

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, 13 October, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1965.

An Act to establish a division of the Supreme Court to be called the Court of Appeal; to make provision for and with respect to the appointment and the offices of the President of the Court of Appeal and of the Judges of Appeal; to make further provision with respect to the hearing and determination of appeals to and of other proceedings before the Supreme Court; for these and other purposes to amend the Supreme Court and Circuit Courts Act, 1900-1957, and certain other Acts in certain respects; and for purposes connected therewith.

BE

Supreme Court and Circuit Courts (Amendment).

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 and Circuit Courts (Amendment) Act, 1965".

Short title, citation and commencement.

(2) The Acts, as amended by subsequent Acts, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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

2. The Supreme Court and Circuit Courts Act, 1900-1957, is amended—

Amendment of Act No. 35, 1900.

(a) (i) by omitting from section one the figures "21" appearing in the matter relating to Part III and by inserting in lieu thereof the figures and letter "21M";

Sec. 1. (Short title and division.)

(ii) by inserting in the same section at the end of the matter relating to Part III the following words and figures :—

DIVISION 1.—*Jurisdiction Generally*—ss. 16-21.

DIVISION 2.—*Court of Appeal*—ss. 21A-21L.

DIVISION 3.—*The Registrar of the Court of Appeal*—s. 21M.

(b) by inserting in section three next after the definition of "Judge" the following new definition :—

Sec. 3. (Interpretation.)

"Judge of Appeal" means a Judge appointed pursuant to Division 2 of Part III of this Act as a Judge of Appeal.

(c)

Supreme Court and Circuit Courts (Amendment).

(c) by inserting in section 12A after the word "appoint" the words "the President of the Court of Appeal, any Judge of Appeal or";

Sec. 12A.
(Acting
Chief
Justice.)

(d) (i) by inserting in Part III immediately before section sixteen the following heading :—

Part III.
(Heading.)

DIVISION 1. Jurisdiction Generally.

(ii) by inserting in the same Part next after section twenty-one the following new divisions :—

New
Divisions
2 and 3.

DIVISION 2. Court of Appeal.

21A. Nothing in this Division of this Act shall affect the operation of the Criminal Appeal Act of 1912, as amended by subsequent Acts, or the jurisdiction of the Supreme Court with respect to matters within the operation of that Act, as so amended.

Saving of
Criminal
Appeal
Act.

21B. (1) There shall be a division of the Court to be called the Court of Appeal.

Court of
Appeal.

(2) Subject to the provisions of this Division of this Part of this Act the Court of Appeal shall consist of—

cf. Act
1908, No.
89 (N.Z.).
s. 57.

(a) the Chief Justice who shall, by virtue of his office as such, be the senior member of the Court of Appeal;

(b) a Judge appointed pursuant to section 21c of this Act to be a Judge of Appeal and President of the Court of Appeal;

(c) not more than six Judges appointed pursuant to section 21c of this Act to be Judges of Appeal.

21c. (1) The Governor may from time to time, by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to be a Judge of Appeal.

Appoint-
ment.

An

Supreme Court and Circuit Courts (Amendment).

5 An appointment may, notwithstanding the provisions of subsection two of section 21B of this Act, be made by the Governor to fill the office of a Judge of Appeal who is about to retire and who has been granted leave of absence pending his retirement.

(2) The Governor may, in like manner, appoint a Judge of Appeal to be President of the Court of Appeal.

10 Such appointment may be made either at the time of his appointment as a Judge of Appeal or at any time thereafter.

15 (3) Any Judge may be appointed as Judge of Appeal either at the time of his appointment as a Judge or at any time thereafter.

(4) Every Judge of Appeal shall continue to be a Judge and may from time to time sit as or exercise any of the powers of a Judge. cf. Act 1908, No. 89 (N.Z.), s. 57.

20 In particular, and without prejudice to the generality of the foregoing provisions of this subsection, any Judge who, at the time of his appointment as Judge of Appeal, holds the office of Chief Judge in Equity shall continue to hold such office and may from time to time sit as or exercise any of the powers and functions of the Chief Judge in Equity.

25 (5) Every Judge of Appeal shall hold office as a Judge of Appeal so long as he holds office as a Judge :

30 Provided that, with the approval of the Governor, any Judge of Appeal may resign his office as such without resigning his office as a Judge.

35 (6) The Judges of Appeal shall have seniority rank and precedence over all the Judges (including any Judge who is for the time being an additional Judge of Appeal) except the Chief Justice or the Acting Chief Justice

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Justice and over all persons who, in accordance with the provisions of any Act, have the same rank, title, status and precedence as a Puisne Judge of the Supreme Court. The President of the Court of Appeal shall have seniority rank and precedence over the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, and those Judges of Appeal shall have seniority rank and precedence between themselves according to the dates of their commissions as Judges of Appeal.

If the commissions of two or more Judges of Appeal bear the same date they shall have seniority rank and precedence according to the seniority rank and precedence assigned to them by their commissions, or failing such assignment according to the order of their being sworn.

If a Judge of Appeal resigns his office as a Judge of Appeal without resigning his office as a Judge, he shall then have, as a Judge, the seniority rank status and precedence he would have had if he had not been appointed a Judge of Appeal.

(7) Where there is a vacancy in the office of President or where the President is absent from New South Wales or is prevented by illness or other cause from exercising the duties of his office, the senior of the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers which may lawfully be exercised by the President.

(8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the office of Chief Justice or of President or
by

Supreme Court and Circuit Courts (Amendment).

5 by the fact that the number of Judges of Appeal holding office for the time being is less than the number referred to in paragraph (c) of subsection two of section 21B of this Act.

10 21D. (1) Where any Judge of Appeal (other than the Chief Justice) is absent from his duties upon leave of absence or from illness or other cause the Governor may by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to sit and act as an additional Judge of Appeal during such period not exceeding six months as may be specified in the commission.

Additional Judges of Appeal.
cf. Act 1908, No. 89 (N.Z.), s. 58.

15 (2) Whenever the Chief Justice certifies that in any appeal or proceeding before the Court of Appeal it is expedient that a Judge or Judges nominated in the certificate should act as an additional Judge of Appeal or as additional Judges of Appeal, the Judge or Judges so nominated may act as an additional Judge of Appeal or additional Judges of Appeal for the purposes of that appeal or proceeding.

25 (3) Every additional Judge of Appeal appointed or nominated pursuant to this section shall, during the tenure of such appointment or, as the case may be, while so acting for the purposes of such appeal or proceeding have all the powers, authorities, privileges and immunities and shall fulfil all the duties of a Judge of Appeal.

35 (4) The fact that any Judge sits and acts as an additional Judge of Appeal shall be sufficient evidence of his authority to do so, and no judgment or determination of the Court of Appeal while he so acts shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased to exist.

(5)

Supreme Court and Circuit Courts (Amendment).

(5) Every Judge who pursuant to this section has sat and acted as an additional Judge of Appeal may attend the sittings of the Court of Appeal for the purpose of giving judgment in or otherwise completing any proceedings in relation to any case that has been heard by that Court while he so acted notwithstanding that he is no longer an additional Judge of Appeal.

21E. At every sitting of the Court of Appeal at which the Chief Justice is present he shall preside. In the absence of the Chief Justice the President of the Court of Appeal shall preside. In the absence of both the Chief Justice and the President the senior Judge of Appeal present shall preside.

Sittings of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 60.

21F. (1) Except to the extent to which express provision to the contrary is made by or under any Act passed after the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or by section 21A of this Act, and subject to any such provision, every power, jurisdiction or authority conferred on or entrusted to or vested in the Court or the Judges collectively which, but for the passing of the Supreme Court and Circuit Courts (Amendment) Act, 1965, would have been exercised by the Court sitting as a Full Court, shall, from and after the commencement of that Act, be exercised by the Court of Appeal.

Jurisdiction of Court of Appeal.

(2) A reference express or implied in any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, and in force immediately before such commencement, to the Supreme Court in Banco or to the Full Court or to the Supreme Court as a court consisting

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consisting of two or more judges shall, as from such commencement, be construed as a reference to the Court of Appeal.

5 (3) Without prejudice to the gener- Proceedings
ality of the foregoing provisions of this section before the
the following proceedings shall be heard by Court of
the Court of Appeal:— Appeal.
cf. Rules of
Supreme
Court
(Eng.)
O. LIX R. 1.

- 10 (a) applications to make absolute a rule
or order nisi for mandamus, prohibition
or certiorari;
- (b) applications to make absolute an order
for the issue of a writ of habeas
corpus;
- 15 (c) proceedings for attachment for con-
tempt of court whether of the Supreme
Court or an inferior court except
where the contempt is committed in
the face of the Court in proceedings
20 in the Supreme Court or in a District
Court or consists of disobedience to
an order of the Supreme Court or a
District Court;
- (d) proceedings on demurrer;
- (e) the admission of barristers or solicitors;
- 25 (f) the exercise of the disciplinary powers
of the Supreme Court with respect to
barristers or solicitors;
- (g) proceedings required or authorised by
30 any Act to be heard by the Supreme
Court which would, before the com-
mencement of the Supreme Court and
Circuit Courts (Amendment) Act,
1965, have been heard by the Full
Court.

35 21G. (1) Subject to this Act any three or more Judges of Appeal may exercise all the powers of the Court of Appeal. Decision of
Court of
Appeal.
cf. Act 1908,
No. 89
(N.Z.), s. 59.

(2)

Supreme Court and Circuit Courts (Amendment).

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges of Appeal present.

5 (3) If the Judges of Appeal present are equally divided in opinion the decision of the Court of Appeal shall be in accordance with the opinion of the Chief Justice or other the Judge of Appeal presiding.

10 21H. (1) Two Courts of Appeal each consisting of three or more Judges of Appeal may be held simultaneously. Separate sittings. cf. s. 21.

15 (2) Subject to the provisions of this Act each such Court of Appeal shall have power to exercise the full jurisdiction of the Court of Appeal.

20 21I. The Court of Appeal shall have power to remit any proceedings in any cause pending before it to a Judge for the trial and determination in accordance with the appropriate procedure of the Supreme Court of such issues or questions of fact as it may think fit. Power to remit proceedings. cf. Act 1908, No. 89 (N.Z.), s. 62.

25 21J. All judgments, decrees, orders and determinations of the Court of Appeal may be enforced or given effect to in the same manner as the like judgments, decrees, orders and determinations of the Supreme Court were enforced or given effect to before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965. Enforcement of judgments of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 63.

30

21K. (1) The Judges of Appeal or any three of them may make rules and orders— Rules of Court. cf. s. 39.

35 (a) for the regulation of the practice procedure and pleadings in the Court of Appeal in all respects;

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) for facilitating or more fully carrying into effect all or any of the provisions and objects of this Division of this Part of this Act;
- 5 (c) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court of Appeal to the practitioners therein;
- 10 (d) for fixing the fees to be demanded and paid in the Court of Appeal;
- (e) for prescribing the form and manner in which any matter or class of matters may or shall be referred to the Court of Appeal.
- 15 (2) The rules and orders made in relation to any of the matters referred to in paragraph (e) of subsection one of this section shall, by virtue of this Act, have full force and effect notwithstanding any inconsistency with any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or any rules or orders made under any such Act.
- 20 (3) Every rule and order so made shall, subject to subsection two of this section, be of the same force and effect as if the same had been inserted in and had formed part of this Act. Rules to have force of law. cf. s. 40.
- 25 (4) All rules and orders so made shall— Publication.
- 30 (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)

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5 (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.

10 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.

15 21L. Where a Judge is satisfied that special circumstances exist which render it desirable to do so he may by order direct the removal into the Court of Appeal of any of the following proceedings that is to say—

Proceedings in Supreme Court may be removed into Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 64.

- 20 (a) any rule nisi granted;
- (b) any notice of motion made;
- (c) any petition presented;
- (d) any special case stated;
- (e) any question of law directed to be argued;

25 and upon such removal the Court of Appeal shall have and may exercise and discharge with respect to the proceedings so removed all the powers authorities duties and functions of the Supreme Court.

30 DIVISION 3. *The Registrar.*

35 21M. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, from time to time appoint a Registrar of the Court of Appeal and such other officers as may be required.

Appointment of Registrar of Court of Appeal. cf. s. 15A.

Supreme Court and Circuit Courts (Amendment).

3. (1) In any of the following cases that is to say—

Savings as to reserved judgments and part heard appeals.

5 (a) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been commenced but not completed before the commencement of this Act and at such commencement such hearing stands adjourned; or

10 (b) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been completed but the appeal had not been determined and at such commencement judgment on that appeal or proceedings stands reserved,

15 the appeal or proceedings may be carried on completed and determined and judgment may be delivered and may be enforced or given effect to, and shall have the same effects and consequences as if this Act had not been enacted.

20 (2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

25 4. (1) Where before the commencement of this Act an appeal to or other proceedings in the Supreme Court with respect to any act, matter or thing which, after such commencement, falls within the jurisdiction of the Court of Appeal or is a matter or one of a class of matters referred to the Court of Appeal, or is required or authorised to be heard before the Court of Appeal, has been instituted but the hearing thereof has not been commenced, such appeal or proceedings may, subject to the Supreme Court and Circuit Courts Act, 1900-1965, and to any rules or orders made thereunder, be heard and determined by the Court of Appeal, and such Court shall have and may exercise and discharge with respect to such appeal or proceedings all the powers authorities duties and functions conferred and imposed upon it by or under that Act.

Pending appeals.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

5.

Supreme Court and Circuit Courts (Amendment).

5. (1) The Real Property Act, 1900-1956, is amended—

Amendment of Act No. 25, 1900.

5 (a) (i) by omitting from subsection one of section twenty-seven the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 27. (Special case.)

(ii) by omitting from the same subsection the words "in the Court" and by inserting in lieu thereof the words "with the Court of Appeal";

10 (iii) by omitting from subsections two and three of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

15 (b) by omitting from section seventy-three the words "or a Judge thereof";

Sec. 73. (When caveat to lapse.)

(c) (i) by omitting from subsection one of section one hundred and twenty-one the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 121. (Proprietor may summon Registrar-General to show cause.)

20 (ii) by omitting from subsection two of the same section the words "Judge of the said Court" and by inserting in lieu thereof the words "Judge of Appeal";

25 (iii) by omitting from subsection three of the same section the words "said Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

30 (d) by omitting from subsection one of section one hundred and twenty-two the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 122. (Special case.)

(e) by omitting from section one hundred and twenty-three the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 123. (Registrar-General may state a case.)

(f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from section 123A the word "Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 123A. (Order as to costs.)
- 5 (g) by inserting at the end of section one hundred and forty the following new subsection :— Sec. 140. (Power to make rules of Court.)
- (2) The Judges of Appeal or any three of them shall have power from time to time to make rules and orders for regulating proceedings in the Court of Appeal under this Act.
- 10 (2) The Supreme Court Procedure Act, 1900-1957, is amended by omitting from section six the words "Supreme Court holden before three Judges" and by inserting in lieu thereof the words "Court of Appeal". Amendment of Act No. 49, 1900. Sec. 6. (Consequential.)
- 15 **6.** The Supreme Court Procedure Act, 1900-1957, is further amended— Further amendment of Act No. 49, 1900.
- (a) (i) by omitting subsection three of section five and by inserting in lieu thereof the following subsection :— Sec. 5. (Finding of Judge.)
- 20 (3) The Judge may, either at or after the trial, direct that judgment be entered for any or either party.
- (ii) by omitting from subsection four of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 25 (iii) by inserting at the end of the same subsection the following words "The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.";
- 30 (iv) by omitting from subsection six the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 35 (v) by omitting from subsection seven the word "Court" where firstly and thirdly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (vi)

Supreme Court and Circuit Courts (Amendment).

- (vi) by omitting from subsections eight, nine, ten and eleven of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
 - 5 (vii) by inserting in subsection twelve of the same section after the word "Court" where firstly occurring the words "of the Court of Appeal";
 - (viii) by omitting from the same subsection the word "Court" where lastly occurring and by
10 inserting in lieu thereof the words "Court of Appeal";
 - (ix) by omitting subsection thirteen of the same section;
 - (b) (i) by omitting from subsection one of section
15 seven the words "Court in Banco" and by inserting in lieu thereof the words "Court of Appeal";
 - (ii) by omitting from the same subsection the word
20 "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (c) by inserting at the end of section 11A the following
25 new subsection :—
 - (3) This section shall apply to any cause matter or proceeding in the Court of Appeal.
 - (d) by inserting at the end of section fourteen the
30 following new paragraph :—
 - The powers conferred by the foregoing provisions of this section shall not apply to and in respect of the Court of Appeal.
7. The Equity Act, 1901-1964, is amended—
- (a) by omitting from section one the words "TO THE FULL COURT" appearing in the matter relating to Part VI;
 - (b)

Sec. 7.
(Power to order non suit or verdict to be entered.)

Sec. 11A.
(Costs.)

Sec. 14.
(Rules regulating procedure.)

Amendment of Act No. 24, 1901.

Sec. 1.
(Short title.)

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- (b) by omitting from the definition of "the Court" in section three the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 3. (Interpretation.)
- 5 (c) (i) by omitting from subsection one of section six the words "other Judges of the Supreme Court" and by inserting in lieu thereof the words "Judges of Appeal"; Sec. 6. (Two Judges may assist.)
- 10 (ii) by omitting from subsection two of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from the heading to Part VI the words "TO THE FULL COURT"; Part VI. (Heading.)
- 15 (e) (i) by omitting from subsection one of section eighty-one the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 81. (Appeal.)
- 20 (ii) by omitting from the same subsection the words "general rules as are prescribed" and by inserting in lieu thereof the words "rules or orders as may be made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or, where and to the extent to which such rules or orders are not applicable then subject to such general rules as may be in force under this Act";
- 25 (f) by omitting from section eighty-three the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 83. (Notice of appeal.)
- 30 (g) by omitting from section eighty-four the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 84. (General powers of Court.)
- 35 (h) (i) by omitting from subsection one of section eighty-five the words "by any general rule or by special order" and by inserting in lieu thereof the words "by special order or by rules or

Supreme Court and Circuit Courts (Amendment).

