



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. X.

AN ACT to make provision for the better
Administration of Justice in the Supreme
Court of Western Australia.

[Assented to, 7th September, 1880.]

WHEREAS it is expedient to provide for the better adminis-
tration of Justice in the Supreme Court of Western
Australia: Be it enacted by His Excellency the Governor of
Western Australia and its Dependencies, by and with the advice
and consent of the Legislative Council thereof, as follows:—

PRELIMINARY.

1 THIS Act may be cited for all purposes as “The Supreme Court Act, 1880.” Short Title.

2 THIS Act, except any provision thereof which is declared to
take effect on the passing of this Act, shall commence and come
into Commencement of Act.
into

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into operation on the first day of August one thousand eight hundred and eighty-one, or so soon as the rules to be made as hereinafter provided shall first become valid, whichever shall first happen.

PART I.—CONSTITUTION OF SUPREME COURT.

3 FROM and after the time appointed for the commencement of this Act, the Supreme Court of Western Australia and the Court for Divorce and Matrimonial Causes shall be united and consolidated together, and shall constitute, under and subject to the provisions of this Act, one Supreme Court of Judicature in Western Australia.

Union of existing Courts.

4 THE Supreme Court shall be constituted of one Judge, who shall be called "The Chief Justice of Western Australia"; and such other Judge or Judges as Her Majesty shall from time to time appoint.

Constitution of the Supreme Court.

PART II.—JURISDICTION AND LAW.

Jurisdiction.

5 THE Supreme Court shall continue to be a Court of Record, and, subject as in the Act mentioned, there shall be transferred to and vested in the Supreme Court all the jurisdictions which at the commencement of this Act were vested in or capable of being exercised by the Supreme Court of Western Australia, and also by the Court for Divorce and Matrimonial Causes.

6 FROM and after the commencement of this Act the several jurisdictions which were theretofore vested in or capable of being exercised by the Supreme Court of Western Australia, and whether original or appellate, and whether statutory or otherwise, shall, so far as regards procedure and practice, be exercised by the said Court and by every Judge thereof in the manner provided by this Act, or by Rules of Court, and not otherwise; and where no special provision is contained in this Act or such Rules of Court with reference or applicable thereto, such jurisdiction shall be exercised by the Supreme Court as the said Court or any Judge thereof shall in each case direct: Provided that in all causes, matters, and proceedings whatsoever, which shall have been fully heard in the Supreme Court or in the Court for Divorce and Matrimonial Causes, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected at the time appointed for the commencement of this Act, such

Transfer of pending business.

Jud. Act 73, s. 22.

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such judgment, decree, rule, or order may be given or made, signed, drawn up, passed, entered, or perfected respectively after the commencement of this Act in the name of the same branch of the jurisdiction of the Supreme Court, or in the name of the said Court for Divorce and Matrimonial Causes, and by the same judge and officers, and generally in the same manner in all respects as if this Act had not been passed; and the same shall take effect to all intents and purposes as if the same had been duly perfected before the commencement of this Act. And every judgment, decree, rule, or order of the said Supreme Court, or of the said Court for Divorce and Matrimonial Causes, or of the said Chief Justice, which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged by the Supreme Court, in the same manner as if it had been a judgment, decree, rule, or order of the said Court or of any Judge thereof made after the commencement of this Act; and all causes, matters, and proceedings whatsoever which shall be pending in the said Courts respectively, or before the Chief Justice, at the commencement of this Act, shall be continued and concluded in the same manner and by the same form of procedure as they would have been continued and concluded had this Act not been passed, or according to the ordinary course provided by this Act (so far as the same may be applicable thereto) as the said Court may think fit to direct.

7 IN every civil cause or matter commenced in the Supreme Court, law and equity shall be administered by the said Court according to the rules following:—

Law and equity to be concurrently administered.

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever, asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right which heretofore could only have been granted by a Court of Equity, the said Court and every Judge thereof shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the said Court in its equitable jurisdiction in a suit or proceeding for the same or a like purpose, properly instituted before the passing of this Act.

Jud. Act 73, s. 24.

Equitable relief claimed by plaintiff to be given in all cases.

2. If any defendant claims to be entitled to any equitable estate or right or to relief upon any equitable ground against

Equitable relief to be given to defendants.

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against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Court and every Judge thereof shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged such and the same effect by way of defence against the claim of such plaintiff or petitioner as the Supreme Court in its equitable jurisdiction ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of this Act.

Power to grant defendant such relief as might heretofore have been given by cross bill.

