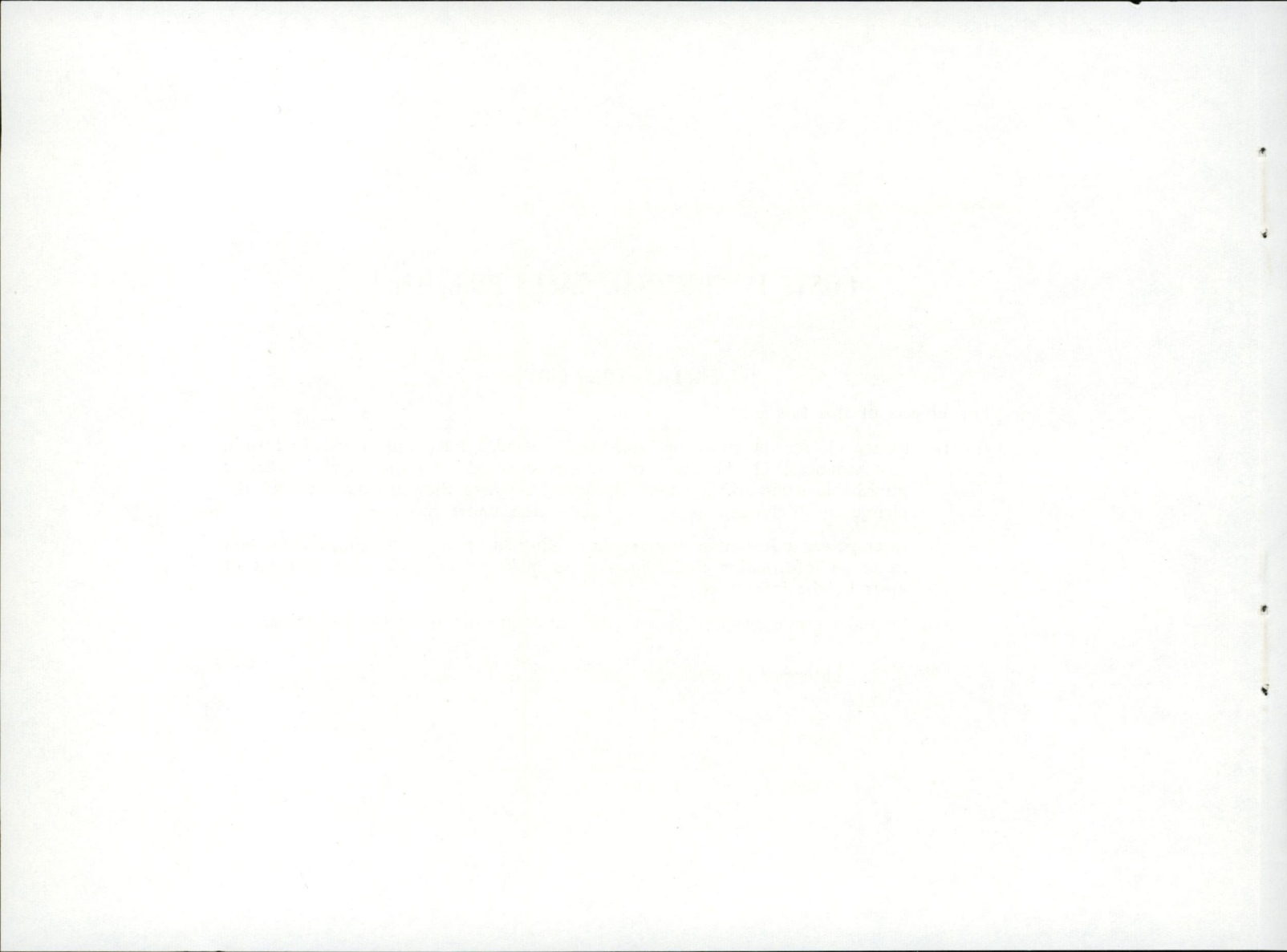


COSTS IN CRIMINAL CASES BILL, 1967

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to provide for the payment from the Consolidated Revenue Fund, in certain circumstances, of the costs of persons charged with an offence, whether punishable summarily or upon indictment, where they are acquitted of the charge or discharged as to the information under inquiry;
- (b) to empower a Justice or Justices, in making an order discharging a defendant as to an information under inquiry, to make an order for the payment of costs by the informant;
- (c) to make provisions ancillary to and consequential upon the foregoing.