- 5 or orders made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or where and to the extent to which such rules or orders are not applicable, then subject to any general rule in force under this Act”;
- 10 (ii) by omitting from subsection two of the same section the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (i) by omitting from section eighty-seven the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- 15 (j) by omitting from section eighty-eight the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”.
8. The District Courts Act, 1912-1964, is amended—
- (a) by omitting from section one hundred and forty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- 20 (b) by omitting from subsection two of section one hundred and forty-three all words after the word “appellant” and by inserting in lieu thereof the words “to the Registrar of the Court of Appeal and be set down for argument before the Court of Appeal as provided by rules or orders of the Court of Appeal”;
- 25 (c) (i) by omitting from subsection two of section one hundred and forty-four the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- 30 (ii) by omitting from subsection three of the same section the words “Supreme Court” where firstly and thirdly occurring and by inserting in lieu thereof the words “Court of Appeal”;
- 35 (iii)

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- (iii) by omitting from the same subsection the words "Supreme Court or a judge thereof" and by inserting in lieu thereof the words "Court of Appeal or a Judge of Appeal";
- 5 (d) by omitting from subsection three of section one hundred and forty-five the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal". Sec. 145. (Powers on appeal.)
9. The Judges Retirement Act, 1918, is amended by Amend-
ment of
Act No. 9,
1918.
Sec. 2.
(Defini-
tion.)
- 10 inserting in section two in the definition of "Judge" after the word "means" the words "a Judge of Appeal or".
10. The Stamp Duties Act, 1920-1964, is amended— Amend-
ment of
Act No. 47,
1920.
Sec. 124.
(Appeal.)
- 15 (a) by omitting from subsection one of section one hundred and twenty-four the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from subsection three of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (c) by omitting from subsection four of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection five of the same section the word "court" wherever occurring and by 25 inserting in lieu thereof the words "Court of Appeal";
- (e) (i) by omitting from subsection six of the same section the word "court" where firstly, 30 secondly and fourthly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the 35 word "court" where thirdly occurring and by inserting in lieu thereof the words "Supreme Court";
- (f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from subsection seven of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- 5 (g) by omitting from subsection eight of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (h) by omitting subsection ten of the same section.

11. The Land and Valuation Court Act, 1921-1961, is amended— Amendment of Act No. 10, 1921.

- 10 (a) by omitting from subsections one, two and four of section seventeen the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 17. (Appeal by case stated.)
- 15 (b) (i) by omitting from subsection three of the same section the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- 20 (ii) by omitting from the same subsection the words "Supreme Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal".

12. The Administration of Justice Act, 1924-1957, is amended by inserting in section nineteen after the word "matter" the words "in the Court of Appeal or". Amendment of Act No. 42, 1924.

Sec. 19. (Court to direct procedure in certain cases.)

25 **13.** The Workers' Compensation Act, 1926-1964, is amended— Amendment of Act No. 15, 1926.

- 30 (a) by omitting from paragraphs (a) and (b) of subsection four of section thirty-seven the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 37. (Appeals and stated cases.)

(b)

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- (b) (i) by omitting from paragraph (c) of the same subsection the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- 5 (ii) by omitting from the same paragraph the words "decision of the Supreme Court" and by inserting in lieu thereof the words "decision of the Court of Appeal";
- 10 (c) by omitting from paragraphs (d) and (e) of the same subsection the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal".
- 14.** The Judges' Pensions Act, 1953-1964, is amended—
- Amend-
ment of
Act No. 41,
1953.
- 15 (a) by inserting in section two in the definition of "Judge" after the words "Supreme Court of New South Wales" the words "President of the Court of Appeal or Judge of Appeal";
- Sec. 2.
(Defini-
tions.)
- 20 (b) by inserting in subsection three of section eight after the words "served as" the words "an additional Judge of Appeal".
- Sec. 8.
(Prior
judicial
service.)
- 15.** The Commercial Causes Act, 1903-1957, is amended by omitting from paragraph (h) of section six the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal".
- Amend-
ment of
Act No. 19,
1903.
Sec. 6.
(Direc-
tions.)
- 25 **16.** The Jury Act, 1912-1957, is amended by inserting at the commencement of paragraph (a) of section five the words "Judges of Appeal," .
- Amend-
ment of
Act No. 31,
1912.
Sec. 5.
(Exemp-
tions.)

Supreme Court and Circuit Courts (Amendment).

SCHEDULE.

Sec. 1.

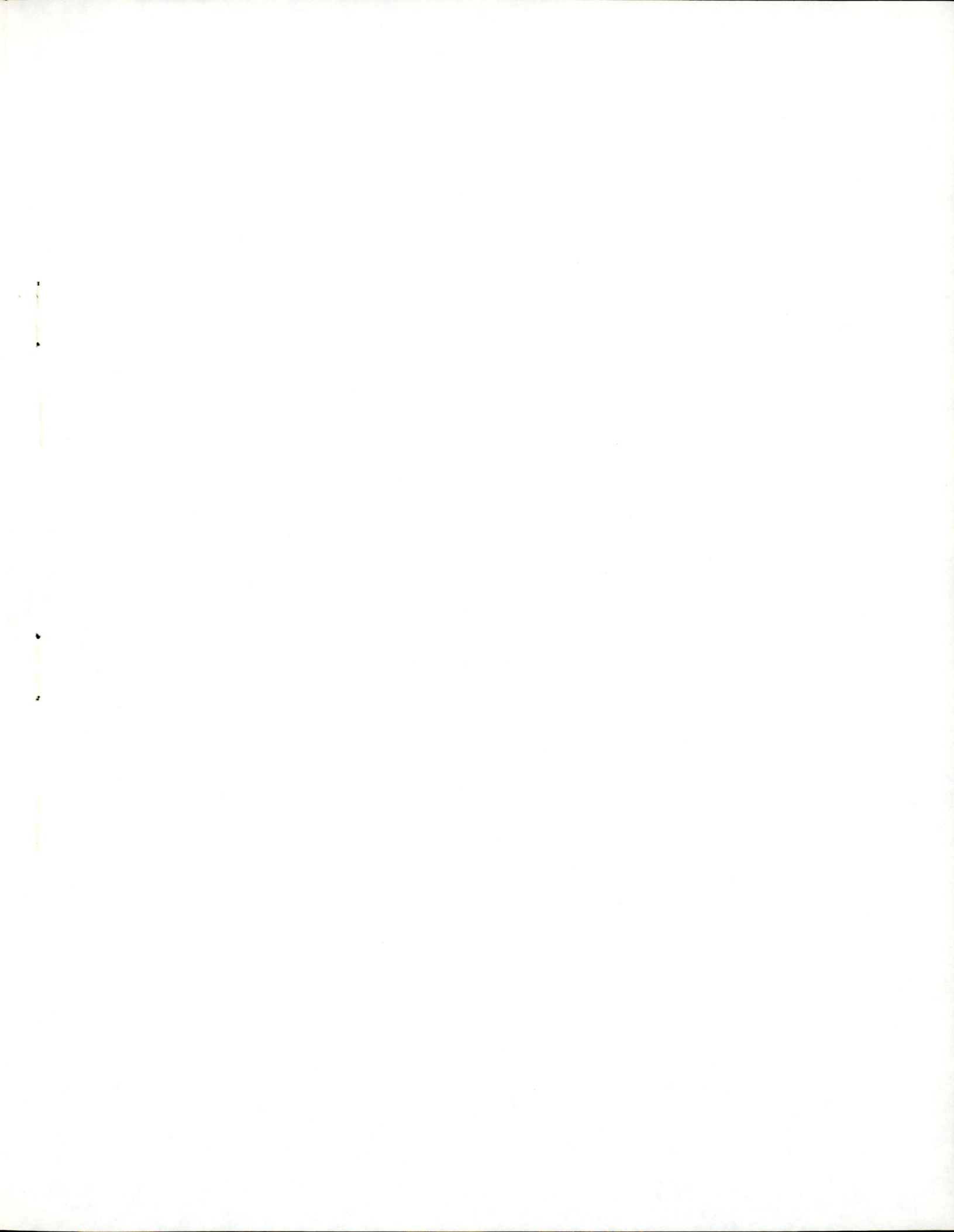
Reference to Act.	Short title.	Citation.
No. 25, 1900.	Real Property Act, 1900.	Real Property Act, 1900-1965.
5 No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900.	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901.	Equity Act, 1901-1965.
10 No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912.	Jury Act, 1912-1965.
No. 9, 1918.	Judges Retirement Act, 1918.	Judges Retirement Act, 1918-1965.
15 No. 47, 1920.	Stamp Duties Act, 1920.	Stamp Duties Act, 1920-1965.
No. 10, 1921.	Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1965.
No. 42, 1924.	Administration of Justice Act, 1924.	Administration of Justice Act, 1924-1965.
20 No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 41, 1953.	Judges' Pensions Act, 1953.	Judges' Pensions Act, 1953-1965.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965
[2s. 0d. (20c)]

INDEX

The following is a list of the names of the persons who have been
 named in the various reports of the Commission on the
 activities of the Communist Party in the United States
 since the year 1945. The names are listed in
 alphabetical order of the last name.



No. , 1965.

A BILL

To establish a division of the Supreme Court to be called the Court of Appeal; to make provision for and with respect to the appointment and the offices of the President of the Court of Appeal and of the Judges of Appeal; to make further provision with respect to the hearing and determination of appeals to and of other proceedings before the Supreme Court; for these and other purposes to amend the Supreme Court and Circuit Courts Act, 1900-1957, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. McCaw;—30 *September*, 1965.]

BE

Supreme Court and Circuit Courts (Amendment).

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 and Circuit Courts (Amendment) Act, 1965".

Short title, citation and commencement.

(2) The Acts, as amended by subsequent Acts, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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

2. The Supreme Court and Circuit Courts Act, 1900-1957, is amended—

Amendment of Act No. 35, 1900.

(a) (i) by omitting from section one the figures "21" appearing in the matter relating to Part III and by inserting in lieu thereof the figures and letter "21M";

Sec. 1. (Short title and division.)

(ii) by inserting in the same section at the end of the matter relating to Part III the following words and figures :—

DIVISION 1.—*Jurisdiction Generally*—ss. 16-21.

DIVISION 2.—*Court of Appeal*—ss. 21A-21L.

DIVISION 3.—*The Registrar of the Court of Appeal*—s. 21M.

(b) by inserting in section three next after the definition of "Judge" the following new definition :—

Sec. 3. (Interpretation.)

"Judge of Appeal" means a Judge appointed pursuant to Division 2 of Part III of this Act as a Judge of Appeal.

(c)

Supreme Court and Circuit Courts (Amendment).

(c) by inserting in section 12A after the word "appoint" the words "the President of the Court of Appeal, any Judge of Appeal or";

Sec. 12A.
(Acting
Chief
Justice.)

5 (d) (i) by inserting in Part III immediately before section sixteen the following heading:—

Part III.
(Heading.)

DIVISION 1. *Jurisdiction Generally.*

(ii) by inserting in the same Part next after section twenty-one the following new Divisions:—

New
Divisions
2 and 3.

10 DIVISION 2. *Court of Appeal.*

15 21A. Nothing in this Division of this Part of this Act shall affect the operation of the Criminal Appeal Act of 1912, as amended by subsequent Acts, or the jurisdiction of the Supreme Court with respect to matters within the operation of that Act, as so amended.

Saving of
Criminal
Appeal
Act.

21B. (1) There shall be a division of the Court to be called the Court of Appeal.

Court of
Appeal.

20 (2) Subject to the provisions of this Division of this Part of this Act the Court of Appeal shall consist of—

cf. Act
1908, No.
89 (N.Z.).
s. 57.

(a) the Chief Justice who shall, by virtue of his office as such, be the senior member of the Court of Appeal;

25 (b) a Judge appointed pursuant to section 21c of this Act to be a Judge of Appeal and President of the Court of Appeal;

30 (c) not more than six Judges appointed pursuant to section 21c of this Act to be Judges of Appeal.

35 21c. (1) The Governor may from time to time, by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to be a Judge of Appeal.

Appoint-
ment.

An

Supreme Court and Circuit Courts (Amendment).

5 An appointment may, notwithstanding the provisions of subsection two of section 21B of this Act, be made by the Governor to fill the office of a Judge of Appeal who is about to retire and who has been granted leave of absence pending his retirement.

(2) The Governor may, in like manner, appoint a Judge of Appeal to be President of the Court of Appeal.

10 Such appointment may be made either at the time of his appointment as a Judge of Appeal or at any time thereafter.

15 (3) Any Judge may be appointed as Judge of Appeal either at the time of his appointment as a Judge or at any time thereafter.

(4) Every Judge of Appeal shall continue to be a Judge and may from time to time sit as or exercise any of the powers of a Judge.

cf. Act 1908, No. 89 (N.Z.), s. 57.

20 In particular, and without prejudice to the generality of the foregoing provisions of this subsection, any Judge who, at the time of his appointment as Judge of Appeal, holds the office of Chief Judge in Equity shall continue to hold such office and may from time to time sit as or exercise any of the powers and functions of the Chief Judge in Equity.

25 (5) Every Judge of Appeal shall hold office as a Judge of Appeal so long as he holds office as a Judge :

30 Provided that, with the approval of the Governor, any Judge of Appeal may resign his office as such without resigning his office as a Judge.

35 (6) The Judges of Appeal shall have seniority rank and precedence over all the Judges (including any Judge who is for the time being an additional Judge of Appeal) except the Chief Justice or the Acting Chief Justice

Supreme Court and Circuit Courts (Amendment).

Justice and over all persons who, in accordance with the provisions of any Act, have the same rank, title, status and precedence as a Puisne Judge of the Supreme Court. The President of the Court of Appeal shall have seniority rank and precedence over the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, and those Judges of Appeal shall have seniority rank and precedence between themselves according to the dates of their commissions as Judges of Appeal.

If the commissions of two or more Judges of Appeal bear the same date they shall have seniority rank and precedence according to the seniority rank and precedence assigned to them by their commissions, or failing such assignment according to the order of their being sworn.

If a Judge of Appeal resigns his office as a Judge of Appeal without resigning his office as a Judge, he shall then have, as a Judge, the seniority rank status and precedence he would have had if he had not been appointed a Judge of Appeal.

(7) Where there is a vacancy in the office of President or where the President is absent from New South Wales or is prevented by illness or other cause from exercising the duties of his office, the senior of the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers which may lawfully be exercised by the President.

(8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the office of Chief Justice or of President or
by

Supreme Court and Circuit Courts (Amendment).

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by the fact that the number of Judges of Appeal holding office for the time being is less than the number referred to in paragraph (c) of subsection two of section 21B of this Act.

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21D. (1) Where any Judge of Appeal (other than the Chief Justice) is absent from his duties upon leave of absence or from illness or other cause the Governor may by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to sit and act as an additional Judge of Appeal during such period not exceeding six months as may be specified in the commission.

Additional Judges of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 58.

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(2) Whenever the Chief Justice certifies that in any appeal or proceeding before the Court of Appeal it is expedient that a Judge or Judges nominated in the certificate should act as an additional Judge of Appeal or as additional Judges of Appeal, the Judge or Judges so nominated may act as an additional Judge of Appeal or additional Judges of Appeal for the purposes of that appeal or proceeding.

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(3) Every additional Judge of Appeal appointed or nominated pursuant to this section shall, during the tenure of such appointment or, as the case may be, while so acting for the purposes of such appeal or proceeding have all the powers, authorities, privileges and immunities and shall fulfil all the duties of a Judge of Appeal.

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(4) The fact that any Judge sits and acts as an additional Judge of Appeal shall be sufficient evidence of his authority to do so, and no judgment or determination of the Court of Appeal while he so acts shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased to exist.

(5)

Supreme Court and Circuit Courts (Amendment).

5 (5) Every Judge who pursuant to this section has sat and acted as an additional Judge of Appeal may attend the sittings of the Court of Appeal for the purpose of giving judgment in or otherwise completing any proceedings in relation to any case that has been heard by that Court while he so acted notwithstanding that he is no longer an additional Judge of Appeal.

10 21E. At every sitting of the Court of Appeal at which the Chief Justice is present he shall preside. In the absence of the Chief Justice the President of the Court of Appeal shall preside. In the absence of both the Chief
15 Justice and the President the senior Judge of Appeal present shall preside.

Sittings of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 60.

20 21F. (1) Except to the extent to which express provision to the contrary is made by or under any Act passed after the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or by section 21A of this Act, and subject to any such provision, every power, jurisdiction or authority conferred on or entrusted to or
25 vested in the Court or the Judges collectively which, but for the passing of the Supreme Court and Circuit Courts (Amendment) Act, 1965, would have been exercised by the Court sitting as a Full Court, shall, from and after the commencement of that Act, be exercised by the Court of Appeal.

Jurisdiction of Court of Appeal.

30 (2) A reference express or implied in any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, and in force immediately before such commencement, to the Supreme Court in Banco or to the Full Court or to the Supreme Court as a court
35 consisting

Supreme Court and Circuit Courts (Amendment).

consisting of two or more judges shall, as from such commencement, be construed as a reference to the Court of Appeal.

5 (3) Without prejudice to the generality of the foregoing provisions of this section the following proceedings shall be heard by the Court of Appeal : —

Proceedings before the Court of Appeal. cf. Rules of Supreme Court (Eng.) O. LIX R. 1.

