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, 5th August, 1909.

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.

ANNO NONO

EDWARDI VII REGIS.

* *

Act No. , 1909.

An Act to consolidate certain enactments relating to the Supreme Court and Circuit Courts.

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 1.

PRELIMINARY.

1. This Act may be cited as the "Supreme Court and Circuit Courts Act, 1909," and is divided into Parts, as follows :— Short title and division.

PART I.—*Preliminary—ss.* 1–3.

PART II.—*The Judges—ss.* 4–15.

PART III.—*Jurisdiction of the Court, and how exercised—ss.* 16–21.

PART IV.—*Circuit Courts—ss.* 22–33.

PART V.—*Court Fees—ss.* 34–38.

PART VI.—*Rules—ss.* 39–41.

2. (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed. Repeal. Schedule.

(2) All persons appointed or deemed to have been appointed under any enactment hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed hereunder. Officers under repealed Acts.

(3) All commissions issued, and all proclamations, notices, rules, orders, and regulations made or given under the authority of any enactment hereby repealed, or having force or effect thereunder, and being in force at the time of the passing of this Act, shall continue in force and have the same effect and validity as if they had been issued, made, or given under the authority of this Act. Commissions, proclamations, rules, &c., under repealed Acts.

(4) Nothing herein shall effect the validity of any judgment, decision, order, act, proceeding, or matter rendered or declared valid by any enactment hereby repealed. Validation of proceedings saved. 55 Vic. No. 3, s. 1.

(5) Nothing in this Act shall be construed to take away, lessen, or impair any statutory or other jurisdiction, power, authority, right, or privilege of the Court or of any judge, or of any Circuit Court. Jurisdiction of Courts and Judges saved.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

"Barrister" means a barrister admitted by the Court, or a barrister of England or Ireland.

"Chief Justice" means Chief Justice of the Court.

"Judge" means Judge of the Court, and includes the Chief Justice.

"The Court" means the Supreme Court of New South Wales.

PART II.

The Judges.

Appointment, qualification, and tenure of office.

4. (1) The present Chief Justice and other Judges shall continue to be the Chief Justice and Judges respectively. Present Judges to retain office.

(2) The present Chief Judge in Equity, Judge exercising the Matrimonial Causes Jurisdiction of the Court, Judge in Bankruptcy, and Probate Judge shall continue to be the Chief Judge in Equity, the Judge exercising the Matrimonial Causes Jurisdiction of the Court, the Judge in Bankruptcy, and the Probate Judge respectively.

5. The office of Chief Justice may be held by a barrister admitted by the Court in like manner and subject to the like qualifications as to standing at the bar as if he were a barrister of England or Ireland. Qualification for office of Chief Justice. 25 Vic. No. 9, s. 1.

6. Whenever the office of Chief Judge in Equity becomes vacant, the Governor may appoint one of the Judges to such office. Appointment of Chief Judge in Equity. 44 Vic. No. 18, s. 1. 55 Vic. No. 26, s. 4.

7. Whenever the office of Judge exercising the Matrimonial Causes Jurisdiction of the Court becomes vacant, the Governor may appoint the Chief Justice, or if he declines such appointment, then one of the other Judges, to such office. Appointment of Judge exercising Matrimonial Causes Jurisdiction. 36 Vic. No. 9, s. 3.

8. Whenever the office of Probate Judge becomes vacant, the Governor may appoint one of the Judges permanently or temporarily to such office. Appointment of Probate Judge. [cf. 1898, No. 13, s. 33.]

9.

9. (1) Whenever—

(*a*) the office of Judge in Bankruptcy becomes vacant; or

(*b*) through the office of any other Puisne Judge becoming vacant, the number of Puisne Judges is less than six,

the Governor may, by Commission under the Great Seal, in His Majesty's name, appoint a fit and proper person to such office.

Appointment of Judge in Bankruptcy and of Puisne Judges generally.
28 Vic. No. 7, s. 1.
45 Vic. No. 1, s. 1.
50 Vic. No. 35, s. 1.
51 Vic. No. 19, s. 128.

(2) Such person shall, from the time of his appointment, be a Judge to all intents and purposes whatsoever, and may, subject to the provisions of this or any other Act, sit as such in any jurisdiction of the Court.

(3) Such person shall be a barrister of not less than five years standing, or, if he be appointed to the office of Judge in Bankruptcy, shall be such barrister or a solicitor of not less than seven years standing: But this subsection shall not apply to a person appointed in succession to any present Judge who has been appointed under the provisions of the Act forty-fifth Victoria, number one, or of the Act fiftieth Victoria number thirty-five.

Qualification of such Judges.
25 Vic. No. 9, s. 1.
28 Vic. No. 7, s. 2.
45 Vic. No. 1, s. 1.
50 Vic. No. 35, s. 1.
51 Vic. No. 19, ss. 128, 135.

10. (1) The commission of every Judge shall be, continue, and remain in force during his good behaviour, notwithstanding the demise of His Majesty, whom may God long preserve.

(2) Provided that His Majesty may remove any Judge upon the address of both houses of the legislature.

Tenure of office.
Constitution Act, ss. 38, 39.
28 Vic. No. 7, s. 3.
45 Vic. No. 1, s. 4.
50 Vic. No. 35, s. 4.
51 Vic. No. 19, s. 128 (3).

Salaries and pensions.

11. (1) The annual salary of the Chief Justice shall be three thousand five hundred pounds, and the annual salary of every Puisne Judge shall be two thousand six hundred pounds.

(2) Such salary shall be paid to such Chief Justice or Puisne Judge so long as his patent or commission continues and remains in force.

Salary.
Constitution Act, s. 40.
46 Vic. No. 15, s. 1.
50 Vic. No. 35, s. 2.
51 Vic. No. 19, s. 128 (4).

12. (1) The pension to be paid to a Chief Justice or Puisne Judge appointed before the twelfth day of December, one thousand nine hundred and six, retiring after fifteen years' service in New South Wales as a Judge, or on permanent disability or infirmity, shall be seven-tenths of his actual salary at the time of such retirement.

Pension.
46 Vic. No. 15, ss. 2, 3.
50 Vic. No. 35, s. 3.
51 Vic. No. 19, s. 128 (4).
No. 27, 1906, s. 2.

