justice 15 Act, 1931, who attains the age of sixty-five years, shall retire the day on which he attains that age, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave. 20

Amendment  
of Act No. 10,  
1921, s. 5.

(2) The Land and Valuation Court Act, 1921, is amended—

- (a) by omitting from subsection two of section five the words “of seventy years” and by inserting in lieu thereof the words “prescribed 25 by this section for his retirement”;
- (b) (i) by inserting in subsection five of the same section after the word “judge” the words and figures “if he was appointed before the commencement of the Administration 30 of Justice Act, 1931”;
- (ii) by inserting at the end of the same subsection the words “and if he was appointed after the said commencement, shall retire when he attains the age of sixty-five years, 35 unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.”

*Amendment*



*Amendment of Poor Persons' Legal Remedies Act, 1918.*

**53.** The Poor Persons' Legal Remedies Act, 1918, Amendment of Act No. 36, 1918.  
is amended,—

- 5 (a) (i) by omitting from the definition of "Poor Sec. 2.  
person" in section two the words "a judge  
of the Supreme Court (in the case of legal  
proceedings in that court) or a district  
court judge (in the case of legal proceed-  
10 ings in that court)" and by inserting in  
lieu thereof the words "the person holding  
or acting in a prescribed office in connec-  
tion with the Supreme Court or a district  
court";
- 15 (ii) by omitting from the same definition the  
words "the judge" and by inserting in  
lieu thereof the words "the person holding  
or acting in such office";
- 20 (iii) by inserting in the same section in the  
definition of the expression "prescribed"  
after the words "means prescribed" the  
words "by this Act or";
- (iv) by inserting at the end of the same section  
the following new definition:—  
25 "Prescribed office" means in respect of  
proceedings in—
- (a) the equitable jurisdiction of  
the Supreme Court, the office  
of Master in Equity or Deputy  
Registrar;
- 30 (b) the probate jurisdiction of the  
Supreme Court, the office of  
Registrar of Probates;
- (c) the lunacy jurisdiction of the  
Supreme Court, the office of  
35 Master in Lunacy or Deputy  
Master;
- (d) all other jurisdictions of the  
Supreme Court, the office of  
the Prothonotary or Deputy  
40 Prothonotary;
- (e)



- (e) in any district court, the office of Registrar or Deputy Registrar, or Assistant Registrar ;
- (f) in any court of petty sessions, the Clerk of Petty Sessions ; 5
- (g) in any court before mentioned or in any other court, such other office as the Governor by proclamation may declare to be a prescribed office for the purposes of this Act. 10

Sec. 4.

- (b) (i) by omitting from subsection one of section four the words "a judge of" and by inserting in lieu thereof the words "the person holding or acting in a prescribed office in connection with" ; 15
- (ii) by omitting from subsection two of the same section the words "a judge of" and by inserting in lieu thereof the words "the person holding or acting in a prescribed office in connection with" ; 20
- (iii) by omitting from subsection three of the same section the word "judge" and by inserting in lieu thereof the word "person" ; 25
- (iv) by omitting subsection four of the same section.

New s. 5.

- (c) by inserting next after section four the following new section :—

Costs may be recovered.

5. Notwithstanding the provisions of any 30 rules of court a barrister and solicitor may receive from a poor person who has been successful in any proceedings the full costs payable to or ordered to be paid to such poor person under any judgment or order, and costs 35 payable or ordered to be paid to a poor person under any judgment or order shall include not only out-of-pocket expenses but all such costs as are allowable on taxation between parties neither of whom is proceeding as a poor person. 40

*Amendment*



*Amendment of Sheriff Act, 1900.*

**54.** The Sheriff Act, 1900, is amended by inserting at the end of section nine the following words: "Poundage under a writ of *capias* shall not in any case exceed the sum of ten pounds." Amendment of Act No. 16, 1900, s. 9. (Poundage.)

*Amendment of Crimes Act, 1900.*

**55.** The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.

- 10 (a) by inserting in subsection four of section four hundred and seventy-five after the word "practicable" the words "together with his report as to the conclusion to be drawn therefrom"; Sec. 475 (4). Inquiry subsequent to conviction.
- 15 (b) by inserting at the end of section five hundred and one the following new subsection:— Sec. 501. (Offences punishable summarily without consent.)
- (3) The provisions of section fifty-six of the Justices Act, 1902, shall not apply to proceedings under this section.
- 20 (c) by inserting in section five hundred and two after the words "such skin or carcass may be" the words "taken by a constable before, or may be"; Sec. 502. (Possession of skin, &c., of stolen cattle.)
- 25 (d) (i) by omitting from subsection one of section five hundred and forty-seven the words "for a term not exceeding six months" and by inserting in lieu thereof the words "for a term not exceeding three years"; Sec. 547. (Recognisance to keep the peace.)
- 30 (ii) by omitting from subsection two of the same section the words "for a term not exceeding twelve months" and by inserting in lieu thereof the words "for a term not exceeding three years";
- 35 (e) by inserting next after section 556A the following new section:— New s. 556B.
- 556B. If the court before which an offender has been required to enter into a recognizance to be of good behaviour or by which an offender
- Proceedings on breach of condition of recognizance.



offender has been discharged conditionally on his entering into a recognizance to be of good behaviour and to appear for conviction and sentence when called upon, or any court of summary jurisdiction is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, and the offender, when apprehended, if it is proved that he has failed to observe any of the conditions of his recognizance, may be dealt with for the offence with which he was originally charged as if he had not been released or discharged conditionally on his entering into a recognizance.