No. , 1967.

A BILL

Relating to costs in criminal cases; to amend the Justices Act, 1902, as amended by subsequent Acts; and for purposes connected therewith.

[MR MADDISON—1 March, 1967.]

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 "Costs in Criminal Cases Act, 1967".

Short title,
commence-
ment and
application.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3)

Costs in Criminal Cases.

(3) This Act does not apply in respect of proceedings instituted, or appeals lodged, before its commencement.

2. The Court or Judge or Justice or Justices in any proceedings relating to any offence, whether punishable ^{Certificate may be granted.} summarily or upon indictment, may—

- (a) where a defendant, after a hearing on the merits, is acquitted or discharged as to the information then under inquiry; or
- (b) where, on appeal, the conviction of the defendant is quashed and—
 - (i) he is discharged as to the indictment upon which he was convicted; or
 - (ii) the information or complaint upon which he was convicted is dismissed,

15 grant to that defendant a certificate under this Act, specifying the matters referred to in section three of this Act and relating to those proceedings.

3. (1) A certificate granted under this Act shall specify ^{Form of certificate.} that, in the opinion of the Court or Judge or Justice or Justices granting the certificate—

- (a) if the prosecution had, before the proceedings were instituted, been in possession of evidence of all the relevant facts, it would not have been reasonable to institute the proceedings; and
- (b) that any act or omission of the defendant that contributed, or might have contributed, to the institution or continuation of the proceedings was reasonable in the circumstances.

(2) A certificate granted under this Act by a Justice or by Justices shall specify the amount of costs that he or they would have adjudged to be paid if he or they had made an order for costs against the informant, prosecutor or complainant, as the case may be.

Costs in Criminal Cases.

4. (1) In this section "Under Secretary" means the Under Secretary of the Department of the Attorney General and of Justice. ^{Payment of costs.}

(2) Any person to whom a certificate has been granted pursuant to this Act may, upon production of the certificate to the Under Secretary, make application to him for payment from the Consolidated Revenue Fund of the costs incurred by that person in the proceedings to which the certificate relates.

(3) Subject to subsection four of this section, the Under Secretary shall, as soon as practicable after receiving an application under subsection two of this section, furnish to the Treasurer a statement, signed by the Under Secretary, setting forth the particulars of the application and the certificate to which it relates and specifying—

- (a) (i) where an amount for costs has been specified in the certificate pursuant to subsection two of section three of this Act, the amount so specified; or
- (ii) where an amount for costs has not been so specified, the amount that, in the opinion of the Under Secretary, would reasonably have been incurred for costs by the applicant in the proceedings to which the certificate relates; and
- (b) any amounts which, in the opinion of the Under Secretary, the applicant has received or is entitled to receive or would, if he had exhausted all relevant rights of action and other legal remedies available to him, be entitled to receive, independently of this Act, by reason of his having incurred those costs.

(4) The Under Secretary may defer furnishing to the Treasurer any statement under subsection three of this section for as long as he considers it necessary to do so to enable him to specify the amounts referred to in subparagraph (ii) of paragraph (a), and paragraph (b), of that subsection.

(5)

Costs in Criminal Cases.

(5) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that, in the circumstances of the case, the making of a payment to the applicant is justified, the Treasurer may pay to the applicant his costs or such part thereof as the Treasurer may determine.

(6) Any payments under subsection five of this section may be made without further appropriation than this Act.

