Schedule of Amendments referred to in Legislative Council's Message of 26 March, 1957.

No. 1.—Pages 7 and 8, clause 5, lines 8 to 39 inclusive on page 7, lines 1 to 24 inclusive on page 8. Omit all words on these lines. Insert in lieu thereof-

Further amendment of Act No. 21, 1899. Substituted sec. 98.

E P

Extension of power to plead equitable plea or replication; transfer of certain actions into equity jurisdiction.

- 5. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is further amended by omitting section ninety-eight and by inserting in lieu thereof the following section:-
 - 98. (1) Any such equitable plea or equitable replication may be pleaded notwithstanding that upon the facts pleaded the relief on equitable grounds would not be an absolute, perpetual and unconditional injunction, but if upon the facts pleaded that relief would not be such an injunction, the Court or Judge shall make an order that the action be transferred into the jurisdiction of the Court in equity.
- No. 2.—Page 9, clause 5, line 14. Omit "and".
- No. 3.—Page 9, clause 5, line 18. After "equity" insert "and".
- No. 4.—Page 9, clause 5. After line 18 insert—
 - (c) the Court in equity may make such decree, declaration or order as appears just and may in addition thereto or in substitution therefor direct judgment to be entered on its verdict or finding and for costs in the manner prescribed and such a judgment so entered shall have the like force and effect in all respects as the signing of judgment in a Court of law and execution may issue thereon in the manner prescribed.
- No. 5.-Pages 16 and 17, clause 7, lines 29 to 36 inclusive on page 16, lines 1 to 4 inclusive on page 17. Omit all words on these lines. Insert in lieu thereof-

Sec. 3. (Commercial

- (a) by omitting from section three the word "include" and by inserting in lieu thereof the word "mean".
- No. 6.—Page 19. After line 12 insert new clause—

Amendment 40, 1900. Sec. 568. (Jurisdiction, &c., of Courts of Quarter Sessions.)

11. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting from subsection three of section five hundred and sixty-eight the words "not punishable with death," and by inserting in lieu thereof the words "(other than a crime or misdemeanour which is punishable with death or which was so punishable immediately before the commencement of the Crimes (Amendment) Act, 1955),".

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This Public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

ALLAN PICKERING, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 28 February, 1957.

The Legislative Council has this day agreed to this Bill with Amendments.

J. R. STEVENSON,

Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 26 March, 1957.

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1957.

An Act to make further provision in respect of the powers of the Supreme Court in certain of its jurisdictions and in respect of the practice and procedure of that Court; for these and other purposes to amend the Common Law Procedure Act, 1899, the Supreme Court and Circuit Courts Act, 1900, the Supreme Court Procedure Act, 1900, the Judgment Creditors' Remedies Act, 1901, the Equity Act, 1901, the Justices Act, 1902, the Commercial Causes Act, 1903, and certain other Acts; and for purposes connected therewith.

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BE

B^E it enacted by the Queen'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 5 the same, as follows:—

- 1. (1) This Act may be cited as the "Supreme Court Short title Procedure Act, 1957."

 Short title and commencement.
- (2) This Act shall commence on the first day of July, one thousand nine hundred and fifty-seven.
- 2. Each Act specified in the first column of the Second Citation of Schedule to this Act and as amended by subsequent Acts, amended if any, and by this Act may be cited in the manner specified in the second column of that Schedule opposite the reference to that Act in the first column.
- 15 3. The Common Law Procedure Act, 1899, as Amendment of Act no. 21, 1899.
 - (a) (i) by inserting in section fifteen after the word sec. 15.

 "service" where firstly occurring the words (Indorse"or within such enlarged time as the Court ment of service.)

 or a Judge may order";
 - (ii) by inserting in the same section after the words "under this Act" the words—
- "Any such order may be made although application therefor is not made until after the expiration of three days after such service.";

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(b) by omitting from subsection one of section one sec. 102.
hundred and two the words "upon an affidavit (Discovery
by such party or his attorney of his belief that of
any document to the production of which he is
entitled for the purpose of discovery or otherwise is in the possession or power of the opposite
party,";

(c)

- (c) by inserting next after section one hundred and New eighty-four the following new section:—
- 184a. (1) Whenever in any proceedings to Lien or obtain an attachment of debts it is suggested by claim of the garnishee that the debt sought to be attached on debt. belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear and to state the nature and particulars of his claim upon such debt.
- (2) After hearing the allegations of any third person under any such order as is mentioned in subsection one of this section, and of any other person who by the same or any sub-15 sequent order is ordered by the Judge to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue as provided in section one hundred and eighty-three of this Act, or may 20 order any issue or question arising to be tried or determined, and may bar the claim of such third person or make such other order as he may think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the Judge shall 25 think just and reasonable.
 - (d) by omitting section two hundred and twenty-substituted eight and by inserting in lieu thereof the follow-sec. 228. ing section:—
- 228. Upon a finding for the claimant, judg-Judgment ment may be signed and execution issue for the upon finding for recovery of the possession of the property or claimant. such part thereof as the jury finds the claimant entitled to, and for costs, at such time as may be prescribed and in the manner prescribed.

(e)

- (e) (i) by omitting from subsection three of section sec. 268.

 two hundred and sixty-eight the words "or (General
 before the Colonial Parliament at any time be made
 before the commencement of the operation by the
 Judges.)
 - (ii) by inserting next after subsection three of the same section the following new subsection:—
- (3A) All general rules and orders, rules, orders or regulations made pursuant to the foregoing provisions of this section and all rules made pursuant to section two hundred and sixty-six of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the general rules and orders, rules, orders or regulations; and
 - (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 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 general rules and orders, rules, orders or regulations have been laid before such House disallowing any general rule or order, or rule, order or regulation, or part thereof, such general rule or order, or rule, order or regulation, or part shall thereupon cease to have effect.

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Supreme Court Procedure.	
4. The Supreme Court and Circuit Courts Act, 190 as amended by subsequent Acts, is amended—	O, Amendment of Act No. 35, 1900.
 (a) (i) by omitting the proviso to subsection one of section nine; (ii) by omitting subsection four of the same section; 	(Puisne
(b) by omitting section twenty and by inserting in lieu thereof the following section:—	n Substituted sec. 20.
20. (1) The Court may be held by one Judg alone for the disposal of applications for a ru or order nisi for prohibition, mandamus, of certiorari notwithstanding that it may be tertime, or that the Court held before two or more Judges may be at the same time sitting in bance.	le Court may be exercised or by single Judge in certain ce cases.
Nothing in this subsection—	· ~ ~
(a) authorises the Court to be held by or Judge alone for the purpose of exercing the powers and jurisdiction of the Court on the return of a rule or order.	ne s- ne
nisi for prohibition, mandamus of certiorari; or (b) affects the construction of subsection two of this section.	o n
(2) The powers and jurisdiction of the Court on the return of a rule or order nisi for prohibition, mandamus or certiorari to make absolute, discharge, or make any order what soever in respect of, the rule or order night that the Court or a Judge) may be court or a Judge.	or ke t- si
(whether made by the Court or a Judge) may be exercised by one Judge alone— (a) at any time when the Court is no citting in hones.	
sitting in banco; (b) in cases of exigency when the Court sitting in banco.	
or determination by one Judge alone made pursuant to subsection one or two of this section one or two or t	de on
may appeal therefrom to the Court. Any sucappeal shall be in accordance with rules of court.	rt.

(4)

(4) The Judges or any five of them may by rules of court authorise the exercise (subject to those rules) by a Judge, in vacation or in any case of exigency, of any power which can only under ordinary circumstances be exercised by the Court.

The power to make rules of court conferred by this subsection does not include power to make rules of court with respect to—

- (a) applications for rules or orders nisi for prohibition, mandamus or certiorari;
- (b) the exercise in the circumstances mentioned in subsection two of this section of the powers and jurisdiction conferred by that subsection upon one Judge alone.
- (c) (i) by inserting in section forty after the word Sec. 40.

 "shall" the words ", subject to subsection (Rules to have force of law.)
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All rules and orders so made and all rules made under section twenty of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders or rules; and
 - (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 after the commencement of the next session.

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

5. (1) The Common Law Procedure Act, 1899, as Further amended by subsequent Acts, is further amended—

of Act No. 21, 1899. amended by subsequent Acts, is further amended—

(a) by omitting section ninety five and by inserting Substilltuted 10 in lieu thereof the following section:

> 95. (1) No action at any time pending in the Equitipole Court shall be restrained by injunction or order defend of the Court in equity, but every matter of instea equity on which an injunction against the prose injunction, &c. cution of any such action might have been cf. 15 |& 16 obtained, whether unconditionally or on any Geo. V terms or conditions, before the commencement s. 41. of the Supreme Court Procedure Act, 1957, may be relied on by way of defence thereto:

Provided that-

(a) nothing in this Act shall disable the Court or a Judge, if it or he thinks fit so to do, from directing a stay of proceedings in any action pending;

(b) any person, whether a party or not to any such action, who would before the commencement of the Supreme Court Procedure Act, 1957, have been entitled to apply to the Court in equity 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 action have been taken, may apply to the Court or a Judge in the prescribed manner for a stay of proceedings in the action, either generally

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or so far as may be necessary for the purposes of justice, and the Court or the Judge, as the case may be, shall thereupon make such order as shall be just.

(2) Any such defence as is mentioned in subsection one of this section shall state the facts which entitle the defendant to relief and the Court may receive such defence by way of

plea.

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Such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.

(b) by omitting section ninety-eight and by insert-Substituted ing in lieu thereof the following section:

98. (1) If it appears to the Court or Judge Transfer at any stage of an action that any such equitable of cer tain plea or equitable replication pleaded in the equity action cannot be dealt with by a Court of law jurisd liction. so as to do justice between the parties, the Court or Judge shall not strike out the plea or replication but shall make an order that the action be transferred into the jurisdiction of the Court in equity.

5. (1) The Common Law Procedure Act, 1899, as Further amended by of Acts is further amended by of Acts of Acts is further amended by of Acts o amended by subsequent Acts, is further amended by omitting section ninety-eight and by inserting in lieu Substituted sec. 98. thereof the following section:—

98. (1) Any such equitable plea or equitable Extension replication may be pleaded notwithstanding that of plead plead. 30 upon the facts pleaded the relief on equitable grounds would not be an absolute, perpetual and unconditions from transfer of tional injunction, but if upon the facts pleaded that actions into relief would not be such an injunction, the Court jurisdiction. or Judge shall make an order that the action be 35 transferred into the jurisdiction of the Court in equity.

The Court or the Judge when making the order may impose such terms as to costs and otherwise as to the Court or Judge seems reasonable.

(2)

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- (2) Where an order is made under subsection one of this section the whole record of the action shall be transferred into the jurisdiction of the Court in equity.
- 5 (3) After an action has been transferred into the jurisdiction of the Court in equity under this section—

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- (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the action to be disposed of in that jurisdiction; and
- (b) the action shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Court in equity; and
- (c) the Court in equity may make such decree,
 declaration or order as appears just and may
 in addition thereto or in substitution therefor direct judgment to be entered on its
 verdict or finding and for costs in the
 manner prescribed and such a judgment so
 entered shall have the like force and effect
 in all respects as the signing of judgment in
 a Court of law and execution may issue
 thereon in the manner prescribed.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Court in equity may deal with those costs.

- (2) The Equity Act, 1901, as amended by subse-Amendment quent Acts, is amended—

 of Act No. 24, 1901.
- 35 (a) (i) by omitting from section eight the words Sec. 8.

 "any proceeding before it" and by insert- (Power to decide legal ing in lieu thereof the words "any suit or titles, &c.)

 proceeding

proceeding before it or has to be decided in any action transferred into its jurisdiction under section ninety-eight of the Common Law Procedure Act, 1899-1957,";

- (ii) by omitting from the same section the words "no suit in equity" and by inserting in lieu thereof the words "no suit or proceeding in equity and no action so transferred";
- 10 (b) by inserting next after section eight the fol-New sec. 8a. lowing new section:—

Sa. (1) If it appears to the Court at any Transfer stage of any suit or proceeding in the Court that suits, &c., the Court has no jurisdiction to deal with the law subject matter of the suit or proceeding and jurisdiction. that the appropriate remedy in respect thereof lies in the Common Law jurisdiction of the Supreme Court, the Court shall make an order that the suit or proceeding be transferred into that jurisdiction.

The Court when making the order may impose such terms as to costs and otherwise as to the Court seems reasonable.

- (2) Where an order is made under subsection one of this section the whole record of the suit or proceeding shall be transferred into the Common Law jurisdiction of the Supreme Court.
- (3) After a suit or proceeding has been transferred into the Common Law jurisdiction of the Supreme Court under this section—
 - (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the suit or proceeding to be disposed of in that jurisdiction; and (b)

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(b) the suit or proceeding shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Supreme Court at Common Law.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Judge presiding at the trial or the Supreme Court at Common Law may make such order as to those costs as may be just.

(c) by inserting at the end of section nine the follow- Sec. 9. ing new paragraph:-

(Power to Court to

Nothing in this section shall be construed as award limiting the operation of any other section of damages in this Ast this Act.

(d) (i) by omitting from subsection one of section Sec. 39. thirty-nine the words "right or claim," and (Set-off by inserting in lieu thereof the words counter-"equitable or legal right or claim, whether claim.) or not connected with the claim of the plaintiff,";

(ii) by inserting in subsection two of the same section after the words "ought not" the words "in the circumstances of the case":

- (e) by omitting subsection three of section ninetyfour and by inserting in lieu thereof the following subsection:
 - (3) All rules made under this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and

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determina-

opinion

of Supreme Court.)

Supreme Court Procedure.

and if not, then within fourteen sitting days 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 rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.

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6. The Justices Act, 1902, as amended by subsequent Amendment Acts, is amended—

(a) (i) by inserting next after subsection one of Sec. 101. section one hundred and one the following (Party

new subsection:— 15 (1A) The application need not be served tion of upon the Justice or Justices personally, but Justices on point of shall be deemed to have been properly law may made if served upon the clerk of the court apply to have a case at which the determination of the Justice stated for

or Justices was made.

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

- (3) Written notice that application has been made for a case to be stated and signed pursuant to subsection one of this section shall be given by the appellant to the respondent within the time prescribed by rules of the Supreme Court.
- (b) by omitting from subsection one of section one sec. 102. hundred and two the words "Before any such (Before case is stated and delivered to the appellant, he stated shall enter into a recognizance" and by insert-appellant ing in lieu thereof the words "The appellant to give security.) shall, within twenty-eight days after the determination appealed from, enter into a recognizance";

(c)

	Supreme Court Proceaure.
	(c) by omitting section one hundred and five and substituted by inserting in lieu thereof the following sec. 105. section:—
5	or has been notified in writing that it has been to transmit case to stated and signed and is available, he shall— (a) within such period thereafter as may give notice. be prescribed by rules of the Supreme
10	Court transmit such case to the Prothonotary of the Supreme Court; and (b) within such period and in such manner as may be prescribed by rules of the Supreme Court serve the respondent
15	with such number of copies of the case as may be prescribed by those rules.
10	(d) (i) by omitting from subsection two of section sec. 107. one hundred and seven the words "Supreme (Powers of Court" and by inserting in lieu thereof the Court may words "Judges of the Supreme Court or by Judge in
20	any five of them"; (ii) by inserting at the end of the same section the following new subsection:— (3) Rules and orders made under this section shall—
25	 (a) be published in the Gazette; (b) take effect from the date of publication or from a later date to be specified in the rules and orders; and
30	(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parlia- ment is in session, and if not, then within fourteen sitting days after
35	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 rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.

(e) (i) by omitting from subsection one of section Sec. 112. one hundred and twelve the words "apply— (Any person aggrieved by conviction)

or, in vacation, to a Judge thereof; or order may apply

(b) in the following cases, whether in for term or in vacation, to a Judge—

prohibition.)

- (i) where imprisonment has been directed;
- (ii) where the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds,"

and by inserting in lieu thereof the words "apply to the Supreme Court";

(ii) by inserting at the end of subsection five of the same section the following new paragraph:—

Nothing in this subsection-

- (a) authorises the Supreme Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the return of any rule or order granted or made under this section;
- (b) affects the construction of sections one hundred and fourteen and one hundred and fifteen of this Act;
- 35 (iii) by omitting subsection six of the same section;

(f)

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- (f) by omitting section one hundred and fourteen Substituted and by inserting in lieu thereof the following sec. 114. section:—
- Judges of the Supreme Court or any five of whom rule them, any rule or order granted or made by the returnable. Court or a Judge under section one hundred and twelve of this Act may be made returnable before the Court or any such Judge.
- 10 (g) by omitting section one hundred and sixteen substituted and by inserting in lieu thereof the following sec. 116. section:—
- court made by the Judges of the Supreme Court writes and writes made or any five of them, any person aggrieved by by a Judge any decision or determination by one Judge reviewed alone made pursuant to sections one hundred by the and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court.

 Any such appeal shall be in accordance with rules of court made by the Judges of the Supreme Court or any five of them.
- (2) A Judge before whom any rule or order is made returnable pursuant to section one hundred and fourteen of this Act may, at any stage of the proceedings, refer the matter to the Court to be determined.
 - (h) by inserting next after section one hundred and New seventeen the following new section:— sec. 117A.
- 30 117a. The provisions of subsection three of Publication, section one hundred and seven of this Act apply commencement and in respect of rules of court made under disallowance this Division of this Part.

(i)

	Supreme Court Procedure.	
5	(2A) Where but for the provisions of this subsection an appeal may not proceed by reason only that—	
	(a) the appellant was not served with notice of the time and place of hearing of the appeal; and	
10	(b) the Court is not satisfied that—(i) the appellant had know-	
	ledge of such time and place; or (ii) where the Court is satis-	
15	fied that he had such know- ledge, he would not be pre-	
20	judiced by the non-service, the appeal may nevertheless proceed if the Court is satisfied that the appellant is evad- ing service of the notice or cannot, after diligent search and inquiry, be found.	
25	(ii) by inserting in subsection four of the same section after the word "hearing" the words" or, where a later address has been notified by any such person or his attorney to	
	the Clerk of the Peace, to the last address so notified".	20
	of 19,	nendment Act No. 1903.
30	Hed thereof the following section.	. 3.
	3. Commercial causes mean causes arising out constitution of the ordinary transactions of merchants and traders, such as those relating to the construction of mercantile degenerate expert and important	mm ercial
35	tion of mercantile documents, export and import of merchandise, affreightment, insurance, bank- ing and mercantile agency and mercantile usages	

usages, and include all causes of the kind held to be commercial causes before the commencement of the Supreme Court Procedure Act, 1957.

- 5 (a) by omitting from section three the word Sec. 3.

 "include" and by inserting in lieu thereof the causes.)

 word "mean".
 - (b) (i) by inserting at the end of paragraph (d) of Sec. 6. (Directions.)

