



ANNO QUADRAGESIMO SEXTO ET QUADRAGESIMO SEPTIMO

# VICTORIÆ REGINÆ.

A.D. 1883-4.

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## No. 298.

An Act to amend the Law with regard to the Duties of Justices of the Peace.

[Assented to, February 28th, 1884.]

**W**HEREAS it is expedient to amend the law relating to the duties of Justices of the Peace, and to make further and better provision for its administration in certain cases—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. This Act may be cited as “The Justices Procedure Amendment Act, 1883-4,” and shall come into operation on a day to be fixed by the Governor by Proclamation in the *Government Gazette*. This Act shall be divided into three parts, that is to say—

Short title, commencement and division into parts.

PART I.—Indictable Offences and Procedure therein:

PART II.—Summary Jurisdiction by Justices and the Procedure thereunder:

PART III.—Mode of obtaining the Opinion of the Supreme Court on Questions of Law which arise in the exercise of Summary Jurisdiction by Justices of the Peace:

PART IV.—Amendments on Appeals from convictions and orders of Justices of the Peace.

2. In this Act, if not inconsistent with the context, the following expressions

Interpretation.

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expressions shall have the meanings hereinafter respectively assigned to them—

The expression “future Act” shall mean any Act passed on or after the commencement of this Act:

The expression “The Summary Jurisdiction Act, 1850,” shall mean an Act No. 6 of 1850, intituled “An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions with respect to summary convictions and orders”:

The expression “Local Court” shall mean any Local Court heretofore established, or hereafter to be appointed under or by virtue of any Act now in force, or hereafter to be passed, regulating the establishment and jurisdiction of Local Courts:

The words “Justice” or “Justices” in this Act shall mean one or more Justices of the Peace, and shall include the Police Magistrate of the city of Adelaide, and any Stipendiary or Special Magistrate:

This Act shall, so far as is consistent with the tenor thereof, be construed as one with “The Summary Jurisdiction Act, 1850.”

## PART I.

## PART I.

## INDICTABLE OFFENCES AND PROCEDURE THEREIN.

Accused person to be asked by Justices if he desires to give evidence on his own behalf, or to make any statement, or to call witnesses.

**3.** In all cases where any person shall appear before any Justice, charged with any indictable offence wheresoever committed, and whether such person appear voluntarily or upon summons or has been apprehended with or without warrant, or be in custody for the same or any other offence, such Justice, immediately after the examination of all the witnesses on the part of the prosecution has been completed, shall say to such accused person these words, or words to the like effect:

“Having heard the evidence for the prosecution, do you wish to be sworn and give evidence on your own behalf, or do you desire to say anything in answer to the charge? You are not obliged to be sworn and give evidence, nor are you required to say anything, unless you desire to do so; but whatever evidence you give upon oath, or anything you say, will be taken down in writing, and may be given in evidence against you upon your trial:”

And after the accused person has given evidence on his own behalf, or made any statement in answer to the charge, or has refused to be sworn and give evidence, or has declined to make any statement, the Justice, before he shall commit such accused person for trial or admit him to bail, shall demand and require of the accused person whether he desires to call any witness, and if the accused person shall, in answer to such demand

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demand, call or desire to call any witness or witnesses, such Justice shall, in the presence of such accused person, take the statements, on oath or affirmation, made in examination, cross-examination, and re-examination of those who shall be so called as witnesses by such accused person, and who shall know anything relating to the facts and circumstances of the case, or anything tending to prove the innocence of such accused person, and shall put the same in writing; and such depositions of such witnesses shall be read over to, and signed by, the witnesses who shall have been so examined, and shall be signed also by the Justice taking the same, and transmitted in due course of law with the depositions; and such witnesses, not being merely witnesses to the character of the accused, as shall, in the opinion of the Justice, give evidence in any way material to the case, or tending to prove the guilt or innocence of the accused person, shall be bound by recognizance to appear and give evidence at the said trial; and afterwards, upon the trial of such accused person, all the laws now in force relating to the depositions of witnesses for the prosecution shall extend and be applicable to the depositions of witnesses hereby directed to be taken.

4. All the provisions of the Act 15 of 1849, relating to the summoning and enforcing the attendance and committal of witnesses, and binding them by recognizance and committal in default, and for giving the accused person copies of the examinations, shall be read and shall have operation as part of this Act.

Provisions of No. 15 of 1849 to apply to this Act.

5. Any Judge of the Court before which any person shall be prosecuted or tried, or for trial before which he may be committed or bailed to appear for any felony, misdemeanor, or other indictable offence, is hereby authorised and empowered in his discretion, at the request of any person who shall appear before such Court on recognizance to give evidence on behalf of the person accused, to certify that such witness so appearing ought to be paid his expenses, and in that case the amount to be paid to such witness shall be the same as if he had been a witness for the prosecution, and shall be ascertained in like manner, and shall be defrayed out of any moneys provided by Parliament for allowances to witnesses.

If witnesses for accused bound by recognizance appear at the trial, Court may allow expenses.

6. Where any witness who has been called and examined before the Justices by and on behalf of a person committed for trial, or held to bail, happens to die before the trial, if the person on trial so require, the deposition of such witness may be read in evidence to the jury in the defence of such person.

Depositions of prisoner's witness dying before trial.

7. Where any person is charged before a Justice of the Peace with felony, or with any indictable misdemeanor, and in the opinion of such Justice the charge was *bonâ fide* made upon reasonable and probable cause, such Justice may in his discretion, at the request of the prosecutor, grant a certificate of the expenses and of the amount to be allowed for the trouble and loss of time to the witnesses

Power of examining Magistrates to grant certificates of expenses to witnesses in cases where no committal for trial takes place.

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witnesses so appearing and examined on such charge of felony or misdemeanor, notwithstanding the parties may not be bound over by recognizance to prosecute and give evidence, and although no committal for trial may take place: Provided, that any certificate so granted as aforesaid shall be subject to the regulations for the time being in force with regard to certificates granted by examining Magistrates under "The Criminal Law Consolidation Act, 1876," and shall be payable in manner directed by section 3 of the Act No. 166 of 1880.

Power to take depositions of persons dangerously ill and not likely to recover, and to make the same evidence after death.

Schedule No. 1.

Schedule No. 2.

Provision for prisoner being present at taking of deposition.

Schedule No. 3.