- 10 (a) applications to make absolute a rule or order nisi for mandamus, prohibition or certiorari;
- (b) applications to make absolute an order for the issue of a writ of habeas corpus;
- 15 (c) proceedings for attachment for contempt of court whether of the Supreme Court or an inferior court except where the contempt is committed in the face of the Court in proceedings in the Supreme Court or in a District Court or consists of disobedience to an order of the Supreme Court or a District Court;
- (d) proceedings on demurrer;
- (e) the admission of barristers or solicitors;
- 25 (f) the exercise of the disciplinary powers of the Supreme Court with respect to barristers or solicitors;
- 30 (g) proceedings required or authorised by any Act to be heard by the Supreme Court which would, before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, have been heard by the Full Court.

35 21G. (1) Subject to this Act any three or more Judges of Appeal may exercise all the powers of the Court of Appeal.

Decision of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 59.

(2)

Supreme Court and Circuit Courts (Amendment).

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges of Appeal present.

5 (3) If the Judges of Appeal present are equally divided in opinion the decision of the Court of Appeal shall be in accordance with the opinion of the Chief Justice or other the Judge of Appeal presiding.

10 21H. (1) Two Courts of Appeal each consisting of three or more Judges of Appeal may be held simultaneously. Separate sittings. cf. s. 21.

15 (2) Subject to the provisions of this Act each such Court of Appeal shall have power to exercise the full jurisdiction of the Court of Appeal.

20 21I. The Court of Appeal shall have power to remit any proceedings in any cause pending before it to a Judge for the trial and determination in accordance with the appropriate procedure of the Supreme Court of such issues or questions of fact as it may think fit. Power to remit proceedings. cf. Act 1908, No. 89 (N.Z.), s. 62.

25 21J. All judgments, decrees, orders and determinations of the Court of Appeal may be enforced or given effect to in the same manner as the like judgments, decrees, orders and determinations of the Supreme Court were enforced or given effect to before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965. Enforcement of judgments of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 63.

30 21K. (1) The Judges of Appeal or any three of them may make rules and orders— Rules of Court. cf. s. 39.

35 (a) for the regulation of the practice procedure and pleadings in the Court of Appeal in all respects;

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) for facilitating or more fully carrying into effect all or any of the provisions and objects of this Division of this Part of this Act;
- 5 (c) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court of Appeal to the practitioners therein;
- 10 (d) for fixing the fees to be demanded and paid in the Court of Appeal;
- (e) for prescribing the form and manner in which any matter or class of matters may or shall be referred to the Court of Appeal.
- 15 (2) The rules and orders made in relation to any of the matters referred to in paragraph (e) of subsection one of this section shall, by virtue of this Act, have full
- 20 force and effect notwithstanding any inconsistency with any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or any rules or orders made under any such Act.
- 25 (3) Every rule and order so made shall, subject to subsection two of this section, be of the same force and effect as if the same had been inserted in and had formed part of this Act. Rules to have force of law. cf. s. 40.
- 30 (4) All rules and orders so made shall— Publication.
- (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)

Supreme Court and Circuit Courts (Amendment).

5 (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.

10 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.

15 21L. Where a Judge is satisfied that special circumstances exist which render it desirable to do so he may by order direct the removal into the Court of Appeal of any of the following proceedings that is to say—

Proceedings in Supreme Court may be removed into Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 64.

- 20 (a) any rule nisi granted;
- (b) any notice of motion made;
- (c) any petition presented;
- (d) any special case stated;
- (e) any question of law directed to be argued;

25 and upon such removal the Court of Appeal shall have and may exercise and discharge with respect to the proceedings so removed all the powers authorities duties and functions of the Supreme Court.

30 DIVISION 3. *The Registrar.*

35 21M. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, from time to time appoint a Registrar of the Court of Appeal and such other officers as may be required.

Appointment of Registrar of Court of Appeal. cf. s. 15A.

Supreme Court and Circuit Courts (Amendment).

3. (1) In any of the following cases that is to say—

Savings as to reserved judgments and part heard appeals.

(a) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been commenced but not completed before the commencement of this Act and at such commencement such hearing stands adjourned; or

(b) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been completed but the appeal had not been determined and at such commencement judgment on that appeal or proceedings stands reserved,

the appeal or proceedings may be carried on completed and determined and judgment may be delivered and may be enforced or given effect to, and shall have the same effects and consequences as if this Act had not been enacted.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

4. (1) Where before the commencement of this Act an appeal to or other proceedings in the Supreme Court with respect to any act, matter or thing which, after such commencement, falls within the jurisdiction of the Court of Appeal or is a matter or one of a class of matters referred to the Court of Appeal, or is required or authorised to be heard before the Court of Appeal, has been instituted but the hearing thereof has not been commenced, such appeal or proceedings may, subject to the Supreme Court and Circuit Courts Act, 1900-1965, and to any rules or orders made thereunder, be heard and determined by the Court of Appeal, and such Court shall have and may exercise and discharge with respect to such appeal or proceedings all the powers authorities duties and functions conferred and imposed upon it by or under that Act.

Pending appeals.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

Supreme Court and Circuit Courts (Amendment).

5. (1) The Real Property Act, 1900-1956, is amended—
- 5 (a) (i) by omitting from subsection one of section twenty-seven the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the words "in the Court" and by inserting in lieu thereof the words "with the Court of Appeal";
- 10 (iii) by omitting from subsections two and three of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 15 (b) by omitting from section seventy-three the words "or a Judge thereof";
- (c) (i) by omitting from subsection one of section one hundred and twenty-one the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (ii) by omitting from subsection two of the same section the words "Judge of the said Court" and by inserting in lieu thereof the words "Judge of Appeal";
- 25 (iii) by omitting from subsection three of the same section the words "said Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 30 (d) by omitting from subsection one of section one hundred and twenty-two the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (e) by omitting from section one hundred and twenty-three the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (f)

Amendment of Act No. 25, 1900.

Sec. 27. (Special case.)

Sec. 73. (When caveat to lapse.)

Sec. 121. (Proprietor may summon Registrar-General to show cause.)

Sec. 122. (Special case.)

Sec. 123. (Registrar-General may state a case.)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from section 123A the word "Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 123A. (Order as to costs.)
- 5 (g) by inserting at the end of section one hundred and forty the following new subsection :— Sec. 140. (Power to make rules of Court.)
- (2) The Judges of Appeal or any three of them shall have power from time to time to make rules and orders for regulating proceedings in the Court of Appeal under this Act.
- 10 (2) The Supreme Court Procedure Act, 1900-1957, is amended by omitting from section six the words "Supreme Court holden before three Judges" and by inserting in lieu thereof the words "Court of Appeal". Amendment of Act No. 49, 1900. Sec. 6. (Consequential.)
- 15 **6.** The Supreme Court Procedure Act, 1900-1957, is further amended— Further amendment of Act No. 49, 1900. Sec. 5. (Finding of Judge.)
- (a) (i) by omitting subsection three of section five and by inserting in lieu thereof the following subsection :—
- 20 (3) The Judge may, either at or after the trial, direct that judgment be entered for any or either party.
- (ii) by omitting from subsection four of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 25 (iii) by inserting at the end of the same subsection the following words "The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.";
- 30 (iv) by omitting from subsection six the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 35 (v) by omitting from subsection seven the word "Court" where firstly and thirdly occurring and by inserting in lieu thereof the words "Court of Appeal";

(vi)

Supreme Court and Circuit Courts (Amendment).

- (vi) by omitting from subsections eight, nine, ten and eleven of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 5 (vii) by inserting in subsection twelve of the same section after the word "Court" where firstly occurring the words "of the Court of Appeal";
- (viii) by omitting from the same subsection the word "Court" where lastly occurring and by
10 inserting in lieu thereof the words "Court of Appeal";
- (ix) by omitting subsection thirteen of the same section;
- (b) (i) by omitting from subsection one of section
15 seven the words "Court in Banco" and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the word
20 "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (c) by inserting at the end of section 11A the following
new subsection :—
25 (3) This section shall apply to any cause matter or proceeding in the Court of Appeal.
- (d) by inserting at the end of section fourteen the
following new paragraph :—
30 The powers conferred by the foregoing provisions of this section shall not apply to and in respect of the Court of Appeal.
7. The Equity Act, 1901-1964, is amended—
- (a) by omitting from section one the words "TO THE
FULL COURT" appearing in the matter relating to
Part VI;

Sec. 7.
(Power to
order non
suit or
verdict to
be entered.)

Sec. 11A.
(Costs.)

Sec. 14.
(Rules regu-
lating pro-
cedure.)

Amend-
ment of
Act No. 24,
1901.

Sec. 1.
(Short title.)

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) by omitting from the definition of "the Court" in section three the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 3. (Interpretation.)
- (c) (i) by omitting from subsection one of section six the words "other Judges of the Supreme Court" and by inserting in lieu thereof the words "Judges of Appeal"; Sec. 6. (Two Judges may assist.)
- (ii) by omitting from subsection two of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from the heading to Part VI the words "TO THE FULL COURT"; Part VI. (Heading.)
- (e) (i) by omitting from subsection one of section eighty-one the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 81. (Appeal.)
- (ii) by omitting from the same subsection the words "general rules as are prescribed" and by inserting in lieu thereof the words "rules or orders as may be made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or, where and to the extent to which such rules or orders are not applicable then subject to such general rules as may be in force under this Act";
- (f) by omitting from section eighty-three the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 83. (Notice of appeal.)
- (g) by omitting from section eighty-four the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 84. (General powers of Court.)
- (h) (i) by omitting from subsection one of section eighty-five the words "by any general rule or by special order" and by inserting in lieu thereof the words "by special order or by rules

or

Supreme Court and Circuit Courts (Amendment).

- or orders made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or where and to the extent to which such rules or orders are not applicable, then subject to any general rule in force under this Act”;
- (ii) by omitting from subsection two of the same section the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (i) by omitting from section eighty-seven the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (j) by omitting from section eighty-eight the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”.
8. The District Courts Act, 1912-1964, is amended—
- (a) by omitting from section one hundred and forty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (b) by omitting from subsection two of section one hundred and forty-three all words after the word “appellant” and by inserting in lieu thereof the words “to the Registrar of the Court of Appeal and be set down for argument before the Court of Appeal as provided by rules or orders of the Court of Appeal”;
- (c) (i) by omitting from subsection two of section one hundred and forty-four the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (ii) by omitting from subsection three of the same section the words “Supreme Court” where firstly and thirdly occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (iii)

Supreme Court and Circuit Courts (Amendment).

- (iii) by omitting from the same subsection the words "Supreme Court or a judge thereof" and by inserting in lieu thereof the words "Court of Appeal or a Judge of Appeal";
- 5 (d) by omitting from subsection three of section one hundred and forty-five the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal". Sec. 145. (Powers on appeal.)
9. The Judges Retirement Act, 1918, is amended by Amendment of Act No. 9, 1918. Sec. 2. (Definition.)
 10 inserting in section two in the definition of "Judge" after the word "means" the words "a Judge of Appeal or".
10. The Stamp Duties Act, 1920-1964, is amended— Amendment of Act No. 47, 1920. Sec. 124. (Appeal.)
- 15 (a) by omitting from subsection one of section one hundred and twenty-four the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from subsection three of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (c) by omitting from subsection four of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection five of the same section the word "court" wherever occurring and by 25 inserting in lieu thereof the words "Court of Appeal";
- (e) (i) by omitting from subsection six of the same section the word "court" where firstly, 30 secondly and fourthly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the 35 word "court" where thirdly occurring and by inserting in lieu thereof the words "Supreme Court";

(f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from subsection seven of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- 5 (g) by omitting from subsection eight of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (h) by omitting subsection ten of the same section.

11. The Land and Valuation Court Act, 1921-1961, is amended—

- 10 (a) by omitting from subsections one, two and four of section seventeen the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 15 (b) (i) by omitting from subsection three of the same section the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- 20 (ii) by omitting from the same subsection the words "Supreme Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal".

12. The Administration of Justice Act, 1924-1957, is amended by inserting in section nineteen after the word "matter" the words "in the Court of Appeal or".

- 25 **13.** The Workers' Compensation Act, 1926-1964, is amended—
- 30 (a) by omitting from paragraphs (a) and (b) of subsection four of section thirty-seven the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

(b)

Amendment of Act No. 10, 1921.

Sec. 17. (Appeal by case stated.)

Amendment of Act No. 42, 1924.

Sec. 19. (Court to direct procedure in certain cases.)

Amendment of Act No. 15, 1926.

Sec. 37. (Appeals and stated cases.)

Supreme Court and Circuit Courts (Amendment).

- (b) (i) by omitting from paragraph (c) of the same subsection the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- 5 (ii) by omitting from the same paragraph the words "decision of the Supreme Court" and by inserting in lieu thereof the words "decision of the Court of Appeal";
- 10 (c) by omitting from paragraphs (d) and (e) of the same subsection the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal".
14. The Judges' Pensions Act, 1953-1964, is amended— Amendment of Act No. 41, 1953.
- 15 (a) by inserting in section two in the definition of "Judge" after the words "Supreme Court of New South Wales" the words "President of the Court of Appeal or Judge of Appeal"; Sec. 2. (Definitions.)
- 20 (b) by inserting in subsection three of section eight after the words "served as" the words "an additional Judge of Appeal". Sec. 8. (Prior judicial service.)
15. The Commercial Causes Act, 1903-1957, is amended by omitting from paragraph (h) of section six the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal". Amendment of Act No. 19, 1903. Sec. 6. (Directions.)
- 25 16. The Jury Act, 1912-1957, is amended by inserting at the commencement of paragraph (a) of section five the words "Judges of Appeal,". Amendment of Act No. 31, 1912. Sec. 5. (Exemptions.)

Supreme Court and Circuit Courts (Amendment).

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
No. 25, 1900.	Real Property Act, 1900.	Real Property Act, 1900-1965.
5 No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900.	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901.	Equity Act, 1901-1965.
10 No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912.	Jury Act, 1912-1965.
No. 9, 1918.	Judges Retirement Act, 1918.	Judges Retirement Act, 1918-1965.
15 No. 47, 1920.	Stamp Duties Act, 1920.	Stamp Duties Act, 1920-1965.
No. 10, 1921.	Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1965.
No. 42, 1924.	Administration of Justice Act, 1924.	Administration of Justice Act, 1924-1965.
20 No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 41, 1953.	Judges' Pensions Act, 1953.	Judges' Pensions Act, 1953-1965.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965
[2s. 0d. (20c)]

Department of the Interior

FILE

117011

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Interior, for the year 1900. The names are arranged in alphabetical order, and the positions are indicated by the numbers in parentheses.

Adams, J. M. (1)
 Adams, W. H. (2)
 Adams, W. J. (3)
 Adams, W. L. (4)
 Adams, W. M. (5)
 Adams, W. N. (6)
 Adams, W. O. (7)
 Adams, W. P. (8)
 Adams, W. Q. (9)
 Adams, W. R. (10)
 Adams, W. S. (11)
 Adams, W. T. (12)
 Adams, W. U. (13)
 Adams, W. V. (14)
 Adams, W. W. (15)
 Adams, W. X. (16)
 Adams, W. Y. (17)
 Adams, W. Z. (18)

Approved: _____

1900

**SUPREME COURT AND CIRCUIT COURTS (AMENDMENT) BILL,
1965.**

EXPLANATORY NOTE.

THE purpose of this Bill is to establish in the Supreme Court a division to be called the Court of Appeal, and to provide for the exercise by the Court of Appeal of certain of the appellate and other jurisdictions of the Supreme Court which were exercised by that Court sitting as a Full Court. The Bill provides for the appointment of Judges of Appeal from amongst the Puisne Judges of the Supreme Court. It also enacts certain provisions of a supplementary and machinery nature to facilitate the exercise by the Court of Appeal of its powers, authorities, duties and functions.

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PROOF

No. , 1965.

A BILL

To establish a division of the Supreme Court to be called the Court of Appeal; to make provision for and with respect to the appointment and the offices of the President of the Court of Appeal and of the Judges of Appeal; to make further provision with respect to the hearing and determination of appeals to and of other proceedings before the Supreme Court; for these and other purposes to amend the Supreme Court and Circuit Courts Act, 1900-1957, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. McCaw;—30 September, 1965.]

BE

Supreme Court and Circuit Courts (Amendment).

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 and Circuit Courts (Amendment) Act, 1965".

Short title,
citation
and com-
mencement.

(2) The Acts, as amended by subsequent Acts, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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

2. The Supreme Court and Circuit Courts Act, 1900-1957, is amended—

Amend-
ment of
Act No.
35, 1900.

(a) (i) by omitting from section one the figures "21" appearing in the matter relating to Part III and by inserting in lieu thereof the figures and letter "21M";

Sec. 1.
(Short title
and
division.)

(ii) by inserting in the same section at the end of the matter relating to Part III the following words and figures :—

DIVISION 1.—*Jurisdiction Generally*—ss. 16-21.

DIVISION 2.—*Court of Appeal*—ss. 21A-21L.

DIVISION 3.—*The Registrar of the Court of Appeal*—s. 21M.

(b) by inserting in section three next after the definition of "Judge" the following new definition :—

Sec. 3.
(Interpre-
tation.)

"Judge of Appeal" means a Judge appointed pursuant to Division 2 of Part III of this Act as a Judge of Appeal.

(c)

Supreme Court and Circuit Courts (Amendment).

(c) by inserting in section 12A after the word "appoint" the words "the President of the Court of Appeal, any Judge of Appeal or";

Sec. 12A.
(Acting
Chief
Justice.)

(d) (i) by inserting in Part III immediately before section sixteen the following heading:—

Part III.
(Heading.)

DIVISION 1. *Jurisdiction Generally.*

(ii) by inserting in the same Part next after section twenty-one the following new Divisions:—

New
Divisions
2 and 3.

DIVISION 2. *Court of Appeal.*

21A. Nothing in this Division of this Part of this Act shall affect the operation of the Criminal Appeal Act of 1912, as amended by subsequent Acts, or the jurisdiction of the Supreme Court with respect to matters within the operation of that Act, as so amended.

Saving of
Criminal
Appeal
Act.

21B. (1) There shall be a division of the Court to be called the Court of Appeal.

Court of
Appeal.

