

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. 7, 1901.

An Act to consolidate the Statutes relating to Interpleader in the Supreme Court. [Assented to, 3rd October, 1901.]

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

PART I.

Preliminary.

1. This Act may be cited as the "Interpleader Act, 1901," and is divided into Parts as follows—

PART I.—*Preliminary*—ss. 1-3.

PART II.—*Applications by defendants*—ss. 4-7.

PART III.—*Applications by Sheriff and other officers*—s. 8.

PART IV.—*Supplementary*—ss. 9-11.

Interpleader.

Repeal Schedule.

2 The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Interpretation.

3. In this Act,—
 “Court” means the Supreme Court.
 “Judge” means a Judge of the Court.

PART II.

Applications by defendants.

Interpleader
 proceedings upon
 application of
 defendant.

1 and 2 Will. IV,
 c 58, s. 1.

4. Upon application made by or on the behalf of any defendant, sued in the Court in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea, by affidavit or otherwise showing—

- (a) that such defendant does not claim any interest in the subject-matter of the action;
- (b) that the right thereto is claimed or supposed to belong to some third party who has sued, or is expected to sue for the same;
- (c) that such defendant does not in any manner collude with such third party; and
- (d) that such defendant is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court or Judge may order or direct,

the Court or a Judge may—

- (i) by rule or order call upon such third party to appear and to state the nature and particulars of his claim, and to maintain or relinquish his claim; and
- (ii) upon such rule or order hear the allegations as well of such third party as of the plaintiff; and
- (iii) in the meantime stay the proceedings in such action; and, finally,
- (iv) order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues; and direct which party shall be plaintiff or defendant on such trial; or, with the consent of the plaintiff and such third party, dispose of the merits of their claims, and determine the same in a summary manner; and
- (v) make such other rules and orders therein as to costs and all other matters as appear just and reasonable.

Judgment and
 decision to be final.
Ibid. s. 2.

5. The judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

Interpleader.

6. If such third party—
- (a) having been duly served with such rule or order does not appear thereupon to maintain or relinquish his claim; or
 - (b) neglects or refuses to comply with any rule or order made after his appearance,
- the Court or Judge may—
- (i) declare such third party and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators, saving, nevertheless, the right or claim of such third party against the plaintiff; and
 - (ii) thereupon make such order between such defendant and the plaintiff as to costs and other matters as appears just and reasonable.
7. (1) If a Judge, upon application to him in the first instance, or in any later stage of the proceedings thinks the matter more fit for the decision of the Court, he may refer the matter to the Court.
- (2) The Court shall thereupon hear and dispose of the matter in the same manner as if the proceeding had originally commenced by rule of Court instead of by order of a Judge.

Claim of third party may be barred on his non-appearance or non-compliance with order.

1 and 2 Will. IV, c. 58 s. 3.

Judge may refer matter to Court.

Ibid. s. 5.

PART III.

Applications by Sheriff and other officers.

8. (1) When any claim to any goods or chattels taken or intended to be taken in execution under any process issued by or under the authority of the Court, or to the proceeds or value thereof, is made by a person not being the party against whom such process has issued, the Court or a Judge, upon the application of the Sheriff or other officer made before or after the return of such process, and before or after any action brought against such Sheriff or officer may—
- (a) by rule or order call before the Court or a Judge the party issuing the process and the person making the claim; and
 - (b) thereupon exercise for the adjustment of such claim and the relief and protection of the Sheriff or other officer all or any of the powers and authorities hereinbefore contained, and make such rules, orders, and decisions as appear to be just according to the circumstances of the case.
- (2) The costs of all such proceedings shall be in the discretion of the Court or Judge.

Interpleader proceedings upon application of Sheriff, &c.

Ibid. s. 6.

7 Vic. No. 13, s. 7.

Interpleader.

PART IV.

Supplementary.

Appeal from order of
a Judge.
1 and 2 Will. IV,
c. 58, s. 4.

Rules, &c., may be
entered of record.
Ibid. s. 7.

