

Administration of Justice Bill.

EXPLANATORY NOTE.

This Bill has the following objects—

- (a) To amend the Supreme Court and Circuit Courts Act, 1900-1935.

Subsection (1) of section nine—

That subsection in its present form provides that when the number of puisne judges amounts to eight or more the power of the Governor to make appointments of puisne judges to the Supreme Court shall be exercisable only on resolutions of both Houses of Parliament. The Bill alters the number "eight" to "ten."

Section 15A—

Provision is made to clarify the law as to the pension rights of the Prothonotary.

- (b) To amend the Land and Valuation Court Act, 1921, as amended by subsequent Acts in relation to the qualifications for appointment as judge of the Land and Valuation Court, and to provide that the judge of the Land and Valuation Court shall, by virtue of his appointment, be a puisne judge of the Supreme Court.
- (c) To amend the Equity Act, 1901, by providing for the compulsory retirement and pension rights of the Master in Equity.

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[CONFIDENTIAL]
(Rough Draft for Consideration Only.)

No. , 1939.

A B I L L

To make further provisions relating to judges of the Supreme Court, the judge of the Land and Valuation Court and the offices of Master in Equity and Prothonotary; to amend the Supreme Court and Circuit Courts Act, 1900-1935, the Land and Valuation Court Act, 1921, the Equity Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Administration of Justice Act, 1939." Short title.
- 10 2. This Act is divided into Parts as follows— Division into Parts.
- PART I—PRELIMINARY.
- PART II—AMENDMENTS OF SUPREME COURT AND CIRCUIT COURTS ACT, 1900-1935.
- 15 13 PART III—AMENDMENTS OF LAND AND VALUATION COURT ACT, 1921.
- PART IV—AMENDMENTS OF EQUITY ACT, 1901.

PART II.

AMENDMENTS OF SUPREME COURT AND CIRCUIT COURTS ACT, 1900-1935.

- 20 3. (1) The Supreme Court and Circuit Courts Act, 1900-1935, as amended by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900-1939. Citation.
- (2) The Supreme Court and Circuit Courts Act, 1900-1935, is amended— Amendment of Act No. 35, 1900.
- 25 (a) by omitting from the proviso to subsection one of section nine the word "eight" and by inserting in lieu thereof the word "ten"; Sec. 9. (Puisne Judges.)
- (b) by omitting paragraph (b) of subsection three of section 15A and by inserting in lieu thereof the following paragraph:— Sec. 15A (8) (b). (Correction.)
- 30 (b) Where a Prothonotary appointed under subsection one of this section retires on permanent disability or infirmity or in accordance with the (Pension of Prothonotary.)
- the

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5 the provisions of paragraph (a) of this subsection, he shall if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary at the time of his retirement and at
10 the additional rate of three one-hundredths of his salary at the time of his retirement for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary at the time of his retirement.

(c) by inserting after paragraph (c) of the same subsection the following new paragraphs:— Sec. 15A (3).
New subsecs.
(d) and (e).

15 (d) Every pension referred to in paragraph (b) of this subsection shall be paid out of moneys provided by Parliament.

20 (e) If after the assignment to a person of a pension referred to in paragraph (b) of this subsection he accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment according as the salary or emoluments of such appointment are of a greater or
25 less amount than such pension.

(3) Paragraph (b) of subsection two of this section shall be deemed to have commenced on the date of the commencement of the Supreme Court and Circuit Courts (Prothonotary) Amendment Act, 1935. Commencement of paragraph (c) of subsec- (2).

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PART III.

AMENDMENTS OF LAND AND VALUATION COURT ACT, 1921.

4. (1) The Land and Valuation Court Act, 1921, as amended by the Western Lands (Amendment) Act, 1927, the Sydney Corporation Act, 1932, the Closer Settlement (Amendment) Act, 1937, the Statute Law Revision Act, 1937, and this Part of this Act, may be cited as the Land and Valuation Court Act, 1921-1939.

Citation.

(2) The Land and Valuation Court Act, 1921, as amended by the Western Lands (Amendment) Act, 1927, the Sydney Corporation Act, 1932, the Closer Settlement (Amendment) Act, 1937, and the Statute Law Revision Act, 1937, is amended—

Amendment of Act No. 10, 1921.

