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SEVENTY-EIGHTH REPORT

of the

LAW REFORM COMMITTEE

of

SOUTH AUSTRALIA

to

THE ATTORNEY-GENERAL

**DEALING WITH DISPARATE SUBJECTS
IN THE INHERITED IMPERIAL LAW**

1984

The Law Reform Committee of South Australia was established by Proclamation which appeared in the *South Australian Government Gazette* of 19th September, 1968. The Members are:

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THE HONOURABLE MR. JUSTICE WHITE, *Deputy Chairman.*

THE HONOURABLE MR. JUSTICE LEGOE, *Deputy Chairman.*

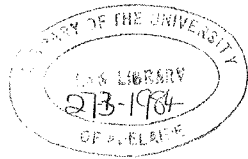
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P. R. MORGAN.

D. F. WICKS.

A. L. C. LIGERTWOOD.

G. F. HISKEY.



The Secretary of the Committee is Miss J. L. Hill, c/o Supreme Court, Victoria Square, Adelaide 5000.

SEVENTY-EIGHTH REPORT OF THE LAW REFORM COMMITTEE OF SOUTH AUSTRALIA DEALING WITH DISPARATE SUBJECTS IN THE INHERITED IMPERIAL LAW

To:

The Honourable C. J. Sumner, M.L.C.,
Attorney-General for South Australia.

Sir,

This is a further report in the series relating to the inherited Imperial Law in South Australia. It is not possible to subsume all the statutes dealt with herein under any one topic. They are disparate and they come from all periods of the statute book. This report is a necessary part of the process of eliminating or otherwise dealing with statutes which have not been commented on previously under specific topics. From 1225 to 1 Edward III (1327) we have dealt with the statutes and instruments treated by long usage as statutes one by one. From 1 Edward III it is possible to deal easily with the statutes by including all those remaining of any regnal year and we have dealt with them accordingly.

There is one departure in this report from previous reports in that we have been in correspondence with the Archbishop of Adelaide, the Most Rev. Dr. K. Rayner, on the topic of the repeal of the inherited Imperial law. It would appear that there are a number of Imperial Acts relating to the Church of England which arguably if not certainly apply to the Anglican Church in this State and to its adherents, and which should be preserved for that purpose. Tasmania has already legislated to this effect in the Tasmanian Church of England Constitution Act No. 90 of 1973 Section 2 subsections (2) and (3). *Ex abundanti cautela* we think that similar provision should be made in South Australia.

Because of the size of this particular project, we have thought it wise to divide it into four periods: 1225-1557, 1558-1702, 1703-1760 and 1761-1836. The present report deals with the period from Magna Carta in 1225 to the end of the statutes of Philip and Mary in 1557.

1. *Magna Carta 9 Henry III cc.1-37 (1225)* (otherwise referred to as (1297) 25 Edward I cc.1-37):

Chapter 1: This enacts (*inter alia*) that the Church of England shall be free and shall have her whole rights and liberties inviolable. This is one of the statutes which concern the Anglican Church here and there should be a saving clause accordingly.

Chapter 3: This deals with the wardship of an infant heir. It is technically still in force in South Australia but it was rendered obsolete for all practical purposes by the Statutes of Tenures 1660: 12 Car. II c.24. In any event, as is pointed out by Coke (Co. Inst. 210), it only applied to a male ward. It was repealed in England by the Statute Law Revision Act 1863 and it can be repealed here.

Chapter 4: This deals with waste by a guardian. It would appear on the face of it and also from the commentary by Coke that this chapter relates back to the previous chapter of wardship of infant heirs. Nevertheless on the wording of it it could relate to waste in a wider capacity.

However it does not seem to have been so dealt with in the textbooks. Coke's references are to the Statute of Gloucester Chapter 5 and to the Statute of Westminster I Chapter 21 which are the old statutes usually referred to when one deals with waste. A reference to *A Treatise on the Principles and Practice of the High Court of Chancery by Maddock: 2nd Edition (1820)* does not suggest that this chapter of Magna Carta was relied on at that time as providing any powers in cases of alleged waste. Insofar as the chapter deals with the ancient rights to wardship, it was rendered obsolete in any event by the Statute of Tenures 12 Car. II c.24 in the same way as the previous chapter of Magna Carta. This chapter was likewise repealed in England by the Statute Law Revision Act 1863 and can be repealed here.

Chapter 5: Guardians to maintain the inheritance of their wards, and custody by ecclesiastical persons. This is merely an extension of the matters discussed in relation to Chapter 4. Like the other chapters it was repealed in England by the Statute Law Revision Act 1863 and can be repealed here.