**8.** Whenever it shall be made to appear to the satisfaction of any Justice that any person dangerously ill, and, in the opinion of some legally qualified medical practitioner, not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, and it shall not be practicable for any Justice or Justices to take an examination or deposition in accordance with the provisions of the Act No. 15 of 1849 of the person so being ill, it shall be lawful for the said Justice to take in writing the statement on oath or affirmation of such person so being ill, and such Justice shall thereupon subscribe the same, and shall add thereto by way of caption a statement of his reason for taking the same, and of the day and place when and where the same was taken, and of the names of the persons (if any) present at the taking thereof, and, if the same shall relate to any indictable offence for which any accused person is already committed or bailed to appear for trial, shall transmit the same with the said addition to the officer to whom depositions are by law required to be transmitted, and who is hereby required to preserve the same; and if afterwards, upon the trial of any offender or offenders to which the same may relate, the person who made the statement shall be proved to be dead, or if it shall be proved that there is no reasonable probability that such person will ever be able to travel or to give evidence, it shall be lawful to read such statement in evidence, either for or against the accused, without further proof thereof, if the same purports to be signed by the Justice by or before whom it purports to be taken: And provided it be proved to the satisfaction of the Court that reasonable notice of the intention to take such statement has been served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence, and that such person, or his counsel or attorney, had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same.

**9.** Whenever any prisoner in actual custody shall have caused to be served, or shall have received, notice of an intention to take such statement as hereinbefore mentioned, the Judge or Justice before whom the prisoner was committed, or a Visiting Justice of the gaol or prison in which he is confined, may, by an order in writing, direct the gaoler having the custody of the prisoner to convey him to the place mentioned in the said notice, for the purpose of being present at the taking of the statement; and such gaoler shall convey

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convey the prisoner accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the gaol or prison from which the prisoner shall have been conveyed.

**10.** When any person accused of an indictable offence shall have been admitted to bail by any Court, Judge, Justice of the Peace, or person having authority in that behalf, and any person shall give information on oath to a Justice of the Peace of any facts which raise a probable presumption that it is the intention of such accused person not to surrender himself in accordance with the condition of the recognizance of bail entered into by him or on his behalf, such or any other Justice of the Peace may issue a warrant for the apprehension of such accused person, and may commit him to gaol, to be there safely kept, notwithstanding his having been admitted to bail as aforesaid, until he shall be thence delivered by due course of law.

Persons admitted to bail and suspected of an intention to abscond may be arrested.

Schedules Nos. 4, 5, 6.

**11.** The authority conferred upon any Justice of the Peace by section 12 of the Act No. 15 of 1849, to remand a person accused of any indictable offence for a period not exceeding eight clear days, is hereby extended to fifteen clear days.

Extension of time in cases where accused person is remanded.

**12.** The provisions of "The Minor Offences Act, 1869," shall apply to and include the offence of obtaining money or goods by false pretences to the value of Five Pounds.

Minor Offences Act applicable to offence of obtaining money, &c., by false pretences.

**13.** (1.) Where a child under the age of fourteen years who has not been before convicted or sent to a Reformatory School, is charged before two or more Justices of the Peace with any indictable offence other than homicide, the Justices, if they think it expedient so to do, and if the parent or guardian of the child so charged, when informed by the Justices of his right to have the child tried by a jury, does not object to the child being dealt with summarily, may deal summarily with the offence, and inflict the same description of punishment as might have been inflicted had the case been tried on indictment: Provided that—

Summary trial of children for indictable offences, unless objected to by parent or guardian.

(a) Where a sentence of imprisonment is awarded it shall be without hard labor, and the term of such imprisonment shall not in any case exceed two months:

(b) Where a fine is awarded the amount shall not in any case exceed Forty Shillings: and

(c) Where the child is a male the Justices may, either in addition to or instead of any other punishment, adjudge the child to be, as soon as practicable, privately whipped with not more than ten strokes of a birch rod by a constable in the presence of an inspector, or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child.

(2.) For the purpose of a proceeding under this section, the provisions

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provisions of "The Minor Offences Act, 1869," shall be adopted, so far as the same are applicable thereto, and the Justices may, if they think it desirable, make a statement for the information of such parent or guardian of the meaning of the case being dealt with summarily, and of the Court at which the child will be tried if tried by a jury.

(3.) Where the parent or guardian of a child is not present when the child is charged with an indictable offence, the Justices may, if they think it just so to do, remand the child for the purpose of causing notice to be served on such parent or guardian with a view, so far as practicable, of securing his attendance at the hearing of the charge, or the Justices may, if they think it expedient so to do, deal with the case summarily.

(4.) This section shall not prejudice the right of the Justices to send a child to a reformatory or industrial school.

(5.) This section shall not render punishable for an offence any child who is not, in the opinion of the Justices before whom he is charged, above the age of seven years, and of sufficient capacity to commit crime.

Meaning of the word guardian in relation to child.

14. The expression "guardian" in relation to a child includes any person who, in the opinion of the Court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child.

Incorporation with Act 15 of 1849.

15. The first part of this Act shall, so far as it is consistent with the same, be incorporated with the Act No. 15 of 1849, intituled "An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions with respect to persons charged with indictable offences."

## PART II.

## PART II.

## SUMMARY JURISDICTION BY JUSTICES AND THE PROCEDURE THEREUNDER.

Summary Jurisdiction of Justice.

16. Any one or more Justices of the Peace sitting in open Court and forming a Court for the purpose of hearing and adjudicating upon cases which he or they have power to determine in a summary manner shall have the powers and perform the duties hereinafter following: Provided that in any case where by law two or more Justices of the Peace are required to hear and determine the offence or matter of complaint one Justice of the Peace may, if both parties to the proceeding consent in writing, hear and determine the same.

Appointment of clerk of Courts of Summary Jurisdiction.

17. The clerk of every Local Court shall be *ex officio* a clerk of any Court sitting as aforesaid in the township or place where such clerk resides; and in places where there is no Local Court established, or where it is inexpedient for the clerk of the Local Court to perform the duties of clerk of such one or more Justices

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Justices as aforesaid, the Governor may appoint a clerk who shall attend to and discharge the duties of his office at the place for which he is appointed.

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**18.** If any such clerk shall take, accept, or receive from any person any fee, gratuity, or reward not allowed by law, or greater in amount than is so allowed, he shall, on conviction thereof, forfeit for every such offence the sum of Five Pounds. Penalty for extortion.

**19.** If any person wilfully misbehave himself at any Court where one or more Justices of the Peace shall be sitting as aforesaid, or wilfully interrupt the proceedings of any such Court, or, in the opinion of any Justice or Justices, be guilty of wilful prevarication in giving evidence to such Court, he shall, on conviction thereof, forfeit any sum not exceeding Five Pounds, and in default of payment may be imprisoned for any period not exceeding seven days, or such person may be imprisoned for any period not exceeding seven days, and may be forthwith convicted on view by and before the Justice or Justices in whose presence the offence is committed. Punishment for contempt.

Schedule No. 7.

**20.** Where any person is convicted under the last preceding section of wilful misbehaviour or wilful interruption, if, before the rising of the Court, he make to the convicting Justice or Justices such an apology for such misbehaviour or interruption as by such Justice or Justices, in his or their uncontrolled discretion, shall be deemed satisfactory, such Justice or Justices, if he or they think fit, may remit such penalty or imprisonment either wholly or in part. Apology may be accepted and punishment commuted.