"or lists of documents to be exchanged and inspection allowed";

- (ii) by omitting paragraph (g) of the same section and by inserting in lieu thereof the following paragraph:—
 - (g) order the trial to be either with or without a jury or that special issues be tried by a jury.
- (c) (i) by omitting from section eight the word sec. 8.

 "three" and by inserting in lieu thereof (Rules of the word "five";
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All such rules of court shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House

78—B disallowing

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disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

8. The Matrimonial Causes Act 1899, as amended by Amendment 5 subsequent Acts, is amended by omitting subsection four of Act No. 14, 1899. of section ninety-one and by inserting in lieu thereof the following subsection:

(Power to make rules.)

- (4) All rules made under this section shall—
 - (a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be 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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

9. The Supreme Court Procedure Act, 1900, as Amendment 25 amended by subsequent Acts, is amended by omitting of Act No. section seventeen and by inserting in lieu thereof the 49, 1900. following section:

Substituted sec. 17.

17. All rules of court made under the powers Rules to herein contained shall—

(a) be published in the Gazette;

in Gazette and laid

- (b) take effect from the date of publication or Parliament, from a later date to be specified in the &c. rules; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if

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not, then within fourteen sitting days 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

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10. The Jury Act, 1912, as amended by subsequent Amendment 10 Acts, is amended by inserting in subsection two of section of Act No. 31, fifty-five after the word "capital" the words "or 1912. murder". (Challenge in criminal cases.)

11. The Crimes Act, 1900, as amended by subsequent Amendment Acts, is amended by omitting from subsection three of 40, 1900. 15 section five hundred and sixty-eight the words "not Sec. 568. punishable with death," and by inserting in lieu thereof tion, &c., of the words "(other than a crime or misdemeanour which out the courts of the words below the death or which was so punishable Sessions.) is punishable with death or which was so punishable immediately before the commencement of the Crimes 20 (Amendment) Act, 1955),".

- 11. 12. The Land and Valuation Court Act, 1921, as Amendment of Act No. amended by subsequent Acts, is amended— 10, 1921.
- (a) (i) by inserting in subsection three of section sec. 4. four after the word "powers" the word (Constitution of ", immunities"; 25
 - (ii) by inserting in subsection (3A) of the same Court and section after the word "powers" the word appointment of judge.) ", immunities";
 - (iii) by omitting the proviso to paragraph (a) of subsection five of the same section;
 - (iv) by omitting the proviso to paragraph (a) of subsection six of the same section;

(b)

- (b) by inserting next after section nine the follow- New ing new section:—
 - 9A. (1) The court may in every case obtain Assistance the assistance of conveyancing counsel, account-persons. ants, engineers, actuaries, or other scientific of Act. No. persons the better to enable it to determine any 24, 1901, matter at issue in any proceeding before it and may act upon the certificate of any such person.
- (2) The allowance in respect of fees to such persons shall be regulated by the registrar, subject to an appeal to the court.

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12. 13. The Acts (as amended by subsequent Acts, if Amendment any) specified in the first and second columns of the First of Acts specified Schedule to this Act are amended as respectively speciin First Schedule.

13. 14. (1) Rules of court, general rules and orders, Savings. rules, orders or regulations made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power howsoever con-

- 20 ferred on such Supreme Court, Judge or Judges, and in force at the commencement of this Act, shall not be affected by the repeal and substitution by this Act of any provision under which they were made, or by any alteration in the number of Judges authorised to make them,
- 25 or by the provisions of this Act requiring them to be published in the Gazette and laid before both Houses of Parliament and making them subject to disallowance by resolution of either House of Parliament but may be amended, repealed or replaced by rules of court, general 30 rules and orders, rules, orders or regulations, as the case may be, lawfully made after that commencement.
- (2) Unless the contrary intention appears, the repeal of any enactment by this Act shall not revive anything not in force or existing at the time at which the 35 repeal takes effect.

FIRST

FIRST SCHEDULE.

Sec. 12.

Reference to Act.	Short Title.	Amendment.
No. 21, 1899	Common Law Procedure Act, 1899.	
	and a discount and	Section 4, subsection (1)—
		 (a) Insert after the words "jurisdiction of the Court" the words "or if the defendant is a corporation residing or incorporated or registered within the jurisdiction of the Court or if the defendant is a corporation registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts" (b) Omit the words "Form No. 1 contained in the Second Schedule to this Act" and insert in lieu thereof the words
		"form prescribed".
		Section 4, subsection (2)— Omit the subsection.
		Section 10— Omit the words "Form No. 2 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "the form prescribed".
		Section 11— Omit the word "six" and insert in lieu thereof the word "twelve".
		Section 12, subsection (1)— (a) Omit the word "six" and insert in lieu thereof the word "twelve".
		(b) Omit the words "including the day of such date".
		Section 12, subsection (2)—
		(a) Omit the word "six" and insert in lieu thereof the word "twelve".

FIRST

Reference to Act.	Short Title.	Amendment.
		Section 12, subsection (2)—continued. (b) Omit the words "by being marked by the proper officer with the date of such renewal upon delivery to him by the plaintiff or his attorney of a praecipe in such form as before the commencement of the Common Law Procedure Act of 1853 was required to be delivered upon the obtaining of an alias writ" and insert in lieu thereof the words "by being marked as prescribed". Section 14— Omit the words "by the proper officer"
		officer". Sections 17, 18 and 19— Omit these sections and insert in lieu thereof the following sections:— 17. The service of a writ of Mode of summons shall, wherever it is service.
		practicable, be personal, but where prompt personal service cannot be effected substituted service may be effected as prescribed. 18. (1) In any action against Actions a defendant who— against
		(a) being a corporation is not defendants resident incorporated or registered within the jurisdiction of the Court and is not registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts; or (b) being any other person is not resident within the jurisdiction
		of the Court, the plaintiff may issue a writ of summons in the form prescribed.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued. (2) Either the writ of summon or a notice thereof in the form prescribed shall be served upo the defendant as may be prescribed.
		(3) Until otherwise prescribe the writ of summons shall b served in the following cases:—
		(a) Where the writ of summon may be served under the provisions of the Service an Execution of Process Act 190 (as amended by subsequen Acts) of the Parliament of the Commonwealth.
		(b) Where the defendant is British subject or being corporation is incorporated in the United Kingdom or a Australia or in any of th other realms and territoric of Her Majesty the Queen.
		(c) Where the defendant is in the United Kingdom or in Australi or in any of the other realm and territories of Her Majest the Queen.
		(4) If the defendant does not appear to the writ of summon within the time prescribed, Judge, upon being satisfied—
		(a) that there is a cause of action which arose within the juri diction, or in respect of the breach of a contract many within the jurisdiction; and

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued (b) that service of the writ notice thereof, as the camay be, was duly effected that the writ or the notice thereof came to the defendant knowledge, may, if he thinks fit, by order permit the plaintiff to proceed to sign final or interlocutor judgment in such manner and subject to such conditions may be prescribed or as he in a the circumstances may deem fits Section 20— Insert after the word "by the words "or under".
	atela and decomposition and and of the second of the second decomposition of the second of the se	Section 21— Omit the words "If either of the Forms of writ of summons Nos. 3, and 4, contained in the Secon Schedule hereto," and insertable lieu thereof the words "If of the prescribed forms of who of summons".
		Section 23— Omit the section.
		Section 24, subsection (1)— (a) Insert after the word "Court the words" or being a corporation is resident or incorporate or registered within that juridiction or is registered under Part VI of the Companies Act 1936, as amended by subsequen Acts". (b) Omit the words "Form No.
		contained in the Secon Schedule hereto, or to the lik effect "and insert in lieu therece the words "form prescribed".

FIRST

Reference to Act.	Short Title.	Amendment.
		Section 25, subsection (1)— Omit the words "Form No. 6 contained in the Second Schedule hereto" and insert in lieu thereof the words "form prescribed". Section 29— Omit the section and insert in lieu thereof the following section:—
		29. Appearance to a writ of Mode of summons or under the authority appearance, of this Act shall be entered by filing a notice of appearance in the form and manner prescribed. Sections 32 and 33— Omit the sections. Section 51, subsection (1)— Insert at the end thereof the words
6		"in the manner prescribed". Section 51, subsections (2) and (3)— Omit the subsections. Section 69— After the word "shall" insert the words ", unless a Judge otherwise orders,".
	edesia 14. marenda 1 Lugares a sebaga Universita antaria	Sections 70 and 71— Omit the sections and insert in lieu thereof the following section:— 70. Every declaration shall Commence-commence and conclude in the ment and
		forms prescribed. Section 73— Omit the section and insert in lieu thereof the following section: 73. The defendant shall plead to 'Time for the plaintiff's declaration within pleading to the time and in the manner declaration. prescribed.
44		Section 76— Omit the section. Section 81— Omit the section.

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Section 88, subsection (1)— Omit the words "Form No. 15 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 100, subsection (1)— Omit the words "Form No. 16
		contained in the Second Schedule hereto, or to the like effect," and insert in lieu thereof the words "form prescribed". Section 100, subsection (3)— Omit the words "Form No. 17
	navadi Patrasa	contained in the said Schedule, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 104, subsection (1)—
		Omit the words ", or by so many and such of the persons summoned as jurors for the trial as may be thought desirable,". Sections 121 to 128 inclusive—
• constitute) Will		Omit the sections. Section 129, subsection (1)— Omit the words "it shall not be necessary to issue a writ of inquiry, but".
	Industrian	Section 129, subsection (2)— Omit "in the same manner as before a jury upon a writ of inquiry".
acl sour Di respirate de la constitución de la cons		Section 133— Omit the section and insert in lieu thereof the following section:— 133. A party in whose favour a Signing verdict has been given, a nonsuit judgment granted or a judgment directed to be entered may sign judgment
	. 4	in the manner and time pre- scribed.

FIRST

Reference to Act.	Short Title.	Amendment.
		Section 134—
		Omit the section and insert in
70		lieu thereof the following section:—
		134. A party in whose favour Execution
		judgment has been signed may after
9.1		issue execution thereon unless judgment signed.
170		a Judge otherwise orders: Provided that where ten years
		have elapsed since judgment was
		signed or any change has taken
		place by death or otherwise in
		the parties entitled or liable to
		execution, execution shall not
		issue without the leave of a Judge.
) a		The party alleging himself to be
		entitled to execution may apply
		for such leave in the manner
		prescribed.
		Part XV—
		Omit the Part. Section 156—
		Omit the words ", so as such
		judgment be entered within two
35		terms after such verdict".
		Section 157, subsections (3), (4)
		and (5)—
	line and an	Omit the subsections and insert
7.00	frequence on 1	in lieu thereof the following
	many off his left	subsection:—
		(3) In any such case the action
		may be maintained by the exec-
		utor or administrator mentioned in subsection one of this section
	11/11/11	or against the executor or admin-
		istrator mentioned in subsection
1		two of this section or by the
f.e		firstmentioned executor or ad-
		ministrator against the second-
		mentioned executor or adminis-
	mins supposed t	trator, as the case may be, upon
	Selle and the later and the	the filing of a suggestion of the
0.1	t to the first till	death of the plaintiff or defendant
	DESCRIPTION OF THE PROPERTY OF	or both, as the case may be, and

Reference to Act.	Short Title.	Amendment.
		Section 157, subsections (3), (4) and (5)—continued.
		representation. A copy of any suggestion so filed shall be served upon all other parties to the action and the truth of the suggestion shall not be in issue unless notice of such issue is given to the person filing the suggestion within fourteen days of service of such copy or within such time as may be prescribed.
54		Section 159, subsection (2)— Omit the words "or writ or revivor pursuant to this Act".
		Section 184, subsection (1)— Omit the word "writ" and inserin lieu thereof the word "summons".
		Section 184, subsection (2)— Omit the subsection and inser in lieu thereof the following subsection:—
		(2) Such summons shall be issued, and the procedur thereon shall be, in the manne prescribed.
		Section 186— Omit the section.
		Section 210, subsection (1)— (a) Omit the words "Form No. 2 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed" (b) Omit the words "sixteen days and insert in lieu thereof the words "the time prescribed"

${\bf FIRST~SCHEDULE-} continued.$

Reference to Act.	Short Title.	Amendment.
	ne philips sac Tres strange	Section 210, subsection (2)— Omit the word "three" and insert in lieu thereof the word
	e de la composición dela composición de la composición de la composición dela composición dela composición dela composición de la composición dela comp	"twelve".
	value de partire	Section 212— Omit the section and insert in lieu
		thereof the following section:
		212. The writ shall, wherever Service
	ter out lessons	practicable, be served personally writ. on the persons named therein but
	of the year to be	where prompt personal service
	LIGHT FRANCE IN	cannot be effected substituted
		service may be effected in the
	of the sent for a no	manner prescribed or in such manner as may be provided for
	and the property	the purpose by any other Act.
	es to voir branch	Section 219—
	ing Religion of the	(a) Insert after the word "judg- ment" where firstly occurring
	hadimaan	the words "in the form pre-
		scribed".
	id al Jim in Luc es	(b) Omit the words "Such judgment if for all may be in the
		Form No. 22 contained in the
		Second Schedule hereto, or to
	Lawrin order	the like effect, and if for part
its but of	faid in the same	may be in the Form No. 23 contained in the said Schedule,
	Aluthor by Total Tree	or to the like effect."
	itali vili se sili	Section 220, subsection (2)—
	december than the	Omit the subsection and insert in lieu thereof the following
		subsection:—
		(2) Such issue may be in the
	or seament of	form prescribed. Section 221—
		Omit the words "used before the
		commencement of the Common
		Law Procedure Act of 1853"
		and insert in lieu thereof the word "prescribed".
	a month to a to	Section 223—
	The second	Omit the section.

Reference to Act.	Short Title.	Amendment.
lo os v.os		Section 229— Omit the words "within such time as the Court or Judge before whom the cause is tried shall order, and if no such order be made then on the fifth day in term after the verdict or within fourteen days after such verdict whichever shall first happen "and insert in lieu thereof the words "at such time as may be prescribed and in the manner prescribed".
		Section 243— Omit the section and insert in lieu thereof the following section:— 243. The claimant may at any Discontitude discontinue the action as to uance of one or more of the defendants action.
		in the manner prescribed. Section 245— Omit the section and insert in lieu thereof the following section:—
		245. Where an appearance has Judgmer been entered and the claimant for not omits to set the action down for proceeding trial in the manner and within the to trial at time prescribed the defendant may give him such notice as may
		be prescribed to set the action down within a time prescribed for this purpose and if the claim- ant fails so to do the defendant may suggest such failure and sign judgment in the manner pre- scribed.
		Section 246— Omit the words "Form No. 28 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed".

Reference to Act.	Short Title.	Amendment.	
	Short Title.	Sections 252, 253 and 254— Omit the sections and insert in lieu thereof the following sections:— 252. Every application for an order nisi for a writ of habeas corpus shall be made to a Judge. Such application may be made exparte in the manner prescribed. 253. (1) Every order nisi for a writ of habeas corpus shall be returnable before a Judge sitting in public chambers whether in Term or not unless the Judge considers that it should be returnable before the Full Court. (2) On the return of such order the Judge or the Court may dispose of the case as the circumstances appear to require and may make such order as to costs as the Judge or Court thinks fit. 254. Any order made by a Judge under section two hundred and fifty-two or two hundred and fifty-three of this Act shall be subject to appeal to the Full Court within the same time and in the same manner as prescribed for motions for a new trial. Section 263— Omit the section. Section 266— Omit the words "The lowest scale shall extend to all cases not exceeding fifty pounds, the second scale to all cases above fifty and not exceeding one hundred pounds, and the highest scale to all other cases." Section 268, subsections (1) and (2)—	Application for order nisi for writ of habeas corpus. Return of order nisi.
	in the state of th	After the words "The Judges" insert the words "or any five of them".	

Reference to Act.	Short Title.	Amendment.
No. 29, 1902 No. 24, 1902	Arbitration Act, 1902. Arrest on Mesne Process Act, 1902.	Insert after the words "submission may" the words ", by leave of a Judge,". Section 5, paragraph (b)—

Reference to Act.	Short Title.	Amendment.	
NY S		Section 13— Omit "such order" and insert in lieu thereof the words "order made under section twelve of this Act".	
No. 8, 1901	Judgment Cred- itors' Remedies Act, 1901.	 (a) After the words "the Supreme Court" insert the words "or in a District Court". (b) Omit the words "of the said Court" and insert in lieu thereof the words "of the Supreme Court or the District Court, as the case may be,". 	
		Section 31— Omit the words "of the said Court" and insert in lieu thereof the words "of the Supreme Court or the District Court, as the case may be".	
No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	Omit the matter relating to Parts	
		Section 19, paragraph (b)— Omit the paragraph. Insert in Part IV immediately before section 22 the heading "Sittings of Court elsewhere than at Sydney." Insert next after Part IV the following new Part:— PART IVA.	
		GAOL DELIVERY.	

Reference to Act.	Short Title.	Amendment.
		33A. The governor of each prison Gaol delivery shall, at the times prescribed by rules of court, make returns in writing to the Supreme Court, Sydney, as to all persons detained in such prison, otherwise than in pursuance of a sentence, giving the particulars required by such rules. If he fails to make such returns, he may be ordered by the Court to pay a fine not exceeding five hundred pounds. The Court shall, after the receipt of such returns with respect to a prison, deliver such prison. For the purpose aforesaid the Court may be constituted by one Judge sitting in open court in the exercise of the criminal jurisdic-
		tion of the court. Except as aforesaid, it shall not be obligatory on the Court or a Judge to deliver any prison, or for a governor of a prison, unless so directed by the Court or a Judge, to make any such returns.
		Part V— Omit the Part.
		Section 39— Omit the word "three" and insert in lieu thereof the word "five".
		Section 39A, paragraph (a)— Omit the word "now".
e. 9, 1912	Supreme Court and Circuit Courts (Am- endment) Act, 1912.	

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FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
No. 10, 1921	Land and Valua- tion Court Act, 1921.	Section 13, subsection (1)— Omit the subsection and insert in lieu thereof the following subsection:— (1) All process issuing out of the court shall be in the form prescribed, and be signed by the officer issuing the process and marked with the court office stamp.
No. 16, 1900	Sheriff Act, 1900	Section 1— Omit the matter relating to Part IV.
		Part IV— Omit the Part.
No. 49, 1900	Supreme Court Procedure Act, 1900.	Sections 12 and 13— Omit these sections. Section 14— Omit the word "three" and insert in lieu thereof the word "five".
		Section 16— Omit the words "in the Schedule to this Act, or".
No. 31, 1912	Jury Act, 1912.	Schedule— Omit the Schedule. Section 32, subsection (2)— (a) Omit the words "and seal". (b) Insert at the end thereof the words "or of the prothonotary
		thereof". Section 32, subsection (3)— Omit the words "and seal". Fifth Schedule— Omit the words "and seal".
No. 42, 1924	Administration of Justice Act, 1924.	Section 14— Omit the section Schedule— Omit the Schedule.