Chapter 6: Heirs should be married without disparagement. This like the other preceding chapters deals with the profitable rights of wardship. It was rendered obsolete like the others by 12 Car. II c.24. However Coke (2 Inst. 15) says that this chapter merely states the common law. In that case the repeal of the statute would not affect any underlying principle of the common law which still survives the statute of 1660. It was repealed in England in 1863 and can be repealed here.

Chapter 9: Liberties of London. This was merely local. It is still in force in England but can be repealed here.

Chapter 10: Distress for freehold service. As all land in South Australia is held in socage tenure, it is difficult to see how this chapter could have any application in South Australia. The chapter gave to the Crown the same rights of distress for freehold service as a lord had in relation to his freehold tenants: see *Williams on Real Property (24th Edition) 1933* pages 87 and 200. In relation to such English tenures as grand serjeanty it was no doubt possible, in theory at least, to levy such a distress down to 1948 when this chapter was repealed in England by the Statute Law Revision Act of that year. The chapter serves no useful purpose in South Australia and it can be repealed here. It should however be noted that according to Coke the chapter was merely declaratory of the common law: see II co. Inst. 21, so that the repeal of the statute will not, without more, repeal the underlying common law.

Chapter 13: Writ of darrein presentment. This dealt with presentment to advowsons and as Coke says, it was no doubt used to give a speedy remedy for fear of a lapse in presentation. We are none of us aware of any rights of advowson ever having been created in South Australia, although theoretically they could be so created by grant. The statute was repealed in England in 1863 and can we think be repealed here.

Chapters 15 and 16 dealing with bridges and banks of rivers were repealed in England in 1969 and can be repealed here.

Chapters 19, 20 and 21 dealing with purveyance were repealed in England in 1863 and can be repealed here.

Chapter 23 relating to weirs was repealed in England in 1969 and can be repealed here.

Chapter 25: Weights and measures. This chapter was impliedly repealed by the South Australian Ordinance 13 of 1843. It was repealed in England by the Statute Law Revision Act 1948 and can be repealed here.

Chapter 27: This is a further chapter in relation to wardship. It is obsolete learning as far as this State is concerned. It was repealed in England in 1863 and can be repealed here.

Chapter 28: Wager of law, and witnesses. We would have thought that wager of law had been abolished prior to the foundation of South Australia. The doctrine made a belated appearance in the case of *King v. Williams* [1824] 2 B. & C. 538. This case ultimately stirred the legislature into action and wager of law appears to have been abolished by the Civil Procedure Act 1833 (3 & 4 Will. I c.42 s.13) and this agrees with the opinion of *Holdsworth: History of English Law Volume I page 309* and *Plucknett: A Concise History of the Common Law (4th Edition 1948) page 113*. However the chronological tables of the statutes treat this chapter of Magna Carta as not being repealed until the Statute Law Revision Act 1863. In this state of uncertainty it would be as well to repeal the chapter expressly in South Australia.

Chapter 31: Tenure of barony coming into the King's hand by escheat, was repealed in England in 1863 and can be repealed here.

Chapter 32: Restraint on alienation of land. This chapter is in aid of chapter 10 dealing with distress for services and provides that no land shall be sold by a tenant unless enough is left to provide for the lord's services. It was repealed in England by the Statute Law Revision Act 1887 and can be repealed here.

Chapter 33 dealing with custodys of abbeys during vacancy was repealed in England in 1863 and can be repealed here.

Chapter 35 dealing with frankpledge and the sheriff's tourn was repealed in England in 1887 and can be repealed here.

Chapter 36: This deals with the law of mortmain. It is probable that the mortmain statutes were never in force in South Australia. The mortmain acts were held not to be in force in Victoria in *Mayor Aldermen and Citizens of Canterbury v. Wyburn and the Melbourne Hospital* [1895] A.C. 89 and presumably the same reasoning would apply in South Australia. However for certainty it may be as well to repeal the chapter here. It was repealed in England in 1863.

Chapter 37 dealing with escuage was partly repealed in England in 1863. It has never had any application in this State and can be repealed here.

Statutum Hiberniae de Coheredibus (1235); 20 Hen. III (in Ruffhead (1229) 14 Hen. III):

Ruffhead has a note that in the Old Abridgement: title "Homage" this is said not to be a statute. However it was repealed in England in 1863 on the basis that it was still in force as a statute. The learning relating to coparcenary, that is relating to female joint purchasers, is completely obsolete and the statute can be repealed here.