9. Every order made in pursuance of this Act by a single Judge not sitting in open Court shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

10. (1) All rules, orders, matters and decisions made and done in pursuance of this Act, except only the affidavits filed, may, together with the declaration in the cause, if any, be entered of record with a note in the margin expressing the true date of such entry to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order.

(2) Every such rule or order so entered shall have the force and effect of a judgment except only as to becoming a charge on any land.

Execution for costs.
Ibid.

11. (1) If any such costs are not paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, or his agent or attorney, execution may issue for the same together with the costs of such entry and of the execution.

(2) Every such writ may bear teste on the day of issuing the same whether in or out of term.

(3) The Sheriff or other officer executing any such writ shall be entitled to the same fees and no more as upon a similar writ grounded upon a judgment of the Court.

SCHEDULE.

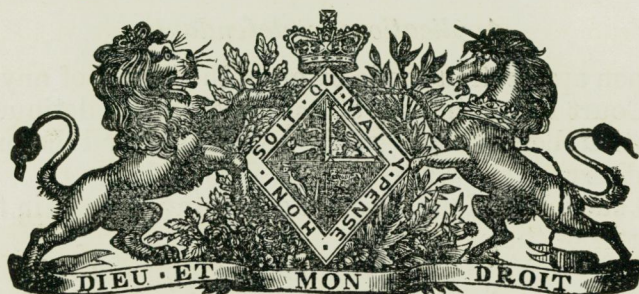
Reference to Act.	Title.	Extent of repeal.
5 Will. IV No. 8..	An Act for adopting and applying certain Acts of Parliament passed in the eleventh year of the reign of His late Majesty and first year of the reign of His present Majesty and in the first and second years of the reign of His present Majesty respectively in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole, in so far as it applies to sections 1 to 7, inclusive, of the Act 1 & 2 Will. IV c. 58.
1 & 2 Will. IV c. 58	An Act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of such claims.	The whole, except section 8.
7 Vic. No. 13 ...	An Act for regulating the appointment and duties of Sheriff in New South Wales.	The unrepealed portion.

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

*Legislative Council Chamber,
Sydney, 26th September, 1901. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. 7, 1901.

An Act to consolidate the Statutes relating to Interpleader in the Supreme Court. [Assented to, 3rd October, 1901.]

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

PART I.

Preliminary.

1. This Act may be cited as the "Interpleader Act, 1901," and Short title and division.

PART I.—*Preliminary*—ss. 1-3.

PART II.—*Applications by defendants*—ss. 4-7.

PART III.—*Applications by Sheriff and other officers*—s. 8.

PART IV.—*Supplementary*—ss. 9-11.

Interpleader.

Repeal Schedule.

2. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Interpretation.

3. In this Act,—

“Court” means the Supreme Court.

“Judge” means a Judge of the Court.

PART II.

Applications by defendants.

Interpleader proceedings upon application of defendant.

1 and 2 Will. IV, c 58, s. 1.

4. Upon application made by or on the behalf of any defendant, sued in the Court in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea, by affidavit or otherwise showing—

- (a) that such defendant does not claim any interest in the subject-matter of the action ;
- (b) that the right thereto is claimed or supposed to belong to some third party who has sued, or is expected to sue for the same ;
- (c) that such defendant does not in any manner collude with such third party ; and
- (d) that such defendant is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court or Judge may order or direct,

the Court or a Judge may—

- (i) by rule or order call upon such third party to appear and to state the nature and particulars of his claim, and to maintain or relinquish his claim ; and
- (ii) upon such rule or order hear the allegations as well of such third party as of the plaintiff ; and
- (iii) in the meantime stay the proceedings in such action ; and, finally,
- (iv) order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues ; and direct which party shall be plaintiff or defendant on such trial ; or, with the consent of the plaintiff and such third party, dispose of the merits of their claims, and determine the same in a summary manner ; and
- (v) make such other rules and orders therein as to costs and all other matters as appear just and reasonable.

Judgment and decision to be final.
Ibid. s. 2.

5. The judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

Interpleader.