(2) Where a Chief Justice or Puisne Judge of the Supreme Court, appointed after the said day, has served in such office for fifteen years, he shall on retiring be entitled to an annual pension at the rate of one-half of his salary.

Ibid.

(3) If such Chief Justice or Puisne Judge retires on permanent disability or infirmity, he shall, if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one half of his salary.

Ibid.

(4) Every such pension shall be in every year charged upon and payable out of the Consolidated Revenue Fund.

(5) If, after the assignment of such pension to a Judge, he accepts any new appointment under the Crown, such pension shall merge or be reduced *pro tanto* during the tenure of such appointment according as the salary or emoluments of such appointment are of a greater or less amount than such pension. Constitution Act. s. 51.

Acting Judges.

13. (1) The Governor may issue a special commission to any Judge of the District Court, or to any barrister or solicitor of not less than seven years' standing, appointing him— General power to appoint acting Judge. 55 Vic. No. 26, s. 3.

(*a*) to act as a Judge of the Court for the trial of issues, civil or criminal, at any Circuit Court, or Court of gaol delivery, or at any place or places at which a Judge of the Court could not attend without detriment to the ordinary business of the Court; or

(*b*) to sit and act as a Judge of the Court at Sydney in any one or more jurisdictions of the Court to be specified in such commission, and for a time not exceeding in any case six months, to be specified in like manner.

(2) Thereupon the person so appointed shall, at the place and for the time and subject to the conditions or limitations specified in such commission, have all the power, authorities, privileges, and immunities, and fulfil all the duties of a Judge of the Court.

14. (1) Upon leave of absence being granted to the Judge in Bankruptcy, the Governor may appoint an acting Judge in Bankruptcy, during such leave of absence. Acting Judge in Bankruptcy. 51 Vic. No. 19, s. 129.

(2) Thereupon such acting Judge shall have and exercise the same jurisdiction, powers, authorities, and privileges, as the Judge in Bankruptcy.

15. Where under any Act any jurisdiction, power, or authority, is vested in the Chief Judge in Equity, the Judge exercising the Matrimonial Causes Jurisdiction of the Court, the Judge in Bankruptcy, or the Probate Judge, then— Acting Judges in special jurisdictions. 36 Vic. No. 9, s. 4. 44 Vic. No. 18, s. 2. 48 Vic. No. 3, s. 2. 50 Vic. No. 36, s. 1. 51 Vic. No. 19, s. 129. 54 Vic. No. 25, s. 4.

(*a*) at the request of such Judge or of the Chief Justice; or

(*b*) during the illness of such Judge or his absence from Sydney; or

(*c*) for any other reasonable cause,

any other Judge may exercise such jurisdiction, power, or authority in all respects as such Judge in whom the same is so vested might have done, and shall while so acting have co-ordinate jurisdiction with and all the power and authority of such Judge, subject to the same right of appeal.

PART

PART III.

Jurisdiction of the Court, and how Exercised.

16. Where any Imperial Act in force in England on the first day of March, in the year of our Lord one thousand eight hundred and twenty-nine, and applicable to New South Wales, or any Imperial Act adopted and directed to be applied in New South Wales, authorises and directs any proceeding, act, matter, or thing to be had, done, performed or executed by or before His Majesty's Courts at Westminster or the respective Judges thereof in the administration of justice, every such proceeding, act, matter, and thing shall be, and the same is hereby authorised and directed to be, had, done, executed, and performed by the Court and the respective Judges thereof in like manner as if the same had been in and by such Imperial Act expressly authorised and directed to be had, done, executed, and performed by the Court or the respective Judges thereof.

Court authorised to perform certain acts required to be performed by courts in England.
6 W. IV. No. 12, s. 1.

17. Subject to the provisions of this Act, or of any other Act in force for the time being, every power, jurisdiction, or authority conferred on or entrusted to or vested in the Court or the Judges collectively may lawfully be exercised by two or more of the Judges.

Two or more Judges may exercise jurisdiction of Court.
4 Vic. No. 22, s. 19.
45 Vic. No. 1, s. 5.

18. (1) No Judge shall sit on the hearing of an appeal from or on a motion to set aside any judgment, order, decree, ruling, or decision made by him in any jurisdiction of the Court.

Constitution of Court on appeals from Judges.
36 Vic. No. 9, s. 49.
45 Vic. No. 1, s. 5.
48 Vic. No. 13, ss. 1, 2, 3.
51 Vic. No. 19, s. 135.

(2) The Court on the hearing of any such appeal or motion shall consist of not less than three Judges.

(3) This section shall not apply to—

(*a*) any judgment, order, decree, ruling, or decision pronounced or made *pro formâ* by consent of parties; or

(*b*) any motion for a rule nisi only; or

(*c*) the hearing of an appeal or motion before two Judges only where the parties consent thereto.

19. The Court may be held by one Judge alone for the disposal of—

Court held by one Judge in certain cases.
22 Vic. No. 14, s. 7.

(*a*) returns of fines and estreated recognisances; and

(*b*) applications for and returns to writs of *habeas corpus*,

notwithstanding that it may be term time, or that the Court held before two or more Judges may be at the same time sitting in banco.

20. In order to prevent the delay and consequent mischief which might otherwise ensue:—

Powers of single Judge in vacation.
4 Vic. No. 22, s. 27.

(1) Every Judge shall in vacation have power to make all such orders and grant all such writs as can only under ordinary circumstances be made or granted respectively by the Court:

Provided that no such order or writ shall continue in force after the first day of the next ensuing term unless the Court shall then otherwise direct.

(2)

(2) The like power may be also exercised by any Judge in cases of exigency in term:

Provided that no order made or writ granted as last aforesaid shall continue in force after the then next ensuing sitting day in banco of the Court.

And in certain cases in term.
4 Vic. No. 22, s. 27.

21. (1) Two or more Courts, each consisting of two or more Judges, may during term be held simultaneously in banco.

(2) Subject to the provisions of this Act, each such Court shall have power to exercise the full jurisdiction of the Court hitherto possessed while sitting in banco.

Court may be held in two or more divisions.
55 Vic. No. 3, s. 2.

PART IV.

Circuit Courts.

22. The Governor may by proclamation apportion and divide New South Wales into three or more circuit districts, and ascertain and fix the boundaries and limits of every such district, and alter such boundaries and limits from time to time as occasion may require.