(a) by inserting at the end of subsection three of section four the words “and be paid the same salary as the judge”;

Sec. 4 (3). (Salary of deputy judge.)

(b) by omitting subsections four and five of the same section and by inserting in lieu thereof the following subsections:—

Sec. 4. Substituted subsecs. (4), (5).

(4) A person shall not be qualified for appointment under this section as a judge or deputy judge unless he is at the date of his appointment a judge of the Supreme Court, or a practising barrister of not less than five years' standing.

(5) (a) Where a judge of the Supreme Court is appointed as judge under this section his office as judge of the Supreme Court shall not be affected:

Provided that, in ascertaining the number of puisne judges of the Supreme Court for the purposes of the proviso to subsection one of section nine of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, a judge of the Supreme Court appointed as judge under this section shall not be counted.

(b) When a judge of the Supreme Court who has been appointed as judge under this section ceases, in accordance with the law for the

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the time being in force relating to judges of the Supreme Court, to be a judge of the Supreme Court, he shall thereupon cease to be the judge of the Land and Valuation Court.

5 (6) (a) Where a practising barrister is appointed as judge under this section he shall, by virtue of such appointment, become a puisne judge of the Supreme Court for all purposes and in all respects as if at the date of such appointment he had been appointed a puisne judge of the
10 Supreme Court pursuant to section nine of the Supreme Court and Circuit Courts Act, 1900-1935:

15 Provided that in ascertaining the number of puisne judges of the Supreme Court for the purposes of the proviso to subsection one of section nine of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, the person who becomes a puisne judge of the
20 Supreme Court under this subsection shall not be counted.

(b) When a person who has become a puisne judge of the Supreme Court by virtue of his appointment as judge under this section,
25 ceases in accordance with the law for the time being in force relating to judges of the Supreme Court to be a judge of the Supreme Court, he shall thereupon cease to be the judge of the Land and Valuation Court.

30 (c) This subsection shall be deemed to have commenced upon the twenty-fifth day of May, one thousand nine hundred and thirty-six.

(c) by omitting section five.

Sec. 5:

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PART IV.

AMENDMENTS OF EQUITY ACT, 1901.

5. (1) The Equity Act, 1901, as amended by subsequent Acts and by this Part of this Act, may be cited 5 as the Equity Act, 1901-1939. Citation.

(2) The Equity Act, 1901, as amended by subsequent Acts, is amended by inserting after section seventy-one the following new section:— Amendment of Act No. 24, 1901.
New s. 71A.

10 71A. (1) (a) Subject to this section every person appointed to the office of Master in Equity shall hold office during good behaviour, but shall retire on the day on which he attains the age of seventy years. Tenure of office and pension of the Master.

15 (b) Where a Master in Equity retires on permanent disability or infirmity or in accordance with the provisions of paragraph (a) of this subsection, he shall if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary at the time of his retirement and at the additional rate 20 of three one-hundredths of his salary at the time of his retirement for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary at the time of 25 his retirement.

(c) The annual pension payable to a Master in Equity under paragraph (b) of this subsection shall be reduced by the amount (if any) payable to him in each year by way of pension under 30 the Superannuation Act, 1916-1935, or any Act amending that Act.

35 (d) Where a person appointed to the office of Master in Equity is at the time of his appointment an officer of the Public Service, and is then required to contribute to any fund, he shall continue to contribute to such fund and shall be entitled to receive any deferred or extended leave and any privileges and payment or pension as if he had remained

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remained an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1935.

5 (e) Every pension referred to in paragraph (b) of this subsection shall be paid out of moneys provided by Parliament.

10 (f) If after the assignment to a person of a pension referred to in paragraph (b) of this subsection he accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment according as the salary or emoluments of such appointment are of a greater or less amount than such pension.

15 (2) The Governor shall have power to remove any person from the office of Master in Equity on account of misbehaviour or inability to perform the duties of his office.

20 (3) The provisions of section 71A of the Equity Act, 1901-1939, shall extend to and in respect of the person who at the commencement of this Act holds the office of Master in Equity, in all respects as if that section had been in force at the time of his appointment to such office. Extension of s. 71A.