(2) Subject to the provisions of this Division of this Part of this Act the Court of Appeal shall consist of—

cf. Act
1908, No.
89 (N.Z.).
s. 57.

(a) the Chief Justice who shall, by virtue of his office as such, be the senior member of the Court of Appeal;

(b) a Judge appointed pursuant to section 21c of this Act to be a Judge of Appeal and President of the Court of Appeal;

(c) not more than six Judges appointed pursuant to section 21c of this Act to be Judges of Appeal.

21c. (1) The Governor may from time to time, by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to be a Judge of Appeal.

Appoint-
ment.

An

Supreme Court and Circuit Courts (Amendment).

5

An appointment may, notwithstanding the provisions of subsection two of section 21B of this Act, be made by the Governor to fill the office of a Judge of Appeal who is about to retire and who has been granted leave of absence pending his retirement.

10

(2) The Governor may, in like manner, appoint a Judge of Appeal to be President of the Court of Appeal.

Such appointment may be made either at the time of his appointment as a Judge of Appeal or at any time thereafter.

15

(3) Any Judge may be appointed as Judge of Appeal either at the time of his appointment as a Judge or at any time thereafter.

20

(4) Every Judge of Appeal shall continue to be a Judge and may from time to time sit as or exercise any of the powers of a Judge. cf. Act 1908, No. 89 (N.Z.), s. 57.

25

In particular, and without prejudice to the generality of the foregoing provisions of this subsection, any Judge who, at the time of his appointment as Judge of Appeal, holds the office of Chief Judge in Equity shall continue to hold such office and may from time to time sit as or exercise any of the powers and functions of the Chief Judge in Equity.

30

(5) Every Judge of Appeal shall hold office as a Judge of Appeal so long as he holds office as a Judge :

Provided that, with the approval of the Governor, any Judge of Appeal may resign his office as such without resigning his office as a Judge.

35

(6) The Judges of Appeal shall have seniority rank and precedence over all the Judges (including any Judge who is for the time being an additional Judge of Appeal) except the Chief Justice or the Acting Chief Justice

Supreme Court and Circuit Courts (Amendment).

Justice and over all persons who, in accordance with the provisions of any Act, have the same rank, title, status and precedence as a Puisne Judge of the Supreme Court. The President of the Court of Appeal shall have seniority rank and precedence over the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, and those Judges of Appeal shall have seniority rank and precedence between themselves according to the dates of their commissions as Judges of Appeal.

If the commissions of two or more Judges of Appeal bear the same date they shall have seniority rank and precedence according to the seniority rank and precedence assigned to them by their commissions, or failing such assignment according to the order of their being sworn.

If a Judge of Appeal resigns his office as a Judge of Appeal without resigning his office as a Judge, he shall then have, as a Judge, the seniority rank status and precedence he would have had if he had not been appointed a Judge of Appeal.

(7) Where there is a vacancy in the office of President or where the President is absent from New South Wales or is prevented by illness or other cause from exercising the duties of his office, the senior of the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers which may lawfully be exercised by the President.

(8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the office of Chief Justice or of President or
by

Supreme Court and Circuit Courts (Amendment).

by the fact that the number of Judges of Appeal holding office for the time being is less than the number referred to in paragraph (c) of subsection two of section 21B of this Act.

5

21D. (1) Where any Judge of Appeal (other than the Chief Justice) is absent from his duties upon leave of absence or from illness or other cause the Governor may by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to sit and act as an additional Judge of Appeal during such period not exceeding six months as may be specified in the commission.

10

Additional Judges of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 58.

15

(2) Whenever the Chief Justice certifies that in any appeal or proceeding before the Court of Appeal it is expedient that a Judge or Judges nominated in the certificate should act as an additional Judge of Appeal or as additional Judges of Appeal, the Judge or Judges so nominated may act as an additional Judge of Appeal or additional Judges of Appeal for the purposes of that appeal or proceeding.

20

25

(3) Every additional Judge of Appeal appointed or nominated pursuant to this section shall, during the tenure of such appointment or, as the case may be, while so acting for the purposes of such appeal or proceeding have all the powers, authorities, privileges and immunities and shall fulfil all the duties of a Judge of Appeal.

30

35

(4) The fact that any Judge sits and acts as an additional Judge of Appeal shall be sufficient evidence of his authority to do so, and no judgment or determination of the Court of Appeal while he so acts shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased to exist.

(5)

Supreme Court and Circuit Courts (Amendment).

5 (5) Every Judge who pursuant to this section has sat and acted as an additional Judge of Appeal may attend the sittings of the Court of Appeal for the purpose of giving judgment in or otherwise completing any proceedings in relation to any case that has been heard by that Court while he so acted notwithstanding that he is no longer an additional Judge of Appeal.

10 21E. At every sitting of the Court of Appeal at which the Chief Justice is present he shall preside. In the absence of the Chief Justice the President of the Court of Appeal shall preside. In the absence of both the Chief Justice and the President the senior Judge of Appeal present shall preside.

Sittings of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 60.

20 21F. (1) Except to the extent to which express provision to the contrary is made by or under any Act passed after the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or by section 21A of this Act, and subject to any such provision, every power, jurisdiction or authority conferred on or entrusted to or vested in the Court or the Judges collectively which, but for the passing of the Supreme Court and Circuit Courts (Amendment) Act, 1965, would have been exercised by the Court sitting as a Full Court, shall, from and after the commencement of that Act, be exercised by the Court of Appeal.

Jurisdiction of Court of Appeal.

35 (2) A reference express or implied in any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, and in force immediately before such commencement, to the Supreme Court in Banco or to the Full Court or to the Supreme Court as a court consisting

Supreme Court and Circuit Courts (Amendment).

consisting of two or more judges shall, as from such commencement, be construed as a reference to the Court of Appeal.

(3) Without prejudice to the generality of the foregoing provisions of this section the following proceedings shall be heard by the Court of Appeal:—

- Proceedings before the Court of Appeal. cf. Rules of Supreme Court (Eng.) O. LIX R. 1.
- (a) applications to make absolute a rule or order nisi for mandamus, prohibition or certiorari;
 - (b) applications to make absolute an order for the issue of a writ of habeas corpus;
 - (c) proceedings for attachment for contempt of court whether of the Supreme Court or an inferior court except where the contempt is committed in the face of the Court in proceedings in the Supreme Court or in a District Court or consists of disobedience to an order of the Supreme Court or a District Court;
 - (d) proceedings on demurrer;
 - (e) the admission of barristers or solicitors;
 - (f) the exercise of the disciplinary powers of the Supreme Court with respect to barristers or solicitors;
 - (g) proceedings required or authorised by any Act to be heard by the Supreme Court which would, before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, have been heard by the Full Court.

21G. (1) Subject to this Act any three or more Judges of Appeal may exercise all the powers of the Court of Appeal.

(2) Decision of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 59.

Supreme Court and Circuit Courts (Amendment).

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges of Appeal present.

5 (3) If the Judges of Appeal present are equally divided in opinion the decision of the Court of Appeal shall be in accordance with the opinion of the Chief Justice or other the Judge of Appeal presiding.

10 21H. (1) Two Courts of Appeal each consisting of three or more Judges of Appeal may be held simultaneously. Separate sittings. cf. s. 21.

15 (2) Subject to the provisions of this Act each such Court of Appeal shall have power to exercise the full jurisdiction of the Court of Appeal.

20 21I. The Court of Appeal shall have power to remit any proceedings in any cause pending before it to a Judge for the trial and determination in accordance with the appropriate procedure of the Supreme Court of such issues or questions of fact as it may think fit. Power to remit proceedings. cf. Act 1908, No. 89 (N.Z.), s. 62.

25 21J. All judgments, decrees, orders and determinations of the Court of Appeal may be enforced or given effect to in the same manner as the like judgments, decrees, orders and determinations of the Supreme Court were enforced or given effect to before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965. Enforcement of judgments of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 63.

30 21K. (1) The Judges of Appeal or any three of them may make rules and orders— Rules of Court. cf. s. 39.

35 (a) for the regulation of the practice procedure and pleadings in the Court of Appeal in all respects;

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) for facilitating or more fully carrying into effect all or any of the provisions and objects of this Division of this Part of this Act;
- 5 (c) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court of Appeal to the practitioners therein;
- (d) for fixing the fees to be demanded and paid in the Court of Appeal;
- 10 (e) for prescribing the form and manner in which any matter or class of matters may or shall be referred to the Court of Appeal.
- 15 (2) The rules and orders made in relation to any of the matters referred to in paragraph (e) of subsection one of this section shall, by virtue of this Act, have full force and effect notwithstanding any inconsistency with any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or any rules or orders made under any such Act.
- 20 (3) Every rule and order so made shall, subject to subsection two of this section, be of the same force and effect as if the same had been inserted in and had formed part of this Act. Rules to have force of law. cf. s. 40.
- 25 (4) All rules and orders so made shall— Publication.
- 30 (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)

Supreme Court and Circuit Courts (Amendment).

5 (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.

10 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.

15 21L. Where a Judge is satisfied that special circumstances exist which render it desirable to do so he may by order direct the removal into the Court of Appeal of any of the following proceedings that is to say—

- 20 (a) any rule nisi granted;
- (b) any notice of motion made;
- (c) any petition presented;
- (d) any special case stated;
- (e) any question of law directed to be argued;

Proceedings in Supreme Court may be removed into Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 64.

25 and upon such removal the Court of Appeal shall have and may exercise and discharge with respect to the proceedings so removed all the powers authorities duties and functions of the Supreme Court.

30 DIVISION 3. *The Registrar.*

35 21M. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, from time to time appoint a Registrar of the Court of Appeal and such other officers as may be required.

Appointment of Registrar of Court of Appeal. cf. s. 15A.

Supreme Court and Circuit Courts (Amendment).

3. (1) In any of the following cases that is to say—

Savings as to reserved judgments and part heard appeals.

(a) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been commenced but not completed before the commencement of this Act and at such commencement such hearing stands adjourned; or

(b) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been completed but the appeal had not been determined and at such commencement judgment on that appeal or proceedings stands reserved,

the appeal or proceedings may be carried on completed and determined and judgment may be delivered and may be enforced or given effect to, and shall have the same effects and consequences as if this Act had not been enacted.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

4. (1) Where before the commencement of this Act an appeal to or other proceedings in the Supreme Court with respect to any act, matter or thing which, after such commencement, falls within the jurisdiction of the Court of Appeal or is a matter or one of a class of matters referred to the Court of Appeal, or is required or authorised to be heard before the Court of Appeal, has been instituted but the hearing thereof has not been commenced, such appeal or proceedings may, subject to the Supreme Court and Circuit Courts Act, 1900-1965, and to any rules or orders made thereunder, be heard and determined by the Court of Appeal, and such Court shall have and may exercise and discharge with respect to such appeal or proceedings all the powers authorities duties and functions conferred and imposed upon it by or under that Act.

Pending appeals.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

Supreme Court and Circuit Courts (Amendment).

5. (1) The Real Property Act, 1900-1956, is amended—
- Amendment of Act No. 25, 1900.
- (a) (i) by omitting from subsection one of section twenty-seven the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 27. (Special case.)
- (ii) by omitting from the same subsection the words "in the Court" and by inserting in lieu thereof the words "with the Court of Appeal";
- (iii) by omitting from subsections two and three of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from section seventy-three the words "or a Judge thereof"; Sec. 73. (When caveat to lapse.)
- (c) (i) by omitting from subsection one of section one hundred and twenty-one the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 121. (Proprietor may summon Registrar-General to show cause.)
- (ii) by omitting from subsection two of the same section the words "Judge of the said Court" and by inserting in lieu thereof the words "Judge of Appeal";
- (iii) by omitting from subsection three of the same section the words "said Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection one of section one hundred and twenty-two the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 122. (Special case.)
- (e) by omitting from section one hundred and twenty-three the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 123. (Registrar-General may state a case.)
- (f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from section 123A the word "Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 123A. (Order as to costs.)
- 5 (g) by inserting at the end of section one hundred and forty the following new subsection :— Sec. 140. (Power to make rules of Court.)
- (2) The Judges of Appeal or any three of them shall have power from time to time to make rules and orders for regulating proceedings in the Court of Appeal under this Act.
- 10 (2) The Supreme Court Procedure Act, 1900-1957, is amended by omitting from section six the words "Supreme Court holden before three Judges" and by inserting in lieu thereof the words "Court of Appeal". Amendment of Act No. 49, 1900. Sec. 6. (Consequential.)
- 15 **6.** The Supreme Court Procedure Act, 1900-1957, is further amended— Further amendment of Act No. 49, 1900. Sec. 5. (Finding of Judge.)
- (a) (i) by omitting subsection three of section five and by inserting in lieu thereof the following subsection :—
- 20 (3) The Judge may, either at or after the trial, direct that judgment be entered for any or either party.
- (ii) by omitting from subsection four of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 25 (iii) by inserting at the end of the same subsection the following words "The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.";
- 30 (iv) by omitting from subsection six the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 35 (v) by omitting from subsection seven the word "Court" where firstly and thirdly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (vi)

Supreme Court and Circuit Courts (Amendment).

- (vi) by omitting from subsections eight, nine, ten and eleven of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
 - 5 (vii) by inserting in subsection twelve of the same section after the word "Court" where firstly occurring the words "of the Court of Appeal";
 - (viii) by omitting from the same subsection the word "Court" where lastly occurring and by
10 inserting in lieu thereof the words "Court of Appeal";
 - (ix) by omitting subsection thirteen of the same section;
 - (b) (i) by omitting from subsection one of section
15 seven the words "Court in Banco" and by inserting in lieu thereof the words "Court of Appeal";
 - (ii) by omitting from the same subsection the word
20 "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (c) by inserting at the end of section 11A the following
25 new subsection :—
(3) This section shall apply to any cause matter or proceeding in the Court of Appeal.
 - (d) by inserting at the end of section fourteen the
30 following new paragraph :—
The powers conferred by the foregoing provisions of this section shall not apply to and in respect of the Court of Appeal.
7. The Equity Act, 1901-1964, is amended—
- (a) by omitting from section one the words "TO THE FULL COURT" appearing in the matter relating to Part VI;
 - (b)

Sec. 7.
(Power to order non suit or verdict to be entered.)

Sec. 11A.
(Costs.)

Sec. 14.
(Rules regulating procedure.)

Amendment of Act No. 24, 1901.

Sec. 1.
(Short title.)

Supreme Court and Circuit Courts (Amendment).

- (b) by omitting from the definition of "the Court" in section three the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 3. (Interpretation.)
- 5 (c) (i) by omitting from subsection one of section six the words "other Judges of the Supreme Court" and by inserting in lieu thereof the words "Judges of Appeal"; Sec. 6. (Two Judges may assist.)
- 10 (ii) by omitting from subsection two of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from the heading to Part VI the words "TO THE FULL COURT"; Part VI. (Heading.)
- 15 (e) (i) by omitting from subsection one of section eighty-one the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 81. (Appeal.)
- 20 (ii) by omitting from the same subsection the words "general rules as are prescribed" and by inserting in lieu thereof the words "rules or orders as may be made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or, where and to the extent to which such rules or orders are not applicable then subject to such general rules as may be in force under this Act";
- 25 (f) by omitting from section eighty-three the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 83. (Notice of appeal.)
- 30 (g) by omitting from section eighty-four the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal"; Sec. 84. (General powers of Court.)
- 35 (h) (i) by omitting from subsection one of section eighty-five the words "by any general rule or by special order" and by inserting in lieu thereof the words "by special order or by rules Sec. 85. (Cross appeals.)

or

Supreme Court and Circuit Courts (Amendment).

- 5 or orders made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or where and to the extent to which such rules or orders are not applicable, then subject to any general rule in force under this Act”;
- 10 (ii) by omitting from subsection two of the same section the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (i) by omitting from section eighty-seven the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- 15 (j) by omitting from section eighty-eight the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”.
8. The District Courts Act, 1912-1964, is amended—
- 20 (a) by omitting from section one hundred and forty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (b) by omitting from subsection two of section one hundred and forty-three all words after the word “appellant” and by inserting in lieu thereof the words “to the Registrar of the Court of Appeal and be set down for argument before the Court of Appeal as provided by rules or orders of the Court of Appeal”;
- 25 (c) (i) by omitting from subsection two of section one hundred and forty-four the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- 30 (ii) by omitting from subsection three of the same section the words “Supreme Court” where firstly and thirdly occurring and by inserting in lieu thereof the words “Court of Appeal”;
- 35

Supreme Court and Circuit Courts (Amendment).

- (iii) by omitting from the same subsection the words "Supreme Court or a judge thereof" and by inserting in lieu thereof the words "Court of Appeal or a Judge of Appeal";
- 5 (d) by omitting from subsection three of section one hundred and forty-five the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal". Sec. 145. (Powers on appeal.)
9. The Judges Retirement Act, 1918, is amended by inserting in section two in the definition of "Judge" after the word "means" the words "a Judge of Appeal or". Amendment of Act No. 9, 1918. Sec. 2. (Definition.)
10. The Stamp Duties Act, 1920-1964, is amended— Amendment of Act No. 47, 1920. Sec. 124. (Appeal.)
- 15 (a) by omitting from subsection one of section one hundred and twenty-four the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from subsection three of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (c) by omitting from subsection four of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection five of the same section the word "court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 25 (e) (i) by omitting from subsection six of the same section the word "court" where firstly, secondly and fourthly occurring and by inserting in lieu thereof the words "Court of Appeal";
- 30 (ii) by omitting from the same subsection the word "court" where thirdly occurring and by inserting in lieu thereof the words "Supreme Court";
- 35

(f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from subsection seven of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- 5 (g) by omitting from subsection eight of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (h) by omitting subsection ten of the same section.
- 11.** The Land and Valuation Court Act, 1921-1961, is amended—
- 10 (a) by omitting from subsections one, two and four of section seventeen the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- 15 (b) (i) by omitting from subsection three of the same section the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- 20 (ii) by omitting from the same subsection the words "Supreme Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal".
- 12.** The Administration of Justice Act, 1924-1957, is amended by inserting in section nineteen after the word "matter" the words "in the Court of Appeal or".
- 25 **13.** The Workers' Compensation Act, 1926-1964, is amended—
- 30 (a) by omitting from paragraphs (a) and (b) of subsection four of section thirty-seven the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

(b)

Amendment of Act No. 10, 1921.