Circuit districts.
5 Vic. No. 4, s. 1.

23. The Governor may by proclamation direct Circuit Courts to be holden in or at such towns and places as he thinks fit to appoint, and fix from time to time, and vary or alter, as occasion may require, the times and places for holding the said Courts respectively.

Proclamation of Circuit Courts.
4 Vic. No. 22, s. 16.

24. Every Circuit Court shall be holden by a Judge.

Court to be holden by a Judge.
4 Vic. No. 22, s. 17.

25. Every Circuit Court shall have such ministerial officers as may be required.

Officers.
Ibid.

26. Every Circuit Court shall be—

(*a*) a court of record; and

(*b*) a court of oyer and terminer and of assize and nisi prius for New South Wales; and

(*c*) a court of gaol delivery in and for the particular district only within which it is appointed to be holden.

Nature of Courts defined.
Ibid.
5 Vic. No. 4, s. 1.

27. Every Circuit Court shall have the same powers and jurisdiction as courts of oyer and terminer, and gaol delivery, and of nisi prius in England had respectively at the time of the passing of the Act fourth Victoria number twenty-two, and shall stand in the same relation to the Court as such courts respectively stood in with respect to Her Majesty's Superior Courts of Record at Westminster at the time of the passing of the said Act.

General powers and jurisdiction.
4 Vic. No. 22, s. 17.

28. Every Circuit Court may—

(*a*) try and determine all issues of fact joined in any action or other proceeding commenced or pending in the Court; and

(*b*) inquire into and assess damages in any such action.

Jurisdiction in civil actions.
Ibid.
5 Vic. No. 4, s. 2.

29.

29. Every Circuit Court may, upon information exhibited therein— Criminal jurisdiction. 4 Vic. No. 22, s. 17. 5 Vic. No. 4, s. 10.

(*a*) by and in the name of His Majesty's Attorney or Solicitor General; or

(*b*) in case of their absence from such Court, by and in the name of such other person as the Governor appoints in that behalf,

hear and determine all cases of crimes and misdemeanours committed in New South Wales.

30. Every person convicted in any Circuit Court of any crime or offence cognizable therein shall be liable to the same penalties and punishments as by law could be inflicted on such person if convicted in the Court of such crime or offence. Jurisdiction as to punishment. 5 Vic. No. 4, s. 2.

31. Every Circuit Court shall proceed in all cases according to the form and manner observed and established by law in the Court in similar cases. Procedure. 4 Vic. No. 22, s. 17.

32. If in any case the Judge does not arrive at any such circuit town or place in time to open the Circuit Court, or does not actually open such Court on the day for that purpose appointed by any such proclamation as aforesaid, the subsequent holding of such Court shall not for that reason be or be taken to be illegal, but the same may be opened and holden, either by the same Judge or by any other Judge, on any following day: Delay in opening Circuit Court. *Ibid.* s. 18.

Provided that every such Circuit Court shall be actually opened and holden on the day so appointed except in cases of unavoidable accident, and that then such Court shall be opened and holden as soon afterwards as possible.

33. The records of every Circuit Court shall be taken to belong to and shall be kept in the Supreme Court, and the Prothonotary shall have their legal custody: Custody of records. 46 Vic. No. 17, s. 359.

Provided that during the sitting of any Circuit Court the Judge's Associate, or other officer there acting as Clerk of Assize, shall in respect of all proceedings at such sitting have the custody of such records.

PART V.

Court Fees.

34. (1) The Governor may, by notice in the Gazette, direct that after the day specified in the notice all or any of the fees to be demanded and paid in the Court or in any Circuit Court shall be collected by means of stamps. Governor may direct fees to be collected by means of stamps. 60 Vic. No. 19, s. 3.

(2) After the day so specified, the fees mentioned in the notice shall be received by stamps denoting the sums payable, and not in money.

(3)

(3) All or any of the stamps shall be impressed or adhesive as may be directed in the notice.

35. (1) Where any fee mentioned in such notice is payable in respect of a document, the stamps denoting the fee shall be affixed to or impressed upon the document, or such other document, book, or record as may be prescribed by regulations made under the authority of this Act.

Document, book, or record to be stamped. 60 Vic. No. 19, s. 4.

(2) Where any fee mentioned in such notice is payable otherwise than in respect of a document, the stamps denoting the fee shall be affixed to or impressed on such document, book, or record as may be prescribed as aforesaid.

(3) The Governor may make regulations prescribing the document, book, or record to be stamped as aforesaid.

36. No judge or officer of any Court shall allow any such document as aforesaid to be filed, received, or used, although no exception be taken thereto, until the document has been first duly stamped. And if the document is through mistake or inadvertence filed, received, or used in any Court without having been first duly stamped, the said Court or a Judge may order that it be duly stamped.

Document to be stamped before being filed. *Ibid.* s. 5.

37. Every officer whose duty it is to receive any fees, which under the authority of this Act are required to be collected by means of stamps, shall see that the proper stamps have been affixed to or impressed on the document, book, or record required to be stamped, and that when adhesive stamps are used the same are duly cancelled.

Officers to see that stamps are affixed or impressed and duly cancelled. *Ibid.* s. 6.

38. The provisions of the Stamp Duties Act, 1893, and of any Act amending the same shall, so far as applicable, extend and apply to and in respect of all stamps required under this Act to be used.

Provisions of Stamp Acts to apply. *Ibid.*

PART VI.

Rules.

39. The Judges may make all such general rules and orders as to them seem meet—

Power to make rules. 4 Vic. No. 22, s. 23. 15 Vic. No. 17, s. 1. 60 Vic. No. 19, s. 2.

(*a*) for the regulation of practice and pleadings in the Court in all respects in the several branches of its jurisdiction; and

(*b*) for facilitating, or more fully carrying into effect, all or any of the provisions and objects of Part IV of this Act; and

(*c*) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court to the practitioners therein; and

(*d*) for fixing the fees to be demanded and paid in the Court and in the Circuit Courts; and

(*e*)

(*e*) for the government and conduct of the officers and ministers of the Court and of the Circuit Courts.

40. Every rule and order so made shall 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.
4 Vic. No. 22, s. 23.

41. Nothing in this part of this Act shall affect the provisions of any Act in force for the time being, by which power to make rules or orders is conferred upon the Court or any Judge.