Provisiones de Merton (1235); 20 Hen. III cc.1-11:

Chapter 1: This deals with damages to be given on a writ of dower. As we have said in previous reports, two forms of dower may arguably still have a shadowy existence in South Australia: dower ex assensu patris and dower ad ostium ecclesiae. However we think all this learning is obsolete today. This chapter was impliedly repealed before South Australia was founded by the Statute (1833) 3 & 4 Will. IV c.105 and was expressly repealed in England partly by the Statute Law Revision and Civil Pro-

cedure Act 1881 and partly by the Statute Law Revision Act 1950. We think it can safely be repealed here.

Chapter 3: Redisseisin. As Coke points out this chapter gives the writs of redisseisin and post disseisin in cases in which the writ of novel disseisin did not lie at the common law (II Co. Inst. 83). The writs of right have long been obsolete in South Australia, if we ever inherited any of them, which is unlikely. The chapter was repealed in England in 1863 and can be repealed here.

Chapter 4: This deals with commonage. Commonage was largely customary in England and we would not have inherited it as customary law in South Australia as there obviously was a time subsequent to 1189 when the custom did not run here. However there have been attempts by grant to have land held as commons in South Australia. A typical example is Beaumont Common. Accordingly it may be wise to repeal the chapter in its application to South Australia. It was repealed in England in 1953.

Chapter 5: This provides that the usury laws should not apply to an infant. This statute is probably still in force in South Australia unless it was impliedly repealed or amended by the Moneylenders Act 56 of 1940 section 36. Coke (II Co. Inst. p.89) thinks that this statute only applied to the Jews because all usury was unlawful among Christians by virtue of such texts as Leviticus XXV: 36, and Psalm XV:5. If the statute had any application after the Jews were driven out of England in 1290, as for example by application to recognizances as Coke thinks is possible, it is completely obsolete law today, and the chapter can be repealed. It was repealed in England in 1863.

Chapter 7: Marriage of an heir became obsolete after the passing of the Statute of Tenures in 1660. It was repealed in England in 1863 and can be repealed here.

Sententia lata super cartas. This imposed a curse on breakers of Magna Carta which may not be thought to be very efficacious today. It was repealed in England in 1863 and can be repealed here.

The Statute of Provisions (1267); 43 Hen. III deals with suit of court and similar matters which are entirely obsolete. It was repealed in England by the Statute Law Revision Act 1863 and can be repealed here.

Statuta Incerti temporis: We have dealt with the statutes of uncertain date as they appear in the chronological table of the statutes and where the references differ in Ruffhead, as they mostly do, we have indicated the divergent readings. We have treated them all as statutes although in fact they are a motley collection of royal mandates, writs and other instructions and of administrative directions of various kinds. In most cases they do not appear ever to have been passed in Parliament. However the inveterate usage of all the law books is to treat them as having the force of statutes and we have followed this usage as have the revisers of the statute law in England.

Les Estatuz del Eschekere (in Ruffhead 51 Hen. III part of stat. 4 and stat. 5):

This dealt with the old exchequer accounting practice the records of which were destroyed in the great fire in Westminster Hall in 1834. The statutes were repealed in England in 1863 and 1881 and can be repealed here.

De Districione Scaccarii (in Ruffhead 51 Hen. III part of stat. 4):

This was partly repealed in England in 1863 and the remainder is still in force there. It can be repealed here.

Assisa Panis et Cervisiae (in Ruffhead referred to as (1256) 51 Hen. III stat. 1):

This fixes the prices of bread and of ale. It was probably never received in South Australia. It was repealed in England by the Statute Law Revision Act 1863 and can be repealed here.

Statutum de Pistoribus:

This dealt with mills and toll. It was partly repealed before the Province of South Australia came into existence by the English Weights and Measures Act 1824 (5 Geo. IV c.74 s.23) and the residue was repealed partly by the Statute Law Revision Act 1863 and partly by the Statute Law Revision Act 1948. Insofar as part of it may possibly have been inherited here, we think that the balance remaining after the operation of the 1824 Act should be repealed for certainty.

Assisa (or tractatus) de Ponderibus et Mensuris in Ruffhead Statute (1303) 31 Edw. I):

It is doubtful whether this statute relating to weights and measures was ever received in South Australia. It was however repealed in England by the Statute Law Revision Act 1863 and for certainty should be repealed here.

De Dimissione Denariorum:

This dealt with the currency of halfpence and farthings. It was probably never in force in South Australia and if it was it was impliedly repealed by the Commonwealth Coinage Act No. 6 of 1909. However it was repealed in England in 1863 and for the purposes of certainty it should be repealed here.

Statutum de Admensura Terrae (in Ruffhead (1305) 33 Edw. I stat. 6):

This dealt with the assize of the acre. It is doubtful that we received it here. If we did, then it was probably at least impliedly repealed by the Weights and Measures Ordinance 13 of 1843. It was repealed in England in 1863 and should be repealed here.

