



ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1858.

No. 13.

Amended No. 286 of 1858

An Act to authorize the appointment of a third Judge, and to provide for the holding of Courts in the country districts, as occasion may arise.

[Assented to, 24th December, 1858.]

Left to its operation
Preamble. *by Gazette 14th July 1858*

WHEREAS it is expedient, in order to the more effectual administration of justice by means of the Supreme Court, to provide for the appointment of a third Judge of such Court; and also to make provision for the trial of causes and of offenders in the vicinity of the places where the parties to such causes may be resident, or where offences may have been committed—Be it therefore Enacted, by the Governor-in-Chief 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:

1. The Governor, with the advice and consent of the Executive Council, may appoint a fit and proper person to be a Judge of the Supreme Court; and such person, when appointed, shall have, possess, and exercise all the powers and authorities conferred upon Judges of the Supreme Court by the Act No. 31 of 1855-6, "To consolidate the several Ordinances relating to the Establishment of the Supreme Court of the Province of South Australia," and shall receive the same amount of salary as is by law payable to the Second Judge of the said Court; and such salary shall be paid to such Judge on the warrant of the Governor, which he is hereby authorized and required to issue on the same terms and conditions as are prescribed by the Constitution Act, with reference to the salaries of the other Judges.

Governor may appoint third Judge.

Supp. from minute

2. The Governor, with such advice and consent as last aforesaid,

Governor may issue Commission for holding Courts.
may

may, from time to time, when, and as it shall be made to appear that the convenience of suitors would be thereby promoted, or the cost of prosecution diminished, issue a Commission, directed to one of the Judges of the Supreme Court, authorizing such Judge to hold a Court of Oyer and Terminer and of Gaol Delivery, at a time and place to be named in such Commission, for the trial of all felonies and misdemeanors, and for the trial of issues in the Supreme Court, and the assessment of damages in civil cases; and thereupon the Judge named in such Commission shall proceed to hold such Court according to the tenor thereof; and such Court so holden shall stand to the Supreme Court in the same relation as Courts of Oyer and Terminer and general Gaol Delivery, and *Nisi Prius*, in England, stand to Her Majesty's Court at Westminster.

Notice of Commission to be given in *Gazette*.

3. Notice of the issue of any such Commission shall be given in the *South Australian Government Gazette* thirty days at the least before the day appointed for the holding of the Court thereby authorized.

Jurors to be summoned.

4. Whenever any such Commission shall have been issued, the Judge to whom the same shall be directed, shall issue a precept directing and requiring the Sheriff to summon not more than twenty-five nor less than twelve of the persons qualified and liable to serve as jurors, who shall reside within twenty miles of the place named in such Commission, to attend at the time and place appointed for holding the Court, and the persons so summoned shall be jurors for the trial of all felonies and misdemeanors, and of all issues in fact, and for the assessment of damages in all causes which may be appointed to be heard and determined, or to be tried or assessed at the Court to be holden by virtue of such Commission.

Sheriff to summon jurors.

5. Upon the receipt of such precept, and not less than ten clear days before the day appointed for holding any such Court, the Sheriff shall summon the persons aforesaid, and every such summons shall be signed by the Sheriff, and shall be to the following effect:—

Mr. *A.B.*, you are hereby required to appear as a juror, at a Court to be holden at _____ on the _____ day of _____ next, by virtue of a Commission for that purpose duly issued by His Excellency the Governor-in-Chief, and there to attend from day to day, until you shall be discharged by the said Court.

Dated the _____ day of _____ 18 .

C.D., Sheriff.

Penalty for non-attendance.

6. If any person duly summoned to attend as a juror as aforesaid, shall fail to attend according to such summons, he shall be liable to the same fine, to be imposed, levied, and appropriated in the same manner as though he had been duly summoned, and had made default in appearing, as a juror at any sittings of the Supreme Court.

Fees to be paid to jurors.

7. At the trial of every civil action, and on every assessment of damages,

damages, there shall be paid to each juryman who shall try such action or assess such damages, the same fee as is, or shall be, by law, payable to jurymen trying any action in the Supreme Court at Adelaide.

8. Such felonies and misdemeanors, and such civil actions, shall be tried, and such damages assessed, at any Court to be holden by virtue of any Commission as aforesaid, as may be authorized by such Commission, or as may be directed to be tried or assessed at such Court by any rule or order of the Supreme Court to be made in that behalf.

Matters to be tried
at such Courts.

9. This Act shall take effect from the passing thereof.

Commencement of
Act.

10. This Act may be cited as "The Third Judge and District Courts Act."

Title of Act.