6. If such third party—
- (a) having been duly served with such rule or order does not appear thereupon to maintain or relinquish his claim; or
- (b) neglects or refuses to comply with any rule or order made after his appearance,
- the Court or Judge may—
- (i) declare such third party and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators, saving, nevertheless, the right or claim of such third party against the plaintiff; and
- (ii) thereupon make such order between such defendant and the plaintiff as to costs and other matters as appears just and reasonable.
7. (1) If a Judge, upon application to him in the first instance, or in any later stage of the proceedings thinks the matter more fit for the decision of the Court, he may refer the matter to the Court.
- (2) The Court shall thereupon hear and dispose of the matter in the same manner as if the proceeding had originally commenced by rule of Court instead of by order of a Judge.

Claim of third party may be barred on his non-appearance or non-compliance with order.

1 and 2 Will. IV, c. 58 s. 3.

Judge may refer matter to Court.

Ibid. s. 5.

PART III.

Applications by Sheriff and other officers.

8. (1) When any claim to any goods or chattels taken or intended to be taken in execution under any process issued by or under the authority of the Court, or to the proceeds or value thereof, is made by a person not being the party against whom such process has issued, the Court or a Judge, upon the application of the Sheriff or other officer made before or after the return of such process, and before or after any action brought against such Sheriff or officer may—
- (a) by rule or order call before the Court or a Judge the party issuing the process and the person making the claim; and
- (b) thereupon exercise for the adjustment of such claim and the relief and protection of the Sheriff or other officer all or any of the powers and authorities hereinbefore contained, and make such rules, orders, and decisions as appear to be just according to the circumstances of the case.
- (2) The costs of all such proceedings shall be in the discretion of the Court or Judge.

Interpleader proceedings upon application of Sheriff, &c.

Ibid. s. 6.

7 Vic. No. 13, s. 7.

Interpleader.

PART IV.

Supplementary.

Appeal from order of a Judge.
1 and 2 Will. IV, c. 58, s. 4.
Rules, &c., may be entered of record.
Ibid. s. 7.

9. Every order made in pursuance of this Act by a single Judge not sitting in open Court shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

10. (1) All rules, orders, matters and decisions made and done in pursuance of this Act, except only the affidavits filed, may, together with the declaration in the cause, if any, be entered of record with a note in the margin expressing the true date of such entry to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order.

(2) Every such rule or order so entered shall have the force and effect of a judgment except only as to becoming a charge on any land.

Execution for costs.
Ibid.

11. (1) If any such costs are not paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, or his agent or attorney, execution may issue for the same together with the costs of such entry and of the execution.

(2) Every such writ may bear teste on the day of issuing the same whether in or out of term.

(3) The Sheriff or other officer executing any such writ shall be entitled to the same fees and no more as upon a similar writ grounded upon a judgment of the Court.

SCHEDULE.

Reference to Act.	Title.	Extent of repeal.
5 Will. IV No. 8..	An Act for adopting and applying certain Acts of Parliament passed in the eleventh year of the reign of His late Majesty and first year of the reign of His present Majesty and in the first and second years of the reign of His present Majesty respectively in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole, in so far as it applies to sections 1 to 7, inclusive, of the Act 1 & 2 Will. IV c. 58.
1 & 2 Will. IV c. 58	An Act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of such claims.	The whole, except section 8.
7 Vic. No. 13 ...	An Act for regulating the appointment and duties of Sheriff in New South Wales.	The unrepealed portion.

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

State Government House,
Sydney, 3rd October, 1901.

FREDK. M. DARLEY,
Lieutenant-Governor.

Memo. and Certificate to accompany the
Interpleader Bill.

I CERTIFY that this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the enactments therein consolidated.

CHAS. G. HEYDON.

Commissioner for the Consolidation of the Statute Law.

Minutes and Resolutions of the Board of Directors
of the [illegible] Company

At a meeting of the Board of Directors of the [illegible] Company, held at the [illegible] office of the [illegible] Company, on the [illegible] day of [illegible] 19[illegible].