10 5. (1) Where payment is made to any person pursuant to section four of this Act, the Under Secretary shall be subrogated, to the extent of the payment, to all the rights and remedies of that person, other than those provided under this Act, to recover costs incurred in the proceedings in respect of which application for the payment was made.

Under Secretary subrogated to rights of applicant.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

20 6. No certificate granted pursuant to this Act shall be admissible in evidence in any proceedings.

Certificate not admissible in evidence.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting next after section forty-one the following new section :—

Amendment of Act No. 27, 1902. New sec. 41A.

25 41A. (1) The Justice or Justices making any order discharging a defendant as to the information then under inquiry may in and by such order adjudge that the informant shall pay to the clerk of the court to be by him paid to the defendant such costs as to such Justice or Justices seem just and reasonable.

Justice may order costs to be paid by informant.

30 (2) The amount so allowed for costs shall in all cases be specified in such order.

(3)

Costs in Criminal Cases.

5 (3) The provisions of sections eighty-two, eighty-three and eighty-four of this Act relating to orders for the payment of costs shall, mutatis mutandis, apply to and in respect of orders for the payment of costs made pursuant to this section.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

(1) The provisions of section 101 of the Act relating to the payment of costs shall not apply to any person who is not a party to the proceedings in which the costs are incurred.

(2) The provisions of section 102 of the Act relating to the payment of costs shall not apply to any person who is not a party to the proceedings in which the costs are incurred.

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 March, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act relating to costs in criminal cases; to amend the Justices Act, 1902, as amended by subsequent Acts; and for purposes connected therewith.

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 "Costs in Criminal Cases Act, 1967".

Short title,
commence-
ment and
application.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3)

Costs in Criminal Cases.

(3) This Act does not apply in respect of proceedings instituted, or appeals lodged, before its commencement.

2. The Court or Judge or Justice or Justices in any proceedings relating to any offence, whether punishable 5 summarily or upon indictment, may—

Certificate
may be
granted.

(a) where a defendant, after a hearing on the merits, is acquitted or discharged as to the information then under inquiry; or

10 (b) where, on appeal, the conviction of the defendant is quashed and—

(i) he is discharged as to the indictment upon which he was convicted; or

(ii) the information or complaint upon which he was convicted is dismissed.

15 grant to that defendant a certificate under this Act, specifying the matters referred to in section three of this Act and relating to those proceedings.

3. (1) A certificate granted under this Act shall specify Form of that, in the opinion of the Court or Judge or Justice or 20 Justices granting the certificate—

Form of
certificate.

(a) if the prosecution had, before the proceedings were instituted, been in possession of evidence of all the relevant facts, it would not have been reasonable to institute the proceedings; and

25 (b) that any act or omission of the defendant that contributed, or might have contributed, to the institution or continuation of the proceedings was reasonable in the circumstances.

(2) A certificate granted under this Act by a Justice 30 or by Justices shall specify the amount of costs that he or they would have adjudged to be paid if he or they had made an order for costs against the informant, prosecutor or complainant, as the case may be.

Costs in Criminal Cases.

4. (1) In this section "Under Secretary" means the Under Secretary of the Department of the Attorney General and of Justice. ^{Payment of costs.}

(2) Any person to whom a certificate has been granted pursuant to this Act may, upon production of the certificate to the Under Secretary, make application to him for payment from the Consolidated Revenue Fund of the costs incurred by that person in the proceedings to which the certificate relates.

(3) Subject to subsection four of this section, the Under Secretary shall, as soon as practicable after receiving an application under subsection two of this section, furnish to the Treasurer a statement, signed by the Under Secretary, setting forth the particulars of the application and the certificate to which it relates and specifying—

(a) (i) where an amount for costs has been specified in the certificate pursuant to subsection two of section three of this Act, the amount so specified; or

(ii) where an amount for costs has not been so specified, the amount that, in the opinion of the Under Secretary, would reasonably have been incurred for costs by the applicant in the proceedings to which the certificate relates; and

(b) any amounts which, in the opinion of the Under Secretary, the applicant has received or is entitled to receive or would, if he had exhausted all relevant rights of action and other legal remedies available to him, be entitled to receive, independently of this Act, by reason of his having incurred those costs.