Power to make rules under other Acts saved.

SCHEDULE

Reference to Act.	Title or short title.	Extent of repeal.
Act No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	The whole.
Act No. 27, 1906	Judges' Pensions Amendment Act, 1906	Section 2.

Sydney : William Applegate Gullick, Government Printer.—1909.

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(4) Nothing herein shall effect the validity of any judgment, decision, order, act, proceeding, or matter rendered or declared valid by any enactment hereby repealed. Validation of proceedings saved. 55 Vic. No. 3, s. 1.

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(4)

(4) Every such pension shall be in every year charged upon and payable out of the Consolidated Revenue Fund.

(5) If, after the assignment of such pension to a Judge, he accepts any new appointment under the Crown, such pension shall merge or be reduced *pro tanto* during the tenure of such appointment according as the salary or emoluments of such appointment are of a greater or less amount than such pension. Constitution Act. s. 51.

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(2) Thereupon the person so appointed shall, at the place and for the time and subject to the conditions or limitations specified in such commission, have all the power, authorities, privileges, and immunities, and fulfil all the duties of a Judge of the Court.

14. (1) Upon leave of absence being granted to the Judge in Bankruptcy, the Governor may appoint an acting Judge in Bankruptcy, during such leave of absence. Acting Judge in Bankruptcy. 51 Vic. No. 19, s. 129.

(2) Thereupon such acting Judge shall have and exercise the same jurisdiction, powers, authorities, and privileges, as the Judge in Bankruptcy.

15. Where under any Act any jurisdiction, power, or authority, is vested in the Chief Judge in Equity, the Judge exercising the Matrimonial Causes Jurisdiction of the Court, the Judge in Bankruptcy, or the Probate Judge, then— Acting Judges in special jurisdictions. 36 Vic. No. 9, s. 4. 44 Vic. No. 18, s. 2. 48 Vic. No. 3, s. 2. 50 Vic. No. 36, s. 1. 51 Vic. No. 19, s. 129. 54 Vic. No. 25, s. 4.

(*a*) at the request of such Judge or of the Chief Justice; or

(*b*) during the illness of such Judge or his absence from Sydney; or

(*c*) for any other reasonable cause,

any other Judge may exercise such jurisdiction, power, or authority in all respects as such Judge in whom the same is so vested might have done, and shall while so acting have co-ordinate jurisdiction with and all the power and authority of such Judge, subject to the same right of appeal.

PART

PART III.

Jurisdiction of the Court, and how Exercised.

16. Where any Imperial Act in force in England on the first day of March, in the year of our Lord one thousand eight hundred and twenty-nine, and applicable to New South Wales, or any Imperial Act adopted and directed to be applied in New South Wales, authorises and directs any proceeding, act, matter, or thing to be had, done, performed or executed by or before His Majesty's Courts at Westminster or the respective Judges thereof in the administration of justice, every such proceeding, act, matter, and thing shall be, and the same is hereby authorised and directed to be, had, done, executed, and performed by the Court and the respective Judges thereof in like manner as if the same had been in and by such Imperial Act expressly authorised and directed to be had, done, executed, and performed by the Court or the respective Judges thereof.

Court authorised to perform certain acts required to be performed by courts in England.
6 W. IV. No. 12, s. 1.

17. Subject to the provisions of this Act, or of any other Act in force for the time being, every power, jurisdiction, or authority conferred on or entrusted to or vested in the Court or the Judges collectively may lawfully be exercised by two or more of the Judges.

Two or more Judges may exercise jurisdiction of Court.
4 Vic. No. 22, s. 19.
45 Vic. No. 1, s. 5.

18. (1) No Judge shall sit on the hearing of an appeal from or on a motion to set aside any judgment, order, decree, ruling, or decision made by him in any jurisdiction of the Court.

Constitution of Court on appeals from Judges.
36 Vic. No. 9, s. 49.
45 Vic. No. 1, s. 5.
48 Vic. No. 13, ss. 1, 2, 3.
51 Vic. No. 19, s. 135.

(2) The Court on the hearing of any such appeal or motion shall consist of not less than three Judges.

(3) This section shall not apply to—

(*a*) any judgment, order, decree, ruling, or decision pronounced or made *pro formâ* by consent of parties; or

(*b*) any motion for a rule nisi only; or

(*c*) the hearing of an appeal or motion before two Judges only where the parties consent thereto.

19. The Court may be held by one Judge alone for the disposal of—

Court held by one Judge in certain cases.
22 Vic. No. 14, s. 7.

(*a*) returns of fines and estreated recognisances; and

(*b*) applications for and returns to writs of *habeas corpus*,

notwithstanding that it may be term time, or that the Court held before two or more Judges may be at the same time sitting in banco.

20. In order to prevent the delay and consequent mischief which might otherwise ensue:—

Powers of single Judge in vacation.
4 Vic. No. 22, s. 27.

(1) Every Judge shall in vacation have power to make all such orders and grant all such writs as can only under ordinary circumstances be made or granted respectively by the Court:

Provided that no such order or writ shall continue in force after the first day of the next ensuing term unless the Court shall then otherwise direct.

(2)

(2) The like power may be also exercised by any Judge in cases of exigency in term:

Provided that no order made or writ granted as last aforesaid shall continue in force after the then next ensuing sitting day in banco of the Court.

And in certain cases in term.
4 Vic. No. 22, s. 27.

21. (1) Two or more Courts, each consisting of two or more Judges, may during term be held simultaneously in banco.

(2) Subject to the provisions of this Act, each such Court shall have power to exercise the full jurisdiction of the Court hitherto possessed while sitting in banco.

Court may be held in two or more divisions.
55 Vic. No. 3, s. 2.

PART IV.

Circuit Courts.

22. The Governor may by proclamation apportion and divide New South Wales into three or more circuit districts, and ascertain and fix the boundaries and limits of every such district, and alter such boundaries and limits from time to time as occasion may require.

Circuit districts.
5 Vic. No. 4, s. 1.

23. The Governor may by proclamation direct Circuit Courts to be holden in or at such towns and places as he thinks fit to appoint, and fix from time to time, and vary or alter, as occasion may require, the times and places for holding the said Courts respectively.

Proclamation of Circuit Courts.
4 Vic. No. 22, s. 16.