Present: [illegible]

Absent: [illegible]

The following resolutions were adopted:

- [illegible]
- [illegible]
- [illegible]

Interpleader Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
5 WILLIAM IV No. 8.		
1, 2	Adopts 1 and 2 Will. IV, c. 58 and other Acts.
1 AND 2 WILLIAM IV c. 58.		
1	4	Part of this section is inapplicable to New South Wales.
2	5	
3	6	
4	9	
5	7	To be dealt with in Prohibition and Mandamus Bill.
6	8	
7	10, 11	
8	
7 VICTORIA No. 13.		
7	8	

...and having the day
...for its convenience.

BY J. CALVERT,
Clerk of the Parliament.

EDWARD VI. IN HIS FIRST YEAR.

As a ...
...
...
...
...

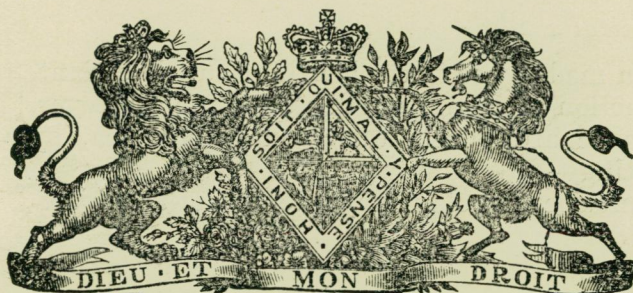
...
...
...

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

Legislative Council Chamber,
Sydney, 11th September, 1901. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to consolidate the Statutes relating to Interpleader in the Supreme Court.

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

PART I.

Preliminary.

1. This Act may be cited as the "Interpleader Act, 1901," and is divided into Parts as follows—

PART I.—*Preliminary*—ss. 1-3.

PART II.—*Applications by defendants*—ss. 4-7.

PART III.—*Applications by Sheriff and other officers*—s. 8.

PART IV.—*Supplementary*—ss. 9-11.

Interpleader.

2. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

3. In this Act,—

“Court” means the Supreme Court.

“Judge” means a Judge of the Court.

Repeal Schedule.
Interpretation.

PART II.

Applications by defendants.

4. Upon application made by or on the behalf of any defendant, sued in the Court in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea, by affidavit or otherwise showing—

- (a) that such defendant does not claim any interest in the subject-matter of the action ;
- (b) that the right thereto is claimed or supposed to belong to some third party who has sued, or is expected to sue for the same ;
- (c) that such defendant does not in any manner collude with such third party ; and
- (d) that such defendant is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court or Judge may order or direct,

the Court or a Judge may—

- (i) by rule or order call upon such third party to appear and to state the nature and particulars of his claim, and to maintain or relinquish his claim ; and
- (ii) upon such rule or order hear the allegations as well of such third party as of the plaintiff ; and
- (iii) in the meantime stay the proceedings in such action ; and, finally,
- (iv) order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues ; and direct which party shall be plaintiff or defendant on such trial ; or, with the consent of the plaintiff and such third party, dispose of the merits of their claims, and determine the same in a summary manner ; and
- (v) make such other rules and orders therein as to costs and all other matters as appear just and reasonable.

5. The judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

Interpleader.

6. If such third party—
- (a) having been duly served with such rule or order does not appear thereupon to maintain or relinquish his claim; or
- (b) neglects or refuses to comply with any rule or order made after his appearance,
- the Court or Judge may—
- (i) declare such third party and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators, saving, nevertheless, the right or claim of such third party against the plaintiff; and
- (ii) thereupon make such order between such defendant and the plaintiff as to costs and other matters as appears just and reasonable.
7. (1) If a Judge, upon application to him in the first instance, or in any later stage of the proceedings thinks the matter more fit for the decision of the Court, he may refer the matter to the Court.
- (2) The Court shall thereupon hear and dispose of the matter in the same manner as if the proceeding had originally commenced by rule of Court instead of by order of a Judge.

Claim of third party may be barred on his non-appearance or non-compliance with order.
1 and 2 Will. IV, c. 58 s. 3.

Judge may refer matter to Court.
Ibid. s. 5.

PART III.

Applications by Sheriff and other officers.