(4) The Under Secretary may defer furnishing to the Treasurer any statement under subsection three of this section for as long as he considers it necessary to do so to enable him to specify the amounts referred to in subparagraph (ii) of paragraph (a), and paragraph (b), of that subsection.

(5)

Costs in Criminal Cases.

(5) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that, in the circumstances of the case, the making of a payment to the applicant is justified, the Treasurer may pay to the applicant his costs or such part thereof as the Treasurer may determine.

(6) Any payments under subsection five of this section may be made without further appropriation than this Act.

10 5. (1) Where payment is made to any person pursuant Under
to section four of this Act, the Under Secretary shall be Secretary
subrogated, to the extent of the payment, to all the rights and subrogated
remedies of that person, other than those provided under this to rights
Act, to recover costs incurred in the proceedings in respect of of applicant.
15 which application for the payment was made.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

20 6. No certificate granted pursuant to this Act shall be Certificate
admissible in evidence in any proceedings. not admis-
sible in
evidence.

7. (1) The Justices Act, 1902, as amended by subse- Amendment
quent Acts, is amended by inserting next after section forty- of Act
one the following new section :— No. 27, 1902.
New sec. 41A.

25 41A. (1) The Justice or Justices making any order Justice may
discharging a defendant as to the information then under order costs
inquiry may in and by such order adjudge that the to be paid by
informant shall pay to the clerk of the court to be by informant.
him paid to the defendant such costs as to such Justice
or Justices seem just and reasonable.

30 (2) The amount so allowed for costs shall in
all cases be specified in such order.

(3)

Costs in Criminal Cases.

5 (3) The provisions of sections eighty-two, eighty-three and eighty-four of this Act relating to orders for the payment of costs shall, mutatis mutandis, apply to and in respect of orders for the payment of costs made pursuant to this section.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