Sec. 1.  
(Consequential.)

- (f) by omitting from section one the figures and letter "556A" and by inserting in lieu thereof the figures and letter "556B."

*Amendment of Registration of Deeds Act, 1897.*

Amendment of  
Act No. 22, 1897,  
s. 5.

**56.** The Registration of Deeds Act, 1897, is amended—

- (a) by omitting from subsection one of section five the words "and for not less than two hours, beginning at the hour aforesaid on all Saturdays throughout the year";
- (b) by inserting in subsection two of the same section after the word "on" the word "Saturdays."

*Amendment of Interpretation Act of 1897.*

Amendment of  
Act No. 4, 1897,  
s. 35 (2).

**57.** The Interpretation Act of 1897 is amended—

- (a) by inserting in the proviso to subsection two of section thirty-five after the words "falls on" the words "Saturday or";
- (b) by inserting in the same proviso after the words "which is not" the words "a Saturday or."

*Amendment*



*Amendment of Matrimonial Causes Act, 1899.*

**58.** The Matrimonial Causes Act, 1899, as amended Amendment of Act No. 14, 1913.  
by subsequent Acts, is amended—

- 5 (a) by omitting subsection two of section forty Sec. 40.  
and inserting in lieu thereof the following (Alimony.)  
new subsection:—
- (2) The court may from time to time vary  
or modify any order under this section for the  
10 periodical payment of money either by alter-  
ing the times of payment, or by increasing or  
diminishing the amount, or may temporarily  
suspend the same as to the whole or any part  
of the money so ordered to be paid, and again  
revive the same wholly or in part as the court  
15 thinks just.
- (b) by omitting from subsection one of section Sec. 73 (1).  
seventy-three the word “twelve” and by (Summoning  
inserting in lieu thereof the word “sixteen”; jurors.)
- 20 (c) (i) by omitting from section one the figures Sec. 1.  
“79” and by inserting in lieu thereof the (Correction.)  
figures “81”;
- (ii) by omitting from the same section the  
figures “80” and by inserting in lieu  
thereof the figures “82”;
- 25 (iii) by omitting from the same section the  
figures “81” and by inserting in lieu  
thereof the figures “83”;
- (iv) by omitting from the same section the  
figures “82” and by inserting in lieu  
30 thereof the figures “84”;
- (v) by omitting from the same section the  
figures “83” and by inserting in lieu  
thereof the figures “85”;
- 35 (vi) by omitting from the same section the  
figures “84” and by inserting in lieu  
thereof the figures “86”;
- (vii) by omitting from the same section the  
figures “85” and by inserting in lieu  
thereof the figures “87”;
- (viii)



- (viii) by omitting from the same section the figures "86" and by inserting in lieu thereof the figures "85";
- (ix) by omitting from the same section the figures "87, 88" and by inserting in lieu thereof the figures "89, 90, 90A";
- (x) by omitting from the same section the figures "89-93" and by inserting in lieu thereof the figures "91-95."

*Amendment of Second-hand Dealers and Collectors Act, 1906.* 10

- Amendment of Act No. 30, 1906, s. 10(2). **59.** The Second-hand Dealers and Collectors Act, 1906, is amended by omitting from subsection two of section ten the word "court" and by inserting in lieu thereof the word "clerk." 15

*Amendment of Auctioneers Licensing Act, 1898.*

- Amendment of Act No. 24, 1898, s. 5. (Issue of licenses.) **60.** The Auctioneers Licensing Act, 1898, as amended by subsequent Acts, is amended—
- (a) by inserting at the end of subsection four of section five the words "If the officer objects to the grant of the application, he shall include in his report a statement setting out the nature of the objection proposed to be made";
  - (b) by omitting subsections five, six, seven, eight, nine, and ten of the same section and by inserting in lieu thereof the following subsections:—
    - (5) Where such officer does not object to the grant of the application, the clerk with whom the application was lodged shall, on payment to him of the annual fee, issue the license.
    - (6) Where such officer objects to the grant of the application—
      - (a) the clerk of the court shall notify the applicant that the grant of his application will be objected to, and shall set out shortly in the notice the nature of the objection proposed to be made;
      - (b)



- 5 (b) the application shall be heard and determined by the court, which for that purpose shall be constituted by a stipendiary or police magistrate or two or more justices;
- (c) such hearing shall not take place until after the expiration of seven days after the lodging of the application;
- 10 (d) the hearing shall be in open court, and the consideration of the application shall be deemed to be a judicial proceeding;
- 15 (e) where the court grants an application for a license or renewal of a license, the clerk of the court shall, on payment to him of the annual fee, issue the license.
- (7) A license or renewal of a license shall not be granted to an applicant who—
- 20 (a) is the holder of a license under the Pawnbrokers Act, 1902; or
- (b) is of bad or doubtful character.