Sec. 17. (Appeal by case stated.)

Amendment of Act No. 42, 1924.

Sec. 19. (Court to direct procedure in certain cases.)

Amendment of Act No. 15, 1926.

Sec. 37. (Appeals and stated cases.)

Supreme Court and Circuit Courts (Amendment).

- (b) (i) by omitting from paragraph (c) of the same subsection the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
 - 5 (ii) by omitting from the same paragraph the words "decision of the Supreme Court" and by inserting in lieu thereof the words "decision of the Court of Appeal";
 - 10 (c) by omitting from paragraphs (d) and (e) of the same subsection the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal".
- 14.** The Judges' Pensions Act, 1953-1964, is amended— Amendment of Act No. 41, 1953.
- 15 (a) by inserting in section two in the definition of "Judge" after the words "Supreme Court of New South Wales" the words "President of the Court of Appeal or Judge of Appeal"; Sec. 2. (Definitions.)
 - 20 (b) by inserting in subsection three of section eight after the words "served as" the words "an additional Judge of Appeal". Sec. 8. (Prior judicial service.)
- 15.** The Commercial Causes Act, 1903-1957, is amended by omitting from paragraph (h) of section six the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal". Amendment of Act No. 19, 1903. Sec. 6. (Directions.)
- 25 **16.** The Jury Act, 1912-1957, is amended by inserting at the commencement of paragraph (a) of section five the words "Judges of Appeal,". Amendment of Act No. 31, 1912. Sec. 5. (Exemptions.)

Supreme Court and Circuit Courts (Amendment).

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
No. 25, 1900.	Real Property Act, 1900.	Real Property Act, 1900-1965.
5 No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900.	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901.	Equity Act, 1901-1965.
10 No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912.	Jury Act, 1912-1965.
No. 9, 1918.	Judges Retirement Act, 1918.	Judges Retirement Act, 1918-1965.
15 No. 47, 1920.	Stamp Duties Act, 1920.	Stamp Duties Act, 1920-1965.
No. 10, 1921.	Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1965.
No. 42, 1924.	Administration of Justice Act, 1924.	Administration of Justice Act, 1924-1965.
20 No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 41, 1953.	Judges' Pensions Act, 1953.	Judges' Pensions Act, 1953-1965.

BY AUTHORITY:

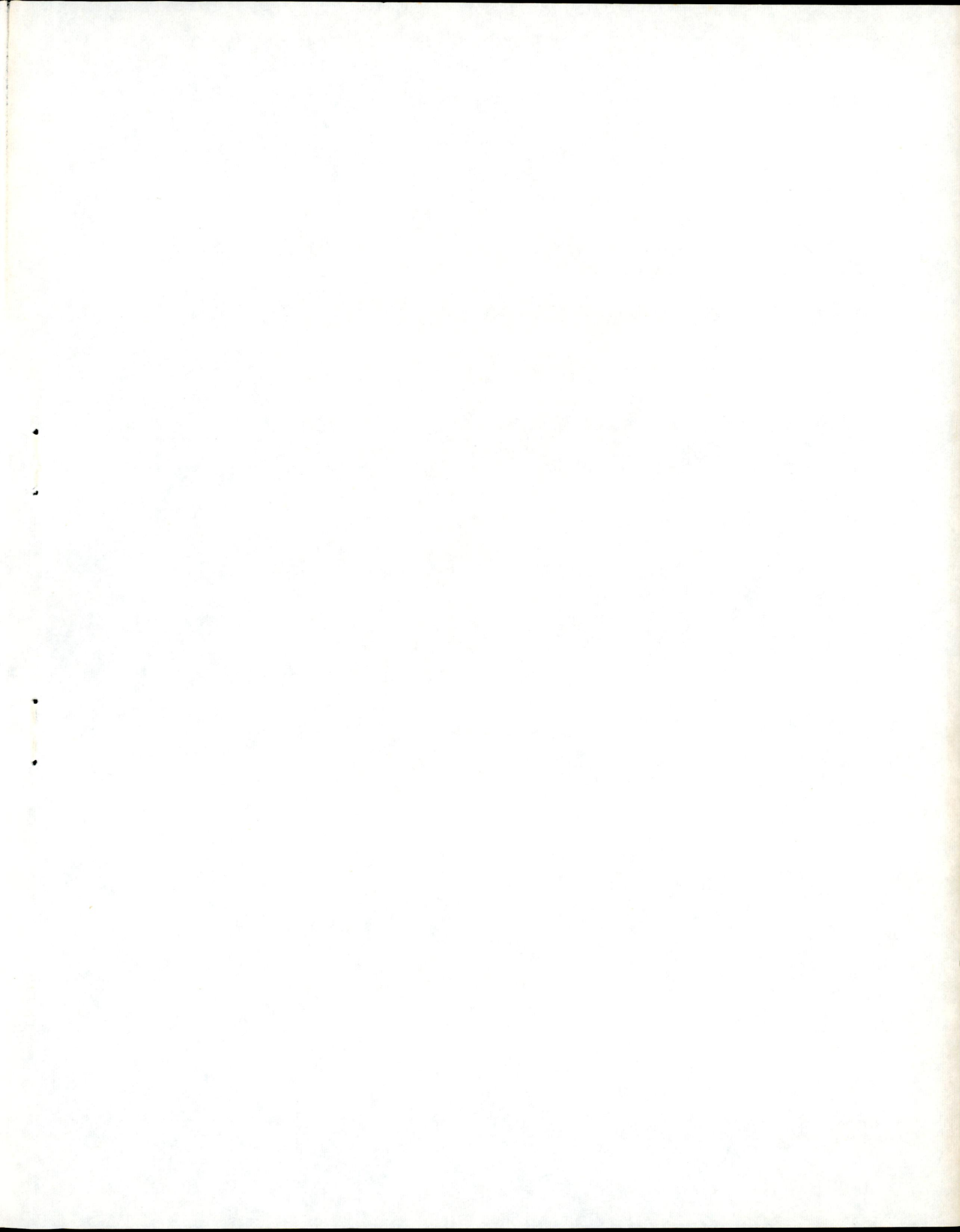
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965

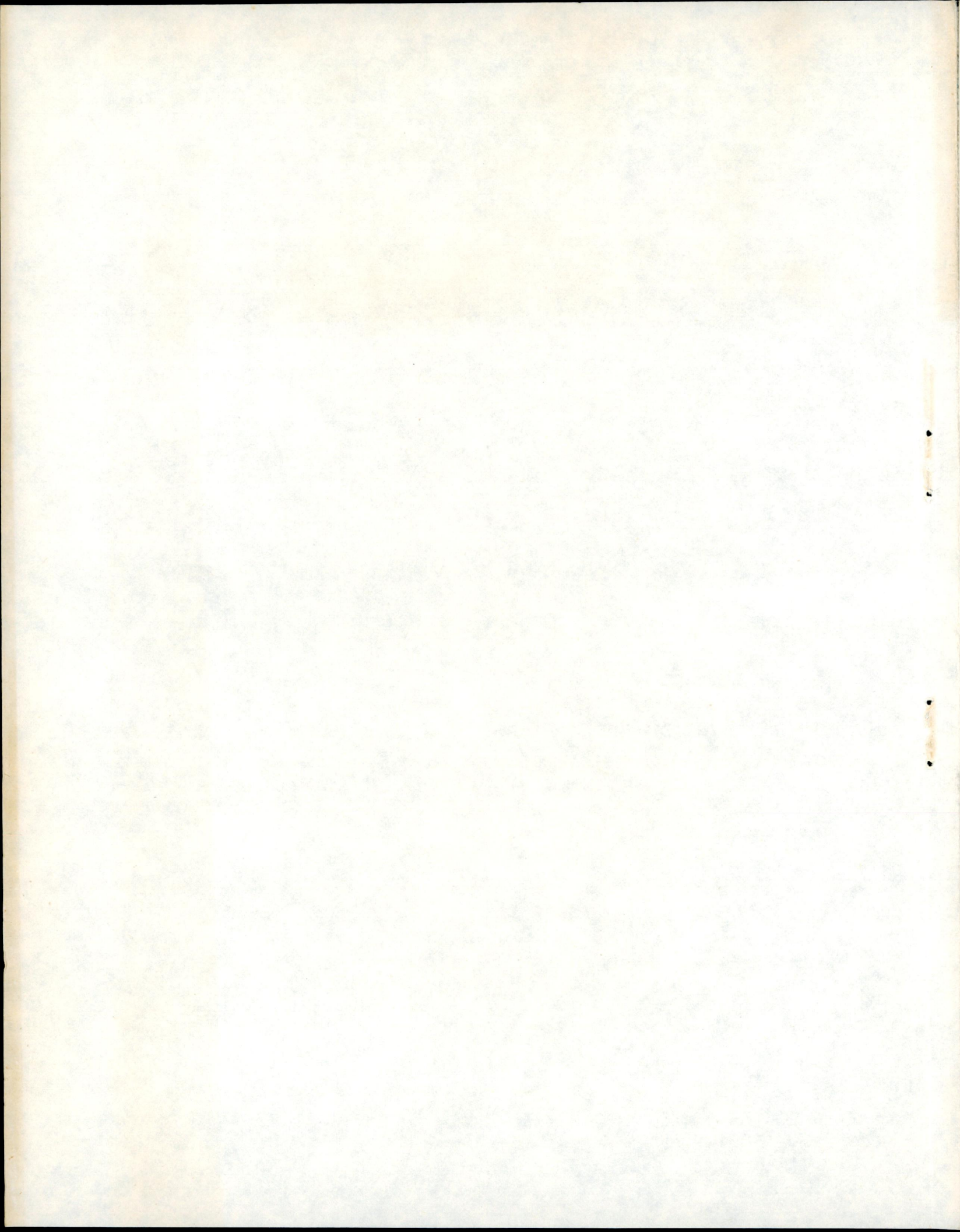
Supreme Court of the State of Tennessee

SCHEDULE

Case No.	Case Name	Term
10-1-1957	Judge Taylor vs. State	1957-58
10-2-1957	State vs. Taylor	1957-58
10-3-1957	State vs. Taylor	1957-58
10-4-1957	State vs. Taylor	1957-58
10-5-1957	State vs. Taylor	1957-58
10-6-1957	State vs. Taylor	1957-58
10-7-1957	State vs. Taylor	1957-58
10-8-1957	State vs. Taylor	1957-58
10-9-1957	State vs. Taylor	1957-58
10-10-1957	State vs. Taylor	1957-58
10-11-1957	State vs. Taylor	1957-58
10-12-1957	State vs. Taylor	1957-58
10-13-1957	State vs. Taylor	1957-58
10-14-1957	State vs. Taylor	1957-58
10-15-1957	State vs. Taylor	1957-58
10-16-1957	State vs. Taylor	1957-58
10-17-1957	State vs. Taylor	1957-58
10-18-1957	State vs. Taylor	1957-58
10-19-1957	State vs. Taylor	1957-58
10-20-1957	State vs. Taylor	1957-58
10-21-1957	State vs. Taylor	1957-58
10-22-1957	State vs. Taylor	1957-58
10-23-1957	State vs. Taylor	1957-58
10-24-1957	State vs. Taylor	1957-58
10-25-1957	State vs. Taylor	1957-58
10-26-1957	State vs. Taylor	1957-58
10-27-1957	State vs. Taylor	1957-58
10-28-1957	State vs. Taylor	1957-58
10-29-1957	State vs. Taylor	1957-58
10-30-1957	State vs. Taylor	1957-58
10-31-1957	State vs. Taylor	1957-58

THE CLERK OF THE SUPREME COURT





New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1965.

An Act to establish a division of the Supreme Court to be called the Court of Appeal; to make provision for and with respect to the appointment and the offices of the President of the Court of Appeal and of the Judges of Appeal; to make further provision with respect to the hearing and determination of appeals to and of other proceedings before the Supreme Court; for these and other purposes to amend the Supreme Court and Circuit Courts Act, 1900-1957, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 29th October, 1965.]

Supreme Court and Circuit Courts (Amendment).

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 :—

Short title,
citation
and com-
mencement.

1. (1) This Act may be cited as the "Supreme Court and Circuit Courts (Amendment) Act, 1965".

(2) The Acts, as amended by subsequent Acts, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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

Amend-
ment of
Act No.
35, 1900.

2. The Supreme Court and Circuit Courts Act, 1900-1957, is amended—

Sec. 1.
(Short title
and
division.)

(a) (i) by omitting from section one the figures "21" appearing in the matter relating to Part III and by inserting in lieu thereof the figures and letter "21M";

(ii) by inserting in the same section at the end of the matter relating to Part III the following words and figures :—

DIVISION 1.—*Jurisdiction Generally*—ss. 16-21.

DIVISION 2.—*Court of Appeal*—ss. 21A-21L.

DIVISION 3.—*The Registrar of the Court of Appeal*—s. 21M.

Sec. 3.
(Interpre-
tation.)

(b) by inserting in section three next after the definition of "Judge" the following new definition :—

"Judge of Appeal" means a Judge appointed pursuant to Division 2 of Part III of this Act as a Judge of Appeal.

(c)

Supreme Court and Circuit Courts (Amendment).

- (c) by inserting in section 12A after the word "appoint" the words "the President of the Court of Appeal, any Judge of Appeal or"; Sec. 12A.
(Acting
Chief
Justice.)
- (d) (i) by inserting in Part III immediately before section sixteen the following heading:— Part III.
(Heading.)

DIVISION 1. Jurisdiction Generally.

- (ii) by inserting in the same Part next after section twenty-one the following new Divisions:— New
Divisions
2 and 3.

DIVISION 2. Court of Appeal.

21A. Nothing in this Division of this Part of this Act shall affect the operation of the Criminal Appeal Act of 1912, as amended by subsequent Acts, or the jurisdiction of the Supreme Court with respect to matters within the operation of that Act, as so amended. Saving of
Criminal
Appeal
Act.

21B. (1) There shall be a division of the Court to be called the Court of Appeal. Court of
Appeal.

(2) Subject to the provisions of this Division of this Part of this Act the Court of Appeal shall consist of— cf. Act
1908, No.
89 (N.Z.),
s. 57.

- (a) the Chief Justice who shall, by virtue of his office as such, be the senior member of the Court of Appeal;
- (b) a Judge appointed pursuant to section 21C of this Act to be a Judge of Appeal and President of the Court of Appeal;
- (c) not more than six Judges appointed pursuant to section 21C of this Act to be Judges of Appeal.

21C. (1) The Governor may from time to time, by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to be a Judge of Appeal. Appoint-
ment.

An

Supreme Court and Circuit Courts (Amendment).

An appointment may, notwithstanding the provisions of subsection two of section 21B of this Act, be made by the Governor to fill the office of a Judge of Appeal who is about to retire and who has been granted leave of absence pending his retirement.

(2) The Governor may, in like manner, appoint a Judge of Appeal to be President of the Court of Appeal.

Such appointment may be made either at the time of his appointment as a Judge of Appeal or at any time thereafter.

(3) Any Judge may be appointed as Judge of Appeal either at the time of his appointment as a Judge or at any time thereafter.

(4) Every Judge of Appeal shall continue to be a Judge and may from time to time sit as or exercise any of the powers of a Judge.

In particular, and without prejudice to the generality of the foregoing provisions of this subsection, any Judge who, at the time of his appointment as Judge of Appeal, holds the office of Chief Judge in Equity shall continue to hold such office and may from time to time sit as or exercise any of the powers and functions of the Chief Judge in Equity.

(5) Every Judge of Appeal shall hold office as a Judge of Appeal so long as he holds office as a Judge :

Provided that, with the approval of the Governor, any Judge of Appeal may resign his office as such without resigning his office as a Judge.

(6) The Judges of Appeal shall have seniority rank and precedence over all the Judges (including any Judge who is for the time being an additional Judge of Appeal) except the Chief Justice or the Acting Chief Justice

cf. Act
1908, No. 89
(N.Z.), s. 57.

Supreme Court and Circuit Courts (Amendment).

Justice and over all persons who, in accordance with the provisions of any Act, have the same rank, title, status and precedence as a Puisne Judge of the Supreme Court. The President of the Court of Appeal shall have seniority rank and precedence over the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, and those Judges of Appeal shall have seniority rank and precedence between themselves according to the dates of their commissions as Judges of Appeal.

If the commissions of two or more Judges of Appeal bear the same date they shall have seniority rank and precedence according to the seniority rank and precedence assigned to them by their commissions, or failing such assignment according to the order of their being sworn. cf. Act No. 2, 1940, s. 14 (6).

If a Judge of Appeal resigns his office as a Judge of Appeal without resigning his office as a Judge, he shall then have, as a Judge, the seniority rank status and precedence he would have had if he had not been appointed a Judge of Appeal.

(7) Where there is a vacancy in the office of President or where the President is absent from New South Wales or is prevented by illness or other cause from exercising the duties of his office, the senior of the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers which may lawfully be exercised by the President.

(8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the office of Chief Justice or of President or

by

Supreme Court and Circuit Courts (Amendment).

by the fact that the number of Judges of Appeal holding office for the time being is less than the number referred to in paragraph (c) of subsection two of section 21B of this Act.

Additional
Judges of
Appeal.
cf. Act
1908, No.
89 (N.Z.),
s. 58.

21D. (1) Where any Judge of Appeal (other than the Chief Justice) is absent from his duties upon leave of absence or from illness or other cause the Governor may by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to sit and act as an additional Judge of Appeal during such period not exceeding six months as may be specified in the commission.