SECOND

SECOND SCHEDULE.

Sec. 2.

CITATION OF ACTS.

First Column.	Second Column.
Administration of Justice Act, 1924.	Administration of Justice Act, 1924–1957.
Arbitration Act, 1902. Arrest on Mesne Process Act, 1902.	Arbitration Act, 1902–1957. Arrest on Mesne Process Act, 1902–1957.
Commercial Causes Act, 1903.	Commercial Causes Act, 1903–1957.
Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1957.
Equity Act, 1901. Judgment Creditors' Remedies Act, 1901.	Equity Act, 1901-1957.
Jury Act, 1912.	Jury Act, 1912-1957.
Justices Act, 1902.	Justices Act, 1902-1957.
Land and Valuation Court Act, 1921.	
Matrimonial Causes Act 1899.	Matrimonial Causes Act, 1899–1957.
Sheriff Act, 1900.	Sheriff Act, 1900-1957.
Supreme Court and Circuit Courts Act, 1900.	
Supreme Court Procedure Act, 1900.	

This Public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

ALLAN PICKERING, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 28 February, 1957.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

Legislative Council Chamber, Sydney, March, 1957.

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1957.

An Act to make further provision in respect of the powers of the Supreme Court in certain of its jurisdictions and in respect of the practice and procedure of that Court; for these and other purposes to amend the Common Law Procedure Act, 1899, the Supreme Court and Circuit Courts Act, 1900, the Supreme Court Procedure Act, 1900, the Judgment Creditors' Remedies Act, 1901, the Equity Act, 1901, the Justices Act, 1902, the Commercial Causes Act, 1903, and certain other Acts; and for purposes connected therewith.

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BE

BE it enacted by the Queen'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 5 the same, as follows:—

- 1. (1) This Act may be cited as the "Supreme Court Short title and commencement.
- (2) This Act shall commence on the first day of July, one thousand nine hundred and fifty-seven.
- 2. Each Act specified in the first column of the Second Citation of Schedule to this Act and as amended by subsequent Acts, amended if any, and by this Act may be cited in the manner specified in the second column of that Schedule opposite the reference to that Act in the first column.
- 15 3. The Common Law Procedure Act, 1899, as Amendment amended by subsequent Acts, is amended—

 of Act
 No. 21, 1899.
 - (a) (i) by inserting in section fifteen after the word Sec. 15.

 "service" where firstly occurring the words (Indorse"or within such enlarged time as the Court ment of service.)

 or a Judge may order";

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- (ii) by inserting in the same section after the words "under this Act" the words—
- "Any such order may be made although application therefor is not made until after the expiration of three days after such service.";
- (b) by omitting from subsection one of section one sec. 102.
 hundred and two the words "upon an affidavit (Discovery
 by such party or his attorney of his belief that of
 documents.)
 any document to the production of which he is
 entitled for the purpose of discovery or otherwise is in the possession or power of the opposite
 party,";

(c)

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- (c) by inserting next after section one hundred and New eighty-four the following new section:—
 - 184A. (1) Whenever in any proceedings to Lien or obtain an attachment of debts it is suggested by claim of the garnishee that the debt sought to be attached on debt. belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear and to state the nature and particulars of his claim upon such debt.
- (2) After hearing the allegations of any third person under any such order as is mentioned in subsection one of this section, and of any other person who by the same or any subsequent order is ordered by the Judge to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue as provided in section one hundred and eighty-three of this Act, or may order any issue or question arising to be tried or determined, and may bar the claim of such third person or make such other order as he may think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the Judge shall think just and reasonable.
 - (d) by omitting section two hundred and twenty-substituted eight and by inserting in lieu thereof the follow-sec. 228. ing section:—
- 228. Upon a finding for the claimant, judg-Judgment ment may be signed and execution issue for the upon finding for recovery of the possession of the property or claimant. such part thereof as the jury finds the claimant entitled to, and for costs, at such time as may be prescribed and in the manner prescribed.

(e)

(e) (i)	by omitting from subsection three of section	Sec. 268.
	two hundred and sixty-eight the words "or	(General
	before the Colonial Parliament at any time	be made
	before the commencement of the operation	by the
	of any such rule";	Juages.)

- (ii) by inserting next after subsection three of the same section the following new subsection:-
- (3A) All general rules and orders, rules, orders or regulations made pursuant to the foregoing provisions of this section and all rules made pursuant to section two hundred and sixty-six of this Act shall-
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the general rules and orders, rules, orders or regulations; and
 - (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 after the commencement of the next session.

resolution of which notice has been given at any time within fifteen sitting days after the general rules and orders, rules, orders or regulations have been laid before such House disallowing any general rule or order, or rule, order or regulation, or part thereof, such general rule or order, or rule, order or regulation, or part shall thereupon cease to have effect.

If either House of Parliament passes a

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	Supreme Court Procedure.	
	4. The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, is amended—	Amendment of Act No. 35, 1900.
	(a) (i) by omitting the proviso to subsection one of section nine;	Sec. 9. (Puisne Judges.)
5	(ii) by omitting subsection four of the same section;	,
	(b) by omitting section twenty and by inserting in lieu thereof the following section:—	Substituted sec. 20.
10	20. (1) The Court may be held by one Judge alone for the disposal of applications for a rule or order nisi for prohibition, mandamus, or certiorari notwithstanding that it may be term time, or that the Court held before two or more Judges may be at the same time sitting in banco.	Court may be exercised by single Judge in certain
15	Nothing in this subsection—	
	(a) authorises the Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the return of a rule or order	
20	nisi for prohibition, mandamus or	
	certiorari; or (b) affects the construction of subsection two of this section. (2) The powers and jurisdiction of the	
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30	exercised by one Judge alone— (a) at any time when the Court is not sitting in banco; (b) in cases of exigency when the Court is	
35	sitting in banco. (3) Any person aggrieved by any decision or determination by one Judge alone made pursuant to subsection one or two of this section	

may appeal therefrom to the Court. Any such appeal shall be in accordance with rules of court.

(4)

(4) The Judges or any five of them may by rules of court authorise the exercise (subject to those rules) by a Judge, in vacation or in any case of exigency, of any power which can only under ordinary circumstances be exercised by the Court.

The power to make rules of court conferred by this subsection does not include power to make rules of court with respect to—

- (a) applications for rules or orders nisi for prohibition, mandamus or certiorari;
- (b) the exercise in the circumstances mentioned in subsection two of this section of the powers and jurisdiction conferred by that subsection upon one Judge alone.
- (c) (i) by inserting in section forty after the word Sec. 40.

 "shall" the words ", subject to subsection (Rules to have force of law.)
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All rules and orders so made and all rules made under section twenty of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders or rules; and
 - (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 after the commencement of the next session.

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

5. (1) The Common Law Procedure Act, 1899, as Further amended by subsequent Acts, is further amended-

of Act No. 21, 18 99.

(a) by omitting section ninety five and by inserting substiltuted 10 in lieu thereof the following section:

95. (1) No action at any time pending in the Equitable Court shall be restrained by injunction or order defend of the Court in equity, but every matter of instea equity on which an injunction against the prose- injunction, &c. cution of any such action might have been cf. 15 & 16 obtained, whether unconditionally or on any Geo. V c. 49, terms or conditions, before the commencement of the Supreme Court Procedure Act, 1957, may be relied on by way of defence thereto:

Provided that

(a) nothing in this Act shall disable the Court or a Judge, if it or he thinks fit so to do, from directing a stay of proceedings in any action pending;

(b) any person, whether a party or not to any such action, who would before the commencement of the Supreme Court Procedure Act, 1957, have been entitled to apply to the Court in equity 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 action have been taken, may apply to the Court or a Judge in the prescribed manner for a stay of proceedings in the action, either generally

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or so far as may be necessary for the purposes of justice, and the Court or the Judge, as the case may be, shall thereupon make such order as shall be just.

(2) Any such defence as is mentioned in subsection one of this section shall state the facts which entitle the defendant to relief and the Court may receive such defence by way of plea.

Such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.

(b) by omitting section ninety-eight and by insert Substiltuted ing in lieu thereof the following section:

98. (1) If it appears to the Court or Judge Transfer at any stage of an action that any such equitable of cer tain action into plea or equitable replication pleaded in the equity action cannot be dealt with by a Court of law jurisd lection. so as to do justice between the parties, the Court or Judge shall not strike out the plea or replication but shall make an order that the action be transferred into the jurisdiction of the Court in equity.

5. (1) The Common Law Procedure Act, 1899, as Further amended by subsequent Acts, is further amended by amendment of Act No. omitting section ninety-eight and by inserting in lieu Substituted thereof the following section:-

98. (1) Any such equitable plea or equitable Extension of power to replication may be pleaded notwithstanding that plead 30 upon the facts pleaded the relief on equitable grounds equitable plea or would not be an absolute, perpetual and unconditions transfer of tional injunction, but if upon the facts pleaded that actions into relief would not be such an injunction, the Court jurisdiction. or Judge shall make an order that the action be 35 transferred into the jurisdiction of the Court in equity.

The Court or the Judge when making the order may impose such terms as to costs and otherwise as to the Court or Judge seems reasonable.

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- (2) Where an order is made under subsection one of this section the whole record of the action shall be transferred into the jurisdiction of the Court in equity.
- 5 (3) After an action has been transferred into the jurisdiction of the Court in equity under this section—

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- (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the action to be disposed of in that jurisdiction; and
- (b) the action shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Court in equity; and
- (c) the Court in equity may make such decree,
 declaration or order as appears just and may
 in addition thereto or in substitution therefor direct judgment to be entered on its
 verdict or finding and for costs in the
 manner prescribed and such a judgment so
 entered shall have the like force and effect
 in all respects as the signing of judgment in
 a Court of law and execution may issue
 thereon in the manner prescribed.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Court in equity may deal with those costs.

- (2) The Equity Act, 1901, as amended by subse-Amendment quent Acts, is amended—

 (2) The Equity Act, 1901, as amended by subse-Amendment of Act No. 24, 1901.
- (a) (i) by omitting from section eight the words Sec. 8.

 "any proceeding before it" and by insert- (Power to decide legal ing in lieu thereof the words "any suit or titles, &c.)

 proceeding

proceeding before it or has to be decided in any action transferred into its jurisdiction under section ninety-eight of the Common Law Procedure Act, 1899-1957,";

- (ii) by omitting from the same section the words "no suit in equity" and by inserting in lieu thereof the words "no suit or proceeding in equity and no action so transferred";
- 10 (b) by inserting next after section eight the fol-New sec. 8a. lowing new section:—
 - 8A. (1) If it appears to the Court at any Transfer of certain stage of any suit or proceeding in the Court that suits, &c., the Court has no jurisdiction to deal with the law subject matter of the suit or proceeding and jurisdiction. that the appropriate remedy in respect thereof lies in the Common Law jurisdiction of the Supreme Court, the Court shall make an order that the suit or proceeding be transferred into that jurisdiction.

The Court when making the order may impose such terms as to costs and otherwise as to the Court seems reasonable.

- (2) Where an order is made under subsection one of this section the whole record of the suit or proceeding shall be transferred into the Common Law jurisdiction of the Supreme Court.
- (3) After a suit or proceeding has been transferred into the Common Law jurisdiction of the Supreme Court under this section—
 - (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the suit or proceeding to be disposed of in that jurisdiction; and (b)

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(b) the suit or proceeding shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Supreme Court at Common Law.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Judge presiding at the trial or the Supreme Court at Common Law may make such order as to those costs as may be just.

(c) by inserting at the end of section nine the follow- Sec. 9. ing new paragraph:—

Nothing in this section shall be construed as award limiting the operation of any other section of damages in delica A. d this Act.

Court to

(d) (i) by omitting from subsection one of section Sec. 39. thirty-nine the words "right or claim," and (Set-off by inserting in lieu thereof the words counter-"equitable or legal right or claim, whether claim.) or not connected with the claim of the plaintiff,";

- (ii) by inserting in subsection two of the same section after the words "ought not" the words "in the circumstances of the case";
- (e) by omitting subsection three of section ninetyfour and by inserting in lieu thereof the following subsection:
 - (3) All rules made under this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session,

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and

and if not, then within fourteen sitting days 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 rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.

6. The Justices Act, 1902, as amended by subsequent Amendment Acts, is amended—

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of Act No. 27, 1902.

(a) (i) by inserting next after subsection one of Sec. 101. section one hundred and one the following (Party dissatisfied new subsection:-

with determina-

> of Supreme Court.)

15 (1A) The application need not be served tion of upon the Justice or Justices personally, but Justices on shall be deemed to have been properly law may made if served upon the clerk of the court apply to have a case at which the determination of the Justice stated for 20 or Justices was made.

> (ii) by inserting at the end of the same section the following new subsection:

- (3) Written notice that application has been made for a case to be stated and signed pursuant to subsection one of this section shall be given by the appellant to the respondent within the time prescribed by rules of the Supreme Court.
- (b) by omitting from subsection one of section one sec. 102. hundred and two the words "Before any such (Before 30 case is stated and delivered to the appellant, he stated shall enter into a recognizance" and by insert-appellant ing in lieu thereof the words "The appellant security.) shall, within twenty-eight days after the determination appealed from, enter into a recog-35 nizance";

(c)

	(c) by omitting section one hundred and five and substituted by inserting in lieu thereof the following sec. 105. section:—
5	105. When the appellant has received the case Appellant or has been notified in writing that it has been to transmit case to stated and signed and is available, he shall— Prothonotary and
10	(a) within such period thereafter as may give notice. be prescribed by rules of the Supreme Court transmit such case to the Protho-
10	notary of the Supreme Court; and (b) within such period and in such manner as may be prescribed by rules of the Supreme Court serve the respondent with such number of copies of the case
15	as may be prescribed by those rules. (d) (i) by omitting from subsection two of section sec. 107. one hundred and seven the words "Supreme (Powers of Court" and by inserting in lieu thereof the Court may be exercised words "Judges of the Supreme Court or by Judge in
20	any five of them"; (ii) by inserting at the end of the same section the following new subsection:— (3) Rules and orders made under this
25	section shall— (a) be published in the Gazette; (b) take effect from the date of publication or from a later date to be specified in the rules and orders; and
30	(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 after
35	the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given

resolution of which notice has been given

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at any time within fifteen sitting days after the rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.

(e) (i) by omitting from subsection one of section Sec. 112. one hundred and twelve the words "apply— (Any person aggrieved by conviction)

or, in vacation, to a Judge thereof; or order may apply
(b) in the following cases, whether in for term or in vacation, to a Judge—
prohibition.)

- (i) where imprisonment has been directed;
- (ii) where the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds,"

and by inserting in lieu thereof the words "apply to the Supreme Court";

(ii) by inserting at the end of subsection five of the same section the following new paragraph:—

Nothing in this subsection—

- (a) authorises the Supreme Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the return of any rule or order granted or made under this section:
- (b) affects the construction of sections one hundred and fourteen and one hundred and fifteen of this Act;
- 35 (iii) by omitting subsection six of the same section;

(f)

- (f) by omitting section one hundred and fourteen Substituted and by inserting in lieu thereof the following sec. 114. section:—
- Judges of the Supreme Court or any five of whom rule them, any rule or order granted or made by the returnable. Court or a Judge under section one hundred and twelve of this Act may be made returnable before the Court or any such Judge.
- 10 (g) by omitting section one hundred and sixteen substituted and by inserting in lieu thereof the following sec. 116. section:—
- 116. (1) Where so provided by rules of Certain court made by the Judges of the Supreme Court writs made or any five of them, any person aggrieved by by a Judge any decision or determination by one Judge reviewed alone made pursuant to sections one hundred by the and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court.

 20 Any such appeal shall be in accordance with rules of court made by the Judges of the Supreme Court or any five of them.
 - (2) A Judge before whom any rule or order is made returnable pursuant to section one hundred and fourteen of this Act may, at any stage of the proceedings, refer the matter to the Court to be determined.

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- (h) by inserting next after section one hundred and New seventeen the following new section:— sec. 117A.
- 30 117a. The provisions of subsection three of Publication, section one hundred and seven of this Act apply commencement and in respect of rules of court made under disallowance this Division of this Part.

(i)

	Supreme Court 1 roceaure.	
	(i) (i) by inserting next after subsection two of section one hundred and twenty-two the following new subsection:—	
5	(2a) Where but for the provisions of this subsection an appeal may not proceed by reason only that—	
	(a) the appellant was not served with notice of the time and place of hearing of the appeal; and	
10	(b) the Court is not satisfied that—	
	(i) the appellant had know- ledge of such time and place; or	
15	(ii) where the Court is satisfied that he had such know-ledge, he would not be prejudiced by the non-service,	
20	the appeal may nevertheless proceed if the Court is satisfied that the appellant is evad- ing service of the notice or cannot, after diligent search and inquiry, be found.	
25	(ii) by inserting in subsection four of the same section after the word "hearing" the words "or, where a later address has been notified by any such person or his attorney to the Clerk of the Peace, to the last address so notified".	
	7. The Commercial Causes Act, 1903, is amended—	Amendment of Act No. 19, 1903.
30	(a) by omitting section three and by inserting in lieu thereof the following section:—	Subst. sec. 3.
35	3. Commercial causes mean causes arising out of the ordinary transactions of merchants and traders, such as those relating to the construction of mercantile documents, export and import of merchandise, affreightment, insurance, banking and mercantile agency and mercantile	The state of the s
	usages	

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usages, and include all causes of the kind held to be commercial causes before the commencement of the Supreme Court Procedure Act, 1957.

- (a) by omitting from section three the word Sec. 3. 5 "include" and by inserting in lieu thereof the causes.) word "mean".
 - (b) (i) by inserting at the end of paragraph (d) of Sec. 6. (Direcsection six the wordstions.)

"or lists of documents to be exchanged and inspection allowed";

- (ii) by omitting paragraph (g) of the same section and by inserting in lieu thereof the following paragraph:-
 - (g) order the trial to be either with or without a jury or that special issues be tried by a jury.
- (c) (i) by omitting from section eight the word sec. 8. "three" and by inserting in lieu thereof (Rules of the word "five";
 - (ii) by inserting at the end of the same section the following new subsection:-
 - (2) All such rules of court shall—
 - (a) be published in the Gazette:
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House

78—B disallowing

disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

8. The Matrimonial Causes Act 1899, as amended by Amendment 5 subsequent Acts, is amended by omitting subsection four of Act No. 14, 1899. of section ninety-one and by inserting in lieu thereof the Sec. 91. following subsection:

(Power to (4) All rules made under this section shall make rules.)