*Amendment of Sunday Trading (Refreshment Rooms) Act, 1916.*

25 **61.** The Sunday Trading (Refreshment Rooms) Act, 1916, is amended by omitting from section eight all words following the word "hereto" and by inserting in lieu thereof the following:—

Amendment of Act No. 19, 1916, s. 8. (Issue of licenses.)

30 Application for a license shall be in or to the effect of the form prescribed, and shall be delivered to the clerk of a court of petty sessions in the police district within which the shop in respect of which the application is made is situated.

35 The application shall be accompanied by a certificate in or to the effect of the form prescribed, signed by an officer of police of or above the rank of sergeant stationed in the said district, certifying that the applicant is a fit person to receive a license.

The



The clerk to whom such application and certificate is delivered shall, on payment to him of the prescribed fee, issue the license.

*Amendment of Usury, Bills of Lading, and Written Memoranda Act, 1902.* 5

Amendment of Act No. 43, 1902.  
New s. 8A.

**62.** The Usury, Bills of Lading, and Written Memoranda Act, 1902, is amended by inserting next after section eight the following new subheading and section:—

*Satisfied securities.* 10

A surety who discharges the liability to be entitled to assignment of all securities held by the creditor.

Q. 31 Vic. No. 36, s. 4.  
Vict. No. 2733, s. 67.

8A. Every person who being surety for the debt or duty of another or being liable with another for any debt or duty shall pay such debt or perform such duty shall be entitled to have assigned to him or to a trustee for him every judgment specialty or other security which shall be held by the creditor in respect of such debt or duty whether such judgment specialty or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty: 20 and such person shall be entitled to stand in the place of the creditor and to use all the remedies and if need be and upon a proper indemnity to use the name of the creditor in any action or other proceeding at law or in equity in order to obtain 25 from the principal debtor or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have so paid such debt or performed such duty and such 30 payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him:

Provided always that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any 35 other co-surety, co-contractor, or co-debtor by the means aforesaid more than the just proportion to which as between those parties themselves such lastmentioned person shall be justly liable.

**63.**



63. The Usury, Bills of Lading, and Written Memoranda Act, 1902, is further amended—

Further amendment of Act No. 43, 1902.

- 5 (a) by omitting from section twelve the words "ten or eleven" and by inserting in lieu thereof the words "or ten";
- (b) by inserting after section twelve the following new subheading and sections:—

Sec. 12.

New ss. 13, 14.

*Hire-purchase and time-payment agreements.*

10 13. (1) When by any instrument it is expressed that any person lets any chattels to any other person at a rent to be paid by instalments upon the terms that the property in the chattels shall pass to the other person upon payment of the instalments but not otherwise, and proceedings are taken in any court in respect of any matter arising out of the transaction, the court, if satisfied by evidence that—

Reopening hire purchase transactions. Qld. 7 Geo. V, No. 13, s. 5. S.A. 15 Geo. V, No. 1617, s. 5.

- 20 (a) the amount charged by the instalments (and in especial whether directly or indirectly in respect of interest on the purchase money outstanding) is excessive; or
- (b) the amounts charged for expenses, inquiries, fines, bonus, premium, or any other charges are excessive; or
- 25 (c) the transaction is harsh and unconscionable, or is such that a court of equity would give relief,

may—

- 30 (i) reopen the transaction and take an account between the parties thereto; and
- (ii) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account in connection with the transaction; and
- 25 (iii) relieve the lessee from payment of any sum in excess of the sum adjudged by the court to be fairly payable in respect of purchase money,



money, interest, and charges as the court, having regard to the risk, the value of the chattels, the time of payment, and all the other circumstances, may adjudge to be reasonable; and

5

(iv) if any such excess has been paid or allowed in account by the lessee, order the lessor to repay it; and

(v) set aside either wholly or in part, or revise or alter, any agreement made in connection with the transaction.

10

(2) The court shall have power, notwithstanding any provision or agreement to the contrary, to entertain an application by the lessee for relief, notwithstanding that the time for payment of any instalment has not arrived.

15

In this subsection "Court" means a judge of the Supreme Court or of a district court, and in any case in which the amount involved does not exceed one hundred pounds, includes a court of petty sessions holden before a stipendiary magistrate or a police magistrate.

20

(3) When it appears to the court that any person other than the lessor has shared in the profits of or has any beneficial interest, prospectively or otherwise, in the transaction, the court may cite such person as a party to the proceedings and may make such order in respect to such person as it deems fit.

25

(4) No proceeding to obtain any relief under this section shall be taken after twelve months from the time when the transaction in respect of or in connection with which relief is sought was finally closed.

30

(5) For the purposes of effectually carrying out this section, all such orders may be made and directions given by the court as it deems necessary or proper.