(2) Whenever the Chief Justice certifies that in any appeal or proceeding before the Court of Appeal it is expedient that a Judge or Judges nominated in the certificate should act as an additional Judge of Appeal or as additional Judges of Appeal, the Judge or Judges so nominated may act as an additional Judge of Appeal or additional Judges of Appeal for the purposes of that appeal or proceeding.

(3) Every additional Judge of Appeal appointed or nominated pursuant to this section shall, during the tenure of such appointment or, as the case may be, while so acting for the purposes of such appeal or proceeding have all the powers, authorities, privileges and immunities and shall fulfil all the duties of a Judge of Appeal.

(4) The fact that any Judge sits and acts as an additional Judge of Appeal shall be sufficient evidence of his authority to do so, and no judgment or determination of the Court of Appeal while he so acts shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased to exist.

(5)

Supreme Court and Circuit Courts (Amendment).

(5) Every Judge who pursuant to this section has sat and acted as an additional Judge of Appeal may attend the sittings of the Court of Appeal for the purpose of giving judgment in or otherwise completing any proceedings in relation to any case that has been heard by that Court while he so acted notwithstanding that he is no longer an additional Judge of Appeal.

21E. At every sitting of the Court of Appeal at which the Chief Justice is present he shall preside. In the absence of the Chief Justice the President of the Court of Appeal shall preside. In the absence of both the Chief Justice and the President the senior Judge of Appeal present shall preside.

Sittings of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 60.

21F. (1) Except to the extent to which express provision to the contrary is made by or under any Act passed after the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or by section 21A of this Act, and subject to any such provision, every power, jurisdiction or authority conferred on or entrusted to or vested in the Court or the Judges collectively which, but for the passing of the Supreme Court and Circuit Courts (Amendment) Act, 1965, would have been exercised by the Court sitting as a Full Court, shall, from and after the commencement of that Act, be exercised by the Court of Appeal.

Jurisdiction of Court of Appeal.

(2) A reference express or implied in any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, and in force immediately before such commencement, to the Supreme Court in Banco or to the Full Court or to the Supreme Court as a court consisting

Supreme Court and Circuit Courts (Amendment).

consisting of two or more judges shall, as from such commencement, be construed as a reference to the Court of Appeal.

(3) Without prejudice to the generality of the foregoing provisions of this section the following proceedings shall be heard by the Court of Appeal :—

- (a) applications to make absolute a rule or order nisi for mandamus, prohibition or certiorari;
- (b) applications to make absolute an order for the issue of a writ of habeas corpus;
- (c) proceedings for attachment for contempt of court whether of the Supreme Court or an inferior court except where the contempt is committed in the face of the Court in proceedings in the Supreme Court or in a District Court or consists of disobedience to an order of the Supreme Court or a District Court;
- (d) proceedings on demurrer;
- (e) the admission of barristers or solicitors;
- (f) the exercise of the disciplinary powers of the Supreme Court with respect to barristers or solicitors;
- (g) proceedings required or authorised by any Act to be heard by the Supreme Court which would, before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, have been heard by the Full Court.

21G. (1) Subject to this Act any three or more Judges of Appeal may exercise all the powers of the Court of Appeal.

(2)

Proceedings
before the
Court of
Appeal.
cf. Rules of
Supreme
Court
(Eng.)
O. LIX R. 1.

Decision of
Court of
Appeal.
cf. Act 1908,
No. 89
(N.Z.), s. 59

Supreme Court and Circuit Courts (Amendment).

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges of Appeal present.

(3) If the Judges of Appeal present are equally divided in opinion the decision of the Court of Appeal shall be in accordance with the opinion of the Chief Justice or other the Judge of Appeal presiding.

21H. (1) Two Courts of Appeal each consisting of three or more Judges of Appeal may be held simultaneously. Separate sittings. cf. s. 21.

(2) Subject to the provisions of this Act each such Court of Appeal shall have power to exercise the full jurisdiction of the Court of Appeal.

21I. The Court of Appeal shall have power to remit any proceedings in any cause pending before it to a Judge for the trial and determination in accordance with the appropriate procedure of the Supreme Court of such issues or questions of fact as it may think fit. Power to remit proceedings. cf. Act 1908, No. 89 (N.Z.), s. 62.

21J. All judgments, decrees, orders and determinations of the Court of Appeal may be enforced or given effect to in the same manner as the like judgments, decrees, orders and determinations of the Supreme Court were enforced or given effect to before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965. Enforcement of judgments of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 63.

21K. (1) The Judges of Appeal or any three of them may make rules and orders— Rules of Court. cf. s. 39.

(a) for the regulation of the practice procedure and pleadings in the Court of Appeal in all respects;

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) for facilitating or more fully carrying into effect all or any of the provisions and objects of this Division of this Part of this Act;
- (c) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court of Appeal to the practitioners therein;
- (d) for fixing the fees to be demanded and paid in the Court of Appeal;
- (e) for prescribing the form and manner in which any matter or class of matters may or shall be referred to the Court of Appeal.

(2) The rules and orders made in relation to any of the matters referred to in paragraph (e) of subsection one of this section shall, by virtue of this Act, have full force and effect notwithstanding any inconsistency with any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or any rules or orders made under any such Act.

Rules to
have force
of law.
cf. s. 40.

(3) Every rule and order so made shall, subject to subsection two of this section, be of the same force and effect as if the same had been inserted in and had formed part of this Act.

Publication

(4) All rules and orders so made 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)

Supreme Court and Circuit Courts (Amendment).

- (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.

- 21L. Where a Judge is satisfied that special circumstances exist which render it desirable to do so he may by order direct the removal into the Court of Appeal of any of the following proceedings that is to say—
- (a) any rule nisi granted;
 - (b) any notice of motion made;
 - (c) any petition presented;
 - (d) any special case stated;
 - (e) any question of law directed to be argued;

Proceedings in Supreme Court may be removed into Court of Appeal.
cf. Act 1908, No. 89 (N.Z.), s. 64.

and upon such removal the Court of Appeal shall have and may exercise and discharge with respect to the proceedings so removed all the powers authorities duties and functions of the Supreme Court.

DIVISION 3. *The Registrar.*

- 21M. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, from time to time appoint a Registrar of the Court of Appeal and such other officers as may be required.

Appointment of Registrar of Court of Appeal.
cf. s. 15A.

Supreme Court and Circuit Courts (Amendment).

Savings as to reserved judgments and part heard appeals.

3. (1) In any of the following cases that is to say—
- (a) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been commenced but not completed before the commencement of this Act and at such commencement such hearing stands adjourned; or
 - (b) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been completed but the appeal had not been determined and at such commencement judgment on that appeal or proceedings stands reserved,

the appeal or proceedings may be carried on completed and determined and judgment may be delivered and may be enforced or given effect to, and shall have the same effects and consequences as if this Act had not been enacted.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

Pending appeals.

4. (1) Where before the commencement of this Act an appeal to or other proceedings in the Supreme Court with respect to any act, matter or thing which, after such commencement, falls within the jurisdiction of the Court of Appeal or is a matter or one of a class of matters referred to the Court of Appeal, or is required or authorised to be heard before the Court of Appeal, has been instituted but the hearing thereof has not been commenced, such appeal or proceedings may, subject to the Supreme Court and Circuit Courts Act, 1900-1965, and to any rules or orders made thereunder, be heard and determined by the Court of Appeal, and such Court shall have and may exercise and discharge with respect to such appeal or proceedings all the powers authorities duties and functions conferred and imposed upon it by or under that Act.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

5.

Supreme Court and Circuit Courts (Amendment).

5. (1) The Real Property Act, 1900-1956, is amended—
- Amendment of Act No. 25, 1900.
- (a) (i) by omitting from subsection one of section twenty-seven the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- Sec. 27. (Special case.)
- (ii) by omitting from the same subsection the words “in the Court” and by inserting in lieu thereof the words “with the Court of Appeal”;
- (iii) by omitting from subsections two and three of the same section the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (b) by omitting from section seventy-three the words “or a Judge thereof”;
- Sec. 73. (When caveat to lapse.)
- (c) (i) by omitting from subsection one of section one hundred and twenty-one the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- Sec. 121. (Proprietor may summon Registrar-General to show cause.)
- (ii) by omitting from subsection two of the same section the words “Judge of the said Court” and by inserting in lieu thereof the words “Judge of Appeal”;
- (iii) by omitting from subsection three of the same section the words “said Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (d) by omitting from subsection one of section one hundred and twenty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- Sec. 122. (Special case.)
- (e) by omitting from section one hundred and twenty-three the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- Sec. 123. (Registrar-General may state a case.)
- (f)

Supreme Court and Circuit Courts (Amendment).

Sec. 123A.
(Order as to
costs.)

- (f) by omitting from section 123A the word "Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 140.
(Power to
make rules
of Court.)

- (g) by inserting at the end of section one hundred and forty the following new subsection :—

(2) The Judges of Appeal or any three of them shall have power from time to time to make rules and orders for regulating proceedings in the Court of Appeal under this Act.

Amend-
ment of
Act No. 49,
1900.
Sec. 6.
(Consequen-
tial.)

(2) The Supreme Court Procedure Act, 1900-1957, is amended by omitting from section six the words "Supreme Court holden before three Judges" and by inserting in lieu thereof the words "Court of Appeal".

Further
amend-
ment of
Act No.
49, 1900.

6. The Supreme Court Procedure Act, 1900-1957, is further amended—

Sec. 5.
(Finding
of Judge.)

- (a) (i) by omitting subsection three of section five and by inserting in lieu thereof the following subsection :—

(3) The Judge may, either at or after the trial, direct that judgment be entered for any or either party.

- (ii) by omitting from subsection four of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (iii) by inserting at the end of the same subsection the following words "The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.";
- (iv) by omitting from subsection six the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- (v) by omitting from subsection seven the word "Court" where firstly and thirdly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (vi)

Supreme Court and Circuit Courts (Amendment).

- (vi) by omitting from subsections eight, nine, ten and eleven of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (vii) by inserting in subsection twelve of the same section after the word "Court" where firstly occurring the words "of the Court of Appeal";
 - (viii) by omitting from the same subsection the word "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (ix) by omitting subsection thirteen of the same section;
- (b) (i) by omitting from subsection one of section seven the words "Court in Banco" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 7.
(Power to order non suit or verdict to be entered.)
- (ii) by omitting from the same subsection the word "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (c) by inserting at the end of section 11A the following new subsection :— Sec. 11A.
(Costs.)
- (3) This section shall apply to any cause matter or proceeding in the Court of Appeal.
- (d) by inserting at the end of section fourteen the following new paragraph :— Sec. 14.
(Rules regulating procedure.)
- The powers conferred by the foregoing provisions of this section shall not apply to and in respect of the Court of Appeal.
7. The Equity Act, 1901-1964, is amended— Amend-
ment of
Act No. 24,
1901.
- (a) by omitting from section one the words "TO THE FULL COURT" appearing in the matter relating to Part VI; Sec. 1.
(Short title.)
 - (b)

Supreme Court and Circuit Courts (Amendment).

- Sec. 3.
(Interpretation.)
- (b) by omitting from the definition of "the Court" in section three the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 6.
(Two Judges may assist.)
- (c) (i) by omitting from subsection one of section six the words "other Judges of the Supreme Court" and by inserting in lieu thereof the words "Judges of Appeal";
- (ii) by omitting from subsection two of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- Part VI.
(Heading.)
- (d) by omitting from the heading to Part VI the words "TO THE FULL COURT";
- Sec. 81.
(Appeal.)
- (e) (i) by omitting from subsection one of section eighty-one the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the words "general rules as are prescribed" and by inserting in lieu thereof the words "rules or orders as may be made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or, where and to the extent to which such rules or orders are not applicable then subject to such general rules as may be in force under this Act";
- Sec. 83.
(Notice of appeal.)
- (f) by omitting from section eighty-three the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 84.
(General powers of Court.)
- (g) by omitting from section eighty-four the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 85.
(Cross appeals.)
- (h) (i) by omitting from subsection one of section eighty-five the words "by any general rule or by special order" and by inserting in lieu thereof the words "by special order or by rules

or

Supreme Court and Circuit Courts (Amendment).

or orders made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or where and to the extent to which such rules or orders are not applicable, then subject to any general rule in force under this Act”;

- (ii) by omitting from subsection two of the same section the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (i) by omitting from section eighty-seven the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”; Sec. 87. (Decrees how settled.)
- (j) by omitting from section eighty-eight the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”. Sec. 88. (Appeal by direction of Judge.)
8. The District Courts Act, 1912-1964, is amended— Amendment of Act No. 23, 1912.
- (a) by omitting from section one hundred and forty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”; Sec. 142. (Appeal by special case.)
- (b) by omitting from subsection two of section one hundred and forty-three all words after the word “appellant” and by inserting in lieu thereof the words “to the Registrar of the Court of Appeal and be set down for argument before the Court of Appeal as provided by rules or orders of the Court of Appeal”; Sec. 143. (Notice of appeal.)
- (c) (i) by omitting from subsection two of section one hundred and forty-four the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”; Sec. 144. (Appeal by notice of motion.)
- (ii) by omitting from subsection three of the same section the words “Supreme Court” where firstly and thirdly occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (B) (iii)

Supreme Court and Circuit Courts (Amendment).

Sec. 145.
(Powers on
appeal.)

- (iii) by omitting from the same subsection the words "Supreme Court or a judge thereof" and by inserting in lieu thereof the words "Court of Appeal or a Judge of Appeal";
- (d) by omitting from subsection three of section one hundred and forty-five the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal".

Amend-
ment of
Act No. 9,
1918.
Sec. 2.
(Defini-
tion.)

9. The Judges Retirement Act, 1918, is amended by inserting in section two in the definition of "Judge" after the word "means" the words "a Judge of Appeal or".

Amend-
ment of
Act No. 47,
1920.
Sec. 124.
(Appeal.)

10. The Stamp Duties Act, 1920-1964, is amended—

- (a) by omitting from subsection one of section one hundred and twenty-four the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from subsection three of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (c) by omitting from subsection four of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection five of the same section the word "court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (e) (i) by omitting from subsection six of the same section the word "court" where firstly, secondly and fourthly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the word "court" where thirdly occurring and by inserting in lieu thereof the words "Supreme Court"; (f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from subsection seven of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (g) by omitting from subsection eight of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (h) by omitting subsection ten of the same section.

11. The Land and Valuation Court Act, 1921-1961, is amended—

Amend-
ment of
Act No.
10, 1921.

- (a) by omitting from subsections one, two and four of section seventeen the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (b) (i) by omitting from subsection three of the same section the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- (ii) by omitting from the same subsection the words "Supreme Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal".

Sec. 17.
(Appeal by
case
stated.)

12. The Administration of Justice Act, 1924-1957, is amended by inserting in section nineteen after the word "matter" the words "in the Court of Appeal or".

Amend-
ment of
Act No. 42,
1924.

Sec. 19.
(Court to
direct pro-
cedure in
certain
cases.)

13. The Workers' Compensation Act, 1926-1964, is amended—

Amend-
ment of
Act No. 15,
1926.

- (a) by omitting from paragraphs (a) and (b) of subsection four of section thirty-seven the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (b)

Sec. 37.
(Appeals
and stated
cases.)

Supreme Court and Circuit Courts (Amendment).

- (b) (i) by omitting from paragraph (c) of the same subsection the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- (ii) by omitting from the same paragraph the words "decision of the Supreme Court" and by inserting in lieu thereof the words "decision of the Court of Appeal";
- (c) by omitting from paragraphs (d) and (e) of the same subsection the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal".

Amend-
ment of
Act No. 41,
1953.

14. The Judges' Pensions Act, 1953-1964, is amended—

Sec. 2.
(Defini-
tions.)

- (a) by inserting in section two in the definition of "Judge" after the words "Supreme Court of New South Wales" the words "President of the Court of Appeal or Judge of Appeal";

Sec. 8.
(Prior
judicial
service.)

- (b) by inserting in subsection three of section eight after the words "served as" the words "an additional Judge of Appeal".

Amend-
ment of
Act No. 19,
1903.

15. The Commercial Causes Act, 1903-1957, is amended by omitting from paragraph (h) of section six the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal".

Sec. 6.
(Direc-
tions.)

Amend-
ment of
Act No. 31,
1912.

16. The Jury Act, 1912-1957, is amended by inserting at the commencement of paragraph (a) of section five the words "Judges of Appeal," .

Sec. 5.
(Exemp-
tions.)

Supreme Court and Circuit Courts (Amendment).