24. Every Circuit Court shall be holden by a Judge.

Court to be holden by a Judge.
4 Vic. No. 22, s. 17.

25. Every Circuit Court shall have such ministerial officers as may be required.

Officers.
Ibid.

26. Every Circuit Court shall be—

(*a*) a court of record; and

(*b*) a court of oyer and terminer and of assize and nisi prius for New South Wales; and

(*c*) a court of gaol delivery in and for the particular district only within which it is appointed to be holden.

Nature of Courts defined.
Ibid.
5 Vic. No. 4, s. 1.

27. Every Circuit Court shall have the same powers and jurisdiction as courts of oyer and terminer, and gaol delivery, and of nisi prius in England had respectively at the time of the passing of the Act fourth Victoria number twenty-two, and shall stand in the same relation to the Court as such courts respectively stood in with respect to Her Majesty's Superior Courts of Record at Westminster at the time of the passing of the said Act.

General powers and jurisdiction.
4 Vic. No. 22, s. 17.

28. Every Circuit Court may—

(*a*) try and determine all issues of fact joined in any action or other proceeding commenced or pending in the Court; and

(*b*) inquire into and assess damages in any such action.

Jurisdiction in civil actions.
Ibid.
5 Vic. No. 4, s. 2.

29. Every Circuit Court may, upon information exhibited therein— Criminal jurisdiction. 4 Vic. No. 22, s. 17. 5 Vic. No. 4, s. 10.

(*a*) by and in the name of His Majesty's Attorney or Solicitor General; or

(*b*) in case of their absence from such Court, by and in the name of such other person as the Governor appoints in that behalf,

hear and determine all cases of crimes and misdemeanours committed in New South Wales.

30. Every person convicted in any Circuit Court of any crime or offence cognizable therein shall be liable to the same penalties and punishments as by law could be inflicted on such person if convicted in the Court of such crime or offence. Jurisdiction as to punishment. 5 Vic. No. 4, s. 2.

31. Every Circuit Court shall proceed in all cases according to the form and manner observed and established by law in the Court in similar cases. Procedure. 4 Vic. No. 22, s. 17.

32. If in any case the Judge does not arrive at any such circuit town or place in time to open the Circuit Court, or does not actually open such Court on the day for that purpose appointed by any such proclamation as aforesaid, the subsequent holding of such Court shall not for that reason be or be taken to be illegal, but the same may be opened and holden, either by the same Judge or by any other Judge, on any following day: Delay in opening Circuit Court. *Ibid.* s. 18.

Provided that every such Circuit Court shall be actually opened and holden on the day so appointed except in cases of unavoidable accident, and that then such Court shall be opened and holden as soon afterwards as possible.

33. The records of every Circuit Court shall be taken to belong to and shall be kept in the Supreme Court, and the Prothonotary shall have their legal custody: Custody of records. 46 Vic. No. 17, s. 359.

Provided that during the sitting of any Circuit Court the Judge's Associate, or other officer there acting as Clerk of Assize, shall in respect of all proceedings at such sitting have the custody of such records.

PART V.

Court Fees.

34. (1) The Governor may, by notice in the Gazette, direct that after the day specified in the notice all or any of the fees to be demanded and paid in the Court or in any Circuit Court shall be collected by means of stamps. Governor may direct fees to be collected by means of stamps. 60 Vic. No. 19, s. 3.

(2) After the day so specified, the fees mentioned in the notice shall be received by stamps denoting the sums payable, and not in money.

(3)

(3) All or any of the stamps shall be impressed or adhesive as may be directed in the notice.

35. (1) Where any fee mentioned in such notice is payable in respect of a document, the stamps denoting the fee shall be affixed to or impressed upon the document, or such other document, book, or record as may be prescribed by regulations made under the authority of this Act.

Document, book, or record to be stamped. 60 Vic. No. 19, s. 4.

(2) Where any fee mentioned in such notice is payable otherwise than in respect of a document, the stamps denoting the fee shall be affixed to or impressed on such document, book, or record as may be prescribed as aforesaid.

(3) The Governor may make regulations prescribing the document, book, or record to be stamped as aforesaid.

36. No judge or officer of any Court shall allow any such document as aforesaid to be filed, received, or used, although no exception be taken thereto, until the document has been first duly stamped. And if the document is through mistake or inadvertence filed, received, or used in any Court without having been first duly stamped, the said Court or a Judge may order that it be duly stamped.

Document to be stamped before being filed. *Ibid.* s. 5.

37. Every officer whose duty it is to receive any fees, which under the authority of this Act are required to be collected by means of stamps, shall see that the proper stamps have been affixed to or impressed on the document, book, or record required to be stamped, and that when adhesive stamps are used the same are duly cancelled.

Officers to see that stamps are affixed or impressed and duly cancelled. *Ibid.* s. 6.

38. The provisions of the Stamp Duties Act, 1898, and of any Act amending the same shall, so far as applicable, extend and apply to and in respect of all stamps required under this Act to be used.

Provisions of Stamp Acts to apply. *Ibid.*

PART VI.

Rules.

39. The Judges may make all such general rules and orders as to them seem meet—

Power to make rules. 4 Vic. No. 22, s. 23. 15 Vic. No. 17, s. 1. 60 Vic. No. 19, s. 2.

(*a*) for the regulation of practice and pleadings in the Court in all respects in the several branches of its jurisdiction; and

(*b*) for facilitating, or more fully carrying into effect, all or any of the provisions and objects of Part IV of this Act; and

(*c*) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court to the practitioners therein; and

(*d*) for fixing the fees to be demanded and paid in the Court and in the Circuit Courts; and

(*e*)

(*e*) for the government and conduct of the officers and ministers of the Court and of the Circuit Courts.

40. Every rule and order so made shall 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.
4 Vic. No. 22, s. 23.

41. Nothing in this part of this Act shall affect the provisions of any Act in force for the time being, by which power to make rules or orders is conferred upon the Court or any Judge.

Power to make rules under other Acts saved.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
Act No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	The whole.
Act No. 27, 1906	Judges' Pensions Amendment Act, 1906	Section 2.

Legislative Council.

No. , 1909.

A BILL

To consolidate certain enactments relating to the Supreme Court and Circuit Courts.

[Mr. John Hughes;—29 *July*, 1909.]

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 1.

Preliminary.