**21.** If, upon the hearing before any one or more Justices sitting as aforesaid of any information, complaint, or application, the defendant shall, before any evidence is given in support of such information, complaint, or application, make it appear to such Justice or Justices, either by the admission of the informant, complainant, or applicant, or by the oath of a credible witness, that there is a proper place at which the Court may be holden more easy of access than the place where such Court is then sitting, not only from the place of abode of such defendant or person, but also from the place where the subject-matter of such information, complaint, or application arose, then and in that case such Court may desist from further proceeding with the hearing of such information, complaint, or application. Summary proceedings to be had at nearest Court.

**22.** Whenever any such objection as lastly hereinbefore mentioned shall be established to the satisfaction of a Justice or Justices so sitting as aforesaid, and the person making such objection shall at once complain to such Court that he has been brought to the place where such Court is held vexatiously and oppressively, such Court shall forthwith, and without any further summons or notice, proceed to hear and determine the matter in a summary way; and if the Court shall be of opinion that such is the fact, the informant, complainant, or applicant shall be subject and liable to pay to the person Compensation may be awarded in vexatious cases.

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person making such objection, by way of compensation or amends, such sum not exceeding Five Pounds as shall be assessed by such Court, and in default of payment the sum so awarded may be enforced by imprisonment for any period not exceeding seven days..

Clerk may, in certain cases, postpone hearing of summons.

**23.** If, on the return of any summons, or of any adjournment of the hearing, or at the time to which the same may be postponed, there be not present any Justice or a sufficient number of Justices legally competent to hear and determine the subject-matter of such summons, as the case may be, any one Justice or the clerk, if there be a clerk, shall, at the request of the informant or complainant, postpone the hearing until the next day on which a Justice or Justices, as the case may be, will attend at the place mentioned in such summons; and every such postponement shall be made by delivering to the informant or complainant and defendant, or such of them as may be present, a memorandum in the form mentioned in the Eighth Schedule hereto; and every witness to whom a copy of such memorandum is delivered shall be under the like obligation to attend at the time and place therein mentioned, and shall be subject to the same obligations and liabilities as if such memorandum were a summons issued by a Justice requiring such person to attend as a witness, and testify what he knows concerning the matter of the information or complaint.

Schedule No. 8.

Witnesses to attend at the time to which hearing adjourned.

Justices may adjudicate upon adverse claims to goods seized under warrant of distress.

**24.** If any claim be made to or in respect of any goods or chattels distrained under the warrant of any Justice, or in respect of the proceeds or value thereof by any person not being the party against whom such warrant was issued, any Justice, upon complaint of the constable charged with the execution of such warrant (as well before as after any action brought against such constable), may issue a summons contained in the form in the Ninth Schedule hereto, directed as well to the party obtaining such warrant as to the party making such claim; and thereupon any action which has been brought in respect of such claim shall be stayed, and the Court in which such action has been brought, or any Judge thereof, or if the action has been brought in a Local Court, the Special Magistrate thereof, on proof of the service of such summons, and that the goods and chattels were so distrained, may order the party bringing such action to pay the costs of all proceedings had in such action after the service of such summons; and any two or more Justices shall adjudicate on such claim, and make an order in the form or to the effect contained in the Tenth Schedule hereto, and every such order shall, subject to the provisions contained in the Third Part of this Act, be final and conclusive upon all parties.

Schedule No. 9.

Schedule No. 10.

Mitigation of punishment.

**25.** Subject as in this Act mentioned, and notwithstanding any enactment to the contrary, where one or more Justices have authority under this Act, or under any other Act, whether past or future, to order imprisonment, or impose a fine, for an offence punishable on summary conviction, such Justice or Justices may, in



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in the case of imprisonment, impose the same with or without hard labor, and may reduce the prescribed period thereof; and in the case of a fine, if it be imposed in respect of a first offence, may reduce the prescribed amount thereof. And where, in the case either of imprisonment or a fine, there is prescribed a requirement for the offender to enter into his recognizance, and to find sureties for keeping the peace, and observing some other conditions, or to do any of such things, such Justice or Justices may dispense with any such requirement, or any part thereof. And where such Justice or Justices have authority under an Act of Parliament other than this Act, whether past or future, to impose imprisonment for an offence punishable on summary conviction, and have not authority to impose a fine for that offence, he, or they, when adjudicating on that offence, may, notwithstanding, if it appears that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding Twenty-five Pounds, and not being of such an amount as will subject the offender, under the provisions of this Act, in default of payment of the fine, to any greater term of imprisonment than that to which he is liable under the Act authorising the said imprisonment.

**26.** Any Justice or Justices, by whose conviction or order any sum is adjudged to be paid, may do all or any of the following things, viz. — Payment by instalments of, or security taken for payment of money.

- I. Allow time for the payment of the said sum:
- II. Direct payment to be made of the said sum by instalments:
- III. Direct that the person liable to pay the said sum shall be at liberty to give security for the payment thereof:

Where a sum is directed to be paid by instalments, such instalments shall be paid to the clerk, if there be a clerk, and otherwise to such person as the Justice or Justices imposing the fine may order, and, if default is made in the payment of any one instalment, the same proceedings may be taken to recover the amount then remaining due as if no such order for payment by instalments had been made.

**27.** Where a fine adjudged by a conviction by one or more Justices to be paid does not exceed Five Shillings, then, except so far as the Court may think fit to expressly order otherwise, an order shall not be made for payment by the defendant to the informant of any costs; and the Court shall, except so far as they think fit to expressly order otherwise, direct all fees payable or paid by the informant to be remitted or repaid to him; the Court may also order the fine, or any part thereof, to be paid in or toward the payment of his costs. Provision as to costs in the case of small fines.

**28.** The power of one or more Justices sitting as aforesaid, upon information or complaint of any person to adjudge a person to enter into a recognizance and find sureties to keep the peace, or to be of good behaviour towards such first-mentioned person, shall be exercised in like Procedure in case of sureties to keep the peace.

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like manner as an information for any offence punishable on conviction, and "The Summary Jurisdiction Act, 1850," shall apply accordingly, and the informant and defendant and their witnesses may be called and examined, and cross-examined, and the informant and defendant shall be subject to costs as in the case of any other information; and the Court may order the defendant to enter into a recognizance, with or without sureties, to keep the peace, or be of good behaviour, and, in default of compliance with such order, to be imprisoned for any period not exceeding six months.

Power of Court to vary order with regard to sureties.

**29.** Where a person has been committed to gaol by one or more Justices in default of finding sureties, as in the last preceding section mentioned, such Court, or any other two Justices, may, on application made to it by such person, or some one acting on his behalf, inquire into the case of the person so committed; and if it should appear just upon new evidence produced, or proof of a change of circumstances, the Justice or Justices, having regard to all the circumstances of the case, may reduce the amount for which it is proposed the sureties should be bound, or dispense with the sureties or surety, or otherwise deal with the case as the Court may think just.