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be 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 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 rules have been laid 20 before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

9. The Supreme Court Procedure Act, 1900, as Amendment 25 amended by subsequent Acts, is amended by omitting of Act No. section seventeen and by inserting in lieu thereof the 49,1900. following section:-

17. All rules of court made under the powers Rules to herein contained shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or Parliament, from a later date to be specified in the &c. rules; and

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not

Substituted

be published in Gazette and laid

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not, then within fourteen sitting days 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

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10. The Jury Act, 1912, as amended by subsequent Amendment 10 Acts, is amended by inserting in subsection two of section of Act No. 31, fifty-five after the word "capital" the words "or 1912. murder". (Challenge in criminal cases.)

11. The Crimes Act, 1900, as amended by subsequent Amendment Acts, is amended by omitting from subsection three of 40, 1900. 15 section five hundred and sixty-eight the words "not Sec. 568. punishable with death," and by inserting in lieu thereof tion, &c., of the words "(other than a crime or misdemean any which the words "(other than a crime or misdemeanour which Suarter Sessions.) is punishable with death or which was so punishable immediately before the commencement of the Crimes 20 (Amendment) Act, 1955),".

11. 12. The Land and Valuation Court Act, 1921, as Amendment amended by subsequent Acts, is amended— 10, 1921.

(a) (i) by inserting in subsection three of section sec. 4. four after the word "powers" the word (Constitu-", immunities"; Land and

Valuation (ii) by inserting in subsection (3A) of the same Court and section after the word "powers" the word appointment of judge.) ", immunities";

(iii) by omitting the proviso to paragraph (a) of subsection five of the same section;

(iv) by omitting the proviso to paragraph (a) of subsection six of the same section:

(b)

- (b) by inserting next after section nine the follow- New ing new section:—
 - 9A. (1) The court may in every case obtain Assistance the assistance of conveyancing counsel, accountof scientific persons. ants, engineers, actuaries, or other scientific of. Act. No. persons the better to enable it to determine any 24, 1901, matter at issue in any proceeding before it and may act upon the certificate of any such person.
- (2) The allowance in respect of fees to such persons shall be regulated by the registrar, subject to an appeal to the court.

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- 12. 13. The Acts (as amended by subsequent Acts, if Amendment any) specified in the first and second columns of the First of Acts specified Schedule to this Act are amended as respectively speciin First Schedule.
 - 13. 14. (1) Rules of court, general rules and orders, Savings. rules, orders or regulations made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power howsoever con-
- 20 ferred on such Supreme Court, Judge or Judges, and in force at the commencement of this Act, shall not be affected by the repeal and substitution by this Act of any provision under which they were made, or by any alteration in the number of Judges authorised to make them,
- 25 or by the provisions of this Act requiring them to be published in the Gazette and laid before both Houses of Parliament and making them subject to disallowance by resolution of either House of Parliament but may be amended, repealed or replaced by rules of court, general 30 rules and orders, rules, orders or regulations, as the case may be, lawfully made after that commencement.
- (2) Unless the contrary intention appears, the repeal of any enactment by this Act shall not revive anything not in force or existing at the time at which the 35 repeal takes effect.

FIRST SCHEDULE.

Sec. 12.

Reference to Act.	Short Title.	Amendment.
No. 21, 1899	Common Law Procedure Act, 1899.	Section 1— Omit the matter relating to Part XV. Section 4, subsection (1)— (a) Insert after the words "juris-
		diction of the Court" the words "or if the defendant is a corporation residing or incorporated or registered within the jurisdiction of the Court or if the defendant is a corporation registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts" (b) Omit the words "Form No. 1 contained in the Second Schedule to this Act" and insert in lieu thereof the words "form prescribed".
		Section 4, subsection (2)— Omit the subsection. Section 10— Omit the words "Form No. 2 contained in the Second Schedule hereto, or to the like effect" and
		insert in lieu thereof the words "the form prescribed". Section 11— Omit the word "six" and insert in lieu thereof the word "twelve".
		Section 12, subsection (1)— (a) Omit the word "six" and insert in lieu thereof the word "twelve".
		(b) Omit the words "including the day of such date".
		Section 12, subsection (2)— (a) Omit the word "six" and insert in lieu thereof the word "twelve".

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	Section 12, subsection (2)—continued. (b) Omit the words "by being marked by the proper officer with the date of such renewal upon delivery to him by the plaintiff or his attorney of a praecipe in such form as before the commencement of the Common Law Procedure Act of 1853 was required to be delivered upon the obtaining of an alias writ" and insert in lieu thereof the words "by being marked as prescribed". Section 14— Omit the words "by the proper officer".
	Section 14— Omit the words "by the proper
	Sections 17, 18 and 19— Omit these sections and insert in lieu thereof the following sections:— 17. The service of a writ of Mode of
a Trans	summons shall, wherever it is service. practicable, be personal, but where prompt personal service cannot be effected substituted service may be effected as prescribed.
	18. (1) In any action against Actions a defendant who— against (a) being a corporation is not defendant resident incorporated or reg- istered within the jurisdiction
	of the Court and is not registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts; or
en e	(b) being any other person is not resident within the jurisdiction of the Court, the plaintiff may issue a writ of

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued. (2) Either the writ of summons or a notice thereof in the form prescribed shall be served upon the defendant as may be prescribed.
		(3) Until otherwise prescribed the writ of summons shall be served in the following cases:—
		(a) Where the writ of summons may be served under the provisions of the Service and Execution of Process Act 1901 (as amended by subsequent Acts) of the Parliament of the Commonwealth.
		(b) Where the defendant is a British subject or being a corporation is incorporated in the United Kingdom or in Australia or in any of the other realms and territories of Her Majesty the Queen.
		(c) Where the defendant is in the United Kingdom or in Australia or in any of the other realms and territories of Her Majesty the Queen.
		(4) If the defendant does not appear to the writ of summons within the time prescribed, a Judge, upon being satisfied—
		(a) that there is a cause of action which arose within the jurisdiction, or in respect of the breach of a contract made within the jurisdiction; and

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FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued
		(b) that service of the write notice thereof, as the ca may be, was duly effected that the write or the noti- thereof came to the defendant knowledge,
		may, if he thinks fit, by order permit the plaintiff to proceed to sign final or interlocutor judgment in such manner and subject to such conditions may be prescribed or as he in a the circumstances may deem fit
	ni na kao di k magazina da da Managazina da da	Section 20— Insert after the word "by the words "or under".
9	to direct on sold	Section 21— Omit the words "If either of the Forms of writ of summons Nos. 3, and 4, contained in the Secon Schedule hereto," and insert lieu thereof the words "If of the prescribed forms of woods summons".
		Section 23— Omit the section.
		Section 24, subsection (1)— (a) Insert after the word "Court the words" or being a corporation is resident or incorporate or registered within that juri diction or is registered under Part VI of the Companies Ac 1936, as amended by subsequents.
	The Est of Action of the Control of	Acts". (b) Omit the words "Form No. contained in the Secon Schedule hereto, or to the like effect" and insert in lieu thereon the words "form prescribed".

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Reference to Act.	Short Title.	Amendment.
		Section 25, subsection (1)— Omit the words "Form No. 6 contained in the Second Schedule hereto" and insert in lieu thereof the words "form prescribed". Section 29— Omit the section and insert in lieu thereof the following section:—
		29. Appearance to a writ of Mode of summons or under the authority appearance. of this Act shall be entered by filing a notice of appearance in the form and manner prescribed. Sections 32 and 33— Omit the sections. Section 51, subsection (1)— Insert at the end thereof the words "in the manner prescribed".
		Section 51, subsections (2) and (3)— Omit the subsections. Section 69— After the word "shall" insert the words ", unless a Judge otherwise orders,".
		Sections 70 and 71— Omit the sections and insert in lieu thereof the following section:— 70. Every declaration shall Commence-commence and conclude in the ment and
y sieny Jest Joseph		forms prescribed. Section 73— Omit the section and insert in lieu thereof the following section: 73. The defendant shall plead to 'Time for the plaintiff's declaration within pleading to the time and in the manner declaration. prescribed.
	EQ est	Section 76— Omit the section. Section 81— Omit the section.

Reference to Act.	Short Title.	Amendment.
		Section 88, subsection (1)— Omit the words "Form No. 15 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 100, subsection (1)— Omit the words "Form No. 16 contained in the Second Schedule hereto, or to the like effect," and insert in lieu thereof the words "form prescribed". Section 100, subsection (3)— Omit the words "Form No. 17 contained in the said Schedule, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 104, subsection (1)— Omit the words ", or by so many and such of the persons summoned as jurors for the trial as may be thought desirable,".
- conformation). If the state of the state	The lates of the control of the cont	Sections 121 to 128 inclusive— Omit the sections. Section 129, subsection (1)— Omit the words "it shall not be necessary to issue a writ of inquiry, but". Section 129, subsection (2)— Omit "in the same manner as before a jury upon a writ of inquiry". Section 133— Omit the section and insert in lieu thereof the following section:— 133. A party in whose favour a verdict has been given, a nonsuit judgment. granted or a judgment directed to be entered may sign judgment

Reference to Act.	Short Title.	Amendment.
		Section 134— Omit the section and insert in lieu thereof the following section:— 134. A party in whose favour Execting judgment has been signed may after issue execution thereon unless judgment a Judge otherwise orders: Provided that where ten years have elapsed since judgment was signed or any change has taken place by death or otherwise in the parties entitled or liable to execution, execution shall not issue without the leave of a Judge. The party alleging himself to be entitled to execution may apply
		for such leave in the manner prescribed.
	saides the cl	Part XV—
		Omit the Part. Section 156—
		Omit the words ", so as such
	ind halo malitied	judgment be entered within two terms after such verdict".
	to the sale stay	Section 157, subsections (3), (4) and (5)—
	Palata de la compania	Omit the subsections and insert
		in lieu thereof the following
		subsection:— (3) In any such case the action
		may be maintained by the exec-
		utor or administrator mentioned in subsection one of this section
	4191	or against the executor or admin-
	(f) amidosai	istrator mentioned in subsection
	n A mark " appa	two of this section or by the
		firstmentioned executor or administrator against the second-
		mentioned executor or adminis-
	to the tay sent "	trator, as the case may be, upon
	velo conta son	the filing of a suggestion of the
	I W THE FELL OF	death of the plaintiff or defendant

Reference to Act.	Short Title.	Amendment.
		Section 157, subsections (3), (4) and (5)—continued. representation. A copy of any suggestion so filed shall be served upon all other parties to the action and the truth of the suggestion shall not be in issue unless notice of such issue is given to the person filing the suggestion within fourteen days of service of such copy or within such time as may be prescribed.
	of freeld of freeld	Section 159, subsection (2)— Omit the words "or writ of revivor pursuant to this Act".
		Section 184, subsection (1)— Omit the word "writ" and insert in lieu thereof the word "summons".
		Section 184, subsection (2)— Omit the subsection and insert in lieu thereof the following subsection:— (2) Such summons shall be issued, and the procedure thereon shall be, in the manner prescribed.
		Section 186— Omit the section.
	color to a long to a series of the series of	Section 210, subsection (1)— (a) Omit the words "Form No. 21 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". (b) Omit the words "sixteen days" and insert in lieu thereof the words "the time prescribed".

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Section 210, subsection (2)—
	awa tinggo ya manik	Omit the word "three" and
		insert in lieu thereof the word
	ero av i hi	"twelve".
	web art diese	Section 212—
		Omit the section and insert in lieu
	Last Librarias The	thereof the following section:— 212. The writ shall, wherever Service of
	a maggai and b	practicable, be served personally writ.
	governá stronosti.	on the persons named therein but
		where prompt personal service
		cannot be effected substituted
		service may be effected in the
		manner prescribed or in such
	des tresta con no	manner as may be provided for
	-1100000	the purpose by any other Act.
	es de papi desar-	Section 219—
	80-1011-0-111-0-0	(a) Insert after the word "judg-
	Plant of All Str	ment" where firstly occurring
	Their country	the words "in the form pre-
		scribed".
	Mark Alexander Francisco	(b) Omit the words "Such judgment if for all may be in the
	The state of the s	Form No. 22 contained in the
	a maintain the little of the	Second Schedule hereto, or to
		the like effect, and if for part
		may be in the Form No. 23
		contained in the said Schedule,
		or to the like effect."
		Section 220, subsection (2)—
	Carrier will be	Omit the subsection and insert
		in lieu thereof the following
	andelse.	subsection:—
	bro. a third was	(2) Such issue may be in the
	st terribute out	form prescribed. Section 221—
		Omit the words "used before the
		commencement of the Common
		Law Procedure Act of 1853"
		and insert in lieu thereof the
	Committee of the committee of	word "prescribed".
	1 descent 9 de , 2	Section 223—
		Omit the section.

FIRST

Reference to Act.	Short Title.	Amendment.
. To salvia		Section 229— Omit the words "within such time as the Court or Judge before whom the cause is tried shall order, and if no such order be made then on the fifth day in term after the verdict or within fourteen days after such verdict whichever shall first happen" and insert in lieu thereof the words "at such time as may be prescribed and in the manner prescribed". Section 243— Omit the section and insert in lieu thereof the following section:—
		243. The claimant may at any Discontintime discontinue the action as to uance of one or more of the defendants action. in the manner prescribed.
		Section 245— Omit the section and insert in lieu thereof the following section:—
	de la company de	245. Where an appearance has Judgment been entered and the claimant for not omits to set the action down for proceeding trial in the manner and within the to trial after time prescribed the defendant may give him such notice as may
	and the missession of the control of	be prescribed to set the action down within a time prescribed for this purpose and if the claimant fails so to do the defendant may suggest such failure and sign judgment in the manner prescribed.
		Section 246— Omit the words "Form No. 28 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed".

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 252, 253 and 254— Omit the sections and insert in lieu thereof the following sections:— 252. Every application for an Application order nisi for a writ of habeas for order nisi for a writ of habeas for writ of Such application may be made exparte in the manner prescribed. 253. (1) Every order nisi for a Return of writ of habeas corpus shall be order nisi. returnable before a Judge sitting in public chambers whether in Termor not unless the Judge considers that it should be returnable before the Full Court. (2) On the return of such order the Judge or the Court may dispose of the case as the circumstances appear to require and may make such order as to costs as the Judge or Court thinks fit. 254. Any order made by a Appeal Judge under section two hundred and fifty-two or two hundred and fifty-three of this Act shall be subject to appeal to the Full Court within the same time and in the same manner as prescribed for motions for a new trial. Section 263— Omit the section. Section 266— Omit the words "The lowest scale shall extend to all cases not exceeding fifty pounds, the second scale to all cases above fifty and not exceeding one hundred pounds, and the highest scale to all other cases." Section 268, subsections (1) and (2)— After the words "The Judges" insert the words "or any five of them".

FIRST

Reference to Act.	Short Title.	Amendment.
No. 29, 1902	Arbitration Act,	
	1902.	Insert after the words "submission may" the words ", by leave of a Judge,".
No. 24, 1902	Arrest on Mesne Process Act, 1902.	
	er la distribuit	11. (1) Any person in respect of Application whom a special order is made under for order to section five of this Act may apply special order to a Judge for an order on the and writ or plaintiff to show cause why the for discharge. special order and any writ issued thereunder should not be set aside and for an order staying proceedings on the special order and any such writ in the meantime.
	lineary and and all lineary and	 (2) Any person arrested upon a writ of capias may apply to a Judge at any time after such arrest for an order on the plaintiff to show cause why such person should not be discharged out of custody. Section 12— Omit the section and insert in lieu thereof the following section:—
		12. Any Judge may, upon the Hearing of hearing of the application, make application. such order therein as he thinks fit and direct that the costs of the application be paid by either party.

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.	
No. 8, 1901	Judgment Creditors' Remedies Act, 1901.		
No. 35, 1900	Supreme Court	case may be,". Section 31— Omit the words "of the said Court" and insert in lieu thereof the words "of the Supreme Court or the District Court, as the case may be". Section 1—	
	and Circuit Courts Act, 1900.	Omit the matter relating to Parts IV and V and insert in lieu thereof the following matter:— PART IV.—Sittings of Court elsewhere than at Sydney—ss. 22-33. PART IVA—Gaol Delivery—s. 33A.	
		Section 19, paragraph (b)— Omit the paragraph. Insert in Part IV immediately beforesection 22 the heading "SITTINGS OF COURT ELSEWHERE THAN ATSYDNEY." Insert next after Part IV thefollowing new Part:— PART IVA. GAOL DELIVERY.	

78—C

Reference to Act.	Short Title.	Amendment.	
	33A. The governor of each prison Gaol delivershall, at the times prescribed by rules of court, make returns in writing to the Supreme Court, Sydney, as to all persons detained in such prison, otherwise than in pursuance of a sentence, giving the particulars required by such rules. If he fails to make such returns, he may be ordered by the Court to pay a fine not exceeding five hundred pounds. The Court shall, after the receipt of such returns with respect to a prison, deliver such prison. For the purpose aforesaid the Court may be constituted by one Judge sitting in open court in the exercise of the criminal jurisdiction of the court. Except as aforesaid, it shall not be obligatory on the Court or a		
		Judge to deliver any prison, or for a governor of a prison, unless so directed by the Court or a Judge, to make any such returns. Part V— Omit the Part.	
		Section 39— Omit the word "three" and insert in lieu thereof the word "five".	
		Section 39A, paragraph (a)— Omit the word "now".	
o. 9, 191 <mark>2</mark>	Supreme Court and Circuit Courts (Am- endment) Act, 1912.	Section 8— Omit the section.	
		FIRST	

FIRST	SCHEDULE—continued	

THE SCHEDCHE—commueu.		
Reference to Act.	Short Title.	Amendment.
No. 10, 1921	Land and Valua- tion Court Act, 1921.	Section 13, subsection (1)— Omit the subsection and insert in lieu thereof the following subsection:— (1) All process issuing out of the court shall be in the form prescribed, and be signed by the officer issuing the process and marked with the court office stamp.
No. 16, 1900	Sheriff Act, 1900	Section 1— Omit the matter relating to Part IV.
	7601-5001	Part IV— Omit the Part.
No. 49, 1900	Supreme Court Procedure Act, 1900.	the same that the same than the
		Omit the word "three" and insert in lieu thereof the word "five".
		Section 16— Omit the words "in the Schedule to this Act, or".
		Schedule— Omit the Schedule.
No. 31, 1912	Jury Act, 1912.	Section 32, subsection (2)— (a) Omit the words "and seal". (b) Insert at the end thereof the words "or of the prothonotary thereof".
		Section 32, subsection (3)— Omit the words "and seal".
		Fifth Schedule— Omit the words "and seal".
No. 42, 1924	Administration of Justice Act, 1924.	Section 14— Omit the section Schedule— (mit the Schedule)
		Omit the Schedule.