1. This Act may be cited as the "Supreme Court and Circuit Courts Act, 1909," and is divided into Parts, as follows:— Short title and division.

PART I.—*Preliminary*—*ss.* 1–3.

PART II.—*The Judges*—*ss.* 4–15.

PART III.—*Jurisdiction of the Court, and how exercised*—*ss.* 16–21.

PART IV.—*Circuit Courts*—*ss.* 22–33.

PART V.—*Court Fees*—*ss.* 34–38.

PART VI.—*Rules*—*ss.* 39–41.

2. (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed. Repeal. Schedule.

Officers under repealed Acts.

(2) All persons appointed or deemed to have been appointed under any enactment hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed hereunder.

Commissions, proclamations, rules, &c., under repealed Acts.

(3) All commissions issued, and all proclamations, notices, rules, orders, and regulations made or given under the authority of any enactment hereby repealed, or having force or effect thereunder, and being in force at the time of the passing of this Act, shall continue in force and have the same effect and validity as if they had been issued, made, or given under the authority of this Act.

Validation of proceedings saved.
55 Vic. No. 3, s. 1.

(4) Nothing herein shall effect the validity of any judgment, decision, order, act, proceeding, or matter rendered or declared valid by any enactment hereby repealed.

Jurisdiction of Courts and Judges saved.

(5) Nothing in this Act shall be construed to take away, lessen, or impair any statutory or other jurisdiction, power, authority, right, or privilege of the Court or of any judge, or of any Circuit Court.

Interpretation.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Barrister" means a barrister admitted by the Court, or a barrister of England or Ireland.

"Chief Justice" means Chief Justice of the Court.

"Judge" means Judge of the Court, and includes the Chief Justice.

"The Court" means the Supreme Court of New South Wales.

PART II.

The Judges.

Appointment, qualification, and tenure of office.

Present Judges to retain office.

4. (1) The present Chief Justice and other Judges shall continue to be the Chief Justice and Judges respectively.

(2) The present Chief Judge in Equity, Judge exercising the Matrimonial Causes Jurisdiction of the Court, Judge in Bankruptcy, and Probate Judge shall continue to be the Chief Judge in Equity, the Judge exercising the Matrimonial Causes Jurisdiction of the Court, the Judge in Bankruptcy, and the Probate Judge respectively.

Qualification for office of Chief Justice.
25 Vic. No. 9, s. 1.

5. The office of Chief Justice may be held by a barrister admitted by the Court in like manner and subject to the like qualifications as to standing at the bar as if he were a barrister of England or Ireland.

Appointment of Chief Judge in Equity.
44 Vic. No. 18, s. 1.
55 Vic. No. 26, s. 4.

6. Whenever the office of Chief Judge in Equity becomes vacant, the Governor may appoint one of the Judges to such office.

Appointment of Judge exercising Matrimonial Causes Jurisdiction.
36 Vic. No. 9, s. 3.

7. Whenever the office of Judge exercising the Matrimonial Causes Jurisdiction of the Court becomes vacant, the Governor may appoint the Chief Justice, or if he declines such appointment, then one of the other Judges, to such office.

Appointment of Probate Judge.
[cf. 1898, No. 13, s. 33.]

8. Whenever the office of Probate Judge becomes vacant, the Governor may appoint one of the Judges permanently or temporarily to such office.

9.

Appointment of Judge in Bankruptcy and of Puisne Judges generally.
28 Vic. No. 7, s. 1.
45 Vic. No. 1, s. 1.
50 Vic. No. 35, s. 1.
51 Vic. No. 19, s. 128.

9. (1) Whenever—

(*a*) the office of Judge in Bankruptcy becomes vacant; or

(*b*) through the office of any other Puisne Judge becoming vacant, the number of Puisne Judges is less than six,

the Governor may, by Commission under the Great Seal, in His Majesty's name, appoint a fit and proper person to such office.

(2) Such person shall, from the time of his appointment, be a Judge to all intents and purposes whatsoever, and may, subject to the provisions of this or any other Act, sit as such in any jurisdiction of the Court.

Qualification of such Judges.
25 Vic. No. 9, s. 1.
28 Vic. No. 7, s. 2.
45 Vic. No. 1, s. 1.
50 Vic. No. 35, s. 1.
51 Vic. No. 19, ss. 128, 135.

(3) Such person shall be a barrister of not less than five years standing, or, if he be appointed to the office of Judge in Bankruptcy, shall be such barrister or a solicitor of not less than seven years standing: But this subsection shall not apply to a person appointed in succession to any present Judge who has been appointed under the provisions of the Act forty-fifth Victoria, number one, or of the Act fiftieth Victoria number thirty-five.

Tenure of office.
Constitution Act, ss. 38, 39.
28 Vic. No. 7, s. 3.
45 Vic. No. 1, s. 4.
50 Vic. No. 35, s. 4.
51 Vic. No. 19, s. 128 (3).

10. (1) The commission of every Judge shall be, continue, and remain in force during his good behaviour, notwithstanding the demise of His Majesty, whom may God long preserve.

(2) Provided that His Majesty may remove any Judge upon the address of both houses of the legislature.

Salaries and pensions.

Salary.
Constitution Act, s. 40.
46 Vic. No. 15, s. 1.
50 Vic. No. 35, s. 2.
51 Vic. No. 19, s. 128 (4).

11. (1) The annual salary of the Chief Justice shall be three thousand five hundred pounds, and the annual salary of every Puisne Judge shall be two thousand six hundred pounds.

(2) Such salary shall be paid to such Chief Justice or Puisne Judge so long as his patent or commission continues and remains in force.

Pension.
46 Vic. No. 15, ss. 2, 3.
50 Vic. No. 35, s. 3.
51 Vic. No. 19, s. 128 (4).
No. 27, 1906, s. 2.

12. (1) The pension to be paid to a Chief Justice or Puisne Judge appointed before the twelfth day of December, one thousand nine hundred and six, retiring after fifteen years' service in New South Wales as a Judge, or on permanent disability or infirmity, shall be seven-tenths of his actual salary at the time of such retirement.

Ibid.

(2) Where a Chief Justice or Puisne Judge of the Supreme Court, appointed after the said day, has served in such office for fifteen years, he shall on retiring be entitled to an annual pension at the rate of one-half of his salary.

Ibid.