8. (1) When any claim to any goods or chattels taken or intended to be taken in execution under any process issued by or under the authority of the Court, or to the proceeds or value thereof, is made by a person not being the party against whom such process has issued, the Court or a Judge, upon the application of the Sheriff or other officer made before or after the return of such process, and before or after any action brought against such Sheriff or officer may—
- (a) by rule or order call before the Court or a Judge the party issuing the process and the person making the claim; and
- (b) thereupon exercise for the adjustment of such claim and the relief and protection of the Sheriff or other officer all or any of the powers and authorities hereinbefore contained, and make such rules, orders, and decisions as appear to be just according to the circumstances of the case.
- (2) The costs of all such proceedings shall be in the discretion of the Court or Judge.

Interpleader proceedings upon application of Sheriff, &c.
Ibid. s. 6.
7 Vic. No. 13, s. 7.

Interpleader.

PART IV.

Supplementary.

9. Every order made in pursuance of this Act by a single Judge not sitting in open Court shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

Appeal from order of a Judge.
1 and 2 Will. IV, c. 58, s. 4.

10. (1) All rules, orders, matters and decisions made and done in pursuance of this Act, except only the affidavits filed, may, together with the declaration in the cause, if any, be entered of record with a note in the margin expressing the true date of such entry to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order.

Rules, &c., may be entered of record.
Ibid. s. 7.

(2) Every such rule or order so entered shall have the force and effect of a judgment except only as to becoming a charge on any land.

11. (1) If any such costs are not paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, or his agent or attorney, execution may issue for the same together with the costs of such entry and of the execution.

Execution for costs.
Ibid.

(2) Every such writ may bear teste on the day of issuing the same whether in or out of term.

(3) The Sheriff or other officer executing any such writ shall be entitled to the same fees and no more as upon a similar writ grounded upon a judgment of the Court.

SCHEDULE.

Reference to Act.	Title.	Extent of repeal.
5 Will. IV No. 8..	An Act for adopting and applying certain Acts of Parliament passed in the eleventh year of the reign of His late Majesty and first year of the reign of His present Majesty and in the first and second years of the reign of His present Majesty respectively in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole, in so far as it applies to sections 1 to 7, inclusive, of the Act 1 & 2 Will. IV c. 58.
1 & 2 Will. IV c. 58	An Act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of such claims.	The whole, except section 8.
7 Vic. No. 13 ..	An Act for regulating the appointment and duties of Sheriff in New South Wales.	The unrepealed portion.

Memo. and Certificate to accompany the
Interpleader Bill.

I CERTIFY that this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the enactments therein consolidated.