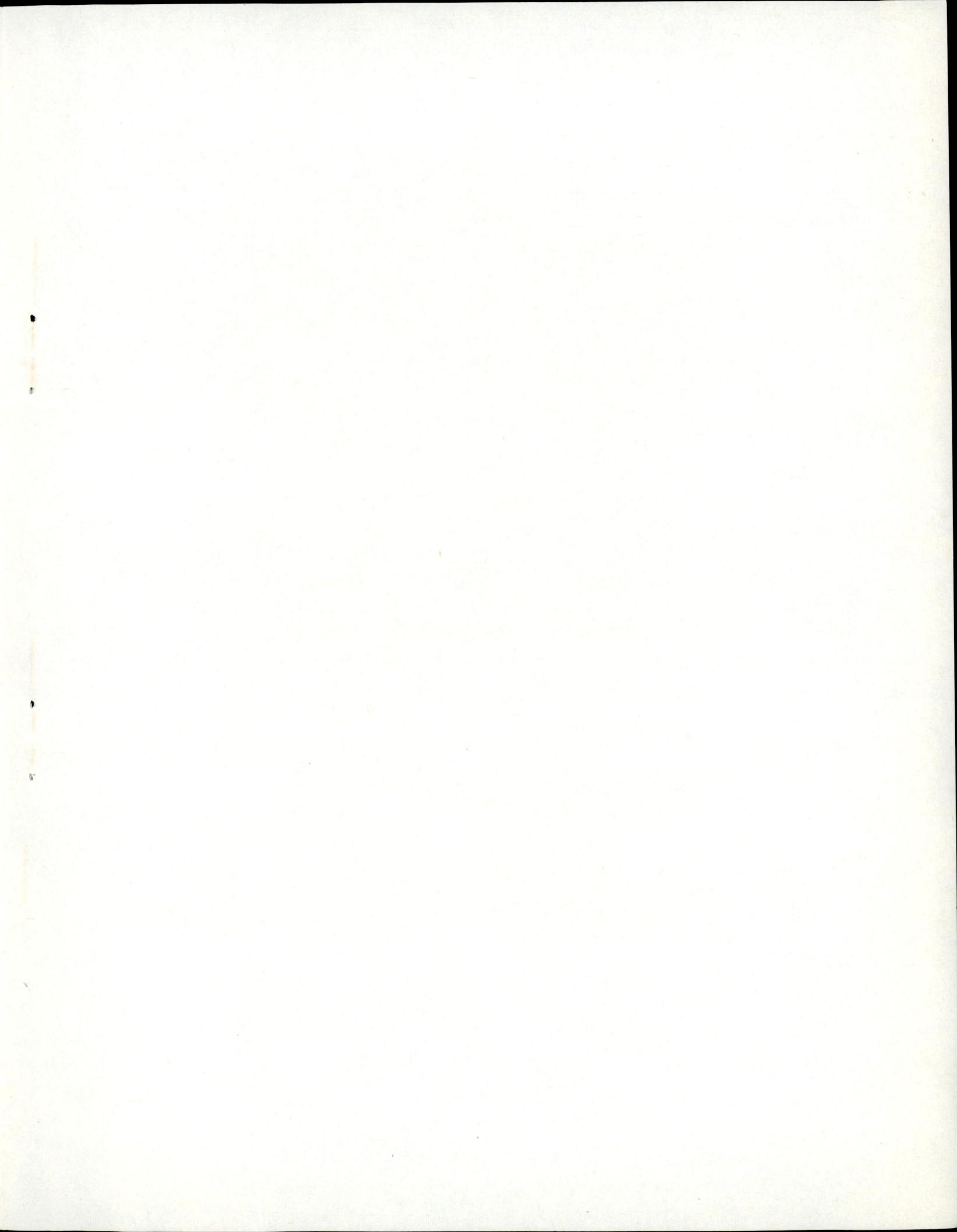
BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[5c]

Code in Criminal Law

(3) The provisions of this Act relating to orders for the payment of costs shall not be construed to require the payment of costs in any case where the payment of costs is not required by the provisions of this Act.

(4) The Justice Act 1903 is amended by adding the following section to the Justice Act 1903-1907.



No. , 1967.

A BILL

Relating to costs in criminal cases; to amend the Justices Act, 1902, as amended by subsequent Acts; and for purposes connected therewith.

[MR MADDISON—1 March, 1967.]

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 "Costs in Criminal Cases Act, 1967".
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Short title,
commence-
ment and
application.

(3)

Costs in Criminal Cases.

(3) This Act does not apply in respect of proceedings instituted, or appeals lodged, before its commencement.

2. The Court or Judge or Justice or Justices in any proceedings relating to any offence, whether punishable summarily or upon indictment, may—

(a) where a defendant, after a hearing on the merits, is acquitted or discharged as to the information then under inquiry; or

10 (b) where, on appeal, the conviction of the defendant is quashed and—

(i) he is discharged as to the indictment upon which he was convicted; or

(ii) the information or complaint upon which he was convicted is dismissed,

15 grant to that defendant a certificate under this Act, specifying the matters referred to in section three of this Act and relating to those proceedings.

3. (1) A certificate granted under this Act shall specify that, in the opinion of the Court or Judge or Justice or Justices granting the certificate—

(a) if the prosecution had, before the proceedings were instituted, been in possession of evidence of all the relevant facts, it would not have been reasonable to institute the proceedings; and

25 (b) that any act or omission of the defendant that contributed, or might have contributed, to the institution or continuation of the proceedings was reasonable in the circumstances.

(2) A certificate granted under this Act by a Justice or by Justices shall specify the amount of costs that he or they would have adjudged to be paid if he or they had made an order for costs against the informant, prosecutor or complainant, as the case may be.

Costs in Criminal Cases.

4. (1) In this section "Under Secretary" means the Payment Under Secretary of the Department of the Attorney General of costs. and of Justice.