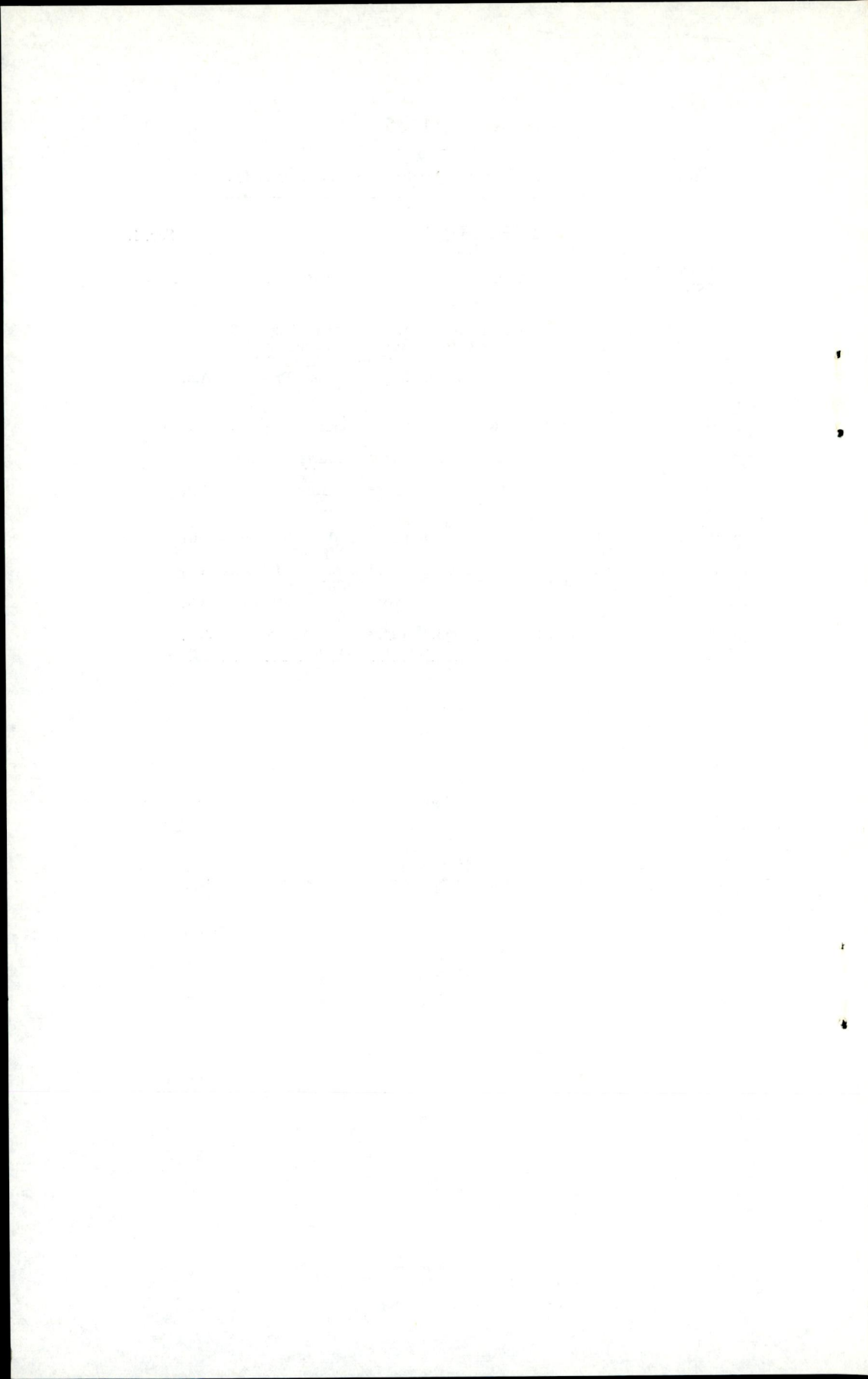
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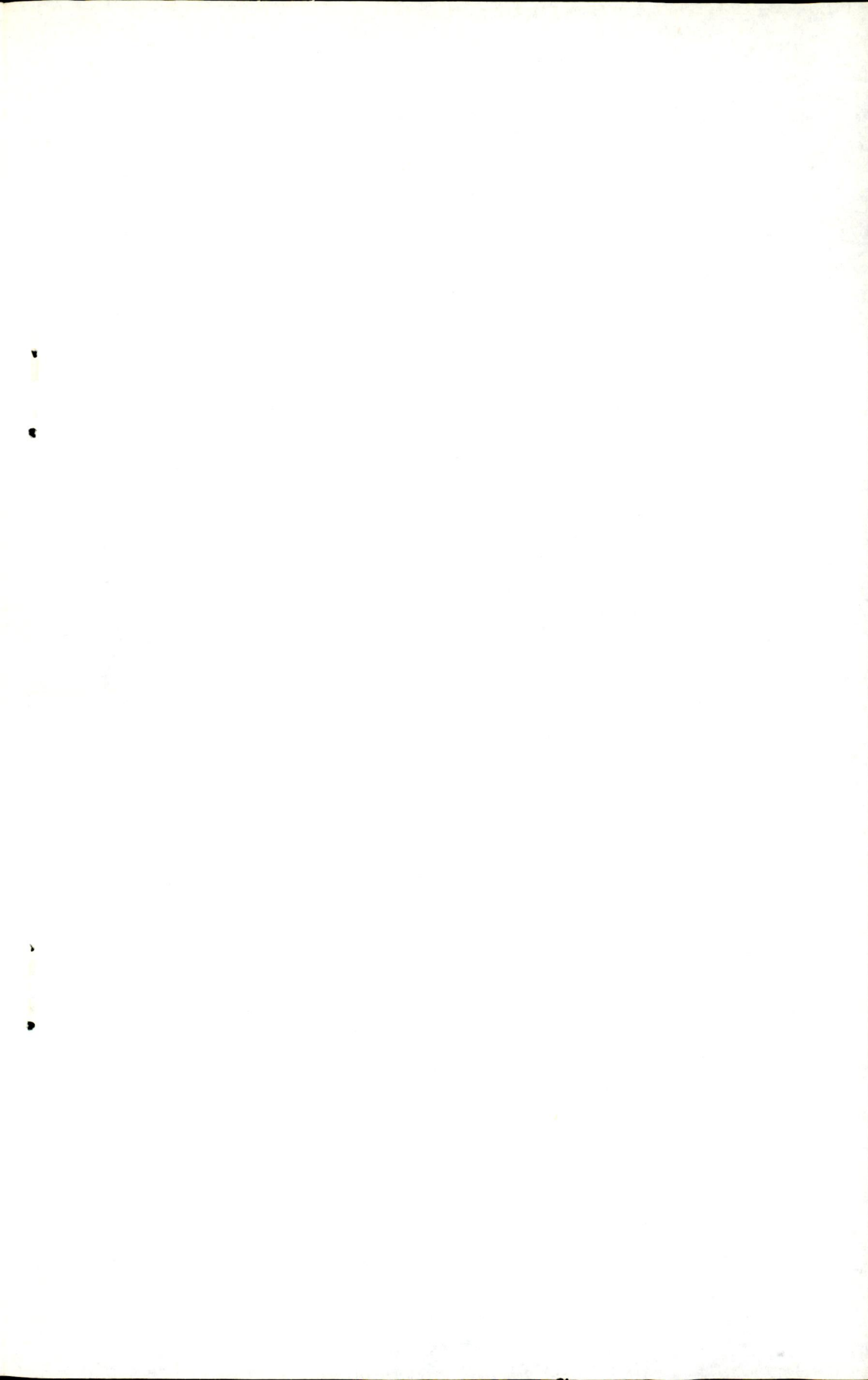
Sec. 1.

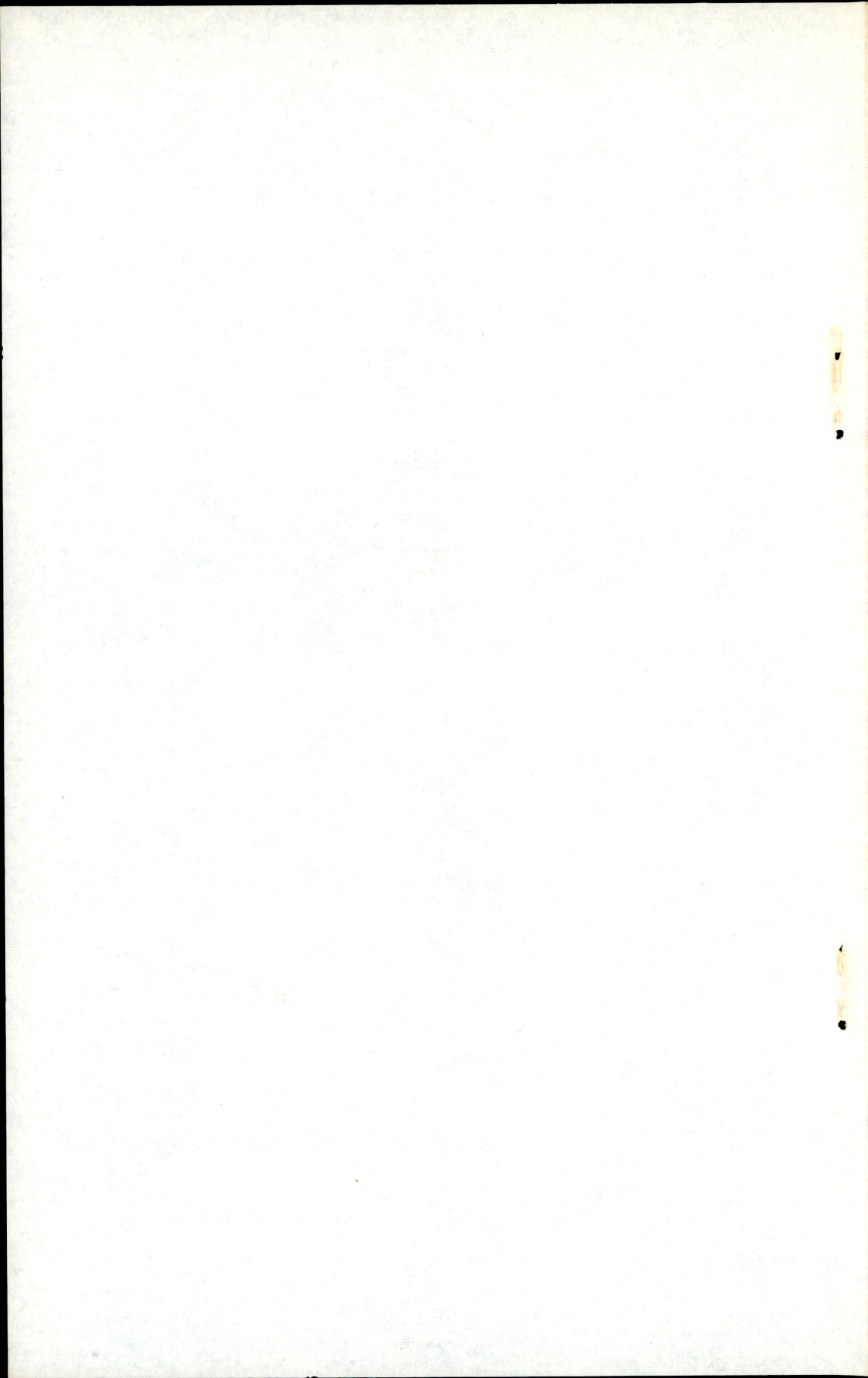
Reference to Act.	Short title.	Citation.
No. 25, 1900.	Real Property Act, 1900.	Real Property Act, 1900-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900.	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901.	Equity Act, 1901-1965.
No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912.	Jury Act, 1912-1965.
No. 9, 1918.	Judges Retirement Act, 1918.	Judges Retirement Act, 1918-1965.
No. 47, 1920.	Stamp Duties Act, 1920.	Stamp Duties Act, 1920-1965.
No. 10, 1921.	Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1965.
No. 42, 1924.	Administration of Justice Act, 1924.	Administration of Justice Act, 1924-1965.
No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 41, 1953.	Judges' Pensions Act, 1953.	Judges' Pensions Act, 1953-1965.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965







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, 26 October, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1965.

An Act to establish a division of the Supreme Court to be called the Court of Appeal; to make provision for and with respect to the appointment and the offices of the President of the Court of Appeal and of the Judges of Appeal; to make further provision with respect to the hearing and determination of appeals to and of other proceedings before the Supreme Court; for these and other purposes to amend the Supreme Court and Circuit Courts Act, 1900-1957, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 29th October, 1965.]

BE

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.

Supreme Court and Circuit Courts (Amendment).

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:—

Short title,
citation
and com-
mencement.

1. (1) This Act may be cited as the "Supreme Court and Circuit Courts (Amendment) Act, 1965".

(2) The Acts, as amended by subsequent Acts, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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

Amend-
ment of
Act No.
35, 1900.

2. The Supreme Court and Circuit Courts Act, 1900-1957, is amended—

Sec. 1.
(Short title
and
division.)

(a) (i) by omitting from section one the figures "21" appearing in the matter relating to Part III and by inserting in lieu thereof the figures and letter "21M";

(ii) by inserting in the same section at the end of the matter relating to Part III the following words and figures:—

DIVISION 1.—*Jurisdiction Generally*—ss. 16-21.

DIVISION 2.—*Court of Appeal*—ss. 21A-21L.

DIVISION 3.—*The Registrar of the Court of Appeal*—s. 21M.

Sec. 3.
(Interpre-
tation.)

(b) by inserting in section three next after the definition of "Judge" the following new definition:—

"Judge of Appeal" means a Judge appointed pursuant to Division 2 of Part III of this Act as a Judge of Appeal.

(c)

Supreme Court and Circuit Courts (Amendment).

(c) by inserting in section 12A after the word "appoint" the words "the President of the Court of Appeal, any Judge of Appeal or";

Sec. 12A.
(Acting
Chief
Justice.)

(d) (i) by inserting in Part III immediately before section sixteen the following heading:—

Part III.
(Heading.)

DIVISION 1. Jurisdiction Generally.

(ii) by inserting in the same Part next after section twenty-one the following new Divisions:—

New
Divisions
2 and 3.

DIVISION 2. Court of Appeal.

21A. Nothing in this Division of this Part of this Act shall affect the operation of the Criminal Appeal Act of 1912, as amended by subsequent Acts, or the jurisdiction of the Supreme Court with respect to matters within the operation of that Act, as so amended.

Saving of
Criminal
Appeal
Act.

21B. (1) There shall be a division of the Court to be called the Court of Appeal.

Court of
Appeal.

(2) Subject to the provisions of this Division of this Part of this Act the Court of Appeal shall consist of—

cf. Act
1908, No.
89 (N.Z.),
s. 57.

(a) the Chief Justice who shall, by virtue of his office as such, be the senior member of the Court of Appeal;

(b) a Judge appointed pursuant to section 21C of this Act to be a Judge of Appeal and President of the Court of Appeal;

(c) not more than six Judges appointed pursuant to section 21C of this Act to be Judges of Appeal.

21C. (1) The Governor may from time to time, by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to be a Judge of Appeal.

Appoint-
ment.

An

Supreme Court and Circuit Courts (Amendment).

An appointment may, notwithstanding the provisions of subsection two of section 21B of this Act, be made by the Governor to fill the office of a Judge of Appeal who is about to retire and who has been granted leave of absence pending his retirement.

(2) The Governor may, in like manner, appoint a Judge of Appeal to be President of the Court of Appeal.

Such appointment may be made either at the time of his appointment as a Judge of Appeal or at any time thereafter.

(3) Any Judge may be appointed as Judge of Appeal either at the time of his appointment as a Judge or at any time thereafter.

(4) Every Judge of Appeal shall continue to be a Judge and may from time to time sit as or exercise any of the powers of a Judge.

In particular, and without prejudice to the generality of the foregoing provisions of this subsection, any Judge who, at the time of his appointment as Judge of Appeal, holds the office of Chief Judge in Equity shall continue to hold such office and may from time to time sit as or exercise any of the powers and functions of the Chief Judge in Equity.

(5) Every Judge of Appeal shall hold office as a Judge of Appeal so long as he holds office as a Judge :

Provided that, with the approval of the Governor, any Judge of Appeal may resign his office as such without resigning his office as a Judge.

(6) The Judges of Appeal shall have seniority rank and precedence over all the Judges (including any Judge who is for the time being an additional Judge of Appeal) except the Chief Justice or the Acting Chief Justice

cf. Act
1908, No. 89
(N.Z.), s. 57.

Supreme Court and Circuit Courts (Amendment).

Justice and over all persons who, in accordance with the provisions of any Act, have the same rank, title, status and precedence as a Puisne Judge of the Supreme Court. The President of the Court of Appeal shall have seniority rank and precedence over the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, and those Judges of Appeal shall have seniority rank and precedence between themselves according to the dates of their commissions as Judges of Appeal.

If the commissions of two or more Judges of Appeal bear the same date they shall have seniority rank and precedence according to the seniority rank and precedence assigned to them by their commissions, or failing such assignment according to the order of their being sworn. cf. Act No. 2, 1940, s. 14 (6).

If a Judge of Appeal resigns his office as a Judge of Appeal without resigning his office as a Judge, he shall then have, as a Judge, the seniority rank status and precedence he would have had if he had not been appointed a Judge of Appeal.

(7) Where there is a vacancy in the office of President or where the President is absent from New South Wales or is prevented by illness or other cause from exercising the duties of his office, the senior of the Judges of Appeal referred to in paragraph (c) of subsection two of section 21B of this Act, shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers which may lawfully be exercised by the President.

(8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the office of Chief Justice or of President or
by

Supreme Court and Circuit Courts (Amendment).

by the fact that the number of Judges of Appeal holding office for the time being is less than the number referred to in paragraph (c) of subsection two of section 21B of this Act.

Additional
Judges of
Appeal.
cf. Act
1908, No.
89 (N.Z.),
s. 58.

21D. (1) Where any Judge of Appeal (other than the Chief Justice) is absent from his duties upon leave of absence or from illness or other cause the Governor may by commission under the public seal of the State, in Her Majesty's name, appoint any Judge to sit and act as an additional Judge of Appeal during such period not exceeding six months as may be specified in the commission.

(2) Whenever the Chief Justice certifies that in any appeal or proceeding before the Court of Appeal it is expedient that a Judge or Judges nominated in the certificate should act as an additional Judge of Appeal or as additional Judges of Appeal, the Judge or Judges so nominated may act as an additional Judge of Appeal or additional Judges of Appeal for the purposes of that appeal or proceeding.

(3) Every additional Judge of Appeal appointed or nominated pursuant to this section shall, during the tenure of such appointment or, as the case may be, while so acting for the purposes of such appeal or proceeding have all the powers, authorities, privileges and immunities and shall fulfil all the duties of a Judge of Appeal.

(4) The fact that any Judge sits and acts as an additional Judge of Appeal shall be sufficient evidence of his authority to do so, and no judgment or determination of the Court of Appeal while he so acts shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased to exist.

(5)

Supreme Court and Circuit Courts (Amendment).

(5) Every Judge who pursuant to this section has sat and acted as an additional Judge of Appeal may attend the sittings of the Court of Appeal for the purpose of giving judgment in or otherwise completing any proceedings in relation to any case that has been heard by that Court while he so acted notwithstanding that he is no longer an additional Judge of Appeal.