Enforcing recognizance to keep the peace.

**30.** Where a recognizance conditioned to keep the peace, or be of good behaviour, has been entered into by any person as principal or surety before one or more Justices sitting as aforesaid, it shall be lawful for any two Justices so sitting, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is in law a breach of the condition of the same, to declare the recognizance to be forfeited, and adjudge the persons bound thereby, whether as principals or sureties, or any of such persons, to pay the sums for which they are respectively bound, and to enforce payment thereof in the same manner as if the sums were fines adjudged by such Court to be paid in the case of a conviction: Provided that no such recognizance shall, in the absence of the person or persons bound thereby, be declared to be forfeited as aforesaid, except upon proof that a summons has, five clear days before the return thereof, been personally served upon or left at the usual place of abode of the person, or each of the persons (if more than one), who entered into such recognizance, calling upon him or them to show cause why such recognizance should not be declared to be forfeited.

Sums forfeited to whom to be paid.

**31.** All sums paid in respect of a recognizance so declared to be forfeited, shall be paid to the clerk, if there be a clerk, and otherwise to such person as the Justices declaring the forfeiture shall order, and shall be paid and applied by him in the manner in which fines, in respect of which no special appropriation is made, are payable and applicable.

Power of Court to discharge accused without punishment in certain cases.

**32.** If, upon the hearing of a charge for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the Justice or Justices think that, though the charge is proved, the offence was in the particular case of so trifling

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a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment—

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I. The Court, without proceeding to conviction, may dismiss the information, and, if the Court think fit, may order the person charged to pay such damages, not exceeding Forty Shillings, and such costs of the proceedings, or either of them, as the Court think reasonable: or,

II. The Court upon convicting the person charged, may discharge him conditionally upon giving security, with or without sureties, to appear for sentence when called upon; or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the Court think reasonable.

**33.** A warrant or summons issued by a Justice of the Peace under “The Summary Jurisdiction Act, 1850,” or under any other Act, whether past or future, or otherwise, shall not be avoided by reason of the Justice who signed the same dying or ceasing to hold office.

Summons or warrant not avoided by death of Justice.

**34.** If any person assigned by Her Majesty’s Commission to act as Justice of the Peace is adjudged insolvent, or makes any arrangement or composition with, or any assignment for, the benefit of his creditors, he shall be and remain incapable of acting as a Justice of the Peace until he has been newly assigned by Her Majesty in that behalf.

Upon insolvency Justice incapable of acting.

**35.** The description of any offence in the words of the Act, or any order, by-law, or regulation, or other document creating the offence, or in similar words, shall be sufficient in law: and any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany in the same section the description of the offence in the Act, order, by-law, regulation, or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint; and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

Provision as to proceedings and proof.

**36.** Where a conviction or order has been made by any one or more Justices as aforesaid, all parties interested therein shall be entitled to demand and have copies of the information or complaint and depositions, and of the conviction or order, as the case may be, and the Justice or Justices shall cause the same to be furnished upon payment of the fees authorised in that behalf.

Copies of proceedings in summary cases may be obtained.

**37.** “The Summary Jurisdiction Act, 1850,” shall, notwithstanding any special provision to the contrary contained in any Act, apply to all informations, complaints, or other proceedings taken under the authority of, or instituted by virtue of, any Act relating to the

Application of Summary Jurisdiction Act to Customs.

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the Customs in any case which one or more Justices of the Peace has or have power to hear and determine in a summary manner by virtue of such Acts. All convictions and orders in such cases shall be subject to appeal in like manner as other convictions and orders, and such appeal shall be to the Local Court of Full Jurisdiction in Adelaide, and shall be conducted in manner prescribed and subject to the conditions as to notice of appeal, recognizance, and otherwise prescribed by the Act No. 6 of 1850: Provided that where the sum adjudged by conviction, under or by virtue of any of the said Acts to be paid, exceeds Fifty Pounds, the period of imprisonment imposed by the Court in respect of the non-payment of such sum, or in respect of default of sufficient distress to satisfy such sum, may exceed three months, but shall not exceed six months.

Justices not to reduce fine below amount provided in treaty.

**38.** Nothing in this Act shall authorise a Justice or Justices to reduce below the prescribed minimum the amount of a fine imposed under an Act passed for carrying into effect a treaty, convention, or agreement made with the Imperial Government of Great Britain, or with any British possession, or with any foreign state, and such treaty, convention, or agreement stipulates for a fine of a minimum amount.

Amendment of section 47, Act No. 6 of 1850.

**39.** The following words, contained in the forty-seventh section of "The Summary Jurisdiction Act, 1850," are hereby repealed:—"And except where the informer or party prosecuting shall be examined as a witness."

**PART III.****PART III.**

**MODE OF OBTAINING THE OPINION OF THE SUPREME COURT ON QUESTIONS OF LAW WHICH ARISE IN THE EXERCISE OF SUMMARY JURISDICTION BY JUSTICES OF THE PEACE.**

Justices, on application of party aggrieved, to state a case for the opinion of the Supreme Court.

Schedule B, Part; III.

**40.** After the hearing and determination by a Justice or Justices of the Peace of any information or complaint which he or they have power to determine in a summary way by any law now in force or hereafter to be passed, either party to the proceeding before the said Justice or Justices may, if dissatisfied with the said determination as being erroneous in point of law, apply, in writing, within seven days after the same, to the said Justice or Justices to state and sign a case setting forth the facts and the grounds of such determination for the opinion of the Supreme Court, and such party hereinafter called the "appellant" shall, within five days after receiving such case, transmit the same to the Master of the said Court, first giving notice, in writing, of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, hereinafter called the "respondent."

Security and notice to be given by the appellant.

**41.** The appellant, at the time of making such application, and before a case shall be stated and delivered to him by the Justice or Justices

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## PART III.

Justices, shall in every instance enter into a recognizance before such Justice or Justices, or any one or more of them, with or without surety or sureties, and in such sum as to the Justice or Justices shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the Supreme Court, and pay such costs as may be awarded by the same; and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay his fees for and in respect of the case and recognizance, which fees shall be according to the Schedule in the third part of this Act marked A; and the appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same Justice or Justices, or, if that is impracticable, before some other Justice or Justices who shall then be sitting, within fourteen days after the judgment of the Supreme Court shall have been given, to abide such judgment unless the determination appealed against be reversed.

Schedule A, Part III.

**42.** If the Justice or Justices be of opinion that the application is merely frivolous, but not otherwise, he or they may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate of such refusal: Provided that the Justice or Justices shall not refuse to state a case when application for that purpose is made to them by or under the direction of Her Majesty's Attorney-General for the province.

