

And whereas by an Order of Her Majesty Queen Victoria in Council of the 21st day of July, 1855, Her Majesty was pleased to order that in respect of the Colony of Van Diemen's Land the name of Tasmania should be substituted for that of Van Diemen's Land:

And whereas the Colony of Tasmania is now a State of the Commonwealth of Australia constituted by an Act passed in a Session of Parliament held in the sixty-third and sixty-fourth years of Her late Majesty's reign and entitled "An Act to constitute the Commonwealth of Australia":

And whereas it is expedient with a view to equalizing as far as may be the conditions under which His Majesty's subjects in the British Dominions beyond the Seas shall have a right of Appeal to His Majesty in Council, and to promoting uniformity in the practice and procedure in all such Appeals, that the provisions as to Appeals contained in the said Charter of Justice should be revoked and new provisions made for Appeals from the said Supreme Court to His Majesty in Council:

It is hereby ordered by the King's Most Excellent Majesty, by and with the advice of His Privy Council, that the said provisions be and the same are hereby revoked and that instead thereof the Rules hereunder set out shall regulate all Appeals to His Majesty in Council from the said State of Tasmania.

1. In these Rules, unless the context otherwise requires:—

"Appeal" means Appeal to His Majesty in Council;

"His Majesty" includes His Majesty's heirs and successors;

"Judgment" includes decree, order, sentence, or decision;

"Court" means either the Full Court or a single Judge of the Supreme Court of Tasmania exercising the powers of the Full Court;

"Record" means the aggregate of papers relating to an Appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before His Majesty in Council on the hearing of the Appeal;

"Registrar" means the Registrar or other proper officer having the custody of the Records in the Court appealed from;

"Month" means calendar month;

Words in the singular include the plural, and words in the plural include the singular.

2. Subject to the provisions of these Rules, an Appeal shall lie—

(a) as of right, from any final judgment of the Court, where the matter in dispute on the Appeal amounts to or is of the value of £1,000 sterling or upwards, or where the Appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of £500 sterling or upwards; and

(b) at the discretion of the Court, from any other judgment of the Court, whether final or interlocutory, if, in the opinion of the Court, the question involved in the Appeal is one which, by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council for decision.

3. Where in any action or other proceeding no final judgment can be duly given in consequence of a difference of opinion between the judges, the final judgment may be entered *pro forma* on the application of any party to

such action or other proceeding according to the opinion of the Chief Justice or, in his absence, of the senior puisne Judge of the Court, but such judgment shall only be deemed final for purposes of an Appeal therefrom, and not for any other purpose.

4. Applications to the Court for leave to appeal shall be made by motion or petition within 21 days from the date of the judgment to be appealed from, and the applicant shall give the opposite party notice of his intended application.

5. Leave to appeal under Rule 2 shall only be granted by the Court in the first instance—

(a) upon condition of the Appellant, within a period to be fixed by the Court, but not exceeding three months from the date of the hearing of the application for leave to appeal, entering into good and sufficient security, to the satisfaction of the Court, in a sum not exceeding £500, for the due prosecution of the Appeal, and the payment of all such costs as may become payable to the Respondent in the event of the Appellant's not obtaining an order granting him final leave to appeal, or of the Appeal being dismissed for non-prosecution, or of His Majesty in Council ordering the Appellant to pay the Respondent's costs of the Appeal (as the case may be); and

(b) upon such other conditions (if any) as to the time or times within which the Appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the despatch thereof to England as the Court having regard to all the circumstances of the case, may think it reasonable to impose.

6. Where the judgment appealed from requires the Appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the Appeal, as to the Court shall seem just. And in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such Order as His Majesty in Council shall think fit to make thereon.

7. The preparation of the Record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

8. The Registrar, as well as the parties and their legal agents, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the Appeal, and generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the Record.

9. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party never-