35



14. (1) In any case in which—

5 (a) an agreement is made whereby any person (in this section referred to as the "lessor") lets any chattels to any other person (in this section referred to as the "lessee") at a rent to be paid by instalments upon the terms that the property in the chattels shall pass to the lessee upon payment of the instalments but not otherwise; or

10 (b) an agreement is made whereby any person (in this section referred to as the "vendor") sells and delivers any chattels to any other person (in this section referred to as the "purchaser") upon the terms that the purchase price shall be payable by instalments, the lessee or purchaser may at any time after the delivery of the chattels to him give notice in writing to the lessor or vendor of his intention—

- 15 (i) to restore the chattels; and  
20 (ii) to disclaim any liability to pay instalments accruing due under the agreement after a date specified in the notice.

The date so specified shall not be earlier than one month after the service of the notice.

25 If before the date specified in the notice the chattels have been restored to the lessor or vendor in good order and condition (allowance being made for fair wear and tear)—

30 (a) the lessor or vendor shall not be entitled to recover from the lessee or purchaser any instalments accruing due after the date so specified;

35 (b) the lessee or purchaser shall be entitled to have returned to him by the lessor or vendor any security given by the lessee or purchaser to secure the payment of any such instalment, and to be indemnified by the lessor or vendor against any claim in respect thereof.

40 (2) This section shall not extend to an agreement for letting or sale of chattels suitable to

Hire-  
purchase  
and time-  
payment  
agreements.  
Return of  
chattels.



to the condition of life of the lessee or purchaser, and to his actual requirements at the time the agreement is made.

(3) This section applies only to agreements made after the commencement of the Administration of Justice Act, 1931, and shall have effect notwithstanding any stipulation to the contrary. 5

Copy of agreement.

15. The vendor or lessor shall, on demand, furnish the purchaser or lessee with a copy of the agreement. 10

In this section the terms vendor, lessor, purchaser, and lessee shall have the meanings ascribed to those terms in section fourteen, and "agreement" means any hire-purchase or time-payment agreement relating to chattels. 15

Any person who contravenes the provisions of this section shall be liable on summary conviction to a penalty not exceeding *ten* pounds.

*Amendment of Moratorium Act, 1930.* 20

**64.** (1) This section shall commence upon the date upon which the assent of His Majesty to this Act is signified.

Amendment of Act No. 48, 1930.  
Sec. 2.  
(Interpretation.)

(2) The Moratorium Act, 1930, is amended—

Sec. 3.  
(Bank overdraft.)

(a) by inserting at the end of the definition of "Mortgage" in section two the words "or by which any provision of the mortgage is varied"; 25

(b) by omitting from subsection two of section three the words "three thousand" and by inserting in lieu thereof the words "five thousand"; 30

Sec. 4.  
(Limitation of rights of mortgagees.)

(c) by inserting next after paragraph (e) of subsection one of section four the following new paragraph:—

(f) appoint a receiver. 35

Sec. 6.  
(Installments.)

(d) by inserting at the end of section six the following new subsection:—

(2) This section shall extend and be deemed to have extended to a hire-purchase agreement.

(e)



- (e) by inserting at the end of subsection one of section eight the words "and the mortgagee shall comply with any such order"; Sec. 8 (1). (Mortgagee in possession.)
- 5 (f) (i) by omitting from subsection four of section nine the word "two" and by inserting in lieu thereof the word "three"; Sec. 9. (Correction.)
- (ii) by inserting at the end of the same section the following new subsection:—
- 10 (6) Any order for costs shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act. Such order may for such purpose be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions when such order was made in the manner prescribed by regulations made under this Act. Order for costs how enforceable.
- 15
- 20 (g) by inserting in subsection one of section ten after the words "witnessed by" the words "the officer in charge of the Legal Aid Office or any clerk of petty sessions or other prescribed officer of the Public Service or by"; Sec. 10 (1). (Consent by mortgagor.)
- 25 (h) by inserting at the end of section thirteen the following new subsections:— Sec. 13. (Non application of Acts to certain transactions.)
- (2) To resolve doubts it is declared that—
- 30 (a) any clause in a mortgage executed before the nineteenth day of December, one thousand nine hundred and thirty, the date of the commencement of this Act which purports to exclude the provisions of any Act imposing a moratorium shall not avail to exclude the provisions of this Act;
- 35 (b) the provisions of this Act may be excluded by such a clause contained in a mortgage executed on or after the said date or in any agreement or memorandum executed after the said date only where such mortgage agreement or memorandum is witnessed and certified in accordance with section ten.
- 40
- (3)



(3) The court may upon the application of the mortgagor, made within three months from the date on which the assent of His Majesty to the Administration of Justice Act, 1931, is signified, order that any clause excluding the provisions of any Act imposing a moratorium from any mortgage, agreement, or memorandum executed after the nineteenth day of December, one thousand nine hundred and thirty, shall be void and of no effect. 5 10

The court shall make such order if satisfied that the application is made in good faith, and that the consent of the mortgagor to the insertion of the clause was given without the advice of a solicitor of the Supreme Court who was not the solicitor for the mortgagee. 15

Sec. 14 (2).  
(Relief against judgments.)  
(Correction.)

(i) by inserting in subsection two of section fourteen after the words "section in respect of" the words "orders for";

Sec. 15.  
(Transfers, &c., by mortgagees.)

