



1848.

No. 5.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

To make the validity of the General Rules and Orders of the Supreme Court of South Australia, already made or hereafter to be made, dependent upon the Ratification of them by some subsequent Ordinance of the Governor and Legislative Council of South Australia.

*Repealed by
No 31 - 1855 - 6*

[25th July, 1848.]

WHEREAS by an Ordinance of the Governor of South Aus- Preamble.
tralia, with the advice and consent of the Legislative
Council thereof, passed on the Thirty-first day of May, One Thou-
sand Eight Hundred and Thirty-seven, intituled, "An Act for the 7, Wm. 4, No. 5.
"establishment of a Court to be called the Supreme Court of
"the Province of South Australia," it is amongst other things
enacted "That it shall be lawful for the Judge of the said Supreme Sec. 15.
"Court, to make and prescribe such Rules and Orders touching
"and concerning the Time and Practice of holding the said Courts,
"the forms and manner of Proceedings, and the Practice and
"Pleading upon all Indictments, Informations, Actions, Suits, and
"other Matters to be brought therein, the Appointment of
"Commissioners to examine Witnesses, the taking the Examina-
"tions of Witnesses *de bene esse*, and allowing the same as Evi-
"dence;

“ dence; the granting of Probates of Wills, and Letters of Adminis-
 “ tration, the Proceedings of the Sheriff and other Ministerial
 “ Officers, the Process of Foreign Attachment, and all other the Pro-
 “ cess of the said Court, and the mode of Executing the same ; the
 “ Admission of Attorneys, Solicitors, and Barristers; the Fees,
 “ Poundage, or Perquisites, to be taken by any Officer, Attorney,
 “ or Solicitor, in the said Court ; and all other Matters and Things
 “ for the Conduct of Business in the said Court, as the circum-
 “ stances of the Province may require : Provided that such Rules
 “ and Orders shall be subject to be Disallowed by HIS MAJESTY ;
 “ and, upon such Disallowance being signified through the Gover-
 “ nor, such Rules and Orders shall become Void and of no Effect.”

AND WHEREAS, by another Ordinance of the Governor, with
 the advice and consent aforesaid, passed on the Twenty-second
 day of June, One Thousand Eight Hundred and Forty-one, in-
 titled, “ An Act for giving Relief to Imprisoned Insolvent
 “ Debtors, and to make Provision for the Administration of the
 “ Estates of Insolvent Debtors, in South Australia,” it is amongst
 other things Enacted “ That the Judge or Judges of the said Court,
 “ shall have Power from time to time to make General Rules and
 “ Orders for Regulating the Practice of the said Court, and before
 “ the Commissioners, the Allowance and Taxation of Costs, the
 “ Sittings and Proceedings of the Judges, Commissioners, and
 “ Assignees, and the Conduct of the other Officers, and of the
 “ Practitioners therein, and the Fees to be taken by the Officers
 “ and Ministers of the Court :” “ Provided that such Rules
 “ and Orders shall be subject to be Disallowed by HER MAJESTY ;
 “ and upon such Disallowance being signified through the Governor,
 “ such Rules and Orders shall become Void and of no Effect :
 “ Provided also, that, until such General Rules and Orders can
 “ be made, it shall be lawful for the Court to make such Rules and
 “ Orders as may be deemed expedient, in each particular
 “ case.”

5 Vict., No. 1.

Sec. 8.

That Divers Rules
 have been made by
 successive Judges in
 pursuance of the said
 power given by the
 recited Ordinances.

AND WHEREAS divers Rules and Orders have at various
 times been made by the successive Judges of the Supreme Court,
 in pursuance of the before recited Powers in that behalf given by the
 recited Ordinances, and have from time to time been Varied and Al-
 tered in pursuance of the same Power, as occasion has appeared to
 require.

That it is expedient to
 amend the said Ordi-
 nances.

AND WHEREAS it is expedient to Amend the Provisions of the
 said Ordinances, by making the validity of the Rules and Orders
 of the Supreme Court dependent upon the Ratification thereof, by
 some Ordinance of the Colonial Legislature.

BE IT THEREFORE ENACTED by THE GOVERNOR of South Australia, with the advice and consent of THE LEGISLATIVE COUNCIL thereof— THAT all such Rules and Orders as have been heretofore made by the several successive Judges of the Supreme Court of South Australia, in pursuance of the Powers in that behalf given by the before in-part recited Ordinances, and as are now in Force and Operation, shall continue in full force and effect, until the First day of September, One Thousand Eight Hundred and Forty-nine, and shall then Cease and Determine, unless the same shall be in the meantime Confirmed by some Ordinance, for that purpose made and passed by the Governor, with the advice and consent of such Legislative Council.

The present Rules to continue in force only until the 1st day of September, 1849.

II. AND BE IT ENACTED, that a Transcript of all such General Rules and Orders, as have heretofore been made by the successive Judges of the Supreme Court, in pursuance of the before in-part recited Ordinances, shall, as soon as practicable after the passing of this Ordinance, be transmitted, under the hand of the now Judge of the Supreme Court, to His Excellency the Lieutenant-Governor to be by him laid before the Legislative Council.

A transcript of the Rules to be sent to the Governor, to be laid before the Legislative Council.

III. AND BE IT ENACTED, that no General Rule or Order of the said Supreme Court, or of any Judge thereof, which may hereafter be made in pursuance of the Powers in that behalf given by the said in part recited Ordinances, or either of them, shall be of any Force or Effect, until the same shall have been Confirmed by an Ordinance, for that purpose made and passed by the Governor, with the consent of the Legislative Council of this Province.

No Rule of the Supreme Court hereafter to be made to be of any force until confirmed by the Governor and Legislative Council.

FREDK. H. ROBE,
Lieutenant-Governor.

Passed the Legislative Council, this Twenty-fifth day of July, One Thousand Eight Hundred and Forty-eight.

W. L. O'HALLORAN,
Clerk of Council.