(3) If such Chief Justice or Puisne Judge retires on permanent disability or infirmity, he shall, if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one half of his salary.

(4)

(4) Every such pension shall be in every year charged upon and payable out of the Consolidated Revenue Fund.

Constitution Act. s. 51.

(5) If, after the assignment of such pension to a Judge, he accepts any new appointment under the Crown, such pension shall merge or be reduced *pro tanto* during the tenure of such appointment according as the salary or emoluments of such appointment are of a greater or less amount than such pension.

Acting Judges.

General power to appoint acting Judge.
55 Vic. No. 26, s. 3.

13. (1) The Governor may issue a special commission to any Judge of the District Court, or to any barrister or solicitor of not less than seven years' standing, appointing him—

(*a*) to act as a Judge of the Court for the trial of issues, civil or criminal, at any Circuit Court, or Court of gaol delivery, or at any place or places at which a Judge of the Court could not attend without detriment to the ordinary business of the Court; or

(*b*) to sit and act as a Judge of the Court at Sydney in any one or more jurisdictions of the Court to be specified in such commission, and for a time not exceeding in any case six months, to be specified in like manner.

(2) Thereupon the person so appointed shall, at the place and for the time and subject to the conditions or limitations specified in such commission, have all the power, authorities, privileges, and immunities, and fulfil all the duties of a Judge of the Court.

Acting Judge in Bankruptcy.
51 Vic. No. 19, s. 129.

14. (1) Upon leave of absence being granted to the Judge in Bankruptcy, the Governor may appoint an acting Judge in Bankruptcy, during such leave of absence.

(2) Thereupon such acting Judge shall have and exercise the same jurisdiction, powers, authorities, and privileges, as the Judge in Bankruptcy.

Acting Judges in special jurisdictions.
36 Vic. No. 9, s. 4.
44 Vic. No. 18, s. 2.
48 Vic. No. 3, s. 2.
50 Vic. No. 36, s. 1.
51 Vic. No. 19, s. 129.
54 Vic. No. 25, s. 4.

15. Where under any Act any jurisdiction, power, or authority, is vested in the Chief Judge in Equity, the Judge exercising the Matrimonial Causes Jurisdiction of the Court, the Judge in Bankruptcy, or the Probate Judge, then—

(*a*) at the request of such Judge or of the Chief Justice; or

(*b*) during the illness of such Judge or his absence from Sydney; or

(*c*) for any other reasonable cause,

any other Judge may exercise such jurisdiction, power, or authority in all respects as such Judge in whom the same is so vested might have done, and shall while so acting have co-ordinate jurisdiction with and all the power and authority of such Judge, subject to the same right of appeal.

PART

PART III.

Jurisdiction of the Court, and how Exercised.

16. Where any Imperial Act in force in England on the first day of March, in the year of our Lord one thousand eight hundred and twenty-nine, and applicable to New South Wales, or any Imperial Act adopted and directed to be applied in New South Wales, authorises and directs any proceeding, act, matter, or thing to be had, done, performed or executed by or before His Majesty's Courts at Westminster or the respective Judges thereof in the administration of justice, every such proceeding, act, matter, and thing shall be, and the same is hereby authorised and directed to be, had, done, executed, and performed by the Court and the respective Judges thereof in like manner as if the same had been in and by such Imperial Act expressly authorised and directed to be had, done, executed, and performed by the Court or the respective Judges thereof.

Court authorised to perform certain acts required to be performed by courts in England.
6 W. IV. No. 12, s. 1.

17. Subject to the provisions of this Act, or of any other Act in force for the time being, every power, jurisdiction, or authority conferred on or entrusted to or vested in the Court or the Judges collectively may lawfully be exercised by two or more of the Judges.

Two or more Judges may exercise jurisdiction of Court.
4 Vic. No. 22, s. 19.
45 Vic. No. 1, s. 5.

18. (1) No Judge shall sit on the hearing of an appeal from or on a motion to set aside any judgment, order, decree, ruling, or decision made by him in any jurisdiction of the Court.

(2) The Court on the hearing of any such appeal or motion shall consist of not less than three Judges.

(3) This section shall not apply to—

(*a*) any judgment, order, decree, ruling, or decision pronounced or made *pro formâ* by consent of parties; or

(*b*) any motion for a rule nisi only; or

(*c*) the hearing of an appeal or motion before two Judges only where the parties consent thereto.

Constitution of Court on appeals from Judges.
36 Vic. No. 9, s. 49.
45 Vic. No. 1, s. 5.
48 Vic. No. 13, ss. 1, 2, 3.
51 Vic. No. 19, s. 135.

19. The Court may be held by one Judge alone for the disposal of—

(*a*) returns of fines and estreated recognisances; and

(*b*) applications for and returns to writs of *habeas corpus*,

notwithstanding that it may be term time, or that the Court held before two or more Judges may be at the same time sitting in banco.

Court held by one Judge in certain cases.
22 Vic. No. 14, s. 7.

20. In order to prevent the delay and consequent mischief which might otherwise ensue:—

(1) Every Judge shall in vacation have power to make all such orders and grant all such writs as can only under ordinary circumstances be made or granted respectively by the Court:

Provided that no such order or writ shall continue in force after the first day of the next ensuing term unless the Court shall then otherwise direct.

Powers of single Judge in vacation.
4 Vic. No. 22, s. 27.

(2)

And in certain cases in term.
4 Vic. No. 22, s. 27.

(2) The like power may be also exercised by any Judge in cases of exigency in term:

Provided that no order made or writ granted as last aforesaid shall continue in force after the then next ensuing sitting day in banco of the Court.

Court may be held in two or more divisions.
55 Vic. No. 3, s. 2.

21. (1) Two or more Courts, each consisting of two or more Judges, may during term be held simultaneously in banco.

(2) Subject to the provisions of this Act, each such Court shall have power to exercise the full jurisdiction of the Court hitherto possessed while sitting in banco.

PART IV.

Circuit Courts.

Circuit districts.
5 Vic. No. 4, s. 1.

22. The Governor may by proclamation apportion and divide New South Wales into three or more circuit districts, and ascertain and fix the boundaries and limits of every such district, and alter such boundaries and limits from time to time as occasion may require.

Proclamation of Circuit Courts.
4 Vic. No. 22, s. 16.