(j) (i) by omitting from section fifteen the words "a transfer of property on sale by the mortgagee thereof" and by inserting in lieu thereof the words "any instrument"; 20

(ii) by omitting from the same section the words "the sale" and by inserting in lieu thereof the words "the dealing"; 25

(iii) by omitting from the same section the word "transfer" wherever occurring and by inserting in lieu thereof the word "instrument"; 30

(iv) by inserting at the end of the same section the following new subsection:—

(2) The Registrar-General may rely upon the register book under the Real Property Act, 1900, and shall not be bound to make any inquiry as to any interest not appearing therein unless the same is protected by a caveat. 35

(k)



- (k) by inserting next after section eighteen the New s. 18A.  
following new section:—

5           18A. Nothing in this Act shall preclude the Saving of  
payment off of any mortgage upon the date <sup>right to pay</sup>  
upon which the moneys secured thereby are <sup>off on due</sup>  
by the mortgagee repayable, without any <sup>date.</sup>  
payment of interest in lieu of notice.

- (l) by omitting from subsection three of section Sec. 19.  
10           nineteen the word “ten” and by inserting in  
lieu thereof the word “eleven”;

- (m) by omitting from section twenty the words Sec. 20.  
15           “*In the case of a hire-purchase agreement the <sup>(Hire-  
court</sup> and by inserting in lieu thereof the <sup>purchase  
words and figures—</sup> agreements.)*

15           “(1) Subsection six of section sixteen shall  
not apply to a hire-purchase agreement.

20           Nothing in this Act shall preclude the  
person to whom an instalment of purchase  
money is, by the terms of the agreement, due  
from taking action to recover the same with  
the leave of the court.

25           The court may also at the one time give  
leave to sue for any one or more instalments  
on or after the dates on which by the agree-  
ment the instalments become due.

              In any proceeding to recover an instalment  
the court may exercise the powers conferred  
by this section.

30           (2) The court at any time, on the application  
of any party to the agreement, may exercise  
its powers under section six and at the same  
or any other time.”

- (n) by omitting subsection two of section twenty- Sec. 21.  
35           one; (Offences.)

- (o) by inserting next after section twenty-one the New s. 21A.  
following new section:—

40           21A. (1) Where a person is convicted of an Order for  
offence in consequence of which a mortgagor <sup>Possession.</sup>  
has been deprived of the possession of mort-  
gaged property, or the purchaser or lessee of  
goods



goods under a hire-purchase agreement has been deprived of the goods comprised in the agreement, the court may, in a summary manner, make such order as to the possession of the mortgaged property or of the goods as to it seems fit. 5

(2) A copy of such order may be served on the person in possession of the mortgaged property, or of the goods and if such person makes default in complying with such order he shall be liable to a penalty not exceeding *five* pounds per day for each day he makes default in complying with the order. 10

Such penalty may be recovered in a summary way under the provisions of the Justices Act, 1902. 15

Sec. 23.  
(Correction.)

(p) by omitting from section twenty-three the word "twenty-five" and by inserting in lieu thereof the word "twenty-four";

*Amendment of Oaths Act, 1900.*

20

Amendment  
of Act No. 20,  
1900, s. 4.

**65.** (1) The Oaths Act, 1900, as amended by subsequent Acts, is amended—

(a) by omitting section four and by inserting in lieu thereof the following new section:—

Oath of  
allegiance.

4. The oath of allegiance in the form in the Second Schedule shall, subject to section six, be the form of oath of allegiance taken by all persons liable to take the said oath. 25

Fourth  
Schedule.

(b) by omitting from the Fourth Schedule the words "this colony" and by inserting in lieu thereof the words "the State of New South Wales"; 30

Sec. 21.

(c) by adding at the end of section twenty-one the following new subsection:—

New subsec.  
(2).

(2) Any statutory declaration taken and received prior to the commencement of the Oaths (Amendment) Act, 1916, before any commissioner of the court for taking affidavits, shall be deemed to have been duly taken and received. 35 40

(2)



(2) The Oaths (Amendment) Act, 1916, is amended by omitting subsection two of section four. is Amendment of Act No. 5, 1916, s. 4.

*Amendment of Crimes Act, 1900.*

5 **66.** The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.

(a) by inserting next after section sixteen the following new Part. New Part IIA.

PART IIA.

SEDITION.

10 16A. An intention to effect any of the following purposes, that is to say— Definition of seditious intention.

(a) to bring the Sovereign into hatred or contempt ; Q.C.C., s. 44.

15 (b) to excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or of New South Wales as by law established, or against either House of Parliament of the United Kingdom or of New South Wales or against the administration of justice ;

20 (c) to excite His Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means ;

25 (d) to raise discontent or disaffection amongst His Majesty's subjects ;

30 (e) to promote feelings of ill-will and enmity between different classes of His Majesty's subjects ;

is a seditious intention, unless it is justified by the provisions of the next following section.

16B. It is lawful for any person—

35 (a) to endeavour in good faith to show that the Sovereign has been mistaken in any of his counsels ; Innocent intentions Q.C.C., s. 45.