(2) Any person to whom a certificate has been granted pursuant to this Act may, upon production of the certificate to the Under Secretary, make application to him for payment from the Consolidated Revenue Fund of the costs incurred by that person in the proceedings to which the certificate relates.

10 (3) Subject to subsection four of this section, the Under Secretary shall, as soon as practicable after receiving an application under subsection two of this section, furnish to the Treasurer a statement, signed by the Under Secretary, setting forth the particulars of the application and the
15 certificate to which it relates and specifying—

(a) (i) where an amount for costs has been specified in the certificate pursuant to subsection two of section three of this Act, the amount so specified; or

20 (ii) where an amount for costs has not been so specified, the amount that, in the opinion of the Under Secretary, would reasonably have been incurred for costs by the applicant in the proceedings to which the certificate
25 relates; and

(b) any amounts which, in the opinion of the Under Secretary, the applicant has received or is entitled to receive or would, if he had exhausted all relevant rights of action and other legal remedies available to him, be entitled to receive, independently of this
30 Act, by reason of his having incurred those costs.

(4) The Under Secretary may defer furnishing to the Treasurer any statement under subsection three of this section for as long as he considers it necessary to do so to enable him
35 to specify the amounts referred to in subparagraph (ii) of paragraph (a), and paragraph (b), of that subsection.

(5)

Costs in Criminal Cases.

(5) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that, in the circumstances of the case, the making of a payment to the applicant is justified, the Treasurer may pay to the applicant his costs or such part thereof as the Treasurer may determine.

(6) Any payments under subsection five of this section may be made without further appropriation than this Act.

10 5. (1) Where payment is made to any person pursuant to section four of this Act, the Under Secretary shall be subrogated, to the extent of the payment, to all the rights and remedies of that person, other than those provided under this Act, to recover costs incurred in the proceedings in respect of which application for the payment was made.

Under Secretary subrogated to rights of applicant.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

20 6. No certificate granted pursuant to this Act shall be admissible in evidence in any proceedings.

Certificate not admissible in evidence.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting next after section forty-one the following new section :—

Amendment of Act No. 27, 1902. New sec. 41A.

25 41A. (1) The Justice or Justices making any order discharging a defendant as to the information then under inquiry may in and by such order adjudge that the informant shall pay to the clerk of the court to be by him paid to the defendant such costs as to such Justice or Justices seem just and reasonable.

Justice may order costs to be paid by informant.

30 (2) The amount so allowed for costs shall in all cases be specified in such order.

(3)

Costs in Criminal Cases.

5 (3) The provisions of sections eighty-two, eighty-three and eighty-four of this Act relating to orders for the payment of costs shall, mutatis mutandis, apply to and in respect of orders for the payment of costs made pursuant to this section.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

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New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 13, 1967.

An Act relating to costs in criminal cases; to amend the Justices Act, 1902, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

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 "Costs in Criminal Cases Act, 1967".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Short title,
commence-
ment and
application.

(3)

Costs in Criminal Cases.

(3) This Act does not apply in respect of proceedings instituted, or appeals lodged, before its commencement.

Certificate
may be
granted.

2. The Court or Judge or Justice or Justices in any proceedings relating to any offence, whether punishable summarily or upon indictment, may—

- (a) where a defendant, after a hearing on the merits, is acquitted or discharged as to the information then under inquiry; or
- (b) where, on appeal, the conviction of the defendant is quashed and—
 - (i) he is discharged as to the indictment upon which he was convicted; or
 - (ii) the information or complaint upon which he was convicted is dismissed,

grant to that defendant a certificate under this Act, specifying the matters referred to in section three of this Act and relating to those proceedings.

Form of
certificate.

3. (1) A certificate granted under this Act shall specify that, in the opinion of the Court or Judge or Justice or Justices granting the certificate—

- (a) if the prosecution had, before the proceedings were instituted, been in possession of evidence of all the relevant facts, it would not have been reasonable to institute the proceedings; and
- (b) that any act or omission of the defendant that contributed, or might have contributed, to the institution or continuation of the proceedings was reasonable in the circumstances.