SECOND SCHEDULE.

CITATION OF ACTS.

Sec. 2.

First Column.

Second Column.

Arbitration Act, 1902. Arrest on Mesne Process Act, 1902.

Commercial Causes Act, 1903.

Common Law Procedure Act, 1899.

Equity Act, 1901. Judgment Creditors' Remedies Act, 1901. Jury Act, 1912.

Justices Act, 1902. Land and Valuation Court Act, 1921.

Matrimonial Causes Act 1899.

Sheriff Act, 1900. Supreme Court and Circuit Courts Act, 1900. Supreme Court Procedure Act, 1900.

Administration of Justice Act, 1924. Administration of Justice Act, 1924-1957.

Arbitration Act, 1902-1957. Arrest on Mesne Process Act,

1902-1957. Commercial Causes Act, 1903-1957.

Common Law Procedure Act, 1899-1957.

Equity Act, 1901-1957.

Judgment Creditors' Remedies Act, 1901-1957.

Jury Act, 1912-1957. Justices Act, 1902-1957.

Land and Valuation Court Act, 1921-1957.

Matrimonial Causes Act, 1899-1957.

Sheriff Act, 1900-1957.

Supreme Court and Circuit Courts Act, 1900-1957.

Supreme Court Procedure Act, 1900-1957.

This Public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

ALLAN PICKERING, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 28 February, 1957.

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1957.

An Act to make further provision in respect of the powers of the Supreme Court in certain of its jurisdictions and in respect of the practice and procedure of that Court; for these and other purposes to amend the Common Law Procedure Act, 1899, the Supreme Court and Circuit Courts Act, 1900, the Supreme Court Procedure Act, 1900, the Judgment Creditors' Remedies Act, 1901, the Equity Act, 1901, the Justices Act, 1902, the Commercial Causes Act, 1903, and certain other Acts; and for purposes connected therewith.

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BE it enacted by the Queen'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:—

- 1. (1) This Act may be cited as the "Supreme Court Short title Procedure Act, 1957."

 and commencement.
- (2) This Act shall commence on the first day of July, one thousand nine hundred and fifty-seven.
- 2. Each Act specified in the first column of the Second Citation of Schedule to this Act and as amended by subsequent Acts, amended if any, and by this Act may be cited in the manner specified in the second column of that Schedule opposite the reference to that Act in the first column.
- 15 3. The Common Law Procedure Act, 1899, as Amendment amended by subsequent Acts, is amended—

 of Act
 No. 21, 1899.
 - (a) (i) by inserting in section fifteen after the word Sec. 15.

 "service" where firstly occurring the words (Indorse"or within such enlarged time as the Court ment of service.)

 or a Judge may order";
 - (ii) by inserting in the same section after the words "under this Act" the words—
- "Any such order may be made although application therefor is not made until after the expiration of three days after such service.";

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(b) by omitting from subsection one of section one sec. 102. hundred and two the words "upon an affidavit (Discovery by such party or his attorney of his belief that of any document to the production of which he is entitled for the purpose of discovery or otherwise is in the possession or power of the opposite party,";

(c)

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- (c) by inserting next after section one hundred and New eighty-four the following new section:—
- 184A. (1) Whenever in any proceedings to Lien or obtain an attachment of debts it is suggested by claim of the garnishee that the debt sought to be attached on debt. belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear and to state the nature and particulars of his claim upon such debt.
- (2) After hearing the allegations of any third person under any such order as is mentioned in subsection one of this section, and of any other person who by the same or any sub-15 sequent order is ordered by the Judge to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue as provided in section one hundred and eighty-three of this Act, or may 20 order any issue or question arising to be tried or determined, and may bar the claim of such third person or make such other order as he may think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such 25 third person, and to costs, as the Judge shall think just and reasonable.
 - (d) by omitting section two hundred and twenty-substituted eight and by inserting in lieu thereof the follow-sec. 228. ing section:—
- 228. Upon a finding for the claimant, judg-Judgment ment may be signed and execution issue for the upon recovery of the possession of the property or claimant. such part thereof as the jury finds the claimant entitled to, and for costs, at such time as may be prescribed and in the manner prescribed.

 (e)

(e) (i) by omitting from subsection three of section Sec. 268. two hundred and sixty-eight the words "or (General before the Colonial Parliament at any time rules may be made before the commencement of the operation by the Judges.) of any such rule"; (ii) by inserting next after subsection three of the same section the following new subsection :-(3A) All general rules and orders, rules, orders or regulations made pursuant to the foregoing provisions of this section and all rules made pursuant to section two hundred and sixty-six of this Act shall-(a) be published in the Gazette; (b) take effect from the date of publication or from a later date to be specified in the general rules and orders, rules, orders or regulations; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parlia-

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

session.

ment is in session, and if not, then within fourteen sitting days after

the commencement of the next

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4.

	Supreme Court Procedure.	
		Amendment of Act No. 35, 1900.
5	 (a) (i) by omitting the proviso to subsection one of section nine; (ii) by omitting subsection four of the same section; 	Sec. 9. (Puisne Judges.)
	(b) by omitting section twenty and by inserting in lieu thereof the following section:—	Substituted sec. 20.
10	20. (1) The Court may be held by one Judge alone for the disposal of applications for a rule or order nisi for prohibition, mandamus, or certiorari notwithstanding that it may be term time, or that the Court held before two or more Judges may be at the same time sitting in banco.	Court may be exercised by single Judge in certain
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10	(a) authorises the Court to be held by one	
	Judge alone for the purpose of exercis-	
	ing the powers and jurisdiction of the	
	Court on the return of a rule or order	
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	certiorari; or (b) affects the construction of subsection	
	two of this section.	
	(2) The powers and jurisdiction of the	
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	prohibition, mandamus or certiorari to make	
	absolute, discharge, or make any order what-	
	soever in respect of, the rule or order nisi	
0.0	(whether made by the Court or a Judge) may be	
30	exercised by one Judge alone— (a) at any time when the Court is not	
	sitting in banco;	
	(b) in cases of exigency when the Court is	
	sitting in banco.	
35	(3) Any person aggrieved by any decision	
	or determination by one Judge alone made	
	pursuant to subsection one or two of this section may appeal therefrom to the Court. Any such	
	appeal shall be in accordance with rules of court.	
	(4)	

(4)

(4) The Judges or any five of them may by rules of court authorise the exercise (subject to those rules) by a Judge, in vacation or in any case of exigency, of any power which can only under ordinary circumstances be exercised by the Court.

The power to make rules of court conferred by this subsection does not include power to make rules of court with respect to—

- (a) applications for rules or orders nisi for prohibition, mandamus or certiorari;
- (b) the exercise in the circumstances mentioned in subsection two of this section of the powers and jurisdiction conferred by that subsection upon one Judge alone.
- (c) (i) by inserting in section forty after the word Sec. 40.

 "shall" the words ", subject to subsection (Rules to have force of law.)
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All rules and orders so made and all rules made under section twenty of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders or rules; and
 - (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 after the commencement of the next session.

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

5. (1) The Common Law Procedure Act, 1899, as Further amended by subsequent Acts, is further amended of Act No.

21, 1899.

- 10 (a) by omitting section ninety-five and by inserting Substituted in lieu thereof the following section:—
 - 95. (1) No action at any time pending in the Equitable Court shall be restrained by injunction or order or stay of the Court in equity, but every matter of instead of equity on which an injunction against the prose- &c. cution of any such action might have been cf. 15 & 16 obtained, whether unconditionally or on any Geo. V, c. 49, terms or conditions, before the commencement of the Supreme Court Procedure Act, 1957, may be relied on by way of defence thereto:

Provided that-

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- (a) nothing in this Act shall disable the Court or a Judge, if it or he thinks fit so to do, from directing a stay of proceedings in any action pending;
- (b) any person, whether a party or not to any such action, who would before the commencement of the Supreme Court Procedure Act, 1957, have been entitled to apply to the Court in equity 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 action have been taken, may

apply to the Court or a Judge in the prescribed manner for a stay of proceedings in the action, either generally, or so far as may be necessary for the purposes of justice, and the Court or the Judge, as the case may be, shall thereupon make such order as shall be just.

- (2) Any such defence as is mentioned in subsection one of this section shall state the facts which entitle the defendant to relief and the Court may receive such defence by way of plea.
- Such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.
 - (b) by omitting section ninety-eight and by insert-Substituted ing in lieu thereof the following section:—
- 98. (1) If it appears to the Court or Judge Transfer at any stage of an action that any such equitable of certain actions into plea or equitable replication pleaded in the equity action cannot be dealt with by a Court of law jurisdiction, so as to do justice between the parties, the Court or Judge shall not strike out the plea or replication but shall make an order that the action be transferred into the jurisdiction of the Court in equity.

The Court or the Judge when making the order may impose such terms as to costs and otherwise as to the Court or Judge seems reasonable.

(2) Where an order is made under subsection one of this section the whole record of the action shall be transferred into the jurisdiction of the Court in equity.

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(3)

- (3) After an action has been transferred into the jurisdiction of the Court in equity under this section—
- (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the action to be disposed of in that jurisdiction; and
- (b) the action shall, subject to paragraph
 (a) of this subsection, be disposed of according to the practice and procedure of the Court in equity.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Court in equity may deal with those costs.

- 20 (2) The Equity Act, 1901, as amended by subse-Amendment quent Acts, is amended—

 of Act No. 24, 1901.
- (a) (i) by omitting from section eight the words Sec. 8.

 "any proceeding before it" and by insertdecide legal
 ing in lieu thereof the words "any suit or titles, &c.)

 proceeding before it or has to be decided
 in any action transferred into its jurisdiction under section ninety-eight of the
 Common Law Procedure Act, 1899-1957,";
- (ii) by omitting from the same section the words "no suit in equity" and by inserting in lieu thereof the words "no suit or proceeding in equity and no action so transferred";

(b)

- (b) by inserting next after section eight the fol- New sec. 8A. lowing new section:—
 - SA. (1) If it appears to the Court at any Transfer stage of any suit or proceeding in the Court that of certain suits, &c., the Court has no jurisdiction to deal with the into common subject matter of the suit or proceeding and law jurisdiction. that the appropriate remedy in respect thereof lies in the Common Law jurisdiction of the Supreme Court, the Court shall make an order that the suit or proceeding be transferred into that jurisdiction.

The Court when making the order may impose such terms as to costs and otherwise as to the Court seems reasonable.

- (2) Where an order is made under subsection one of this section the whole record of the suit or proceeding shall be transferred into the Common Law jurisdiction of the Supreme Court.
- (3) After a suit or proceeding has been transferred into the Common Law jurisdiction of the Supreme Court under this section—
 - (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the suit or proceeding to be disposed of in that jurisdiction; and
 - (b) the suit or proceeding shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Supreme Court at Common Law.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection

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subsection one of this section, the Judge presiding at the trial or the Supreme Court at Common Law may make such order as to those costs as may be just.

5 (c) by inserting at the end of section nine the follow- sec. 9.
ing new paragraph:—

(Power fourt to

(Power to Court to award damages in certain cases.)

Nothing in this section shall be construed as award damage limiting the operation of any other section of certain this Act.

- (d) (i) by omitting from subsection one of section sec. 39.

 thirty-nine the words "right or claim," and (Set-off by inserting in lieu thereof the words and counter"equitable or legal right or claim, whether claim.)

 or not connected with the claim of the plaintiff,";
 - (ii) by inserting in subsection two of the same section after the words "ought not" the words "in the circumstances of the case";
- (e) by omitting subsection three of section ninetyfour and by inserting in lieu thereof the following subsection:—
 - (3) All rules made under this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.

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	Supreme Court Troccuure.	
	6. The Justices Act, 1902, as amended by subsequent Acts, is amended—	Amendment of Act No. 27, 1902.
5	(a) (i) by inserting next after subsection one of section one hundred and one the following new subsection:—	Sec. 101. (Party dissatisfied with determina-
10	(1A) The application need not be served upon the Justice or Justices personally, but shall be deemed to have been properly made if served upon the clerk of the court at which the determination of the Justice or Justices was made.	tion of Justices on point of law may apply to have a case stated for opinion of Supreme
15	 (ii) by inserting at the end of the same section the following new subsection:— (3) Written notice that application has been made for a case to be stated and signed pursuant to subsection one of this section shall be given by the appellant to the respondent within the time prescribed by rules of the Supreme Court. 	Court.)
20 25	hundred and two the words "Before any such case is stated and delivered to the appellant, he shall enter into a recognizance" and by insert- ing in lieu thereof the words "The appellant	(Before case is stated appellant
30	mination appealed from, enter into a recognizance"; (c) by omitting section one hundred and five and by inserting in lieu thereof the following	Substituted
35	105. When the appellant has received the case or has been notified in writing that it has been stated and signed and is available, he shall— (a) within such period thereafter as may	to transmit case to Prothono- tary and give notice.
อย	Court transmit such case to the Prothonotary of the Supreme Court; and (b)	

- (b) within such period and in such manner as may be prescribed by rules of the Supreme Court serve the respondent with such number of copies of the case as may be prescribed by those rules.
- (d) (i) by omitting from subsection two of section Sec. 107.
 one hundred and seven the words "Supreme (Powers of Court" and by inserting in lieu thereof the be exercised words "Judges of the Supreme Court or by Judge in any five of them";
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (3) Rules and orders made under this section shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders; and
 - (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 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 rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.

(e)

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5	(e) (i) by omitting from subsection one of section one hundred and twelve the words "apply— (a) in all cases to the Supreme Court, or, in vacation, to a Judge thereof; (b) in the following cases, whether in term or in vacation, to a Judge— (i) where imprisonment has been directed;	(Any person aggrieved by conviction or order may apply
10	(ii) where the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds,"	
15	and by inserting in lieu thereof the words "apply to the Supreme Court"; (ii) by inserting at the end of subsection five of the same section the following new para- graph:—	
20	Nothing in this subsection— (a) authorises the Supreme Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the	
25	return of any rule or order granted or made under this section; (b) affects the construction of sections one hundred and fourteen and one hundred and fifteen of this Act;	
30	(iii) by omitting subsection six of the same section;(f) by omitting section one hundred and fourteen s	substituted
35	and by inserting in lieu thereof the following section:— 114. Subject to any rules of court made by the	ec. 114.
	Judges of the Supreme Court or any five of whem, any rule or order granted or made by the Court	

Court or a Judge under section one hundred and twelve of this Act may be made returnable before the Court or any such Judge.

- (g) by omitting section one hundred and sixteen Substituted and by inserting in lieu thereof the following section:—
- 116. (1) Where so provided by rules of Certain rules and court made by the Judges of the Supreme Court writs made or any five of them, any person aggrieved by by a Judge any decision or determination by one Judge reviewed alone made pursuant to sections one hundred by the and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court. Any such appeal shall be in accordance with rules of court made by the Judges of the Supreme Court or any five of them.

(2) A Judge before whom any rule or order is made returnable pursuant to section one hundred and fourteen of this Act may, at any stage of the proceedings, refer the matter to the Court to be determined.

- (h) by inserting next after section one hundred and New seventeen the following new section:—
- section one hundred and seven of this Act apply commenceto and in respect of rules of court made under disallowance this Division of this Part.
 - (i) (i) by inserting next after subsection two of Sec. 122.
 section one hundred and twenty-two the Quarter following new subsection:—

 Section two of Sec. 122.

 (Appeal to Quarter Sessions.)
 - (2A) Where but for the provisions of this subsection an appeal may not proceed by reason only that—
 - (a) the appellant was not served with notice of the time and place of hearing of the appeal; and

(b)

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- (b) the Court is not satisfied that-
 - (i) the appellant had knowledge of such time and place; or
 - (ii) where the Court is satisfied that he had such knowledge, he would not be prejudiced by the non-service,

the appeal may nevertheless proceed if the Court is satisfied that the appellant is evading service of the notice or cannot, after diligent search and inquiry, be found.

- (ii) by inserting in subsection four of the same section after the word "hearing" the words " or, where a later address has been notified by any such person or his attorney to the Clerk of the Peace, to the last address so notified".
- 7. The Commercial Causes Act, 1903, is amended—Amendment of Act No.
- 20 (a) by omitting section three and by inserting in Subst. lieu thereof the following section:—

3. Commercial causes mean causes arising out Commercial of the ordinary transactions of merchants and traders, such as those relating to the construction of mercantile documents, export and import of merchandise, affreightment, insurance, banking and mercantile agency and mercantile usages, and include all causes of the kind held to be commercial causes before the commencement of the Supreme Court Procedure Act, 1957.

(b) (i) by inserting at the end of paragraph (d) of sec. 6. section six the words—

(Directions.)

"or lists of documents to be exchanged and inspection allowed";

(ii)

Supreme	Court	Pro	cedure.	
Supreme	Court	110	ocami c.	۰

by omitting paragraph (g) of the same
section and by inserting in lieu thereof the
following paragraph:—

- (g) order the trial to be either with or without a jury or that special issues be tried by a jury.
- (c) (i) by omitting from section eight the word Sec. 8. "three" and by inserting in lieu thereof (Rules of Court.) the word "five";
- (ii) by inserting at the end of the same section 10 the following new subsection:-

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- (2) All such rules of court shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

8. The Matrimonial Causes Act 1899, as amended by Amendment subsequent Acts, is amended by omitting subsection four 14, 1899. of section ninety-one and by inserting in lieu thereof the Sec. 91. following subsection: (Power to make rules.)

(4) All rules made under this section shall—

(a) be published in the Gazette; 78—B (b)

- (b) take effect from the date of publication or from a later date to be specified in the rules;and
- (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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

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- 15 9. The Supreme Court Procedure Act, 1900, as Amendment amended by subsequent Acts, is amended by omitting of Act No. section seventeen and by inserting in lieu thereof the Substituted following section:—

 Sec. 17.
- 17. All rules of court made under the powers Rules to herein contained shall—

be published in Gazette and laid before Parliament,

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the rules; and
- (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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

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10. The Jury Act, 1912, as amended by subsequent Amendment of Act, is amended by inserting in subsection two of section No. 31, fifty-five after the word "capital" the words "or 1912.

murder".

Sec. 55.

(Challenge in criminal cases.)