Justices may refuse a case where they think the application frivolous.

Schedule C, Part III.

**43.** Where the Justice or Justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the Supreme Court upon an affidavit of the facts for a rule calling upon such Justice or Justices, and also upon the respondent, to show cause why such case should not be stated; and the said Court may make the same absolute or discharge it, with or without payment of costs, as to the Court shall seem meet, and the Justice or Justices, upon being served with such rule absolute, shall state a case accordingly upon the appellant entering into such recognizance as is hereinbefore provided.

When the Justices refuse the Supreme Court may by rule order a case to be stated.

**44.** Whenever the decision of any Justice or Justices is called in question in the Supreme Court by a rule to show cause or other process issued upon an *ex parte* application, it shall be lawful for any such Justice or Justices to make and file in such Court an affidavit setting forth the grounds of the decision so brought under review, and any facts which he or they may consider to have a material bearing upon the question at issue, without being required to pay any fee in respect of filing such affidavit, and such affidavit may be sworn before a Commissioner authorised to take affidavits in the Supreme Court, and may be forwarded by post to the Master thereof for the purpose of being so filed.

Justice, when his decision in question, may file explanatory affidavit.

**45.** Whenever any such affidavit has been filed as aforesaid the Supreme Court shall, before making the rule absolute against the Justice or Justices, or otherwise determining the matter so as to over-rule

Court to consider affidavit.

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## PART III.

rule or set aside the acts or decisions of the Justice or Justices to which the application relates, take into consideration the matters set forth in such affidavit, notwithstanding that no counsel appear on behalf of the said Justice or Justices.

Supreme Court to determine the questions on the case.

**46.** When a case is transmitted to the Supreme Court, the said Court shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the Justice or Justices with the opinion of the Court thereon, or may make such order in relation to the matter; and may make such order as to costs as to the Court may seem fit, and all such orders shall be final and conclusive on all parties: Provided that no Justice or Justices of the Peace who shall state and deliver a case in pursuance of the third part of this Act, shall be liable to any costs in respect or by reason of such appeal against his or their determination.

Schedule D, Part III.

Its decision to be final.

Case may be sent back for amendment.

**47.** The Supreme Court shall have power, if they think fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Power of Supreme Court may be exercised by a Judge in chambers.

**48.** The authority and jurisdiction hereby vested in the Supreme Court, under the third part of this Act, shall and may, subject to any rules and orders of such Court in relation thereto, be exercised by a Judge of such Court sitting in chambers, and as well in vacation as in term time.

After the decision of the Supreme Court Justices may issue warrants.

**49.** After the decision of the Supreme Court in relation to any case stated for their opinion, under the third part of this Act, the Justice or Justices in relation to whose determination the case has been stated, or any other Justice or Justices of the Peace, shall have the same authority to enforce any conviction or order which may have been affirmed, amended, or made by such Supreme Court, as the Justice or Justices who originally decided the case would have had to enforce his or their determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the Justice or Justices for enforcing such conviction or order by reason of any defect in the same respectively.

*Certiorari* not to be required for proceedings hereunder.

**50.** No writ of *certiorari* or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under the third part of this Act, or otherwise, for obtaining the judgment or determination of the Supreme Court on such case.

Supreme Court may make rules for proceedings.

**51.** The Supreme Court may from time to time, and as often as they shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to the cases hereinbefore mentioned.

*The Justices Procedure Amendment Act.—1883-4.*

**52.** In all cases where the conditions or any of them in the said recognizance mentioned shall not have been complied with, the Justice or Justices who shall have taken the same, or any other Justice or Justices, shall certify on the back of the recognizance in what respect the conditions have not been observed, and transmit the same to the clerk of the nearest Local Court of Full Jurisdiction, and such certificate shall be deemed sufficient *prima facie* evidence of the said recognizance having been forfeited, and it shall be lawful for such Local Court to declare such recognizance to be forfeited upon production of such certificate as aforesaid; and upon further proof that a notice in writing, signed by the clerk of the said Local Court, has, ten days before the holding of such Court, been personally served upon, or left at the usual place of abode of, the party (or each of the parties, if more than one) who entered into such recognizance, that an application will be made to the said Local Court that the said recognizance shall be declared forfeited; and the said Local Court may enlarge the said recognizance, or may adjourn the application, or may declare the said recognizance to be forfeited, and may order the sum or sums due under such recognizance to be paid forthwith, or at such time as to the said Local Court shall seem fit; and the sum or sums conditioned to be paid in such recognizance shall and may be recovered by distress and sale of the goods and chattels of the party or parties liable to pay the same; and the warrant of distress shall be under the hand of the clerk and seal of the said Local Court in the form of Schedule G to the third part of this Act, or as near thereto as circumstances will permit.

## PART III.

Recognizances how to be enforced.

Schedule G, Part III.

**53.** Any person who shall appeal under the provisions herein contained against any determination of a Justice or Justices of the Peace, from which he is by law entitled to appeal to any other tribunal, shall be taken to have abandoned such last mentioned right of appeal finally and conclusively, and to all intents and purposes.

Appellants under this Act not allowed to appeal to any other tribunal.

## PART IV.

## PART IV.

AMENDMENTS ON APPEALS FROM CONVICTIONS  
AND ORDERS OF JUSTICES OF THE PEACE.

**54.** Where any recognizance entered into before any Justice or Justices of the Peace as a condition of any appeal under this or any other Act shall appear to the Court before which such appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such Court to permit the substitution of a new and sufficient recognizance or recognizances to be entered into before such Court, in the place of any insufficient, defective, or invalid recognizances, and, for that purpose, to allow such time and impose such terms as to payment of costs to the respondent or respondents as shall appear just;

Amendment of recognizances.

*The Justices Procedure Amendment Act.—1883-4.*

## PART IV.

just; and such substituted recognizances shall be as valid and effectual as if they had been duly entered before such Justice or Justices: Provided that the Court before which such appeal is brought may, if it see fit, dispense with any recognizance.

Amendment of notice  
and grounds of  
appeal.

**55.** No appeal from any decision, order, conviction, or determination of any one or more Justices of the Peace shall be defeated merely by reason of any defect, whether of substance or of form, in any notice or statement of grounds of appeal, but where, upon the hearing of such appeal, the Court before which such appeal is brought shall be of opinion that any objection raised to such notice or statement of grounds of appeal, is valid, it shall be lawful for such Court to cause any such notice or statement of grounds to be forthwith amended: Provided that, if such notice or statement of grounds shall appear to have been misleading, or to have occasioned expense, or to have prejudiced the party respondent, such amendment shall be allowed only upon such terms as to costs or postponement, or both, as to such Court shall appear just.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WILLIAM C. F. ROBINSON, Governor.



*The Justices Procedure Amendment Act.—1883-4.*

SCHEDULES.

SCHEDULE No. 1.