(2) A certificate granted under this Act by a Justice or by Justices shall specify the amount of costs that he or they would have adjudged to be paid if he or they had made an order for costs against the informant, prosecutor or complainant, as the case may be.

Costs in Criminal Cases.

4. (1) In this section "Under Secretary" means the Under Secretary of the Department of the Attorney General and of Justice. Payment of costs.

(2) Any person to whom a certificate has been granted pursuant to this Act may, upon production of the certificate to the Under Secretary, make application to him for payment from the Consolidated Revenue Fund of the costs incurred by that person in the proceedings to which the certificate relates.

(3) Subject to subsection four of this section, the Under Secretary shall, as soon as practicable after receiving an application under subsection two of this section, furnish to the Treasurer a statement, signed by the Under Secretary, setting forth the particulars of the application and the certificate to which it relates and specifying—

(a) (i) where an amount for costs has been specified in the certificate pursuant to subsection two of section three of this Act, the amount so specified; or

(ii) where an amount for costs has not been so specified, the amount that, in the opinion of the Under Secretary, would reasonably have been incurred for costs by the applicant in the proceedings to which the certificate relates; and

(b) any amounts which, in the opinion of the Under Secretary, the applicant has received or is entitled to receive or would, if he had exhausted all relevant rights of action and other legal remedies available to him, be entitled to receive, independently of this Act, by reason of his having incurred those costs.

(4) The Under Secretary may defer furnishing to the Treasurer any statement under subsection three of this section for as long as he considers it necessary to do so to enable him to specify the amounts referred to in subparagraph (ii) of paragraph (a), and paragraph (b), of that subsection.

(5)

Costs in Criminal Cases.

(5) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that, in the circumstances of the case, the making of a payment to the applicant is justified, the Treasurer may pay to the applicant his costs or such part thereof as the Treasurer may determine.

(6) Any payments under subsection five of this section may be made without further appropriation than this Act.

Under
Secretary
subrogated
to rights
of applicant.

5. (1) Where payment is made to any person pursuant to section four of this Act, the Under Secretary shall be subrogated, to the extent of the payment, to all the rights and remedies of that person, other than those provided under this Act, to recover costs incurred in the proceedings in respect of which application for the payment was made.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

Certificate
not admis-
sible in
evidence.

6. No certificate granted pursuant to this Act shall be admissible in evidence in any proceedings.

Amendment
of Act
No. 27, 1902.
New sec. 41A.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting next after section forty-one the following new section :—

Justice may
order costs
to be paid by
informant.

41A. (1) The Justice or Justices making any order discharging a defendant as to the information then under inquiry may in and by such order adjudge that the informant shall pay to the clerk of the court to be by him paid to the defendant such costs as to such Justice or Justices seem just and reasonable.

(2) The amount so allowed for costs shall in all cases be specified in such order.

Costs in Criminal Cases.

(3) The provisions of sections eighty-two, eighty-three and eighty-four of this Act relating to orders for the payment of costs shall, mutatis mutandis, apply to and in respect of orders for the payment of costs made pursuant to this section.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 March, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 13, 1967.

An Act relating to costs in criminal cases; to amend the Justices Act, 1902, as amended by subsequent Acts; and for purposes connected therewith.
[Assented to, 23rd March, 1967.]

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 "Costs in Criminal Cases Act, 1967".

Short title,
commence-
ment and
application.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3)

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

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Costs in Criminal Cases.

(3) This Act does not apply in respect of proceedings instituted, or appeals lodged, before its commencement.

Certificate
may be
granted.