- 5 11. The Land and Valuation Court Act, 1921, as Amendment amended by subsequent Acts, is amended—

 of Act No. 10, 1921.
 - (a) (i) by inserting in subsection three of section Sec. 4.
 four after the word "powers" the word (Constitution of Land and Valuation
- (ii) by inserting in subsection (3A) of the same appointment section after the word "powers" the word of judge.)
 ", immunities";
 - (iii) by omitting the proviso to paragraph (a) of subsection five of the same section;
- (iv) by omitting the proviso to paragraph (a) of subsection six of the same section;
 - (b) by inserting next after section nine the follow- New ing new section:—
- 9A. (1) The court may in every case obtain Assistance the assistance of conveyancing counsel, accountants, engineers, actuaries, or other scientific ef. Act. No. persons the better to enable it to determine any 24, 1901, matter at issue in any proceeding before it and s. 7.
 may act upon the certificate of any such person.
- 25 (2) The allowance in respect of fees to such persons shall be regulated by the registrar, subject to an appeal to the court.
- 12. The Acts (as amended by subsequent Acts, if Amendment any) specified in the first and second columns of the First specified
 30 Schedule to this Act are amended as respectively speciin First fied in the third column of that Schedule.

13.

- 13. (1) Rules of court, general rules and orders, Savings. rules, orders or regulations made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power howsoever con-5 ferred on such Supreme Court, Judge or Judges, and in force at the commencement of this Act, shall not be affected by the repeal and substitution by this Act of any provision under which they were made, or by any alteration in the number of Judges authorised to make them. 10 or by the provisions of this Act requiring them to be published in the Gazette and laid before both Houses of Parliament and making them subject to disallowance by resolution of either House of Parliament but may be amended, repealed or replaced by rules of court, general 15 rules and orders, rules, orders or regulations, as the case may be, lawfully made after that commencement.
- (2) Unless the contrary intention appears, the repeal of any enactment by this Act shall not revive anything not in force or existing at the time at which the 20 repeal takes effect.

FIRST SCHEDULE.

Sec. 12.

Reference to Act.	Short Title.	Amendment.
No. 21, 1899	Common Law Procedure Act, 1899.	
	t vd med at the	Section 4, subsection (1)—
	years to side of old the most dear of the transfer of the street of	(a) Insert after the words "jurisdiction of the Court" the words "or if the defendant is a corporation residing or incorpor-
	ost beringer s diditio add nego-	ated or registered within the jurisdiction of the Court or if the defendant is a corporation
	sked as presented	registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts'
	quag aib ngi" nbu	(b) Omit the words "Form No. 1 contained in the Second Schedule to this Act" and
	- Z ban	insert in lieu thereof the words "form prescribed".
	e gelentit ett	Section 4, subsection (2)— Omit the subsection.
	religion of the second	Section 10— Omit the words "Form No. 2 contained in the Second Schedule
	onno otivicona o colrise Leinile Sallesson	hereto, or to the like effect" and insert in lieu thereof the words "the form prescribed".
	- culor	Section 11— Omit the word "six" and insert in lieu thereof the word "twelve".
	es sporeted or filled the following the filled to the filled to the filled the filled the filled to	Section 12, subsection (1)— (a) Omit the word "six" and insert
	Annual Design To TV	in lieu thereof the word "twelve". (b) Omit the words "including the
	्रा विकास मुज्यान	day of such date ".
	into the control	Section 12, subsection (2)— (a) Omit the word "six" and
	grand are tog	insert in lieu thereof the word "twelve".

Reference to Act.	Short Title.	Amendment.
		Section 12, subsection (2)—continued. (b) Omit the words "by being marked by the proper officer with the date of such renewal upon delivery to him by the plaintiff or his attorney of a praecipe in such form as before the commencement of the Common Law Procedure Act of 1853 was required to be delivered upon the obtaining of an alias writ" and insert in lieu thereof the words "by
	30.21	being marked as prescribed.".
		Section 14— Omit the words "by the proper officer".
	na con majore.	Sections 17, 18 and 19— Omit these sections and insert in lieu thereof the following sec-
	en look	tions:— 17. The service of a writ of Mode of
	ried floored in	summons shall, wherever it is service. practicable, be personal, but where prompt personal service cannot be effected substituted service may
		be effected as prescribed. 18. (1) In any action against Actions
	and length ob 13	a defendant who— (a) being a corporation is not defendant resident incorporated or reg-not with interest and price of the
211		of the Court and is not registered under Part VI of the Companies
		Act, 1936, as amended by subsequent Acts; or (b) being any other person is not
i		resident within the jurisdiction of the Court, the plaintiff may issue a writ of
		summons in the form prescribed.

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued. (2) Either the writ of summor or a notice thereof in the form prescribed shall be served upon the defendant as may be prescribed.
		(3) Until otherwise prescribe the writ of summons shall be served in the following cases:—
		(a) Where the writ of summon may be served under the provisions of the Service an Execution of Process Act 190 (as amended by subsequen Acts) of the Parliament of the Commonwealth.
		(b) Where the defendant is British subject or being corporation is incorporated i the United Kingdom or i Australia or in any of th other realms and territorie of Her Majesty the Queen.
		(c) Where the defendant is in th United Kingdom or in Australi or in any of the other realm and territories of Her Majest the Queen.
		(4) If the defendant does no appear to the writ of summon within the time prescribed, Judge, upon being satisfied—
		(a) that there is a cause of action which arose within the jurisdiction, or in respect of the breach of a contract mad within the jurisdiction;

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued
		(b) that service of the writ of
	And the second of the	notice thereof, as the case
	a krastice for an 750th	may be, was duly effected of
		may be, was duly effected of that the writ or the notice
		thereof came to the defendant
		knowledge,
		may, if he thinks fit, by order
	The first think is	permit the plaintiff to procee
	i dala ina masa. I	to sign final or interlocutor
		judgment in such manner an
		subject to such conditions a may be prescribed or as he in a
	1 1 1 1 1 1 1 1 1 1	the circumstances may deem fi
	TO THE THE RELL COVIDE	Section 20—
	The same of the	Insert after the word "by
		the words "or under".
	to a small of all	Section 21—
	esina	Omit the words "If either of th
		Forms of writ of summons Nos.
		3, and 4, contained in the Secon
	20 12 120 200 13	Schedule hereto," and insert i
	LIGHT SATURAGE 22 W	lieu thereof the words "If or
		of the prescribed forms of wr
	form I has med	of summons ".
	terms in a frequent	Section 23—
		Omit the section.
	Handwick that the	Section 24, subsection (1)—
	The same of the sa	(a) Insert after the word "Court
	A STATE OF THE STA	the words "or being a corpora
	of ham for the con-	tion is resident or incorporate or registered within that juris
		diction or is registered under
	a series de destable	Part VI of the Companies Ac
	ment in the firm of	1936, as amended by subsequen
	chaff mag en it	Acts".
	- postežina julidi.	(b) Omit the words "Form No.
	in the curt a si	contained in the Second
	L. All Sing on	Schedule hereto, or to the lik
. 0	d lo l'agat di t	effect "and insert in lieu thereo the words "form prescribed".
	32 0000 00 0	the words form prescribed.
	4 4 4 4 4	

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Section 25, subsection (1)—
	(I) spanned	Omit the words "Form No. 6
	nil mon " sour	contained in the Second Schedule
	entre Arteological	hereto" and insert in lieu thereof
	29	the words "form prescribed".
NATURAL DESIGNATION OF THE PARTY OF THE PART		Section 29—
		Omit the section and insert in lieu
		thereof the following section:—
		29. Appearance to a writ of Mode of
		summons or under the authority appearance.
		of this Act shall be entered by
		filing a notice of appearance in
	Life's portropolat	the form and manner prescribed.
77	rosda "Borra Ma	Sections 32 and 33—
	n the said Seized	Omit the sections.
	ar bus "doore or	Section 51, subsection (1)—
200	it " whow sult he	Insert at the end thereof the words
		"in the manner prescribed".
	(1) milandu	Section 51, subsections (2) and (3)—
12.4	er as yet to , " the	Omit the subsections.
bein	emple anexageal	Section 69—
56	ten es last ner t	After the word "shall" insert the
	, nl. shi	words ", unless a Judge otherwise
	orienteni (21 a	orders,".
	knoko	Sections 70 and 71—
	(7) contounds	Omit the sections and insert in lieu
	The sime second	thereof the following section:
	diri e obyć si 🔻	70. Every declaration shall Commence-
		commence and conclude in the ment and
	C) modernica	forms prescribed conclusion of
	the state state of	Section 73— declaration.
	and a neck year	Omit the section and insert in lieu
		thereof the following section:—
		73. The defendant shall plead to Time for
	ni meni isan ma	the plaintiff's declaration within pleading to
	and the particular	the time and in the manner declaration.
	event sad to sign	prescribed.
-	mur a moraly made	Section 76—
in the	a far moon die	Omit the section.
	त्यां व्याप्त राज्या	Section 81—
-0.3	Study place least	Omit the section.
	THE REPORT OF THE PROPERTY OF THE PERSON OF	Out of bootion.

Reference to Act.	Short Title.	Amendment.
		Section 88, subsection (1)— Omit the words "Form No. 15 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 100, subsection (1)— Omit the words "Form No. 16 contained in the Second Schedule hereto, or to the like effect," and insert in lieu thereof the words "form prescribed". Section 100, subsection (3)— Omit the words "Form No. 17 contained in the said Schedule, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 104, subsection (1)— Omit the words ", or by so many and such of the persons summoned as jurors for the trial as may be
		thought desirable,". Sections 121 to 128 inclusive— Omit the sections. Section 129, subsection (1)— Omit the words "it shall not be necessary to issue a writ of inquiry, but".
		Section 129, subsection (2)— Omit "in the same manner as before a jury upon a writ of inquiry". Section 133— Omit the section and insert in lieu thereof the following section:— 133. A party in whose favour a Signing verdict has been given, a nonsuit judgment.
		granted or a judgment directed to be entered may sign judgment in the manner and time pre- scribed.

Reference to Act.	Short Title.	Amendment.
		Section 134—
		Omit the section and insert in
yan		lieu thereof the following section:— 134. A party in whose favour Executi
867		judgment has been signed may after
100		issue execution thereon unless judgmen a Judge otherwise orders:
15.97		Provided that where ten years
cont		have elapsed since judgment was signed or any change has taken
100		place by death or otherwise in
		the parties entitled or liable to
		execution, execution shall not issue without the leave of a Judge.
100		The party alleging himself to be
		entitled to execution may apply for such leave in the manner
		prescribed.
313X		Part XV— Omit the Part.
		Section 156—
		Omit the words ", so as such judgment be entered within two
		terms after such verdict".
		Section 157, subsections (3), (4)
		and (5)— Omit the subsections and insert
		in lieu thereof the following
		subsection:— (3) In any such case the action
		may be maintained by the exec-
		utor or administrator mentioned in subsection one of this section
		or against the executor or admin-
		istrator mentioned in subsection two of this section or by the
		firstmentioned executor or ad-
		ministrator against the second- mentioned executor or adminis-
		trator, as the case may be, upon
		the filing of a suggestion of the
		death of the plaintiff or defendant or both, as the case may be, and

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
	osci kan milites	Section 157, subsections (3), (4) and (5)—continued.
	tites an edicinal to a very constant the a very constan	representation. A copy of any suggestion so filed shall be served upon all other parties to the action and the truth of the suggestion shall not be in issue unless notice of such issue is given to the person filing the suggestion within fourteen days of service of such copy or within such time as may be prescribed.
	ut a bo event a 1 a a flour a gregolia a yare no rozozo	Section 159, subsection (2)— Omit the words "or writ of revivor pursuant to this Act".
	10.15	Section 184, subsection (1)— Omit the word "writ" and insert in lieu thereof the word "summons".
43	militar Serotas a	Section 184, subsection (2)— Omit the subsection and insert in lieu thereof the following subsection:—
	of from enologicalist colloi, o la Augra tus puis ouro destra	(2) Such summons shall be issued, and the procedure thereon shall be, in the manner prescribed.
26 20	citizant telephonic Socialitics on a	Section 186— Omit the section.
	considers and the considers of the consideration of the consideratio	Section 210, subsection (1)— (a) Omit the words "Form No. 21 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". (b) Omit the words "sixteen days" and insert in lieu thereof the words "the time prescribed".

ACTION IN

Reference to Act.	Short Title.	Amendment.
	a ma militare " al experte un adeixoù later et eu	Section 210, subsection (2)— Omit the word "three" and insert in lieu thereof the word "twelve".
	raiso deux de la virgira di delt a diduw re entres all'entresant ad	Section 212— Omit the section and insert in lieu thereof the following section:—
	l da " mengan bed ris sir da beser sang sir yang da	212. The writ shall, wherever service practicable, be served personally writ. on the persons named therein but where prompt personal service
	not ni toopi bas	cannot be effected substituted service may be effected in the manner prescribed or in such manner as may be provided for
-uinterest	- carcellers qui felte de quest, se p	the purpose by any other Act. Section 219— (a) Insert after the word "judg-
. paradita		ment" where firstly occurring the words "in the form prescribed".
	napote de la	(b) Omit the words "Such judgment if for all may be in the Form No. 22 contained in the
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	disperient of last	Second Schedule hereto, or to the like effect, and if for part may be in the Form No. 23
South	grad en enitue de	contained in the said Schedule, or to the like effect." Section 220, subsection (2)—
	Professor Build	Omit the subsection and insert in lieu thereof the following subsection:—
		(2) Such issue may be in the form prescribed. Section 221—
		Omit the words "used before the commencement of the Common Law Procedure Act of 1853"
		and insert in lieu thereof the word "prescribed". Section 223—
		Omit the section.

	Lance Contains		
Reference to Act.	Short Title.	Amendment.	
		Section 229— Omit the words "within such time as the Court or Judge before whom the cause is tried shall order, and if no such order be made then on the fifth day in term after the verdict or within fourteen days after such verdict whichever shall first happen "and insert in lieu thereof the words "at such time as may be prescribed and in the manner prescribed". Section 243— Omit the section and insert in lieu thereof the following section:— 243. The claimant may at any time discontinue the section as the	Discontin-
		time discontinue the action as to one or more of the defendants in the manner prescribed.	
	e tot den " d ou det	Section 245— Omit the section and insert in lieu thereof the following section:—	
	To the state of th	may give him such notice as may	for not proceeding
	the said the said	be prescribed to set the action down within a time prescribed for this purpose and if the claim- ant fails so to do the defendant may suggest such failure and sign judgment in the manner pre- scribed.	
		Section 246— Omit the words "Form No. 28 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed".	

Reference to Act.	Short Title.	Amendment.	
The state of the s	Short Title.	Amendment. Sections 252, 253 and 254— Omit the sections and insert in lieu thereof the following sections:— 252. Every application for an Applic order nisi for a writ of habeas for ord corpus shall be made to a Judge. For writ habeas such application may be made ex parte in the manner prescribed. 253. (1) Every order nisi for a Return writ of habeas corpus shall be order neturnable before a Judge sitting in public chambers whether in Term or not unless the Judge considers that it should be returnable before the Full Court. (2) On the return of such order the Judge or the Court may dispose of the case as the circumstances appear to require and may make such order as to costs as the Judge or Court thinks fit. 254. Any order made by a Appeal Judge under section two hundred and fifty-two or two hundred and fifty-two or two hundred and fifty-three of this Act shall be subject to appeal to the Full Court within the same time and in the same manner as prescribed for motions for a new trial. Section 263— Omit the section. Section 266— Omit the words "The lowest scale shall extend to all cases not exceeding fifty pounds, the second scale to all cases above fifty	er natt of
		and not exceeding one hundred pounds, and the highest scale to all other cases." Section 268, subsections (1) and (2)—	
		After the words "The Judges" insert the words "or any five of them".	

Reference to Act.	Short Title.	Amendment.	
No. 29, 1902	Arbitration Act, 1902.	Sections 269 and 270— Omit the sections. Second Schedule— Omit the Schedule. Section 10— Insert after the words "submission may" the words ", by leave of a	
No. 24, 1902	Arrest on Mesne Process Act, 1902.		
	The back of the control of the contr	11. (1) Any person in respect of whom a special order is made under section five of this Act may apply to a Judge for an order on the plaintiff to show cause why the special order and any writ issued thereunder should not be set aside and for an order staying proceedings on the special order and any such writ in the meantime.	for order to set aside special order and writ or
	The second second at the control of	(2) Any person arrested upon a writ of capias may apply to a Judge at any time after such arrest for an order on the plaintiff to show cause why such person should not be discharged out of custody. Section 12— Omit the section and insert in lieu thereof the following section:—	
		thereof the following section:— 12. Any Judge may, upon the hearing of the application, make such order therein as he thinks fit and direct that the costs of the application be paid by either party.	Hearing of application.

Reference to Act.	Short Title.	Amendment.
No. 8, 1901	Judgment Creditors' Remedies Act, 1901.	Section 13— Omit "such order" and insert in lieu thereof the words "order made under section twelve of this Act". Section 27, subsection (1)— (a) After the words "the Supreme Court" insert the words "or in a District Court". (b) Omit the words "of the said Court" and insert in lieu thereof the words "of the Supreme Court or the District Court, as the case may be,".
No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	Section 31— Omit the words "of the said Court" and insert in lieu thereof the words "of the Supreme Court or the District Court, as the case may be". Section 1— Omit the matter relating to Parts IV and V and insert in lieu thereof the following matter:— PART IV.—Sittings of Court elsewhere than at Sydney—ss. 22–33. PART IVA—Gaol Delivery—s. 33A.
		Section 19, paragraph (b)— Omit the paragraph. Insert in Part IV immediately before section 22 the heading "Sittings of Court elsewhere than at Sydney." Insert next after Part IV the following new Part:— PART IVA. GAOL DELIVERY.

Reference to Act.	Short Title.	Amendment.
		33a. The governor of each prison Gaol delivery. shall, at the times prescribed by rules of court, make returns in writing to the Supreme Court, Sydney, as to all persons detained in such prison, otherwise than in pursuance of a sentence, giving the particulars required by such rules. If he fails to make such returns, he may be ordered by the Court to pay a fine not exceeding five hundred pounds. The Court shall, after the receipt of such returns with respect to a prison, deliver such prison. For the purpose aforesaid the Court may be constituted by one Judge sitting in open court in the exercise of the criminal jurisdiction of the court. Except as aforesaid, it shall not be obligatory on the Court or a Judge to deliver any prison, or for a governor of a prison, unless so directed by the Court or a Judge, to make any such returns.
		Part V— Omit the Part.
		Omit the word "three" and insert in lieu thereof the word "five".
		Section 39A, paragraph (a)— Omit the word "now".
Ne. 9, 1912	Supreme Court and Circuit Courts (Am- endment) Act, 1912.	Section 8— . Omit the section.

