



Assented No. 286 of 1869

ANNO TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1868-9.

No. 6.

An Act to repeal Act No. 11 of 1866-7, intituled "An Act to amend The Third Judge and District Courts Act, and for other purposes," and to make further provision for the trial of Causes, and trial of Offences at places remote from the Supreme Court.

[Assented to, 30th January, 1869.]

WHEREAS it is expedient to repeal Act No. 11 of 1866-7, intituled "An Act to amend the Third Judge and District Courts Act, and for other purposes," and to make further provision for the trial of Causes, and trial of Offences, at places remote from the Supreme Court—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

1. An Act intituled "An Act to amend The Third Judge and District Courts Act, and for other purposes," is hereby repealed, except as to anything lawfully done thereunder.

Repeal of Act No. 11 of 1866-7.

2. The Governor, with the advice of the Executive Council, may, by Proclamation to be from time to time by him issued for that purpose, and published in the *South Australian Government Gazette*, declare that such portions of the said Province as he shall think fit, shall form Circuit Districts, and shall assign a name to such Districts, and define the boundaries and limits thereof respectively; and may in like manner increase or decrease the number of such Districts, and may vary and alter the boundaries of any Circuit District; and shall in like manner appoint a place, and fix the time

Governor by Proclamation to define Court Districts.

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in each District, at which a Court to be called the Circuit Court of such District shall be held, and may in like manner alter the place and time of holding any Circuit Court, or any or either of such matters.

Commissions under Act No. 13, 1858, how to be issued.

3. After the declaration of any Circuit District, all commissions issued by virtue of "The Third Judge and District Courts Act" shall be holden at the several places and times mentioned in the Proclamations made by virtue of this Act.

Circuit Courts, Courts of Record.

4. All Circuit Courts shall be Courts of Record, and shall have a seal, and shall have necessary officers for discharging the duties appertaining to such Courts, and every Circuit Court shall be the Court of Oyer and Terminer and General Gaol Delivery for all gaols within the District, and for trial of issues in the Supreme Court, and assessment of damages; and such Courts so holden shall stand to the Supreme Court, in the same relation as Courts of Oyer and Terminer and General Gaol Delivery, and *nisi prius*, in England, stand to Her Majesty's Court at Westminster.

On non-attendance of Judge, Court to stand adjourned, *de die in diem*.

5. If on the day appointed for holding a Circuit Court, the Judge named in the Commission shall not attend at the place appointed for holding the Circuit Court, then, and in every such case, such Circuit Court shall be considered as adjourned to the ensuing day, not being Sunday, and if the ensuing day shall be a Sunday, then to the next day Monday, and so on from day to day until the said Judge shall give his attendance; and all persons summoned, or bound, or having received notice, or having occasion to attend such Court, shall attend such adjourned Court in the same manner in all respects as if the Judge regularly sat and adjourned the said Court.

Plaintiff may fix venue.

6. Where in any action in the Supreme Court the plaintiff shall desire that the trial of such action shall take place at a Circuit Court, he shall state in the margin of the declaration the name of the Circuit District in which he desires the same to be tried, and the same shall be taken to be the venue, and no venue shall be stated in the body of the declaration or in any subsequent pleading: Provided that in cases where local description is by law required, such local description shall be given.

Venue may be changed.

7. The Supreme Court, or a Judge thereof, may order any venue to be changed, and to direct that the trial be had in Adelaide, or in some particular Circuit District, in such cases, and for such reasons as the justice of the case may require, and subject to such conditions as the said Court or Judge may impose.

Persons may be tried for offences before such Courts in same manner as at Criminal Sessions of Supreme Court.

8. Any person may be put upon his trial for any crime or offence whatsoever, before any Circuit Court, in like manner as at any Criminal Session of the Supreme Court, upon an information presented in the name and by the authority of the Attorney-General for the time being; and no such information shall be invalidated by
reason

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reason of the death or resignation before the trial, of the Attorney-General, in whose name such information has been presented; but the same shall be proceeded with in all respects as if such Attorney-General had continued in office till after the trial upon such information.

9. All persons who shall be committed by any Magistrate sitting within any Circuit District, to take their trial for the commission of any offence, shall be committed to be tried at the first Court to be holden within the said district, and shall be tried accordingly.

Offenders within any District, to be tried at Circuit Court.

10. The Supreme Court, or any Judge thereof, may order any person committed for trial at any Criminal Sittings of the Supreme Court, or at any Circuit Court, to be tried at some other Circuit Court, or in Adelaide, in such cases, and for such reasons, as the justice of the case may require; and thereupon, the recognizances for the appearance of the witnesses shall be effectual, to compel them to attend the Court mentioned in such order as the place of trial of the person committed, on their being served with a copy of the said order.

Venue may be changed by Supreme Court.

11. If any person ordered to be tried at a Court other than that to which he shall have been committed to take his trial, shall have been admitted to bail, it shall be lawful, at the instance of the Attorney-General, for any Justice of the Peace to cause such person to be brought before him, and require such person to enter into sureties for his due appearance at the Court named in such order, and in default of his finding sureties, to commit him to gaol; and from and after the appearance of such person before any Justice of the Peace, he and his sureties shall be discharged from the recognizance theretofore entered into for his appearance for trial at the Court therein named.

Persons on bail to attend before a Justice, and give fresh sureties.

12. If any person ordered to be tried at a Circuit Court shall be in gaol, the Sheriff, on being served with a duplicate of the order, shall cause such person to be conveyed to the place and at the time mentioned in the order to be tried in manner aforesaid.

Sheriff to remove person in Gaol.

13. "The Third Judge and District Courts Act," and the Act No. 10 of 1852, intituled "An Act to provide for the Trial of Offenders without the Intervention of Grand Juries" (save in so far as the said Acts or either of them are inconsistent with this Act), shall be incorporated and read together with this Act as forming one Act: Provided that, in the first mentioned Act, in section four, the words "within twenty miles," shall be read, "within fifty miles."

Incorporation.

In the name and on behalf of the Queen I hereby assent to this Act.

F. G. HAMLEY, Governor.