*Deposition of Witness dangerously ill and unable to travel.*

Part 1.

SOUTH AUSTRALIA, }  
to wit.

The examination and deposition of L. M. of \_\_\_\_\_ in the said province  
[farmer] taken on oath this \_\_\_\_\_ day of \_\_\_\_\_ in the year of  
our Lord, one thousand eight hundred and \_\_\_\_\_ at \_\_\_\_\_ in the said  
province, pursuant to section \_\_\_\_\_ of the Act No. \_\_\_\_\_ of \_\_\_\_\_ intituled

(it having been made to appear to my satisfaction that the said L. M. is dangerously ill and unable to travel, and in the opinion of E. F., a duly qualified medical practitioner, not likely to recover from such illness, and it not being practicable for a Justice of the Peace to take an examination or deposition of the said L. M. in accordance with the provisions of the Act No. 15 of 1849) in the presence and hearsay [of A. B., the accused, and] of E. F., medical practitioner, F. G., clerk of \_\_\_\_\_ and G. H., of \_\_\_\_\_ \* the said accused having been committed [or bailed to appear] for trial at the next Criminal Sittings of the \_\_\_\_\_ Court, to be holden at \_\_\_\_\_ to answer to a charge of having [here state the offence shortly] [or if no person charged, say from the asterisk \* relating to a certain indictable offence, namely, the offence of (stating it shortly) alleged to have been committed on at \_\_\_\_\_ for which no person has already been accused or committed, or bailed to appear for trial] this deponent, L. M., on his oath, saith as follows :—

The above deposition of L. M. was taken and sworn before me at \_\_\_\_\_ on the day and year first above mentioned.

J.P

SCHEDULE No. 2.

*Notice of Intention to take Deposition of Witness ill and unable to travel.*

Part 1.

To A. B., \_\_\_\_\_ of \_\_\_\_\_ &c.  
I, C. D., of \_\_\_\_\_ &c., constable of [or being the prosecutor of you A. B., or being the person accused and] who stands committed or is held to bail to answer the charge of \_\_\_\_\_ at the next Criminal Sittings of the \_\_\_\_\_ Court to be holden at \_\_\_\_\_ [or is accused of the offence of \_\_\_\_\_] hereby give you notice, pursuant to section \_\_\_\_\_ of the Act No. \_\_\_\_\_ of \_\_\_\_\_ intituled \_\_\_\_\_ that I, S., Esquire, one of Her Majesty's Justices of the Peace in and for the province, intends, on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, to take the statement of L. M., who is there dangerously ill and unable travel, and who it is alleged is able and willing to give material information relating to the said offence [or relating to me the said accused] Dated this \_\_\_\_\_ day of \_\_\_\_\_ C. D., or A. B., the prosecutor [or accused, or constable of \_\_\_\_\_]

SCHEDULE No. 3.

*Order to Convey a Prisoner to place of taking Deposition of a Witness dangerously ill.* Part 1.

SOUTH AUSTRALIA, }  
to wit.

To the Keeper of the Gaol at \_\_\_\_\_  
Whereas it appears to me that one A. B., now in your custody [under my commitment]

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mitment] has duly served [or has received from one C. D.] a notice pursuant to the Act No. of , intituled that I. S., Esquire, one of Her Majesty's Justices of the Peace in and for the province, intends [as in Schedule No. 2 to the end]: Now I, the said committing Justice [or I, S. B., Esquire, one of the visiting Justices of the said gaol] do hereby, by virtue of the said Act, direct you to convey the said A. B. to the place mentioned in the said notice for the purpose of being present at the taking of the statement of the said L. M.

Given under my hand and seal this

day of

(Justice's signature and seal.)

SCHEDULE No. 4.

Part 1.

*Complaint of Bail for a person charged with an Indictable Offence, in order that he might be committed in Discharge of their Recognizances.*

SOUTH AUSTRALIA, }  
to wit.

The information and complaint of C. D., of [yeoman], and E. F., of [storekeeper], taken this day of , in the year of our Lord one thousand eight hundred and , before the undersigned [one] of Her Majesty's Justices of the Peace in and for the said province, who say that they, the said C. D. and E. F., were, on the day of now last past, severally and respectively duly bound by recognizances before S. B., Esquire, one of Her Majesty's Justices of the Peace for the said province, in the sum of each, upon condition that one A. B., of should appear at the next Court of Oyer and Terminer and General Gaol Delivery [or Circuit Court] to be holden at , in the said province, and there surrender himself into the custody of the keeper of the [common gaol] there, and plead to such indictment as might be found against him in respect of the charge of [here state the charge shortly], and take his trial upon the same, and not depart the said Court without leave; and that these complainants have reason to suspect and believe, and do verily suspect and believe, that the said A. B. is about to depart from this province, and therefore they pray of me, the said Justice, that I would issue my warrant of apprehension of the said A. B., in order that he may be surrendered to goal in discharge of them, his said bail.

Taken before me the day, &c.

J.P.

C. D.  
E. F.

SCHEDULE No. 5.

Part 1.

*Warrant to Apprehend the Person Charged.*

To of Police, and to all Constables and Peace Officers in the said province, and to C. D. and E. F. severally and respectively.

SOUTH AUSTRALIA, }  
to wit.

Whereas you, the said C. D. and E. F., have this day made complaint to me, the undersigned, one of Her Majesty's Justices of the Peace in and for the said province, that you the said C. D. and E. F. were, &c. [as in the complaint No. 1]: These are therefore to authorise you, the said C. D. and E. F., and also to command you, the said constable, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before me, or some other Justice or Justices of the Peace in and for the said province, to the intent that he may be committed to the gaol at until the next Court of Oyer and Terminer and General Gaol Delivery [or, Circuit Court] to be holden at unless he find new and sufficient sureties to become bound for him in such recognizance as aforesaid.

Given under my hand and seal this

day of

in the year

, at

in the province aforesaid.

, J.P. (L.S.)

SCHEDULE

*The Justices Procedure Amendment Act.—1883-4.*

## SCHEDULE No. 6.

*Commitment of the Person Charged on Surrender of his Bail after Apprehension under a Warrant.* Part I.