21E. At every sitting of the Court of Appeal at which the Chief Justice is present he shall preside. In the absence of the Chief Justice the President of the Court of Appeal shall preside. In the absence of both the Chief Justice and the President the senior Judge of Appeal present shall preside.

Sittings of
Court of
Appeal.
cf. Act
1908, No.
89 (N.Z.),
s. 60.

21F. (1) Except to the extent to which express provision to the contrary is made by or under any Act passed after the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or by section 21A of this Act, and subject to any such provision, every power, jurisdiction or authority conferred on or entrusted to or vested in the Court or the Judges collectively which, but for the passing of the Supreme Court and Circuit Courts (Amendment) Act, 1965, would have been exercised by the Court sitting as a Full Court, shall, from and after the commencement of that Act, be exercised by the Court of Appeal.

Jurisdiction of
Court of
Appeal.

(2) A reference express or implied in any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, and in force immediately before such commencement, to the Supreme Court in Banco or to the Full Court or to the Supreme Court as a court consisting

Supreme Court and Circuit Courts (Amendment).

consisting of two or more judges shall, as from such commencement, be construed as a reference to the Court of Appeal.

(3) Without prejudice to the generality of the foregoing provisions of this section the following proceedings shall be heard by the Court of Appeal:—

- (a) applications to make absolute a rule or order nisi for mandamus, prohibition or certiorari;
- (b) applications to make absolute an order for the issue of a writ of habeas corpus;
- (c) proceedings for attachment for contempt of court whether of the Supreme Court or an inferior court except where the contempt is committed in the face of the Court in proceedings in the Supreme Court or in a District Court or consists of disobedience to an order of the Supreme Court or a District Court;
- (d) proceedings on demurrer;
- (e) the admission of barristers or solicitors;
- (f) the exercise of the disciplinary powers of the Supreme Court with respect to barristers or solicitors;
- (g) proceedings required or authorised by any Act to be heard by the Supreme Court which would, before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, have been heard by the Full Court.

21G. (1) Subject to this Act any three or more Judges of Appeal may exercise all the powers of the Court of Appeal.

(2)

Proceedings
before the
Court of
Appeal.
cf. Rules of
Supreme
Court
(Eng.)
O. LIX R. 1.

Decision of
Court of
Appeal.
cf. Act 1908,
No. 89
(N.Z.), s. 59

Supreme Court and Circuit Courts (Amendment).

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges of Appeal present.

(3) If the Judges of Appeal present are equally divided in opinion the decision of the Court of Appeal shall be in accordance with the opinion of the Chief Justice or other the Judge of Appeal presiding.

21H. (1) Two Courts of Appeal each consisting of three or more Judges of Appeal may be held simultaneously. Separate sittings. cf. s. 21.

(2) Subject to the provisions of this Act each such Court of Appeal shall have power to exercise the full jurisdiction of the Court of Appeal.

21I. The Court of Appeal shall have power to remit any proceedings in any cause pending before it to a Judge for the trial and determination in accordance with the appropriate procedure of the Supreme Court of such issues or questions of fact as it may think fit. Power to remit proceedings. cf. Act 1908, No. 89 (N.Z.), s. 62.

21J. All judgments, decrees, orders and determinations of the Court of Appeal may be enforced or given effect to in the same manner as the like judgments, decrees, orders and determinations of the Supreme Court were enforced or given effect to before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965. Enforcement of judgments of Court of Appeal. cf. Act 1908, No. 89 (N.Z.), s. 63.

21K. (1) The Judges of Appeal or any three of them may make rules and orders— Rules of Court. cf. s. 39.

(a) for the regulation of the practice procedure and pleadings in the Court of Appeal in all respects;

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) for facilitating or more fully carrying into effect all or any of the provisions and objects of this Division of this Part of this Act;
- (c) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court of Appeal to the practitioners therein;
- (d) for fixing the fees to be demanded and paid in the Court of Appeal;
- (e) for prescribing the form and manner in which any matter or class of matters may or shall be referred to the Court of Appeal.

(2) The rules and orders made in relation to any of the matters referred to in paragraph (e) of subsection one of this section shall, by virtue of this Act, have full force and effect notwithstanding any inconsistency with any Act passed before the commencement of the Supreme Court and Circuit Courts (Amendment) Act, 1965, or any rules or orders made under any such Act.

Rules to
have force
of law.
cf. s. 40.

(3) Every rule and order so made shall, subject to subsection two of this section, be of the same force and effect as if the same had been inserted in and had formed part of this Act.

Publication.

(4) All rules and orders so made 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)

Supreme Court and Circuit Courts (Amendment).

- (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.

21L. Where a Judge is satisfied that special circumstances exist which render it desirable to do so he may by order direct the removal into the Court of Appeal of any of the following proceedings that is to say—

- (a) any rule nisi granted;
- (b) any notice of motion made;
- (c) any petition presented;
- (d) any special case stated;
- (e) any question of law directed to be argued;

Proceedings in Supreme Court may be removed into Court of Appeal.
cf. Act 1908, No. 89 (N.Z.), s. 64.

and upon such removal the Court of Appeal shall have and may exercise and discharge with respect to the proceedings so removed all the powers authorities duties and functions of the Supreme Court.

DIVISION 3. *The Registrar.*

21M. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, from time to time appoint a Registrar of the Court of Appeal and such other officers as may be required.

Appointment of Registrar of Court of Appeal.
cf. s. 15A.

Supreme Court and Circuit Courts (Amendment).

Savings as to reserved judgments and part heard appeals.

3. (1) In any of the following cases that is to say—
- (a) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been commenced but not completed before the commencement of this Act and at such commencement such hearing stands adjourned; or
 - (b) where the hearing of an appeal to the Full Court of the Supreme Court or of other proceedings before such Full Court had been completed but the appeal had not been determined and at such commencement judgment on that appeal or proceedings stands reserved,

the appeal or proceedings may be carried on completed and determined and judgment may be delivered and may be enforced or given effect to, and shall have the same effects and consequences as if this Act had not been enacted.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

Pending appeals.

4. (1) Where before the commencement of this Act an appeal to or other proceedings in the Supreme Court with respect to any act, matter or thing which, after such commencement, falls within the jurisdiction of the Court of Appeal or is a matter or one of a class of matters referred to the Court of Appeal, or is required or authorised to be heard before the Court of Appeal, has been instituted but the hearing thereof has not been commenced, such appeal or proceedings may, subject to the Supreme Court and Circuit Courts Act, 1900-1965, and to any rules or orders made thereunder, be heard and determined by the Court of Appeal, and such Court shall have and may exercise and discharge with respect to such appeal or proceedings all the powers authorities duties and functions conferred and imposed upon it by or under that Act.

(2) The savings under this section shall be in addition to any savings which may be applicable by operation of the Interpretation Act of 1897, as amended by subsequent Acts.

5.

Supreme Court and Circuit Courts (Amendment).

5. (1) The Real Property Act, 1900-1956, is amended—
- (a) (i) by omitting from subsection one of section twenty-seven the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the words "in the Court" and by inserting in lieu thereof the words "with the Court of Appeal";
- (iii) by omitting from subsections two and three of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from section seventy-three the words "or a Judge thereof";
- (c) (i) by omitting from subsection one of section one hundred and twenty-one the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from subsection two of the same section the words "Judge of the said Court" and by inserting in lieu thereof the words "Judge of Appeal";
- (iii) by omitting from subsection three of the same section the words "said Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection one of section one hundred and twenty-two the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (e) by omitting from section one hundred and twenty-three the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (f)

Amendment of Act No. 25, 1900.

Sec. 27. (Special case.)

Sec. 73. (When caveat to lapse.)

Sec. 121. (Proprietor may summon Registrar-General to show cause.)

Sec. 122. (Special case.)

Sec. 123. (Registrar-General may state a case.)

Supreme Court and Circuit Courts (Amendment).

Sec. 123A.
(Order as to
costs.)

- (f) by omitting from section 123A the word "Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 140.
(Power to
make rules
of Court.)

- (g) by inserting at the end of section one hundred and forty the following new subsection :—

(2) The Judges of Appeal or any three of them shall have power from time to time to make rules and orders for regulating proceedings in the Court of Appeal under this Act.

Amend-
ment of
Act No. 49,
1900.
Sec. 6.
(Consequen-
tial.)

(2) The Supreme Court Procedure Act, 1900-1957, is amended by omitting from section six the words "Supreme Court holden before three Judges" and by inserting in lieu thereof the words "Court of Appeal".

Further
amend-
ment of
Act No.
49, 1900.
Sec. 5.
(Finding
of Judge.)

6. The Supreme Court Procedure Act, 1900-1957, is further amended—

- (a) (i) by omitting subsection three of section five and by inserting in lieu thereof the following subsection :—

(3) The Judge may, either at or after the trial, direct that judgment be entered for any or either party.

- (ii) by omitting from subsection four of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

- (iii) by inserting at the end of the same subsection the following words "The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.";

- (iv) by omitting from subsection six the word "Court" and by inserting in lieu thereof the words "Court of Appeal";

- (v) by omitting from subsection seven the word "Court" where firstly and thirdly occurring and by inserting in lieu thereof the words "Court of Appeal";

(vi)

Supreme Court and Circuit Courts (Amendment).

- (vi) by omitting from subsections eight, nine, ten and eleven of the same section the word "Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (vii) by inserting in subsection twelve of the same section after the word "Court" where firstly occurring the words "of the Court of Appeal";
 - (viii) by omitting from the same subsection the word "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (ix) by omitting subsection thirteen of the same section;
 - (b) (i) by omitting from subsection one of section seven the words "Court in Banco" and by inserting in lieu thereof the words "Court of Appeal"; Sec. 7.
(Power to order non suit or verdict to be entered.)
 - (ii) by omitting from the same subsection the word "Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal";
 - (c) by inserting at the end of section 11A the following new subsection :— Sec. 11A.
(Costs.)
 - (3) This section shall apply to any cause matter or proceeding in the Court of Appeal.
 - (d) by inserting at the end of section fourteen the following new paragraph :— Sec. 14.
(Rules regulating procedure.)
 - The powers conferred by the foregoing provisions of this section shall not apply to and in respect of the Court of Appeal.
7. The Equity Act, 1901-1964, is amended— Amendment of Act No. 24, 1901.
- (a) by omitting from section one the words "TO THE FULL COURT" appearing in the matter relating to Part VI; Sec. 1.
(Short title.)

(b)

Supreme Court and Circuit Courts (Amendment).

- Sec. 3.
(Interpretation.) (b) by omitting from the definition of "the Court" in section three the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 6.
(Two Judges may assist.) (c) (i) by omitting from subsection one of section six the words "other Judges of the Supreme Court" and by inserting in lieu thereof the words "Judges of Appeal";
(ii) by omitting from subsection two of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- Part VI.
(Heading.) (d) by omitting from the heading to Part VI the words "TO THE FULL COURT";
- Sec. 81.
(Appeal.) (e) (i) by omitting from subsection one of section eighty-one the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
(ii) by omitting from the same subsection the words "general rules as are prescribed" and by inserting in lieu thereof the words "rules or orders as may be made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or, where and to the extent to which such rules or orders are not applicable then subject to such general rules as may be in force under this Act";
- Sec. 83.
(Notice of appeal.) (f) by omitting from section eighty-three the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 84.
(General powers of Court.) (g) by omitting from section eighty-four the words "Full Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- Sec. 85.
(Cross appeals.) (h) (i) by omitting from subsection one of section eighty-five the words "by any general rule or by special order" and by inserting in lieu thereof the words "by special order or by rules

or

Supreme Court and Circuit Courts (Amendment).

- or orders made under Division 2 of Part III of the Supreme Court and Circuit Courts Act, 1900-1965, or where and to the extent to which such rules or orders are not applicable, then subject to any general rule in force under this Act”;
- (ii) by omitting from subsection two of the same section the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (i) by omitting from section eighty-seven the word “Court” wherever occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (j) by omitting from section eighty-eight the words “Full Court” and by inserting in lieu thereof the words “Court of Appeal”.
8. The District Courts Act, 1912-1964, is amended—
- (a) by omitting from section one hundred and forty-two the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (b) by omitting from subsection two of section one hundred and forty-three all words after the word “appellant” and by inserting in lieu thereof the words “to the Registrar of the Court of Appeal and be set down for argument before the Court of Appeal as provided by rules or orders of the Court of Appeal”;
- (c) (i) by omitting from subsection two of section one hundred and forty-four the words “Supreme Court” and by inserting in lieu thereof the words “Court of Appeal”;
- (ii) by omitting from subsection three of the same section the words “Supreme Court” where firstly and thirdly occurring and by inserting in lieu thereof the words “Court of Appeal”;
- (iii)

Sec. 87.
(Decrees how settled.)

Sec. 88.
(Appeal by direction of Judge.)

Amendment of Act No. 23, 1912.
Sec. 142.
(Appeal by special case.)

Sec. 143.
(Notice of appeal.)

Sec. 144.
(Appeal by notice of motion.)

Supreme Court and Circuit Courts (Amendment).

- (iii) by omitting from the same subsection the words "Supreme Court or a judge thereof" and by inserting in lieu thereof the words "Court of Appeal or a Judge of Appeal";
- Sec. 145.
(Powers on appeal.) (d) by omitting from subsection three of section one hundred and forty-five the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal".
- Amendment of Act No. 9, 1918.
Sec. 2.
(Definition.) 9. The Judges Retirement Act, 1918, is amended by inserting in section two in the definition of "Judge" after the word "means" the words "a Judge of Appeal or".
- Amendment of Act No. 47, 1920.
Sec. 124.
(Appeal.) 10. The Stamp Duties Act, 1920-1964, is amended—
- (a) by omitting from subsection one of section one hundred and twenty-four the words "Supreme Court" and by inserting in lieu thereof the words "Court of Appeal";
- (b) by omitting from subsection three of the same section the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal";
- (c) by omitting from subsection four of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (d) by omitting from subsection five of the same section the word "court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (e) (i) by omitting from subsection six of the same section the word "court" where firstly, secondly and fourthly occurring and by inserting in lieu thereof the words "Court of Appeal";
- (ii) by omitting from the same subsection the word "court" where thirdly occurring and by inserting in lieu thereof the words "Supreme Court";
- (f)

Supreme Court and Circuit Courts (Amendment).

- (f) by omitting from subsection seven of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (g) by omitting from subsection eight of the same section the word "court" and by inserting in lieu thereof the words "Court of Appeal";
- (h) by omitting subsection ten of the same section.

11. The Land and Valuation Court Act, 1921-1961, is amended—

Amendment of Act No. 10, 1921.

- (a) by omitting from subsections one, two and four of section seventeen the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";
- (b) (i) by omitting from subsection three of the same section the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- (ii) by omitting from the same subsection the words "Supreme Court" where lastly occurring and by inserting in lieu thereof the words "Court of Appeal".

Sec. 17. (Appeal by case stated.)

12. The Administration of Justice Act, 1924-1957, is amended by inserting in section nineteen after the word "matter" the words "in the Court of Appeal or".

Amendment of Act No. 42, 1924.

Sec. 19. (Court to direct procedure in certain cases.)

13. The Workers' Compensation Act, 1926-1964, is amended—

Amendment of Act No. 15, 1926.

- (a) by omitting from paragraphs (a) and (b) of subsection four of section thirty-seven the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal";

Sec. 37. (Appeals and stated cases.)

(b)

Supreme Court and Circuit Courts (Amendment).

- (b) (i) by omitting from paragraph (c) of the same subsection the words "The judges of the Supreme Court" and by inserting in lieu thereof the words "The Judges of Appeal";
- (ii) by omitting from the same paragraph the words "decision of the Supreme Court" and by inserting in lieu thereof the words "decision of the Court of Appeal";
- (c) by omitting from paragraphs (d) and (e) of the same subsection the words "Supreme Court" wherever occurring and by inserting in lieu thereof the words "Court of Appeal".
- 14.** The Judges' Pensions Act, 1953-1964, is amended—
- Amendment of Act No. 41, 1953.
Sec. 2.
(Definitions.)
- (a) by inserting in section two in the definition of "Judge" after the words "Supreme Court of New South Wales" the words "President of the Court of Appeal or Judge of Appeal";
- Sec. 8.
(Prior judicial service.)
- (b) by inserting in subsection three of section eight after the words "served as" the words "an additional Judge of Appeal".
- 15.** The Commercial Causes Act, 1903-1957, is amended by omitting from paragraph (h) of section six the words "Full Court" and by inserting in lieu thereof the words "Court of Appeal".
- Amendment of Act No. 19, 1903.
Sec. 6.
(Directions.)
- 16.** The Jury Act, 1912-1957, is amended by inserting at the commencement of paragraph (a) of section five the words "Judges of Appeal," .
- Amendment of Act No. 31, 1912.
Sec. 5.
(Exemptions.)
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Supreme Court and Circuit Courts (Amendment).

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
No. 25, 1900.	Real Property Act, 1900.	Real Property Act, 1900-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900.	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901.	Equity Act, 1901-1965.
No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912.	Jury Act, 1912-1965.
No. 9, 1918.	Judges Retirement Act, 1918.	Judges Retirement Act, 1918-1965.
No. 47, 1920.	Stamp Duties Act, 1920.	Stamp Duties Act, 1920-1965.
No. 10, 1921.	Land and Valuation Court Act, 1921.	Land and Valuation Court Act, 1921-1965.
No. 42, 1924.	Administration of Justice Act, 1924.	Administration of Justice Act, 1924-1965.
No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 41, 1953.	Judges' Pensions Act, 1953.	Judges' Pensions Act, 1953-1965.

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

K. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 29th October, 1965.*

Approved by the Senate and House of Representatives

SCHEDULE

Section	Subject	Effective Date
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In the name and on behalf of the Senate and House of Representatives of the State of Texas, I hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files of the Secretary of State.

Secretary of State