Other persons may be made parties to the suit.

Court to recognise equitable estates and rights.

3. The said Court and every Judge thereof shall also have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant may have properly claimed by his pleading, and as the said Court or any Judge thereof might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner: And also all such relief relating to or connected with the original subject of the cause or matter and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any Order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.
4. The said Court and every Judge thereof shall recognise and take notice of all equitable estates titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter

in

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in the same manner in which the Supreme Court in its equitable jurisdiction would have recognised and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.

5. No cause or proceeding at any time pending in the Supreme Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained if this Act had not been passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto. Provided always that nothing in this Act contained shall disable the Supreme Court or any Judge thereof from directing a stay of proceedings in any cause or matter pending before it, if it or he shall think fit; and any person whether a party or not to any such cause or matter who would have been entitled if this Act had not been passed to apply to any Court to restrain any prosecution thereof, or who may be entitled to enforce by attachment or otherwise any judgment, decree, rule, or order contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the Supreme Court or any Judge thereof by motion in a summary way for a stay of proceedings in such cause or matter, either generally or so far as may be necessary for the purposes of justice, and the Court or Judge shall thereupon make such order as shall be just.

No injunction or prohibition to restrain proceedings.

But stay of proceedings may be ordered in a summary way.
6. Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid and to the other express provisions of this Act, the said Court and every Judge thereof shall recognise and give effect to all legal claims and demands, and all estates, rights, title, duties, obligations, and liabilities existing by common law or by any custom or created by any statute in the same manner as the same would have been recognised and given effect to if this Act had not been passed, by the said Supreme Court in any branch of its jurisdiction or by the said Court for Divorce and Matrimonial Causes.

All legal claims to be recognised subject to equities.
7. The Supreme Court, and every Judge thereof, in the exercise of the jurisdiction vested in it by this Act, in every

Court to do complete justice in cause so as to avoid multiplicity of suits.

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every cause or matter pending before it shall have power to grant, and shall grant either absolutely or on such reasonable terms and conditions as shall seem just, all such remedies whatever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought before it in such cause or matter; so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

Rules of law on certain points.

§ AND whereas it is expedient to amend and declare the law to be hereafter administered in this Colony as to the matters next hereinafter mentioned: Be it enacted as follows:—

Jud. Act, 73, s. 25,
75 s. 10.

Administration of assets of persons deceased insolvent to be made as in Bankruptcy.

1. In the administration by the Court of the assets of any person who may die after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of any Company under the Joint Stock Companies' Ordinance, 1858, whose assets may prove insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being, under the Law of Bankruptcy, with respect to the estates of persons adjudged bankrupt. And all persons who in any such case would be entitled to prove for and received dividends out of the estate of any such deceased person, or out of the assets of any such Company, may come in under the decree or order for the administration of such estate, or under the winding up of such Company, and make such claims against the same as they may respectively be entitled to by virtue of this Act.

Statutes of limitations inapplicable to express trusts.

2. No claim of a *cestui qui trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any Statute of Limitation.

Equitable waste.

3. An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for

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for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate.

4. There shall not after the commencement of this Act be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity. Merger.
5. A mortgagor entitled for the time being to the possession or receipt of the rent and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits shall have been given by the mortgagee, may sue for such possession or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto unless the cause of action arises upon a lease or other contract made by him jointly with any other person. Suits for possession of land by mortgagors.
6. Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal chose in action of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not been passed), to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor. Provided always that if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt, or chose in action, he shall be entitled if he think fit to call upon the several persons making claim thereto, to interplead concerning the same, or he may if he think fit pay the same into the Supreme Court, under and in conformity with the provisions of the Acts for the relief of trustees. Assignment of debts and choses in action.

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Stipulations not of the
essence of contracts.

7. Stipulations in contracts as to time or otherwise which could not before the passing of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity shall receive in all courts the same construction and effect as they would have heretofore received in equity.

Mandamus Injunctions and
Receivers.

8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or of any Judge thereof in all cases in which it shall appear to the Court or Judge to be just or convenient that such order should be made: and any such order may be made either unconditionally or upon such terms and conditions as the Court or Judge shall think just. And if an injunction is asked either before or at or after the hearing of any cause or matter to prevent any threatened or apprehended waste or trespass, such injunction may be granted if the Court or a Judge shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or either of the parties are legal or equitable.

Damages by collision at
sea, Admiralty Rules to
prevail.