2. The Court or Judge or Justice or Justices in any proceedings relating to any offence, whether punishable summarily or upon indictment, may—

- (a) where a defendant, after a hearing on the merits, is acquitted or discharged as to the information then under inquiry; or
- (b) where, on appeal, the conviction of the defendant is quashed and—
 - (i) he is discharged as to the indictment upon which he was convicted; or
 - (ii) the information or complaint upon which he was convicted is dismissed,

grant to that defendant a certificate under this Act, specifying the matters referred to in section three of this Act and relating to those proceedings.

Form of
certificate.

3. (1) A certificate granted under this Act shall specify that, in the opinion of the Court or Judge or Justice or Justices granting the certificate—

- (a) if the prosecution had, before the proceedings were instituted, been in possession of evidence of all the relevant facts, it would not have been reasonable to institute the proceedings; and
- (b) that any act or omission of the defendant that contributed, or might have contributed, to the institution or continuation of the proceedings was reasonable in the circumstances.

(2) A certificate granted under this Act by a Justice or by Justices shall specify the amount of costs that he or they would have adjudged to be paid if he or they had made an order for costs against the informant, prosecutor or complainant, as the case may be.

Costs in Criminal Cases.

4. (1) In this section "Under Secretary" means the Under Secretary of the Department of the Attorney General and of Justice. ^{Payment of costs.}

(2) Any person to whom a certificate has been granted pursuant to this Act may, upon production of the certificate to the Under Secretary, make application to him for payment from the Consolidated Revenue Fund of the costs incurred by that person in the proceedings to which the certificate relates.

(3) Subject to subsection four of this section, the Under Secretary shall, as soon as practicable after receiving an application under subsection two of this section, furnish to the Treasurer a statement, signed by the Under Secretary, setting forth the particulars of the application and the certificate to which it relates and specifying—

- (a) (i) where an amount for costs has been specified in the certificate pursuant to subsection two of section three of this Act, the amount so specified; or
- (ii) where an amount for costs has not been so specified, the amount that, in the opinion of the Under Secretary, would reasonably have been incurred for costs by the applicant in the proceedings to which the certificate relates; and
- (b) any amounts which, in the opinion of the Under Secretary, the applicant has received or is entitled to receive or would, if he had exhausted all relevant rights of action and other legal remedies available to him, be entitled to receive, independently of this Act, by reason of his having incurred those costs.

(4) The Under Secretary may defer furnishing to the Treasurer any statement under subsection three of this section for as long as he considers it necessary to do so to enable him to specify the amounts referred to in subparagraph (ii) of paragraph (a), and paragraph (b), of that subsection.

(5)

Costs in Criminal Cases.

(5) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that, in the circumstances of the case, the making of a payment to the applicant is justified, the Treasurer may pay to the applicant his costs or such part thereof as the Treasurer may determine.

(6) Any payments under subsection five of this section may be made without further appropriation than this Act.

Under
Secretary
subrogated
to rights
of applicant.

5. (1) Where payment is made to any person pursuant to section four of this Act, the Under Secretary shall be subrogated, to the extent of the payment, to all the rights and remedies of that person, other than those provided under this Act, to recover costs incurred in the proceedings in respect of which application for the payment was made.

(2) Any moneys recovered by the Under Secretary pursuant to subsection one of this section shall be paid to the Consolidated Revenue Fund.

Certificate
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6. No certificate granted pursuant to this Act shall be admissible in evidence in any proceedings.

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of Act
No. 27, 1902.
New sec. 41A.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting next after section forty-one the following new section :—

Justice may
order costs
to be paid by
informant.

41A. (1) The Justice or Justices making any order discharging a defendant as to the information then under inquiry may in and by such order adjudge that the informant shall pay to the clerk of the court to be by him paid to the defendant such costs as to such Justice or Justices seem just and reasonable.

(2) The amount so allowed for costs shall in all cases be specified in such order.

(3)

Costs in Criminal Cases.

(3) The provisions of sections eighty-two, eighty-three and eighty-four of this Act relating to orders for the payment of costs shall, mutatis mutandis, apply to and in respect of orders for the payment of costs made pursuant to this section.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 23rd March, 1967.*