- (b) to point out in good faith errors or defects in the Government or Constitution of the United Kingdom or of New South Wales as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects ; 5
- (c) to excite in good faith His Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the State as by law established ; or 10
- (d) to point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of His Majesty's subjects. 15

Definition of  
seditious  
enterprises,  
&c.  
Q.C.C., s. 46.

16c. A seditious enterprise is an enterprise which is undertaken in order to the carrying out of a seditious intention. 20

Seditious words are words expressive of a seditious intention.

The term "seditious writing" includes anything intended to be read, and any sign or visible representation which is expressive of a seditious intention. 25

Unlawful  
oaths to  
commit  
capital  
offences.  
Q.C.C., s. 47.

16d. Any person who—

- (a) administers, or is present at and consents to the administering of any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with penal servitude for life ; or 30
- (b) takes any such oath or engagement, not being compelled to do so ; or 35
- (c) attempts to induce any person to take any such oath or engagement,  
is liable to penal servitude for life.

16e.



16E. Any person who—

Other un-  
lawful oaths  
to commit  
offences.  
Q.C.C., s. 48.

- 5 (a) administers, or is present at and con-  
sents to the administering of, any oath  
or engagement in the nature of an  
oath, purporting to bind the person  
who takes it to act in any of the ways  
following, that is to say—
- 10 (i) to engage in any mutinous or  
seditious enterprise ;
- (ii) to commit any indictable offence  
not punishable with penal servi-  
tude for life ;
- 15 (iii) to disturb the public peace ;
- (iv) to be of any association, society,  
or confederacy formed for the  
purpose of doing any such act as  
aforesaid ;
- 20 (v) to obey the order or commands  
of any committee or body of men  
not lawfully constituted, or of  
any leader or commander or  
other person not having autho-  
rity by law for that purpose ;
- 25 (vi) not to inform or give evidence  
against any associate, con-  
federate, or other person ;
- 30 (vii) not to reveal or discover any  
unlawful association, society, or  
confederacy, or any illegal act  
done or to be done, or any  
illegal oath or engagement that  
may have been administered or  
tendered to or taken by himself  
or any other person, or the im-  
port of any such oath or engage-  
ment ; or
- 35 (b) takes any such oath or engagement, not  
being compelled to do so ; or

(c)



(c) attempts to induce any person to take any such oath or engagement, is guilty of a misdemeanour, and is liable to imprisonment for *seven* years.

Compulsion,  
how far a  
defence.  
Q.C.C., s. 49

16F. A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information on oath before some member of the Executive Council or justice of the peace, or, if he is on actual service in His Majesty's forces by sea or land, either by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence and the place where and the time when the oath or engagement was administered or taken.

Unlawful  
drilling.  
cf. Q.C.C.  
s. 51.

16G. (1) Any person who—

- (a) in contravention of the direction of a proclamation by the Governor in that behalf, trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions ;
- (b) is present at any meeting or assembly of persons held in contravention of the directions of any such proclamation, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions ;

is guilty of a misdemeanour, and is liable to imprisonment for *seven* years.

(2) Any person who, at any meeting or assembly held in contravention of the directions of a proclamation by the Governor in that behalf,



5 behalf, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour, and is liable to imprisonment for *two* years.

The offender may be arrested without warrant.

10 (3) A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

15 16H. (1) Any person who—  
(a) conspires with any person to carry into execution a seditious enterprise; or  
(b) advisedly publishes any seditious words or writing,  
is guilty of a misdemeanour.

Sedition.

Q.C.C., s. 52.

20 A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

25 A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

(2) An offence under this section shall be punishable either on indictment or summarily, but shall not be prosecuted summarily without the consent of the Attorney-General.

Punishment of offences.

30 (3) If any person who is prosecuted summarily in respect of an offence under this section, elects, immediately after pleading, to be tried upon indictment, the court or magistrate shall not proceed to summarily convict that person but may commit him for trial.

35 (4) The penalty for an offence under this section shall, where the offence is prosecuted upon indictment, be imprisonment for three



three years, and, where the offence is prosecuted summarily, shall be imprisonment for a term not exceeding *twelve* months or a fine not exceeding *one hundred* pounds or both.

Defamation  
of foreign  
princes,  
Q.C.C., s. 53.

16I. Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to expose to hatred or contempt in the estimation 10 of the people of any foreign State any prince or person exercising sovereign authority over that State, is guilty of a misdemeanour, and is liable to imprisonment for *two* years.

Spreading  
false reports.

16J. (1) Any person who, orally or in 15 writing, or in any newspaper or printed publication—

(a) spreads false reports or makes false or unfounded statements as to the policy or powers of the Government or 20 as to the administration of any department of the Government, or as to the policy advocated by any member of the Executive Council, or as to the conduct of any such member whether in relation 25 to the discharge of his official duties or otherwise, or

(b) spreads false reports or makes false, unfounded, or reckless statements likely 30 to cause public alarm, or likely to affect prejudicially the credit of the State, or the credit, stability, or operations of any bank or financial institution,

is guilty of a misdemeanour and is liable to 35 imprisonment for *two* years or to a fine of *five hundred* pounds or to both.