9. In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall have been found to have been in fault, the rules hitherto in force in the Court of Admiralty, so far as they have been at variance with the rules in force in the Supreme Court in its Common Law Jurisdiction, shall prevail.

In questions relating to
infants, Rules of Equity to
prevail.

10. In questions relating to the custody and education of infants, the Rules of Equity shall prevail.

Cases of conflict not enu-
merated, Rules of Equity
to prevail.

11. Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of Common Law with reference to the same matter, the Rules of Equity shall prevail.

PART III.—SITTINGS AND DISTRIBUTION OF BUSINESS.

Jud. Act 73, s. 26.

- 9 SUBJECT to Rules of Court, the Supreme Court and the Judges thereof respectively, and any commissioners to whom any jurisdiction

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jurisdiction may be assigned under this Act, shall have power to sit and act at any time and at any place for the transaction of any part of the business of the Supreme Court or of such judges or commissioners or for the discharge of any duty which by any Act of Council or otherwise is required to be discharged.

Sittings of the Court.

10 THE Governor may from time to time, upon any report or recommendation of the Chief Justice or of the Judges of the said Court, make, revoke, or modify orders regulating the vacations to be observed by the said Court and in the offices of the said Court. And any order made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act. And Rules of Court may be made for carrying the same into effect in the same manner as if such order to be made by the Governor were part of this Act.

Id. s. 27.

Vacations.

11 PROVISION shall be made by Rules of Court for the hearing in Perth during vacation by the Supreme Court or any Judge thereof of all such applications as may require to be immediately or promptly heard.

Sittings in vacation.

Id. s. 28.

12 THE Governor by commission either general or special may assign to any Judge or Judges of the Supreme Court or to any practitioner of the said Court of at least seven years' standing or to any magistrate of a Local Court the duty of trying and determining within any place or district specially fixed for that purpose by such commission any causes or matters or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter depending in the said Supreme Court, or the exercise of any civil or criminal jurisdiction capable of being exercised by the said Supreme Court. And any commission so granted by the Governor shall be of the same validity as if it were enacted in the body of this Act. And any commissioner or commissioners appointed in pursuance of this section shall when engaged in the exercise of any jurisdiction assigned to him or them in pursuance of this Act perform such and the like duties, and have such and the like powers as by this Act is imposed or conferred upon the Supreme Court or any Judge thereof in the exercise of its ordinary jurisdiction; and, subject to any restrictions or conditions imposed by Rules of Court, any party to any cause or matter involving the trial of a question or issue of fact, or partly of fact and partly of law, may, with the leave of any Judge of the Supreme Court, require the question or issue to be tried and determined by a commissioner or commissioners as aforesaid or at sittings to be held at Perth as hereinafter in this

Jurisdiction of Judges or commissioners.

Id. s. 29.

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Act mentioned: and such questions or issues shall be tried and determined accordingly.

A cause or matter not involving any question or issue of fact may be tried and determined in like manner with the consent of all the parties thereto.

Sittings of Court.
Jud. Act 73, s. 30.

13 SUBJECT to Rules of Court, civil sittings for the trial of causes and questions or issues of fact shall be held in Perth; and such sittings shall, so far as is reasonably practicable and subject to vacations, be held continuously throughout the year by the Chief Justice, or (when the number of Judges shall be increased) by such Judge or Judges as the business to be disposed of may render necessary.

Jud. Act 73, s. 39.

Jurisdiction of Judge in Court or Chambers

14 EVERY Judge of the Supreme Court may, subject to any Rules of Court, exercise in Court or in Chambers all or any part of the jurisdiction by this Act vested in the said Supreme Court in all such causes and matters and in all such proceedings in any causes or matters as before the passing of this Act might have been heard in Court or in Chambers respectively by the Chief Justice or by the Judge of the Court for Divorce and Matrimonial Causes, or as may be directed or authorised to be so heard by any Rules of Court to be hereafter made.

Business in Banco as heretofore.

15 ALL business of the said Court which according to the law or practice now existing would have been proper to be transacted or disposed of by the Chief Justice sitting in Banco shall continue to be so transacted, subject to any Rules of Court, until the number of Judges of the said Court shall be increased, and thereafter such business shall be transacted or disposed of by any two or more Judges of the said Court; and the Chief Justice or the Judges of the Supreme Court so sitting in Banco shall be designated as "the Full Court."

Cases or points of law may be reserved.
Jud. Act 73, s. 46,
75, s. 22.