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
No. 10, 1921	Land and Valua- tion Court Act, 1921.	Section 13, subsection (1)— Omit the subsection and insert in lieu thereof the following subsection:— (1) All process issuing out of the court shall be in the form prescribed, and be signed by the officer issuing the process and marked with the court office stamp.
No. 16, 1900	Sheriff Act, 1900	Section 1— Omit the matter relating to Part IV. Part IV—
No. 49, 1900	Supreme Court Procedure Act, 1900.	Omit these sections. Section 14— Omit the word "three" and insert
		in lieu thereof the word "five". Section 16— Omit the words "in the Schedule to this Act, or". Schedule—
No. 31, 1912	Jury Act, 1912.	Omit the Schedule. Section 32, subsection (2)— (a) Omit the words "and seal". (b) Insert at the end thereof the words "or of the prothonotary thereof".
		Section 32, subsection (3)— Omit the words "and seal". Fifth Schedule— Omit the words "and seal".
No. 42, 1924	Administration of Justice Act, 1924.	Section 14— Omit the section. Schedule— Omit the Schedule.

SECOND

SECOND SCHEDULE.

Sec. 2.

CITATION OF ACTS.

First Column.	Second Column.
Administration of Justice Act, 1924.	
Arbitration Act, 1902.	1924–1957. Arbitration Act, 1902–1957.
Arrest on Mesne Process Act, 1902.	Arrest on Mesne Process Act, 1902–1957.
Commercial Causes Act, 1903.	Commercial Causes Act, 1903–1957.
Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899–1957.
Equity Act, 1901.	Equity Act, 1901-1957.
Judgment Creditors' Remedies Act, 1901.	Judgment Creditors' Remedies Act, 1901–1957.
Jury Act, 1912.	Jury Act, 1912-1957.
Justices Act, 1902.	Justices Act, 1902-1957.
Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1957.
Matrimonial Causes Act 1899.	Matrimonial Causes Act, 1899- 1957.
Sheriff Act, 1900.	Sheriff Act, 1900-1957.
Supreme Court and Circuit Courts Act, 1900.	
Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1957.

I certify that this Public Bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

ALLAN PICKERING, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 28 March, 1957.

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 13, 1957.

An Act to make further provision in respect of the powers of the Supreme Court in certain of its jurisdictions and in respect of the practice and procedure of that Court; for these and other purposes to amend the Common Law Procedure Act, 1899, the Supreme Court and Circuit Courts Act, 1900, the Supreme Court Procedure Act, 1900, the Judgment Creditors' Remedies Act, 1901, the Equity Act, 1901, the Justices Act, 1902, the Commercial Causes Act, 1903, and certain other Acts; and for purposes connected therewith. [Assented to, 8th April, 1957.]

BE

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

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

B^E it enacted by the Queen'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:—

Short title and commencement.

- 1. (1) This Act may be cited as the "Supreme Court Procedure Act, 1957."
- (2) This Act shall commence on the first day of July, one thousand nine hundred and fifty-seven.

Citation of amended Acts.

2. Each Act specified in the first column of the Second Schedule to this Act and as amended by subsequent Acts, if any, and by this Act may be cited in the manner specified in the second column of that Schedule opposite the reference to that Act in the first column.

Amendment of Act No. 21, 1899.

3. The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended—

Sec. 15. (Indorsement of service.)

- (a) (i) by inserting in section fifteen after the word "service" where firstly occurring the words "or within such enlarged time as the Court or a Judge may order";
 - (ii) by inserting in the same section after the words "under this Act" the words—

"Any such order may be made although application therefor is not made until after the expiration of three days after such service.";

Sec. 102.
(Discovery of documents.)

(b) by omitting from subsection one of section one hundred and two the words "upon an affidavit by such party or his attorney of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise is in the possession or power of the opposite party,";

- (c) by inserting next after section one hundred and New sec. 184A. eighty-four the following new section:-
 - 184A. (1) Whenever in any proceedings to Lien or obtain an attachment of debts it is suggested by claim of third person the garnishee that the debt sought to be attached on debt. belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear and to state the nature and particulars of his claim upon such debt.
 - (2) After hearing the allegations of any third person under any such order as is mentioned in subsection one of this section, and of any other person who by the same or any subsequent order is ordered by the Judge to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue as provided in section one hundred and eighty-three of this Act, or may order any issue or question arising to be tried or determined, and may bar the claim of such third person or make such other order as he may think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the Judge shall think just and reasonable.
- (d) by omitting section two hundred and twenty-substituted eight and by inserting in lieu thereof the follow- sec. 228. ing section:

228. Upon a finding for the claimant, judg- Judgment ment may be signed and execution issue for the upon finding for recovery of the possession of the property or claimant. such part thereof as the jury finds the claimant entitled to, and for costs, at such time as may be prescribed and in the manner prescribed.

Sec. 268.
(General rules may be made by the Judges.)

- (e) (i) by omitting from subsection three of section two hundred and sixty-eight the words "or before the Colonial Parliament at any time before the commencement of the operation of any such rule";
 - (ii) by inserting next after subsection three of the same section the following new subsection:—
 - (3A) All general rules and orders, rules, orders or regulations made pursuant to the foregoing provisions of this section and all rules made pursuant to section two hundred and sixty-six of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the general rules and orders, rules, orders or regulations; and
 - (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 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 general rules and orders, rules, orders or regulations have been laid before such House disallowing any general rule or order, or rule, order or regulation, or part thereof, such general rule or order, or rule, order or regulation, or part shall thereupon cease to have effect.

4. The Supreme Court and Circuit Courts Act, 1900, Amendment as amended by subsequent Acts, is amended— No. 35,

1900.

- (a) (i) by omitting the proviso to subsection one of Sec. 9. (Puisne section nine: Judges.)
 - (ii) by omitting subsection four of the same section:

(b) by omitting section twenty and by inserting in Substituted lieu thereof the following section:—

20. (1) The Court may be held by one Judge Powers of alone for the disposal of applications for a rule be exercised or order nisi for prohibition, mandamus, or by single certiorari notwithstanding that it may be term certain time, or that the Court held before two or more cases. Judges may be at the same time sitting in banco.

Nothing in this subsection—

- (a) authorises the Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the return of a rule or order nisi for prohibition, mandamus or certiorari; or
- (b) affects the construction of subsection two of this section.
- (2) The powers and jurisdiction of the Court on the return of a rule or order nisi for prohibition, mandamus or certiorari to make absolute, discharge, or make any order whatsoever in respect of, the rule or order nisi (whether made by the Court or a Judge) may be exercised by one Judge alone-
 - (a) at any time when the Court is not sitting in banco;
 - (b) in cases of exigency when the Court is sitting in banco.
- (3) Any person aggrieved by any decision or determination by one Judge alone made pursuant to subsection one or two of this section may appeal therefrom to the Court. Any such appeal shall be in accordance with rules of court.

(4) The Judges or any five of them may by rules of court authorise the exercise (subject to those rules) by a Judge, in vacation or in any case of exigency, of any power which can only under ordinary circumstances be exercised by the Court.

The power to make rules of court conferred by this subsection does not include power to make rules of court with respect to—

- (a) applications for rules or orders nisi for prohibition, mandamus or certiorari;
- (b) the exercise in the circumstances mentioned in subsection two of this section of the powers and jurisdiction conferred by that subsection upon one Judge alone.

Sec. 40. (Rules to have force of law.)

- (c) (i) by inserting in section forty after the word "shall" the words ", subject to subsection two of this section,":
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All rules and orders so made and all rules made under section twenty of this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders or rules; and
 - (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 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 rules and orders or rules have been laid before such House disallowing any rule or order or part thereof such rule or order or part shall thereupon cease to have effect.

5. (1) The Common Law Procedure Act, 1899, as Further amended by subsequent Acts, is further amended by of Act No. omitting section ninety-eight and by inserting in lieu Substituted thereof the following section:

98. (1) Any such equitable plea or equitable Extension replication may be pleaded notwithstanding that plead upon the facts pleaded the relief on equitable grounds plea or replication; would not be an absolute, perpetual and unconditional transfer of transfer tional injunction, but if upon the facts pleaded that actions into relief would not be such an injunction, the Court equity jurisdiction. or Judge shall make an order that the action be transferred into the jurisdiction of the Court in equity.

The Court or the Judge when making the order may impose such terms as to costs and otherwise as to the Court or Judge seems reasonable.

- (2) Where an order is made under subsection one of this section the whole record of the action shall be transferred into the jurisdiction of the Court in equity.
- (3) After an action has been transferred into the jurisdiction of the Court in equity under this section-
 - (a) any Judge exercising that jurisdiction may, from time to time, make such orders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling

settling of issues for trial, or otherwise to enable the action to be disposed of in that jurisdiction;

- (b) the action shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Court in equity; and
- (c) the Court in equity may make such decree, declaration or order as appears just and may in addition thereto or in substitution therefor direct judgment to be entered on its verdict or finding and for costs in the manner prescribed and such a judgment so entered shall have the like force and effect in all respects as the signing of judgment in a Court of law and execution may issue thereon in the manner prescribed.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Court in equity may deal with those costs.

Amendment of Act No. 24, 1901.

(2) The Equity Act, 1901, as amended by subsequent Acts, is amended—

Sec. 8.
(Power to decide legal titles, &c.)

- (a) (i) by omitting from section eight the words "any proceeding before it" and by inserting in lieu thereof the words "any suit or proceeding before it or has to be decided in any action transferred into its jurisdiction under section ninety-eight of the Common Law Procedure Act, 1899-1957,";
 - (ii) by omitting from the same section the words "no suit in equity" and by inserting in lieu thereof the words "no suit or proceeding in equity and no action so transferred";

- (b) by inserting next after section eight the fol- New sec. 8a. lowing new section:—
 - SA. (1) If it appears to the Court at any Transfer stage of any suit or proceeding in the Court that suits, &c., the Court has no jurisdiction to deal with the into common subject matter of the suit or proceeding and jurisdiction. that the appropriate remedy in respect thereof lies in the Common Law jurisdiction of the Supreme Court, the Court shall make an order that the suit or proceeding be transferred into that jurisdiction.

The Court when making the order may impose such terms as to costs and otherwise as to the Court seems reasonable.

- (2) Where an order is made under subsection one of this section the whole record of the suit or proceeding shall be transferred into the Common Law jurisdiction of the Supreme Court.
- (3) After a suit or proceeding has been transferred into the Common Law jurisdiction of the Supreme Court under this section—
 - (a) any Judge exercising that jurisdiction may, from time to time, make such crders as he considers necessary relating to amendments, the filing of fresh pleadings, the settling of issues for trial, or otherwise to enable the suit or proceeding to be disposed of in that jurisdiction; and
 - (b) the suit or proceeding shall, subject to paragraph (a) of this subsection, be disposed of according to the practice and procedure of the Supreme Court at Common Law.

In so far as the costs of the proceedings before transfer have not been dealt with under subsection one of this section, the Judge presiding at the trial or the Supreme Court at Common Law may make such order as to those costs as may be just.

Sec. 9.
(Power to Court to award damages in certain cases.)

(c) by inserting at the end of section nine the following new paragraph:—

Nothing in this section shall be construed as limiting the operation of any other section of this Act.

Sec. 39. (Set-off and counterclaim.)

III

- (d) (i) by omitting from subsection one of section thirty-nine the words "right or claim," and by inserting in lieu thereof the words "equitable or legal right or claim, whether or not connected with the claim of the plaintiff,";
 - (ii) by inserting in subsection two of the same section after the words "ought not" the words "in the circumstances of the case";
- (e) by omitting subsection three of section ninetyfour and by inserting in lieu thereof the following subsection:—
 - (3) All rules made under this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.

- 6. The Justices Act, 1902, as amended by subsequent Amendment of Act No. 27, 1902. Acts, is amended—
 - (a) (i) by inserting next after subsection one of (Party section one hundred and one the following dissatisfied new subsection:-
 - (1A) The application need not be served point of upon the Justice or Justices personally, but law may apply to shall be deemed to have been properly have a case made if served upon the clerk of the court stated for opinion at which the determination of the Justice of Supreme Court.) or Justices was made.
 - (ii) by inserting at the end of the same section the following new subsection:-
 - (3) Written notice that application has been made for a case to be stated and signed pursuant to subsection one of this section shall be given by the appellant to the respondent within the time prescribed by rules of the Supreme Court.
 - (b) by omitting from subsection one of section one sec. 102. hundred and two the words "Before any such (Before case is stated and delivered to the appellant, he stated shall enter into a recognizance" and by insert-appellant ing in lieu thereof the words "The appellant security.) shall, within twenty-eight days after the determination appealed from, enter into a recognizance";

Jn.

Sec. 101.

determina-Justices on

with

Substituted sec. 105.

(c) by omitting section one hundred and five and by inserting in lieu thereof the following section:—

Appellant to transmit case to Prothonotary and give notice. 105. When the appellant has received the case or has been notified in writing that it has been stated and signed and is available, he shall—

- (a) within such period thereafter as may be prescribed by rules of the Supreme Court transmit such case to the Prothonotary of the Supreme Court; and
- (b) within such period and in such manner as may be prescribed by rules of the Supreme Court serve the respondent with such number of copies of the case as may be prescribed by those rules.

Sec. 107.

(Powers of Court may be exercised by Judge in Chambers.)

- (d) (i) by omitting from subsection two of section one hundred and seven the words "Supreme Court" and by inserting in lieu thereof the words "Judges of the Supreme Court or any five of them";
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (3) Rules and orders made under this section shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules and orders;
 and
 - (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 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 rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.

- (e) (i) by omitting from subsection one of section sec. 112. one hundred and twelve the words "apply— (Any person
 - (a) in all cases to the Supreme Court, conviction or, in vacation, to a Judge thereof; aggreed or, in vacation, to a Judge thereof; may apply
 - (b) in the following cases, whether in for term or in vacation, to a Judge—

 prohibition.)
 - (i) where imprisonment has been directed;
 - (ii) where the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds,"

and by inserting in lieu thereof the words "apply to the Supreme Court";

(ii) by inserting at the end of subsection five of the same section the following new paragraph:—

Nothing in this subsection—

- (a) authorises the Supreme Court to be held by one Judge alone for the purpose of exercising the powers and jurisdiction of the Court on the return of any rule or order granted or made under this section;
- (b) affects the construction of sections one hundred and fourteen and one hundred and fifteen of this Act;
- (iii) by omitting subsection six of the same section;

Substituted sec. 114.

(f) by omitting section one hundred and fourteen and by inserting in lieu thereof the following section:—

Before whom rule to be returnable, 114. Subject to any rules of court made by the Judges of the Supreme Court or any five of them, any rule or order granted or made by the Court or a Judge under section one hundred and twelve of this Act may be made returnable before the Court or any such Judge.

Substituted sec. 116.

(g) by omitting section one hundred and sixteen and by inserting in lieu thereof the following section:—

Certain rules and writs made by a Judge may be reviewed by the Court.

- 116. (1) Where so provided by rules of court made by the Judges of the Supreme Court or any five of them, any person aggrieved by any decision or determination by one Judge alone made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court. Any such appeal shall be in accordance with rules of court made by the Judges of the Supreme Court or any five of them.
- (2) A Judge before whom any rule or order is made returnable pursuant to section one hundred and fourteen of this Act may, at any stage of the proceedings, refer the matter to the Court to be determined.

New sec. 117A. (h) by inserting next after section one hundred and seventeen the following new section:—

Publication, commencement and disallowance of rules. 117A. The provisions of subsection three of section one hundred and seven of this Act apply to and in respect of rules of court made under this Division of this Part.

- (i) (i) by inserting next after subsection two of Sec. 122.

 section one hundred and twenty-two the (Appeal to Guarter Sessions.)
 - (2A) Where but for the provisions of this subsection an appeal may not proceed by reason only that—
 - (a) the appellant was not served with notice of the time and place of hearing of the appeal; and
 - (b) the Court is not satisfied that-
 - (i) the appellant had knowledge of such time and place; or
 - (ii) where the Court is satisfied that he had such knowledge, he would not be prejudiced by the non-service,

the appeal may nevertheless proceed if the Court is satisfied that the appellant is evading service of the notice or cannot, after diligent search and inquiry, be found.

- (ii) by inserting in subsection four of the same section after the word "hearing" the words " or, where a later address has been notified by any such person or his attorney to the Clerk of the Peace, to the last address so notified".
- 7. The Commercial Causes Act, 1903, is amended—Amendment of Act No.
 - (a) by omitting from section three the word sec. 3. "include" and by inserting in lieu thereof the (Commercial word "mean".

Sec. 6. (Directions.)

- (b) (i) by inserting at the end of paragraph (d) of section six the words—
 - "or lists of documents to be exchanged and inspection allowed";
 - (ii) by omitting paragraph (g) of the same section and by inserting in lieu thereof the following paragraph:—
 - (g) order the trial to be either with or without a jury or that special issues be tried by a jury.

Sec. 8.
(Rules of Court.)

- (c) (i) by omitting from section eight the word "three" and by inserting in lieu thereof the word "five";
 - (ii) by inserting at the end of the same section the following new subsection:—
 - (2) All such rules of court shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the rules; and
 - (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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

8. The Matrimonial Causes Act 1899, as amended by Amendment subsequent Acts, is amended by omitting subsection four of Act No. of section ninety-one and by inserting in lieu thereof the following subsection:

(Power to make rules.)

- (4) All rules made under this section shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be 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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

9. The Supreme Court Procedure Act, 1900, as Amendment amended by subsequent Acts, is amended by omitting of Act No. 49, 1900. section seventeen and by inserting in lieu thereof the Substituted following section:

17. All rules of court made under the powers Rules to herein contained shall—

be published in Gazette and laid before

- (a) be published in the Gazette;
- Parliament. (b) take effect from the date of publication or &c. from a later date to be specified in the rules; and
- (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 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 rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

Amendment of Act No. 31, 1912. Sec. 55. (Challenge in criminal cases.) 10. The Jury Act, 1912, as amended by subsequent Acts, is amended by inserting in subsection two of section fifty-five after the word "capital" the words "or murder".

Amendment of Act No. 40, 1900. Sec. 568. (Jurisdiction, &c., of Courts of Quarter Sessions.) 11. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting from subsection three of section five hundred and sixty-eight the words "not punishable with death," and by inserting in lieu thereof the words "(other than a crime or misdemeanour which is punishable with death or which was so punishable immediately before the commencement of the Crimes (Amendment) Act, 1955),".

Amendment of Act No. 10, 1921.

12. The Land and Valuation Court Act, 1921, as amended by subsequent Acts, is amended—

Sec. 4.
(Constitution of
Land and
Valuation
Court and
appointment
of judge.)