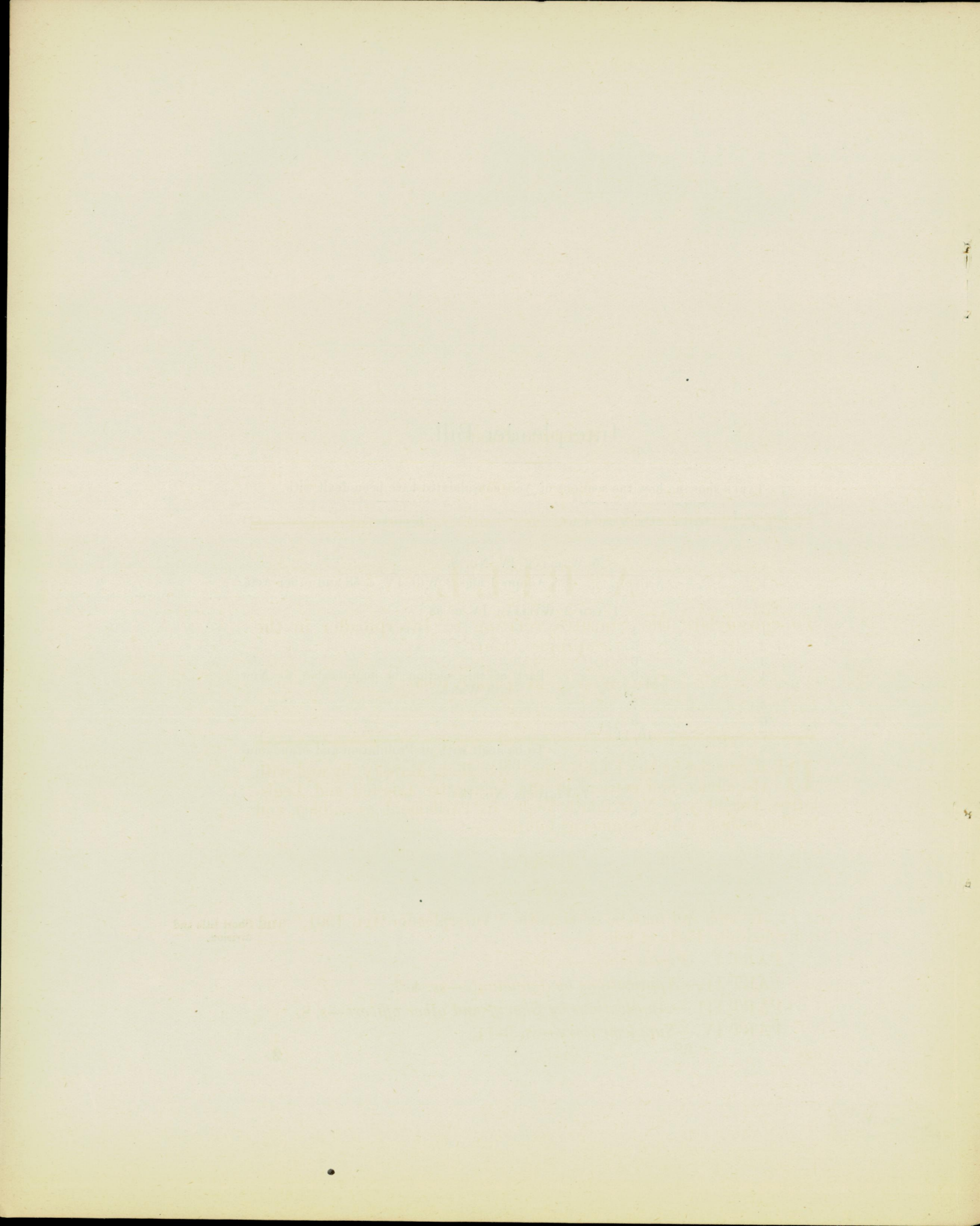
CHAS. G. HEYDON.

Commissioner for the Consolidation of the Statute Law.

Interpleader Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
5 WILLIAM IV No. 8.		
1, 2	Adopts 1 and 2 Will. IV, c. 58 and other Acts.
1 AND 2 WILLIAM IV c. 58.		
1	4	Part of this section is inapplicable to New South Wales.
2	5	
3	6	
4	9	
5	7	To be dealt with in Prohibition and Mandamus Bill.
6	8	
7	10, 11	
8	
7 VICTORIA No. 13.		
7	8	



Legislative Council.

No. , 1901.

A BILL

To consolidate the Statutes relating to Interpleader in the
Supreme Court.

[MR. WISE ;—21 August, 1901.]

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

PART I.

Preliminary.

1. This Act may be cited as the "Interpleader Act, 1901," and is divided into Parts as follows—

Short title and
division.

PART I.—*Preliminary*—ss. 1-3.

PART II.—*Applications by defendants*—ss. 4-7.

PART III.—*Applications by Sheriff and other officers*—s. 8.

PART IV.—*Supplementary*—ss. 9-11.

Repeal Schedule.

2. The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Interpretation.

3. In this Act,—

“Court” means the Supreme Court.

“Judge” means a Judge of the Court.

PART II.

Applications by defendants.

Interpleader
proceedings upon
application of
defendant.

1 and 2 Will. IV
c 58, s. 1.