16 SUBJECT to any Rules of Court any Judge or any person sitting in the exercise of any jurisdiction of the said Court may reserve any case or any point in a case for the consideration of the Full Court; and such Full Court shall have power to hear and determine any such case or point so reserved or so directed to be argued. It shall be lawful for the Full Court in any cause or matter in which a verdict has been found by a jury, or by a Judge without a jury, or by referees, or by a Judge sitting with assessors, or in which a non-suit has been entered or refused, to order a new trial or reference, or to vary or set aside such verdict, or enter or set aside such non-suit, or to reduce the damages awarded

Motions for new trial to be heard before full court.

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17 NO order made by the Supreme Court or by a Judge, by the consent of parties, or as to costs only, which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court or the Judge making such order.

What orders shall not be subject to appeal.

Jud. Act, 73, s. 49.

18 EVERY order made by a Judge in Chambers (except orders made in the exercise of such discretion as aforesaid) may be set aside or discharged upon notice by the Full Court.

As to discharging orders made at chambers.

Jud. Act, 73, s. 50.

PART IV.—TRIAL AND PROCEDURE.

19 IF at any time there shall be only two Judges of the said Court, and a difference of opinion shall arise between them respecting the judgment or decision to be given in any case, the judgment or decision of the Chief Justice or of the Senior Judge, as the case may be, shall prevail.

When Supreme Court consists of two Judges only Chief Justice to prevail in case of doubt.

20 SUBJECT to any rules of Court and to such right as may now exist to have any particular cases submitted to the verdict of a jury, any question arising in any action, cause, or (other than a criminal proceeding by the Crown) before the Supreme Court, may be referred by the Court before whom such cause or matter may be pending for inquiry and report to the Master of the Court or to a referee or referees. And the report of such Master or referee or referees may be adopted wholly or partially by the Court, and may, if so adopted, be enforced as a judgment by the Court. The said Court may also in any such cause or matter as aforesaid in which it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such action, cause, or matter as aforesaid wholly or partially with the assistance of such assessors. The remuneration (if any) to be paid to such special referees or assessors to be determined by the Court.

Referees and assessors.

Jud. Act, 73 s. 56.

21 IN any action, cause, or matter (other than a criminal proceeding by the Crown) before the said Court, in which all parties interested who are under no disability consent thereto: and also without such consent, in any such action, cause, or matter requiring any prolonged examination of documents or accounts, or any scientific or local investigation, which cannot, in the opinion of the Court or a Judge, conveniently be made before a jury, or conducted by the Court through its other ordinary officers, the Court or a Judge may at any time, on such terms as may be thought proper, order any question or issue of fact, or any question of account arising therein

Power to direct trials before referees.

Jud. Act, 73, s. 57.

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therein, to be tried either before the Master of the Court or before a Special Referee, to be appointed by the Court or a Judge, or to be agreed on between the parties. All such trials before the Master or such referee shall be conducted in such manner as may be prescribed by Rules of Court, and subject thereto in such manner as the Court or Judge ordering the same shall direct.

Powers of referees and effect of their finding.
Id. s. 58.

22 IN all cases of reference to or trial by the Master or referees under this Act the Master or referees shall be deemed to be officers of the Court, and shall have such authority for the purpose of such reference or trial as shall be prescribed by Rules of Court, or (subject to such rules) by the Court ordering such reference or trial, and the report of the Master or of any referee upon any question of fact on any such trial shall (unless set aside by the Court) be equivalent to the verdict of a jury.

Small Debts Ordinance, 1863, s. 35 and 36, to extend to actions in Supreme Court.

23 THE provisions contained in the 35th and 36th sections of "The Small Debts Ordinance, 1863," shall, if in any action in which any relief is sought which could be given in a Local Court the plaintiff shall recover a sum not exceeding Twenty pounds if the action is founded on contract, or Five pounds if founded on tort, apply to all actions commenced or pending in the said Supreme Court in which any relief is sought which can be given in a Local Court.

Jud. Act 73, s. 63,
75, s. 17.

24 SUBJECT to the provisions of this Act it shall be lawful for the Chief Justice of Western Australia, so soon as possible after the passing of this Act, to cause to be prepared Rules in this Act referred to as Rules of Court, and also for the sole Judge or other Judges of the said Court from time to time to alter or annul the same, or make any new Rules of Court, providing as follows:—

1. For the regulation of the sittings of the said Court, and of the Judges of the said Court sitting in Chambers.
2. For the regulation of all matters relating to the practice and procedure of the said Court, or to the duties of the officers thereof, or to the costs of proceedings therein.
3. And generally for carrying into effect the provisions of this Act.