23. The Governor may by proclamation direct Circuit Courts to be holden in or at such towns and places as he thinks fit to appoint, and fix from time to time, and vary or alter, as occasion may require, the times and places for holding the said Courts respectively.

Court to be holden by a Judge.
4 Vic. No. 22, s. 17.

24. Every Circuit Court shall be holden by a Judge.

Officers.
Ibid.

25. Every Circuit Court shall have such ministerial officers as may be required.

Nature of Courts defined.
Ibid.
5 Vic. No. 4, s. 1.

26. Every Circuit Court shall be—

(*a*) a court of record; and

(*b*) a court of oyer and terminer and of assize and nisi prius for New South Wales; and

(*c*) a court of gaol delivery in and for the particular district only within which it is appointed to be holden.

General powers and jurisdiction.
4 Vic. No. 22, s. 17.

27. Every Circuit Court shall have the same powers and jurisdiction as courts of oyer and terminer, and gaol delivery, and of nisi prius in England had respectively at the time of the passing of the Act fourth Victoria number twenty-two, and shall stand in the same relation to the Court as such courts respectively stood in with respect to Her Majesty's Superior Courts of Record at Westminster at the time of the passing of the said Act.

Jurisdiction in civil actions.
Ibid.
5 Vic. No. 4, s. 2.

28. Every Circuit Court may—

(*a*) try and determine all issues of fact joined in any action or other proceeding commenced or pending in the Court; and

(*b*) inquire into and assess damages in any such action.

29.

29. Every Circuit Court may, upon information exhibited therein— Criminal jurisdiction. 4 Vic. No. 22, s. 17. 5 Vic. No. 4, s. 10.

(*a*) by and in the name of His Majesty's Attorney or Solicitor General; or

(*b*) in case of their absence from such Court, by and in the name of such other person as the Governor appoints in that behalf,

hear and determine all cases of crimes and misdemeanours committed in New South Wales.

30. Every person convicted in any Circuit Court of any crime or offence cognizable therein shall be liable to the same penalties and punishments as by law could be inflicted on such person if convicted in the Court of such crime or offence. Jurisdiction as to punishment. 5 Vic. No. 4, s. 2.

31. Every Circuit Court shall proceed in all cases according to the form and manner observed and established by law in the Court in similar cases. Procedure. 4 Vic. No. 22, s. 17.

32. If in any case the Judge does not arrive at any such circuit town or place in time to open the Circuit Court, or does not actually open such Court on the day for that purpose appointed by any such proclamation as aforesaid, the subsequent holding of such Court shall not for that reason be or be taken to be illegal, but the same may be opened and holden, either by the same Judge or by any other Judge, on any following day: Delay in opening Circuit Court. *Ibid.* s. 18.

Provided that every such Circuit Court shall be actually opened and holden on the day so appointed except in cases of unavoidable accident, and that then such Court shall be opened and holden as soon afterwards as possible.

33. The records of every Circuit Court shall be taken to belong to and shall be kept in the Supreme Court, and the Prothonotary shall have their legal custody: Custody of records. 46 Vic. No. 17, s. 359.

Provided that during the sitting of any Circuit Court the Judge's Associate, or other officer there acting as Clerk of Assize, shall in respect of all proceedings at such sitting have the custody of such records.

PART V.

Court Fees.

34. (1) The Governor may, by notice in the Gazette, direct that after the day specified in the notice all or any of the fees to be demanded and paid in the Court or in any Circuit Court shall be collected by means of stamps. Governor may direct fees to be collected by means of stamps. 60 Vic. No. 19, s. 3.

(2) After the day so specified, the fees mentioned in the notice shall be received by stamps denoting the sums payable, and not in money.

(3)

(3) All or any of the stamps shall be impressed or adhesive as may be directed in the notice.

Document, book, or record to be stamped. 60 Vic. No. 19, s. 4.

35. (1) Where any fee mentioned in such notice is payable in respect of a document, the stamps denoting the fee shall be affixed to or impressed upon the document, or such other document, book, or record as may be prescribed by regulations made under the authority of this Act.

(2) Where any fee mentioned in such notice is payable otherwise than in respect of a document, the stamps denoting the fee shall be affixed to or impressed on such document, book, or record as may be prescribed as aforesaid.

(3) The Governor may make regulations prescribing the document, book, or record to be stamped as aforesaid.

Document to be stamped before being filed. *Ibid.* s. 5.

36. No judge or officer of any Court shall allow any such document as aforesaid to be filed, received, or used, although no exception be taken thereto, until the document has been first duly stamped. And if the document is through mistake or inadvertence filed, received, or used in any Court without having been first duly stamped, the said Court or a Judge may order that it be duly stamped.

Officers to see that stamps are affixed or impressed and duly cancelled. *Ibid.* s. 6.

37. Every officer whose duty it is to receive any fees, which under the authority of this Act are required to be collected by means of stamps, shall see that the proper stamps have been affixed to or impressed on the document, book, or record required to be stamped, and that when adhesive stamps are used the same are duly cancelled.

Provisions of Stamp Acts to apply. *Ibid.*

38. The provisions of the Stamp Duties Act, 1893, and of any Act amending the same shall, so far as applicable, extend and apply to and in respect of all stamps required under this Act to be used.

PART VI.

Rules.

Power to make rules. 4 Vic. No. 22, s. 23. 15 Vic. No. 17, s. 1. 60 Vic. No. 19, s. 2.

39. The Judges may make all such general rules and orders as to them seem meet—

(*a*) for the regulation of practice and pleadings in the Court in all respects in the several branches of its jurisdiction; and

(*b*) for facilitating, or more fully carrying into effect, all or any of the provisions and objects of Part IV of this Act; and

(*c*) for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the Court to the practitioners therein; and

(*d*) for fixing the fees to be demanded and paid in the Court and in the Circuit Courts; and

(*e*)

(*e*) for the government and conduct of the officers and ministers of the Court and of the Circuit Courts.

40. Every rule and order so made shall 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. 4 Vic. No. 22, s. 23.

41. Nothing in this part of this Act shall affect the provisions of any Act in force for the time being, by which power to make rules or orders is conferred upon the Court or any Judge. Power to make rules under other Acts saved.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
Act No. 35, 1900	Supreme Court and Circuit Courts Act, 1900.	The whole.
Act No. 27, 1906	Judges' Pensions Amendment Act, 1906	Section 2.

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