(2) The reports or statements referred to in paragraph (a) of subsection one of this section shall extend to reports or statements 40 as to policy, powers, administration, or conduct



conduct both before and after the commencement of the Administration of Justice Act, 1931.

- 5 (b) by inserting in section one after the matter appearing under the heading "PART II" the following words and symbols: "PART IIA.—SEDITION—ss. 16A-16J." Sec. 1.

*Amendment of Companies Act, 1899.*

10 **67.** The Companies Act, 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1899.

- (a) by inserting next after section two hundred and eighty-four the following new Part:— New Part VII.

PART VII.

HAWKING SHARES.

15 285. In this Part, unless the context otherwise indicates or requires— Interpretation.

"House" does not include an office used for business purposes.

20 "Shares" means the shares of a company, whether a company within the meaning of this Act or not, and includes stock, bonds, debentures, debenture stock, and other securities.

25 "Unit" means any right or interest, by whatever name called, in a share.

256. It shall not be lawful for any person to go from house to house offering shares for subscription or purchase to the public or any member of the public. Restriction on canvassing for subscription of shares.

30 287. (1) Subject as hereinafter provided, it shall not be lawful for any person to make an offer in writing to any member of the public other than a share dealer or share broker of any shares for purchase unless the offer is accompanied by a statement in writing (which Restriction on offering shares in writing.

35 must be signed by the person making the offer and dated) containing such particulars as are required



required by this section to be included therein and otherwise complying with the requirements of this section :

Provided that the provisions of this subsection shall not apply— 5

(a) where the shares to which the offer relates are shares which are quoted on any recognised stock exchange in New South Wales and the offer contains a statement that the shares are so quoted ; 10  
or

(b) where the shares to which the offer relates are shares which a company has allotted, or agreed to allot, with a view to their being offered for sale to the public. 15

(2) The written statement aforesaid shall not contain any matter other than the particulars required by this section to be included therein, and, if printed, shall not be printed in type less large or less legible than any type in which the offer or any document sent in connection therewith is printed. 20

(3) The said statement shall contain particulars with respect to the following matters :— 25

(a) whether the person making the offer is acting as principal or agent, and if as agent the name of his principal and an address in New South Wales where the principal can be served with process ; 30

(b) the date on which and the country in which the company was incorporated, and the address of its registered or principal office in New South Wales ; 35

(c) the authorised share or stock capital of the company and the amount thereof which has been issued, the classes into which it is divided, and the rights of each class of shareholders, or stockholders in respect of capital dividends and voting ; 40

(d)



- 5 (d) the dividends, if any, paid by the company on each class of shares or stock during each of the three financial years of the company immediately preceding the offer, and, if no dividend has been paid in respect of shares or stock of any particular class during any of those years, a statement to that effect;
- 10 (e) the total amount of any debentures issued by the company and outstanding at the date of the statement, together with the rate of interest payable thereon;
- 15 (f) the names and addresses of the directors of the company and of any person acting, whether provisionally or otherwise, in the capacity of director of the company;
- 20 (g) whether or not the shares offered are fully paid up, and, if not, to what extent they are paid up;
- 25 (h) whether or not the shares are quoted on any recognised stock exchange in New South Wales or elsewhere, and if so which, and if not a statement that they are not so quoted;
- 30 (i) where the offer relates to units representing a share or a fraction of a share, particulars of the names and addresses of the persons in whom the shares represented by the units are vested, the date of, and the parties to, any documents defining the terms on which those shares are held, and an address in New South Wales where that document
- 35 or a copy thereof can be inspected.

40 In this subsection the expression "the company" means the company by which the shares to which the statement relates were or are to be issued.



Penalty for  
contravention  
of Part.

288. (1) If any person acts, or incites, causes, or procures any person to act, in contravention of this Part, he shall be liable to imprisonment for a term not exceeding *six* months or to a fine not exceeding *two hundred* pounds, or to both such imprisonment and fine, and, in the case of a second or subsequent offence, to imprisonment for a term not exceeding *twelve* months or to a fine not exceeding *five hundred* pounds, or to both such imprisonment and fine. 5 10

(2) Where a person convicted of an offence under this Part is a company (whether a company within the meaning of this Act or not), every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent. 15

Contract for  
purchase of  
shares may  
be declared  
void.

289. If any person is convicted of having made an offer in contravention of any of the provisions of this Part, the court before which he is convicted may order that any contract made as a result of the offer shall be void, and where he makes any such order, the court may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any shares. 20 25

Procedure for  
offences.

290. All proceedings in respect of offences against this Part shall be taken, heard, and determined, and all penalties and sums of money imposed or awarded under this Part may be enforced and recovered in a summary manner by and before a Court of Petty Sessions holden before a stipendiary or police magistrate. 30 35

(b) by inserting at the end of section one the following words and figures:—

PART VII.—HAWKING SHARES—ss. 285–290.

*Amendment*



*Amendment of Royal Commissions Act, 1923.*

- 68.** The Royal Commissions Act, 1923, is amended—
- (a) by inserting in subsection one of section fifteen after the words "Supreme Court" the words "or of a district court";
- (b) by inserting in the short heading of Division 2 of Part II after the words "Supreme Court" the words "or of a district court";
- (c) by inserting in section two after the words "Supreme Court" the words "or of a district court."