Provisions as to Rules of Divorce and Bankruptcy, and of the Supreme Court in its ecclesiastical jurisdiction.

Jud. Act 75, s. 18.

25 ALL Rules and Orders of Court in force at the time of the commencement of this Act in the Supreme Court with reference to the practice in its Ecclesiastical or Bankruptcy jurisdiction, or in the Court for Divorce and Matrimonial Causes shall remain and be in force

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force in the Supreme Court until they shall be altered or annulled by any Rules of Court made after the commencement of this Act.

26 ALL Rules of Court made in pursuance of this Act shall be laid before the Legislative Council within ten days next after the same are made, if the Council is then sitting, or, if not, then within ten days after the then next meeting of the Council; and if an address is presented to the Governor by the said Council within the next subsequent forty days in which the said Council shall have sat, praying that any such rules may be annulled, the Governor in Executive Council may thereupon annul the same; and the rules so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same. This section shall come into operation immediately on the passing of this Act.

Jud. Act 73, s. 68.

Rules to be laid before Council.

27 SUBJECT to any Rules of Court to be made under this Act, the practice and procedure in all criminal causes and matters whatever in the Supreme Court shall be the same as the practice and procedure in similar causes and matters before the commencement of this Act.

Criminal procedure subject to any future rules to remain unaltered.

Jud. Act, 1875, s. 19.

28 NOTHING in this Act or in any Rules of Court to be made under this Act, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury or otherwise, or the rules of evidence or the law relating to juries.

Act not to affect rules of evidence or juries.

Id. s. 20.

29 SAVE as by this Act or by any Rules of Court may be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in the Supreme Court or in the Court for Divorce and Matrimonial Causes under or by virtue of any law, custom, general order, or rules whatsoever, and which are not inconsistent with this Act or with any Rules of Court, may continue to be used and practised in the Supreme Court in such and the like cases and for such and the like purposes as those to which they would have been applicable in the respective Courts aforesaid if this Act had not been passed.

Provision for saving of existing procedure of Courts when not inconsistent with this Act or rules of Court

Id. s. 21.

PART V.—OFFICERS, INTERPRETATION, AND MISCELLANEOUS.

30 THE business to be performed in the said Court or in the chambers of any Judge thereof other than that performed by the Judges

Officers.

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Jud. Act, 73, s. 77.

Judges shall be transacted by the several officers now or hereafter to be attached to the Supreme Court; and such officers shall perform such duties in relation to such business as may be directed by rules of Court, or in cases not provided for by rules of Court as such Court may direct; and such officers shall perform such duties in relation to such business as may be directed by this Act, or by Rules of Court, or by any Judge thereof. And subject to this Act and such Rules of Court, all such officers respectively shall continue to perform the same duties as nearly as may be in the same manner as if this Act had not been passed.

Powers of Commissioner to administer oaths.

Jud. Act, 73, s. 82.

31 EVERY person who at the commencement of this Act shall be authorised to administer oaths or transact any other business in the Supreme Court in any branch of its jurisdiction shall continue to be so authorised in all causes and matters whatsoever, which may from time to time be depending in the said Court.

Rules of law to apply to inferior courts.

Jud. Act, 73, s. 91.

32 THE several rules of law enacted and declared by this Act shall be in force and take effect in all Courts whatsoever in Western Australia so far as the matters to which such rules relate shall be respectively cognizable by such Courts.

Jud. Act, 73, s. 100.

33 IN the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned shall have or include the meanings following (that is to say):—

“COURT” shall mean the Supreme Court of Western Australia, and the Chief Justice of Western Australia, and the Judges of the said Court.

“RULES OF COURT” shall include forms.

“CAUSE” shall include any action, suit, or other original proceeding between a plaintiff and defendant, and any criminal proceeding by the Crown.

“SUIT” shall include action.

“ACTION” shall mean a civil proceeding commenced by writ or in such other manner as may be prescribed by rules of Court, and shall not include a criminal proceeding by the Crown.

“PLAINTIFF”

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“PLAINTIFF” shall include every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding whether the same be taken by action, suit, petition, motion, summons, or otherwise.

“PETITIONER” shall include every person making any application to the Court either by petition, motion, or summons, otherwise than as against any defendant.

“DEFENDANT” shall include every person served with any writ of summons or process or served with notice of or entitled to attend any proceedings.

“PARTY” shall include every person served with notice of or attending any proceeding although not named in the record.

“MATTER” shall include every proceeding in the Court not in a cause.

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

WILLIAM C. F. ROBINSON, Governor.