- (a) (i) by inserting in subsection three of section four after the word "powers" the word ", immunities";
 - (ii) by inserting in subsection (3A) of the same section after the word "powers" the word ", immunities";
 - (iii) by omitting the proviso to paragraph (a) of subsection five of the same section;
 - (iv) by omitting the proviso to paragraph (a) of subsection six of the same section;

(b)

- (b) by inserting next after section nine the follow- New ing new section:—
 - 9A. (1) The court may in every case obtain Assistance the assistance of conveyancing counsel, account-persons. ants, engineers, actuaries, or other scientific cf. Act. No. persons the better to enable it to determine any 24, 1901, matter at issue in any proceeding before it and may act upon the certificate of any such person.
 - (2) The allowance in respect of fees to such persons shall be regulated by the registrar, subject to an appeal to the court.
- 13. The Acts (as amended by subsequent Acts, if Amendment any) specified in the first and second columns of the First of Acts specified Schedule to this Act are amended as respectively speci- in First field in the third column of that Schedule.
- 14. (1) Rules of court, general rules and orders, Savings. rules, orders or regulations made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power howsoever conferred on such Supreme Court, Judge or Judges, and in force at the commencement of this Act, shall not be affected by the repeal and substitution by this Act of any provision under which they were made, or by any alteration in the number of Judges authorised to make them, or by the provisions of this Act requiring them to be published in the Gazette and laid before both Houses of Parliament and making them subject to disallowance by resolution of either House of Parliament but may be amended, repealed or replaced by rules of court, general rules and orders, rules, orders or regulations, as the case may be, lawfully made after that commencement.
- (2) Unless the contrary intention appears, the repeal of any enactment by this Act shall not revive anything not in force or existing at the time at which the repeal takes effect.

Sec. 13.

FIRST SCHEDULE.

Reference to Act.	Short Title.	Amendment.
No. 21, 1899	Common Law Procedure Act, 1899.	Section 1— Omit the matter relating to Part XV. Section 4, subsection (1)— (a) Insert after the words "juris diction of the Court" the word "or if the defendant is a corporation residing or incorpor ated or registered within the jurisdiction of the Court or if the defendant is a corporation registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts" (b) Omit the words "Form No. 1 contained in the Second Schedule to this Act" and insert in lieu thereof the words "form prescribed". Section 4, subsection (2)— Omit the words "Form No. 2 contained in the Second Schedule hereto, or to the like effect "and insert in lieu thereof the words "the form prescribed". Section 10— Omit the word "six" and insert in lieu thereof the word "twelve". Section 12, subsection (1)— (a) Omit the word "six" and insert in lieu thereof the word "twelve". (b) Omit the words "including the day of such date". Section 12, subsection (2)— (a) Omit the word "six" and insert in lieu thereof the word "twelve".

FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Section 12, subsection (2)—continued.
		(b) Omit the words "by being
	ARTICLE STREET	marked by the proper officer
		with the date of such renewal
	The second second	upon delivery to him by the
	1	plaintiff or his attorney of a
	100	praecipe in such form as before
		the commencement of the
		Common Law Procedure Act of 1853 was required to be
	and the street like	1853 was required to be delivered upon the obtaining
		of an alias writ" and insert
	All the state of the state of	in lieu thereof the words "by
	to both a si go	being marked as prescribed".
	SHE TO PROB	
	and the organization	Section 14—
	THE PERSON NAMED IN	Omit the words "by the proper
		officer".
	A THE PARTY OF THE	
		Sections 17, 18 and 19—
	l de la companya della companya de la companya della companya dell	Omit these sections and insert in
	ori a noitasea	lieu thereof the following sec-
	e United Kin	tions:— 17. The service of a writ of Mode of
	ki no gilane	summons shall, wherever it is service.
	les enten de	practicable, be personal, but where
	b and all red	prompt personal service cannot be
		effected substituted service may
	I mike mir epil	be effected as prescribed.
	The transfer of the spirit	18. (1) In any action against Actions
	A SERVICE TO THE SERVICE OF SERVICE SE	a defendant who— against
		(a) being a corporation is not defendants
		resident incorporated or reg- not within jurisdiction.
		istered within the jurisdiction
	1	of the Court and is not registered
		under Part VI of the Companies Act, 1936, as amended by
		subsequent Acts; or
		(b) being any other person is not
		resident within the jurisdiction
		of the Court,
	in a second	the plaintiff may issue a writ of
	beierrel out with	summons in the form prescribed.

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FIRST SCHEDULE—continued.

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued. (2) Either the writ of summons or a notice thereof in the form prescribed shall be served upon the defendant as may be prescribed.
		(3) Until otherwise prescribed the writ of summons shall be served in the following cases:—
		(a) Where the writ of summons may be served under the provisions of the Service and Execution of Process Act 1901 (as amended by subsequent Acts) of the Parliament of the Commonwealth.
		(b) Where the defendant is a British subject or being a corporation is incorporated in the United Kingdom or in Australia or in any of the other realms and territories of Her Majesty the Queen.
		(c) Where the defendant is in the United Kingdom or in Australia or in any of the other realms and territories of Her Majesty the Queen.
		(4) If the defendant does not appear to the writ of summons within the time prescribed, a Judge, upon being satisfied—
nepan ik nas bynese eddi. no a reik ed e presenbed.	ing of an article	(a) that there is a cause of action which arose within the jurisdiction, or in respect of the breach of a contract made within the jurisdiction; and

TEXIL

Reference to Act.	Short Title.	Amendment.
		Sections 17, 18 and 19—continued.
territi 3 Jan Remus ton Populario Est al Sensi		(b) that service of the writ or notice thereof, as the case may be, was duly effected or that the writ or the notice thereof came to the defendant's knowledge,
la dia e cia valicationa va i manga ni connancy Lodieneng		may, if he thinks fit, by order, permit the plaintiff to proceed to sign final or interlocutory judgment in such manner and subject to such conditions as may be prescribed or as he in all the circumstances may deem fit.
		Section 20— Insert after the word "by" the words "or under".
—(C) (vc)		Section 21— Omit the words "If either of the Forms of writ of summons Nos. 1, 3, and 4, contained in the Second
		Schedule hereto," and insert in lieu thereof the words "If one of the prescribed forms of writ of summons".
		Section 23— Omit the section.
		Section 24, subsection (1)— (a) Insert after the word "Court" the words "or being a corpora-
		tion is resident or incorporated or registered within that juris- diction or is registered under Part VI of the Companies Act, 1936, as amended by subsequent Acts".
	ngrillaer All — [3 c Landings odd di	(b) Omit the words "Form No. 5 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed".
and the state of the state of		- Comment of the control of the cont

	Supreme Court Procedure.			
		FIRST SCH	EDULE—continued.	
	Reference to Act.	Short Title.	Amendment.	
			Section 25, subsection (1)— Omit the words "Form No. 6 contained in the Second Schedule hereto" and insert in lieu thereof the words "form prescribed". Section 29— Omit the section and insert in lieu thereof the following section:—	
Mode of appearance.	Les and and a second se		29. Appearance to a writ of summons or under the authority of this Act shall be entered by filing a notice of appearance in the form and manner prescribed. Sections 32 and 33— Omit the sections. Section 51, subsection (1)— Insert at the end thereof the words	
	udi To malila al se W accur Record off a		"in the manner prescribed". Section 51, subsections (2) and (3)— Omit the subsections. Section 69— After the word "shall" insert the words ", unless a Judge otherwise	
			orders,". Sections 70 and 71— Omit the sections and insert in lieu thereof the following section:—	
Commencement and conclusion of declaration.			70. Every declaration shall commence and conclude in the forms prescribed. Section 73— Omit the section and insert in lieu	
Time for pleading to declaration.			thereof the following section: 73. The defendant shall plead to the plaintiff's declaration within the time and in the manner prescribed. Section 76— Omit the section. Section 81— Omit the section.	

	Supreme Court Procedure. FIRST SCHEDULE—continued.		
Reference to Act.	Short Title.	Amendment.	
		Section 88, subsection (1)— Omit the words "Form No. 15 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 100, subsection (1)— Omit the words "Form No. 16 contained in the Second Schedule hereto, or to the like effect," and insert in lieu thereof the words "form prescribed". Section 100, subsection (3)— Omit the words "Form No. 17 contained in the said Schedule, or to the like effect" and insert in lieu thereof the words "form prescribed". Section 104, subsection (1)— Omit the words ", or by so many and such of the persons summoned as jurors for the trial as may be thought desirable,". Sections 121 to 128 inclusive— Omit the sections. Section 129, subsection (1)— Omit the words "it shall not be necessary to issue a writ of inquiry, but". Section 129, subsection (2)— Omit "in the same manner as before a jury upon a writ of inquiry". Section 133— Omit the section and insert in lieu thereof the following section:— 133. A party in whose favour a verdict has been given, a nonsuit granted or a judgment directed to be entered may sign judgment in the manner and time pre- scribed.	

Reference to Act.	Short Title.	Amendment.
Loga . Years	illument or uniQuent less or a second	Section 157, subsections (3), (4) and (5)—continued.
red of teach red of teach red of teach respondent Jac that samp or red one parties		representation. A copy of any suggestion so filed shall be served upon all other parties to the action and the truth of the suggestion shall not be in issue unless notice of such issue is given to the person filing the suggestion within fourteen days of service
for a river to a second	er jane de strat Fatte en en en en en Fatte en en en en en	of such copy or within such time as may be prescribed.
ilons of the call the call between call between call to call the call to call the call to call the call to call the call	besterry too, o al yest a specie gran, too gran in	Section 159, subsection (2)— Omit the words "or writ of revivor pursuant to this Act".
-phuj fi isaw matana -siq ana i		Section 184, subsection (1)— Omit the word "writ" and insert in lieu thereof the word "summons".
ada mi adaga nda mi adaga nda ta nag ma		Section 184, subsection (2)— Omit the subsection and insert in lieu thereof the following subsection:—
untel Jio. 2 i sid Steledies, ch.		(2) Such summons shall be issued, and the procedure thereon shall be, in the manner prescribed.
galve impres		Section 186— Omit the section.
colt en la disconsidera representation de Market de se edit disconsidera		Section 210, subsection (1)— (a) Omit the words "Form No. 21 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed". (b) Omit the words "sixteen days"
	ion 9882 mit the section.	and insert in lieu thereof the words "the time prescribed".

	Reference to Act.	Short Title.	Amendment.
		to the control of the	Section 210, subsection (2)— Omit the word "three" and insert in lieu thereof the word "twelve". Section 212— Omit the section and insert in lieu
Service of writ.	one in the other many states of the control of the		thereof the following section:— 212. The writ shall, wherever practicable, be served personally on the persons named therein but where prompt personal service cannot be effected substituted service may be effected in the manner prescribed or in such
entrope (f.)			manner as may be provided for the purpose by any other Act.
II. Cara			Section 219—
140.4	(1) 0	biomedia, Juli au	(a) Insert after the word "judg-
	dream burg " a	w" brow sile sile	ment" where firstly occurring
	low edf		the words "in the form pre- scribed".
			(b) Omit the words "Such judgment if for all may be in the
Dyle Total Co.		resident de	Form No. 22 contained in the
	maissolloi sii	Thereads that	Second Schedule hereto, or to
			the like effect, and if for part
	and Dark and		may be in the Form No. 23
	same a	if a line when	contained in the said Schedule,
	resolvent suit	i ad dada appra	or to the like effect."
	•		Section 220, subsection (2)—
			Omit the subsection and insert
			in lieu thereof the following
	15.50		subsection:—
			(2) Such issue may be in the
	40	rise recies and the	form prescribed.
	13 april mod (Section 221—
	Lucina Paris		Omit the words "used before the
	Spheroll of a	and read of this part	commencement of the Common
	30 Peng pot na		Law Procedure Act of 1853"
	. All menty	The state of	and insert in lieu thereof the
	e your designation		word "prescribed".
	2010, 300,000,000	H W Arsen Shi	Section 223—
	· Brettmand	that but a shape	Omit the section.
	· LEWIS.		FIRST

P-C- 1	211001 0011	EDULE—continued.
Reference to Act.	Short Title.	Amendment.
		Section 229— Omit the words "within such time as the Court or Judge before whom the cause is tried shall order, and if no such order be made then on the fifth day in term after the verdict or within fourteen days after such verdict whichever shall first happen" and insert in lieu thereof the words "at such time as may be prescribed and in the manner prescribed".
dive to con-		Section 243— Omit the section and insert in lieu thereof the following section:— 243. The claimant may at any Discontintime discontinue the action as to unnee of one or more of the defendants action. in the manner prescribed.
		Section 245— Omit the section and insert in lieu thereof the following section:—
		245. Where an appearance has Judgment been entered and the claimant for not omits to set the action down for proceeding trial in the manner and within the to trial after time prescribed the defendant may give him such notice as may be prescribed to set the action down within a time prescribed for this purpose and if the claimant fails so to do the defendant may suggest such failure and sign
		judgment in the manner prescribed. Section 246— Omit the words "Form No. 28 contained in the Second Schedule hereto, or to the like effect" and insert in lieu thereof the words "form prescribed".

FIRST SCHEDULE—continued.

	Reference to Act.	Short Title.	Amendment.
Application for order nisi for writ of habeas corpus.	skers nikliv koja si oslos koja si oslos rebro desk os nikles so kli plijev recej		Sections 252, 253 and 254— Omit the sections and insert in lieu thereof the following sections:— 252. Every application for an order nisi for a writ of habeas corpus shall be made to a Judge. Such application may be made exparte in the manner prescribed. 253. (1) Every order nisi for a
order nisi.	in the second se		writ of habeas corpus shall be returnable before a Judge sitting in public chambers whether in Term or not unless the Judge considers that it should be returnable before the Full Court.
undendaja O neloje Wi Provi le ogradi Grandi no	mil ni rreni I ma- predicta una da vica e or na matina e ganta da predicta	an include distriction enimelie and treat enimics and little of a silument of a longer of the second	(2) On the return of such order the Judge or the Court may dispose of the case as the circumstances appear to require and may make such order as to costs as the Judge or Court thinks fit.
Appeal.			254. Any order made by a Judge under section two hundred and fifty-two or two hundred and
one unfurle son an pail soon estating c	di palo de la como de		fifty-three of this Act shall be subject to appeal to the Full Court within the same time and in the same manner as prescribed for motions for a new trial. Section 263—
	nchest of head had been as white each trade was the confine to the	in a section for the section of the	Omit the section. Section 266— Omit the words "The lowest scale shall extend to all cases not exceeding fifty pounds, the second scale to all cases above fifty
	dorn Mo. 23 out Selectator discontinue discontinue discontinue	The second secon	and not exceeding one hundred pounds, and the highest scale to all other cases." Section 268, subsections (1) and (2)— After the words "The Judges" insert the words "or any five of them".

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Reference to Act.	Short Title.	Amendment.		
No. 29, 1902 No. 24, 1902	Arbitration Act, 1902. Arrest on Mesne Process Act,	Insert after the words "submission may" the words ", by leave of a Judge,". Section 5, paragraph (b)— Omit the word "twenty" and		
files est to Nonette list Assets and a Assets and	1902.	insert in lieu thereof the words "two hundred". Section 11— Omit the section and insert in lieu thereof the following section:—		
file of 10% leads at 10% annual est au fact		11. (1) Any person in respect of Application whom a special order is made under for order to section five of this Act may apply set aside to a Judge for an order on the and writ or plaintiff to show cause why the for discharge. special order and any writ issued thereunder should not be set aside and for an order staying proceedings on the special order and any such writ in the meantime.		
		(2) Any person arrested upon a writ of capias may apply to a Judge at any time after such arrest for an order on the plaintiff to show cause why such person should not be discharged out of custody. Section 12— Omit the section and insert in lieu thereof the following section:—		
	TO THE LATE OF THE STATE OF THE	12. Any Judge may, upon the Hearing of hearing of the application, make application. such order therein as he thinks fit and direct that the costs of the application be paid by either party.		

Reference to Act.	Short Title.	Amendment.
No. 8, 1901	Judgment Creditors' Remedies Act, 1901.	
No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	
		Section 19, paragraph (b)— Omit the paragraph. Insert in Part IV immediately before section 22 the heading "Sittings of Court elsewhere than at Sydney." Insert next after Part IV the following new Part:— PART IVA. GAOL DELIVERY.

Reference to Act.	Short Title.	Amendment.	
		33a. The governor of each prison Gaol deliver shall, at the times prescribed by rules of court, make returns in writing to the Supreme Court, Sydney, as to all persons detained in such prison, otherwise than in pursuance of a sentence, giving the particulars required by such rules. If he fails to make such returns, he may be ordered by the Court to pay a fine not exceeding five hundred pounds. The Court shall, after the receipt of such returns with respect to a prison, deliver such prison. For the purpose aforesaid the Court may be constituted by one Judge sitting in open court in the exercise of the criminal jurisdiction of the court. Except as aforesaid, it shall not be obligatory on the Court or a Judge to deliver any prison, or for a governor of a prison, unless so directed by the Court or a Judge, to make any such returns.	
		Part V— Omit the Part. Section 39— Omit the word "three" and insert in lieu thereof the word "five".	
		Section 39A, paragraph (a)— Omit the word "now".	
e. 9, 1912	Supreme Court and Circuit Courts (Am- endment) Act,	Section 8— Omit the section.	

Reference to Act.	Short Title.	Amendment.
No. 10, 1921	Land and Valuation Court Act, 1921.	
No. 16, 1900	Sheriff Act, 1900	Section I— Omit the matter relating to Part IV.
		Part IV— Omit the Part.
No. 49, 1900	Supreme Court Procedure Act, 1900.	Sections 12 and 13— Omit these sections.
		Section 14— Omit the word "three" and insert in lieu thereof the word "five".
		Section 16— Omit the words "in the Schedule to this Act, or".
		Schedule— Omit the Schedule.
No. 31, 1912	Jury Act, 1912.	Section 32, subsection (2)— (a) Omit the words "and seal". (b) Insert at the end thereof the words "or of the prothonotary thereof".
		Section 32, subsection (3)— Omit the words "and seal".
		Fifth Schedule—Omit the words "and seal".
No. 42, 1924	Administration of Justice Act,	Section 14— Omit the section.
	1924.	Schedule— Omit the Schedule.
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SECOND SCHEDULE.

Sec. 2.

CITATION OF ACTS.

First Column.	Second Column.
Administration of Justice Act, 1924.	Administration of Justice Act, 1924–1957.
Arbitration Act, 1902. Arrest on Mesne Process Act, 1902.	Arbitration Act, 1902–1957. Arrest on Mesne Process Act, 1902–1957.
Commercial Causes Act, 1903.	Commercial Causes Act, 1903–1957.
Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899–1957.
Equity Act, 1901. Judgment Creditors' Remedies Act, 1901.	Equity Act, 1901–1957. Judgment Creditors' Remedies Act, 1901–1957.
Jury Act, 1912.	Jury Act, 1912–1957.
Justices Act, 1902.	Justices Act, 1902-1957.
Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1957.
Matrimonial Causes Act 1899.	Matrimonial Causes Act, 1899–1957.
Sheriff Act, 1900.	Sheriff Act, 1900-1957.
Supreme Court and Circuit Courts Act, 1900.	
Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1957.

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

J. NORTHCOTT,

Governor.

Government House, Sydney, 8th April, 1957.