Amendment of Act No. 29, 1923 s. 15 (1).

Division 2

Sec. 2.

SCHEDULE.

Sec. 20.

PART I.

**15** FEES payable on brief for plaintiff in actions in the Supreme Court or any District Court for which express provision is not made elsewhere in this Schedule shall be as follow :—

	Guineas.
When amount recovered exceeds £10 but does not exceed £30 ... ..	3
<b>20</b> Exceeds £30 but does not exceed £50 ... ..	5
Exceeds £50 but does not exceed £100 ... ..	7
Exceeds £100 but does not exceed £500 ... ..	10
Exceeds £500 but does not exceed £1,000 ... ..	15
Exceeds £1,000 but does not exceed £5,000 ... ..	20
<b>25</b> Exceeds £5,000 but does not exceed £10,000 ... ..	40
Exceeds £10,000—Such sum as the taxing officer deems appropriate to the work.	

**30** If the plaintiff does not succeed in his action, the amount of the fee payable on the brief for the plaintiff shall be based on the above scale, having regard to the amount claimed by the plaintiff.

The above scale shall be applicable to briefs on reference or submission to arbitration, and to briefs before the Land and Valuation Court, Court of Review, Licensing Courts, Workers' Compensation Commission, and Industrial Commission.

**35** In case of briefs for Defendant the fees shall be based on the above scale having regard to the amount claimed from the Defendant and/or recovered by the Defendant.

**40** In ejection actions the fee on the brief shall be according to the above scale, and shall be based on the value of the interest claimed by the Plaintiff or from the Defendant.

The fee on brief on assessment of damages shall be one-half of those in above scale.

SCHEDULE



## SCHEDULE—continued.

## PART I—continued.

The fees on brief on appeal to Full Court or from District Court shall be the same as those allowed on brief on trial.

	Guineas.	
In case of brief on demurrer the fee shall be ...	10	
The fee on brief in special cases from the Land and Valuation Court or Commissioner for Stamps or the like shall be ... ..	12	
The fee on brief on applications for Rule Absolute for writ of prohibition, Mandamus, Ouster, or on application of like nature shall be ... ..	12	10
The fee on brief in Chamber applications shall be ...	2	
The fee on brief on application to a judge sitting as the court ... ..	5	15
Fee on conference on the last-mentioned case ...	1	
Fee on brief to settle pleadings, particulars, statements of claim or defence in Ejectment shall be...	2	
Fee on brief to advise on evidence shall be—		
Up to £1,000 ... ..	3	20
Above £1,000 ... ..	5	
Fees on conference or consultations not elsewhere provided for in this Schedule not more in all than ... ..	5	
The fees in the Matrimonial Causes Jurisdiction shall be as follow :—		25
On brief in undefended cases ... ..	3	
On brief in defended cases ... ..	15	
On brief on motion ... ..	3	
On brief on motion before Registrar ...	2	30
On brief on motion in which oral evidence is taken ... ..	5	
Conferences on brief on trial ... ..	2	
Brief to advise on evidence ... ..	2	
Brief to settle pleadings or other documents ... ..	2	35

In criminal cases before the Central Criminal Court or any Circuit Court or Court of Quarter Sessions the fee on the brief on behalf of the person charged shall be as follows :—

	Guineas.	
In cases of offences for which the penalty is penal servitude for life ... ..	20	40
Offences for which penalty is penal servitude for ten years or over ... ..	15	
Offences for which penalty is penal servitude for five years or over ... ..	10	45
Offences for which penalty is imprisonment ... ..	7	

SCHEDULE



SCHEDULE—*continued.*

PART I—*continued.*

The fee on brief on the preliminary proceeding before justices before committal in any such case shall be one-half of those specified  
5 for the brief on trial.

The fee on the brief on appeals to the Court of Criminal Appeal shall be the same as the fee on the brief on the trial.

SUMMARY JURISDICTION.

In all cases where summary jurisdiction is exercised by justices  
10 under any Act in respect of an offence, the fee on hearing for prosecution or defence shall be ten guineas.

OTHER CASES.

In all other cases not specifically provided for, the fee on hearing shall be ten guineas.

15

REFRESHERS.

In all cases, civil and criminal, the refresher fee shall not be more than one-half of the fee on the brief.

TRAVELLING ALLOWANCE, &c.

Where a barrister and solicitor attends the trial of an action or  
20 issues, or a criminal trial at a place other than that at which he usually practises, an allowance over and above the amount provided in the foregoing scales may be made for the actual cost of his conveyance to and from the place of trial, plus an allowance not exceeding two guineas for every day he is necessarily absent from his usual place  
25 of practice. Where such barrister and solicitor attends more than one trial at the same sittings of the court such costs of conveyance and allowance shall be rateably divided.

PART II.

30	A copy of a judgment, depositions, or notes of evidence, a copy of proceedings, documents, and the like ... ..	6d. per folio of 72 words,
	Where the copy is a carbon copy ... ..	3d. per folio of 72 words.



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