To the \_\_\_\_\_ of Police and to all Constables of the said province, and to the Keeper of the Gaol at \_\_\_\_\_

SOUTH AUSTRALIA, }  
to wit. }

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ complaint was made to me, the undersigned [*or to J. H.*], one of Her Majesty's Justices of the Peace in and for the said province, by C. D. and E. F., of, &c., that [*as in the complaint No. 1 to the end*] I [*or the said parties*] thereupon issued my [*or his*] warrant authorising the said C. D. and E. F., and also commanding the said constables, and all other peace officers in the said province, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him [*follow to end of warrant No. 2*]: And whereas the said A. B. hath been apprehended under and by virtue of the said warrant, and being now brought before me the said Justice [*or me, the undersigned, one, &c.*], and surrendered by the said C. D. and E. F., his said sureties, in discharge of their said recognizances, I have required the said A. B. to find new and sufficient sureties to become bound for him in such recognizance as aforesaid; but the said A. B. hath now refused so to do: These are therefore to command you, the said constables, in Her Majesty's name, forthwith to take and safely convey the said A. B. to the said gaol at \_\_\_\_\_, in the said province, and there deliver him to the keeper thereof, together with this precept: And I hereby command you, the said keeper, to receive the said A. B. into your custody in the said gaol, and him there safely to keep until the next Court of Oyer and Terminer and Gaol Delivery [*or until the next Circuit Court*], to be holden at \_\_\_\_\_, in the said province, unless in the meantime the said A. B. shall find new and sufficient sureties to become bound for him in such recognizances as aforesaid.

Given under my hand and seal, &c.

J.P.

## SCHEDULE No. 7.

*Conviction for Contempt of Court of Summary Jurisdiction.*

SOUTH AUSTRALIA, }  
to wit. }

Part II.

Be it remembered that, on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ at \_\_\_\_\_ in the said province, A. B., of \_\_\_\_\_ in the said province [*laborer*], is convicted before [*me or us*], the undersigned, [*one or two*] of Her Majesty's Justices of the Peace in and for the said province, for that he, the said A. B. [*here insert the statement in one of the following columns*]

did, on the day and year aforesaid, at \_\_\_\_\_ aforesaid, wilfully misbehave himself in a Court of Summary Jurisdiction, then and there holden before [*me or us*],

did, on the day and year aforesaid, at \_\_\_\_\_ aforesaid, wilfully interrupt the proceedings of a Court of Summary Jurisdiction, then and there holden before [*me or us*],

was, on the day and year aforesaid, at \_\_\_\_\_ aforesaid, guilty of wilful prevarication in giving evidence to a Court of Summary Jurisdiction then and there holden before [*me or us*],

contrary to the Act in that case made and provided. And [*I or we*] adjudge the said A. B. for his said offence [*proceed as in the ordinary form of conviction*].

## SCHEDULE No. 8.

*Postponement of Hearing.*

Part II.

The summons under the hand of A. B., Esquire, Justice of the Peace, by which C. D. is required to appear here this day, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to answer the complaint of E. F., is now postponed by me until [*Wednesday*] next, the \_\_\_\_\_ day of \_\_\_\_\_ at the same hour and place, when and where the said \_\_\_\_\_

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said parties and their respective witnesses are required again to appear, in order that the said summons may be heard and determined.

Dated this

day of

18

I. I. B., Clerk of Court of Summary Jurisdiction.

Part II.

SCHEDULE No. 9.

*Summons in case of adverse claim to goods distrained.*

SOUTH AUSTRALIA, }  
to wit. }

To A. B. of &c., and C. D. of &c.

Whereas complaint hath this day been made before the undersigned of Her Majesty's Justices of the Peace in and for the said province for that by a warrant under the hand and seal of [one] of Her Majesty's Justices of the Peace in and for the said province, dated the day of , and directed to , the said constables were commanded, in Her Majesty's name, forthwith to make distress of the goods and chattels of E. F. and that G. H., one of the said constables had, under the said warrant, distrained certain goods and chattels as and for the goods and chattels of the said E. F., and that you, the said C. D., have claimed the same as your property :\* These are therefore to command you, the said A. B. and C. D., in Her Majesty's name, to be and appear on the day of at o'clock in the noon, at in the said province, before such Justices of the Peace as may be then present, in order that they may adjudicate upon the said claim and make an order thereupon according to law.

Given under my hand and seal this day of at in the province aforesaid.

J. P

SCHEDULE No. 10.

*Order in case of adverse claim to goods distrained.*

Part I.

SOUTH AUSTRALIA, }  
to wit. }

Be it remembered that, on the day of , complaint was made [as in the summons to the \*] and that C. D. had claimed the same as his property, and now, at this day, A. B., the party who obtained the said warrant, and the said C. D., appear before us, the undersigned, [two] of Her Majesty's Justices of the Peace in and for the said province [if both do not appear, state the non-appearance and service of the summons], to be and appear here at this day before, &c., in order that we might adjudicate upon the said claim and make an order thereupon according to law; and now having heard the matter of the said complaint we do adjudge that [here state the adjudication in one of the following forms] :—

The said goods and chattels were [not] at the time of the said distress thereof the property of the said C. D.

Part of the said goods and chattels, to wit, [one table, &c.] were, at the time of the said distress thereof, the property of the said C. D., but that the residue of the said goods and chattels are not his property.

And we do also adjudge the said [C. D. or A. B.] to pay to the said [A. B. or C. D.] forthwith [or on or before the day of ] the sum of for his costs in this behalf, and if the said sum [proceed as in the usual "order" for payment of money; mutatis mutandis].

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SCHEDULES TO THIRD PART OF THIS ACT.

SCHEDULE A.

“The Justices Procedure Amendment Act, 1883-4.”

*Fees to be taken by Clerks.*

	s.	d.
For drawing case and copy, where the case does not exceed five folios of seventy-two words, each .....	10	0
For every additional folio .....	1	6
For the recognizance to be taken under Part III. of this Act .....	5	0
For every enlargement or renewal thereof .....	2	6
For certificate of refusal of case .....	2	0
For warrant of distress under Part III. of this Act .....	5	0

SCHEDULE B.

“The Justices Procedure Amendment Act, 1883-4.”

*Application by dissatisfied party to Justices to state a case.*

To J. W. and R. E., Esquires, two of Her Majesty’s Justices of the Peace for the Province of South Australia.

In the matter of an information [*or complaint*] wherein I, the undersigned, was [*informant, complainant, or defendant, as the case may be*] and I. F. was [*defendant, complainant, or informant, as the case may be*], heard before and determined by you at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_.

Being dissatisfied with your determination upon the hearing of the above information [*or complaint*] as being erroneous in point of law, I hereby, pursuant to section \_\_\_\_\_ of the Justices Procedure Amendment Act, 1883-4, make application to you to state and sign a case setting forth the facts and the grounds of your determination, in order that I may take the opinion of the Supreme Court thereon.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, .

SCHEDULE C.

“The Justices Procedure Amendment Act, 1883-4.”

*Certificate of Refusal to state a case.*

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ an information [*or complaint*] preferred by R. F. against H. M., of \_\_\_\_\_, for that, &c. [*as in the information or complaint*], was heard and determined by the undersigned, two of Her Majesty’s Justices of the Peace, and the said H. M. was duly convicted of the said offence, [*or was ordered to pay to the said R. F. the sum of \_\_\_\_\_*], [*or we thereupon dismissed the said information or complaint*].