4. Upon application made by or on the behalf of any defendant, sued in the Court in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea, by affidavit or otherwise showing—

(a) that such defendant does not claim any interest in the subject-matter of the action ;

(b) that the right thereto is claimed or supposed to belong to some third party who has sued, or is expected to sue for the same ;

(c) that such defendant does not in any manner collude with such third party ; and

(d) that such defendant is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court or Judge may order or direct,

the Court or a Judge may—

(i) by rule or order call upon such third party to appear and to state the nature and particulars of his claim, and to maintain or relinquish his claim ; and

(ii) upon such rule or order hear the allegations as well of such third party as of the plaintiff ; and

(iii) in the meantime stay the proceedings in such action ; and, finally,

(iv) order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues ; and direct which party shall be plaintiff or defendant on such trial ; or, with the consent of the plaintiff and such third party, dispose of the merits of their claims, and determine the same in a summary manner ; and

(v) make such other rules and orders therein as to costs and all other matters as appear just and reasonable.

Judgment and
decision to be final.
Ibid. s. 2.

5. The judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

6. If such third party—
- (a) having been duly served with such rule or order does not appear thereupon to maintain or relinquish his claim; or
- (b) neglects or refuses to comply with any rule or order made after his appearance,
- the Court or Judge may—
- (i) declare such third party and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators, saving, nevertheless, the right or claim of such third party against the plaintiff; and
- (ii) thereupon make such order between such defendant and the plaintiff as to costs and other matters as appears just and reasonable.
7. (1) If a Judge, upon application to him in the first instance, or in any later stage of the proceedings thinks the matter more fit for the decision of the Court, he may refer the matter to the Court.
- (2) The Court shall thereupon hear and dispose of the matter in the same manner as if the proceeding had originally commenced by rule of Court instead of by order of a Judge.

Claim of third party may be barred on his non-appearance or non-compliance with order.

1 and 2 Will IV. c. 58 s. 3.

Judge may refer matter to Court.

Ibid. s. 5.

PART III.

Applications by Sheriff and other officers.

8. (1) When any claim to any goods or chattels taken or intended to be taken in execution under any process issued by or under the authority of the Court, or to the proceeds or value thereof, is made by a person not being the party against whom such process has issued, the Court or a Judge, upon the application of the Sheriff or other officer made before or after the return of such process, and before or after any action brought against such Sheriff or officer may—
- (a) by rule or order call before the Court or a Judge the party issuing the process and the person making the claim; and
- (b) thereupon exercise for the adjustment of such claim and the relief and protection of the Sheriff or other officer all or any of the powers and authorities hereinbefore contained, and make such rules, orders, and decisions as appear to be just according to the circumstances of the case.
- (2) The costs of all such proceedings shall be in the discretion of the Court or Judge.

Interpleader proceedings upon application of Sheriff, &c.

Ibid. s. 6.

7 Vic. No. 13 s. 7.

PART IV.

Supplementary.

Appeal from order of
a Judge.
1 and 2 Will. IV,
c. 58, s. 4.
Rules, &c., may be
entered of record.
Ibid. s. 7.

9. Every order made in pursuance of this Act by a single Judge not sitting in open Court shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

10. (1) All rules, orders, matters and decisions made and done in pursuance of this Act, except only the affidavits filed, may, together with the declaration in the cause, if any, be entered of record with a note in the margin expressing the true date of such entry to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order.

(2) Every such rule or order so entered shall have the force and effect of a judgment except only as to becoming a charge on any land.

Execution for costs.
Ibid.

11. (1) If any such costs are not paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, or his agent or attorney, execution may issue for the same together with the costs of such entry and of the execution.

(2) Every such writ may bear teste on the day of issuing the same whether in or out of term.

(3) The Sheriff or other officer executing any such writ shall be entitled to the same fees and no more as upon a similar writ grounded upon a judgment of the Court.

SCHEDULE.

Reference to Act.	Title.	Extent of repeal.
5 Will. IV No. 8..	An Act for adopting and applying certain Acts of Parliament passed in the eleventh year of the reign of His late Majesty and first year of the reign of His present Majesty and in the first and second years of the reign of His present Majesty respectively in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole, in so far as it applies to sections 1 to 7, inclusive, of the Act 1 & 2 Will. IV c. 58.
1 & 2 Will. IV c. 58	An Act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of such claims.	The whole, except section 8.
7 Vic. No. 13 ...	An Act for regulating the appointment and duties of Sheriff in New South Wales.	The unrepealed portion.

Sydney : William Applegate Gullick, Government Printer.—1901.

[6d.]