



1853.

No. 21.

An Act to enable the Judges of the Supreme Court, or either of them, to hold Courts in any part of the Colony, for the recovery of Small Debts and Trial and Punishment of Minor Offences in South Australia.

[Assented to, December 9, 1853.]

WHEREAS it is expedient to make further provision for the Preamble.
dispatch of the business of the Courts for the recovery of
small debts and trial and punishment of minor offences, established
and now in force under Ordinance No. 5 of 1850, and to provide
for a more uniform administration of justice in such Courts
throughout the Province, through the instrumentality of the
Judges of the Supreme Court.—Be it therefore Enacted, by the
Lieutenant-Governor of the Province of South Australia, with
the advice and consent of the Legislative Council thereof, as
follows:

1. It shall and may be lawful for any Judge of the Supreme Court to exercise in any Local Court, within the said Province, all and every the jurisdiction, powers, and authorities, which by an Ordinance, No. 5 of 1850, "For the recovery of small debts and trial and punishment of minor offences in South Australia," are conferred upon, and may be exercised by three Justices of the Peace, one of them being a Special Magistrate, so far as relates to the holding of pleas of personal actions.

Judges of the Supreme Court to have powers of Local Courts in civil matters.

2. It shall be lawful for every Judge sitting in any Local Court, under the authority hereof, to reserve any point or points for the consideration of the Supreme Court, in such manner and on such terms as he shall think proper; and the decision of the Supreme Court shall be final, binding, and conclusive, as regards the matter so reserved.

A Judge may reserve points for consideration of the Supreme Court.

3. The

Cases to which the 61st section of Ordinance of 1850, No. 5, with respect to costs of actions improperly brought in the Supreme Court shall be deemed to extend, and cases to which it shall not extend.

3. The sixty-first section of the recited Ordinance relating to the costs of any action brought in the Supreme Court, wherein a verdict may be given for a sum less than might be competently awarded by any Court holden under the recited Ordinance, shall be deemed to extend to actions in the Supreme Court, in covenant, debt, *detinue*, or *assumpsit* (not being for breach of promise of marriage), wherein a less sum than Thirty Pounds shall be recovered, and to actions in the Supreme Court in trespass, trover, or case not being an action for malicious prosecution, or for libel, or for slander, or for criminal conviction, or for seduction, wherein a less sum than Five Pounds shall be recovered, but not wherein a greater sum than Five Pounds shall be recovered.

By consent of the parties the Court may have power to try cases, although beyond its jurisdiction.

4. If both parties shall agree by a memorandum signed by them, or by their Attorneys, that any Court wherein a Judge shall preside under the powers of this Act, shall have power to try any of the actions in the said Ordinance excepted, or any action wherein a greater sum than Thirty Pounds is sought to be recovered, then, and in such case, the said Court shall have jurisdiction and power to try such action: Provided always, that the said parties or their Attorneys, shall state in their said memorandum of agreement, that they know such cause of action to be above the said sum of Fifty Pounds, or that they know such action to be an action which, but for their consent, would not be within the jurisdiction of the said Court, and provided that such memorandum shall be filed with the Clerk of the said Court at the time of filing the demand of the plaintiff.

Judges may frame Rules.

5. It shall and may be lawful for the Judges of the said Supreme Court, from time to time, to frame such general rules and orders as to them shall seem expedient for regulating the practice of such Local Courts, as well in matters civil as criminal, and for executing the process of the said Courts, and for regulating and prescribing the fees of barristers and attorneys practising therein, and generally for carrying the said Ordinance into effect, and such rules and orders, being approved of by the Lieutenant-Governor, with the advice and consent of the Executive Council, and being published in the *South Australian Government Gazette*, shall have the force of law after the expiration of fourteen days from such publication: Provided that, until such rules and orders as herein provided shall have the force of law, the rules and orders heretofore made under the said Ordinance shall be binding and operative, and the said Judges shall in all respects conform thereto.