And whereas the said R. F. [*or H. M.*], being dissatisfied with the said determination as being erroneous in point of law, hath applied to us, pursuant to section \_\_\_\_\_ of the Justices Procedure Amendment Act, 1883-4, to state and sign a case for the opinion of the Supreme Court; but we, being of opinion that the application is merely frivolous, have refused to state such case, and at the request of the said R. F. [*or H. M.*] have signed and delivered to him this certificate of such refusal accordingly.

Given under our hand this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_

J.P.  
J.P.

SCHEDULE

*The Justices Procedure Amendment Act.—1883-4.*

## SCHEDULE D.

"The Justices Procedure Amendment Act, 1883-4."

*Case stated by the Justices.*

IN THE SUPREME COURT.

Between L.M., Appellant;  
and N.O, Respondent.

This is a case stated by us, the undersigned, two of Her Majesty's Justices of the Peace, under the Justices Procedure Amendment Act, 1883-4, on the application, in writing, of the appellant, who was dissatisfied with our determination upon the question of law which arose before us, as hereinafter stated, on the            day of           , at           , the appellant having duly entered into a recognizance to prosecute the appeal:—

1. Upon the hearing of a certain information [*or complaint*] preferred by the respondent against the appellant, under section            of the            Act [*here state the offence or cause of complaint*] we convicted the appellant of the said offence, and adjudged him to pay, &c. [*or ordered him to pay to the respondent the sum of*] [*or as the case may be*].

2. The following facts were either proved before us, or admitted by both parties:

3. [*Here state the facts concisely, placing them in different numbered paragraphs according to their subject-matter*].

4. On the part of the appellant, it was contended that, &c.

5. On the part of the respondent, it was contended that, &c.

6. We, however, being of opinion that, &c. [*here stating what the Justices' grounds were for their decision*], gave our determination against the appellant in the manner before stated.

7. The question of law upon which this case is stated for the opinion of the Supreme Court is, whether, &c.

8. If the Court should be of opinion that the said conviction [*or order*] was legally and properly made, and the appellant is liable as aforesaid, then the said conviction [*or order*] is to stand; but, if the Court should be of opinion otherwise, then the said information [*or complaint*] is to be dismissed, and the Court is respectfully solicited, according to the power vested in the Court by the Justices Procedure Amendment Act, 1883-4, to remit the case to us (the said Justices), with the opinion of the Court thereon, or to make such other order as to the Court may seem fit.

Given under our hands this            day of           , at

J.P.  
J.P.

## SCHEDULE E.

"The Justices Procedure Amendment Act, 1883-4."

*Recognizance to Prosecute Appeal.*SOUTH AUSTRALIA, )  
to wit. }

Be it remembered that, on the            day of           , James Smith, of           , and Robert Jones, of           , and Thomas Brown, of           , personally came before the undersigned, one of Her Majesty's Justices of the Peace in and for the said province, and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following (that is to say), the said James Smith the sum of           , and the said Robert Jones and Thomas Brown the sum of            each, of good and lawful money of Great Britain, to be made and levied of their several goods and chattels to the use of our said Lady the Queen, Her heirs and successors, if he, the said James Smith, shall fail in the condition indorsed.

Taken and acknowledged the day and year first above mentioned at  
before me.

J.P.

*Conditions.*

The condition of the within written recognizance is such, that whereas on the            day of            an information (*or complaint*), preferred by W. J. against J. S., was heard and determined by J. W. and R. E., two of Her Majesty's Justices of the Peace for            in, and for the said province; and whereas the said J. S., being dissatisfied with the said determination as being erroneous in point of

of

*The Justices Procedure Amendment Act.—1883-4.*

of law, has applied to the said Justices to state and sign a case pursuant to the Justices Procedure Amendment Act, 1883, for the opinion of the Supreme Court, and the said Justices have complied with such application (*or* have been ordered to comply with such application). If therefore the said J. S., after the said Justices shall have stated a case setting forth the facts and the grounds, as aforesaid, for the opinion of the said Court, shall duly prosecute without delay such his appeal, and submit to the judgment of the said Court thereon, and pay such costs as may be awarded by same: [*If appellant is in custody, add here*] “And further, should the said appeal be dismissed, that if the said J. S. shall appear before such Justice or Justices of the Peace for the said province as shall be sitting at the on within fourteen days after the judgment of the said Court shall have been given to abide such judgment,” then the said recognizance to be void, or else to stand in full force and virtue.

## SCHEDULE F.

“The Justices Procedure Amendment Act, 1883-4.”

*Notice from Appellant to Respondent, with Copy of the Case Stated.*

To R. F. of &c.

Take notice that I, the undersigned, being the defendant [*or* informant] in an information [*or* complaint] preferred by you [*or* myself], and heard before and determined by two of Her Majesty's Justices of the Peace in and for the said province at , on the day of , being dissatisfied with the determination of the said Justices upon the hearing of the said information [*or* complaint], as being erroneous in point of law, applied to the said Justices, pursuant to section of the Justices Procedure Amendment Act, 1883-4, to state and sign a case, setting forth the facts and grounds of their determination, in order that I may take the opinion of the Supreme Court thereon; and in pursuance of such application, and of the provisions of the Act aforesaid, the said Justices have stated and signed a case, a copy of which is annexed hereto.

Dated this day of

H. D., Appellant.

## SCHEDULE G.

“The Justices Procedure Amendment Act, 1883-4.”

*Warrant of Distress.*

In the Local Court of

Full Jurisdiction.

To of Police, and to all Constables and Peace Officers of the said province.

Whereas on the day of J. S., of and R. J., of and J. B., of entered into a certain recognizance in pursuance of the Justices Procedure Amendment Act, 1883-4, to secure the payment of Pounds sterling to Her Majesty the Queen, Her heirs and successors, that is to say—the said J. S. the sum of Pounds, and the said R. J. and J. B. the sum of Pounds each, if the said J. S. should fail in the conditions indorsed thereon: And whereas on the day of an application was made to this Court to order the said recognizance to be forfeited, and it was then found to the satisfaction of the said Court that the conditions of the said recognizance had not been complied with, and the said Court being also satisfied that the provisions contained in the section of aforesaid Act had been duly observed, did therefore order the said recognizance to be forfeited, and the several sums thereby secured to be paid to the clerk of this Court on or before the day of

*The Justices Procedure Amendment Act.—1883-4.*

And whereas the time appointed for the payment of the same has elapsed, but the said \_\_\_\_\_ have not paid the same, nor any part thereof, these are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said \_\_\_\_\_ and if within the space of five days next after making such distress the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you shall sell the goods and chattels so by you distrained, and do pay the money arising by such sale to the clerk of this Court, that he may pay and apply the same as by law is directed, and may render the overplus, if any, on demand to the said \_\_\_\_\_; and if no such distress can be found, then that you certify the same accordingly.

Given under my hand and the seal of the Court this  
day of \_\_\_\_\_

Clerk of the Court.