De Compositione Ulnae:

This statute dealt with the size of the inch, the foot, the yard and perch. Like the last statute, it probably never was in force in South Australia. If it was, then like the previous one, it was impliedly repealed by the Weights and Measures Ordinance 13 of 1843. It was repealed in England in 1863 and for certainty it should be repealed here.

Prohibitio formata de Statuto Articulorum Cleri:

This dealt with ecclesiastical jurisdiction. It was repealed in England in 1863 and can be repealed here.

Les Estatuz de Excestre (in Ruffhead Statutum Exonie (1285) 14 Edw. I):

This statute dealt with inquests. It is possible that it was received in

South Australia but that is unlikely. It was repealed in England in 1863 and can be repealed here.

Statutum Super Vicecomites et Clericos:

This statute dealt with sheriffs and their clerks. It is long obsolete in England and probably was never received by us. If it was, it was impliedly repealed by Ordinance 15 of 1842. It was repealed in England in 1863 and for certainty it can be repealed here.

Statute of Essoins (in Ruffhead (1318) 12 Edw. II stat. 2):

This statute dealt with grounds for adjournments of actions. It is doubtful whether it was ever in force in South Australia, as it was probably obsolete long before 1836. It was repealed in England in 1863 and can be repealed here.

Statutum de Visu Terrae:

This statute dealt, as its name suggests, with view of land and also with essoins, with which we have just dealt above. It is just possible that parts of it at least were still applicable in South Australia in 1836. It was repealed in England in 1863 and can be repealed here.

Statutum pro Tenentibus per Legem Angliae:

This dealt with tenants by the curtesy. It is possible that we did receive this statute, as tenancy by the curtesy was probably applicable in 1836. It was repealed in England in 1925. It is obsolete today and can be repealed here.

Ne Rector Prosternat (in Ruffhead 35 Edw. I st. 1 c.2):

This prohibited ecclesiastics from sending money to their superiors overseas and from going overseas or taking the goods of their monasteries or houses overseas. It was repealed in England by the Statute Law Revision Act 1958 and can be repealed here.

Les Estatuz de la Jeurie (in Ruffhead *Statutum de Judeismo*):

These statutes imposed amongst other things certain disabilities on the Jews totally out of keeping with modern thought. The statutes were repealed in England by the Religious Disabilities Act 1846 (9 & 10 Vict. c.59 s.1) and should be repealed here.

Statutum de Gavaletto (in Ruffhead Stat. 10 Edw II):

This dealt with recovery of rents. It was repealed in England in 1863 and can be repealed here.

Consuetudines Cantiae:

This dealt with the customs of Kent. It was repealed in England in 1948 and can be repealed here.

Statutum de Prerogativa Regis (in Ruffhead (1324) 17 Edw. II stat. 1):

Chapter 14 (in Ruffhead chapter 12) dealt with Norman land holdings. It was repealed in England in 1863 and can be repealed here.

Chapter 15 (in Ruffhead chapter 13): This deals with land held by tenure in capite from the Crown. All land is of course now so held as there are no mesne lords nor ever have been in South Australia. The law in this chapter is obsolete. It was repealed in England in 1863 and can be repealed here.

Chapter 16 (in Ruffhead Chapter 14) dealt with escheat of bishop's freehold tenants. It was repealed in England in 1887 and can be repealed here.

Modus Faciendi Homagium (in Ruffhead (1324) 17 Edw. II stat. 2):

This dealt with the forms for doing homage and rendering fealty. It is doubtful that it was ever in force in South Australia. It was repealed in England in 1887 and can be repealed here.

Statutum de Militibus (in Ruffhead (1307) 1 Edw. II stat. 1):

This statute dealt with excuses that might be made so that a man could avoid being knighted. We have not noticed any such reluctance to be knighted in South Australia. The learning on this statute was very diffuse and is set out in detail in II Co. Inst. 593-598. If the statute was ever in force in South Australia, which is arguable, it serves no useful purpose now and should be repealed. It was repealed in England in 1863.

De Catallis Felonum:

This dealt with forfeiture on corruption of blood for felony. It was impliedly repealed by the South Australian Act 25 of 1874 and for certainty it should be repealed now. It was dealt with in the Seventieth Report of this Committee. It was repealed in England by the Statute Law Revision Act 1948.

Statutum Armorum:

This dealt with tournaments of battle. It was repealed in England in 1863 and can be repealed here.

Statum de Sacramentis (in Ruffhead *Articuli et Sacramenta*):

This dealt with the oaths to be taken by the officers of the King serving on an eyre. As we have said in previous reports, the duty of the justices in eyre to go in itinere had ceased long before South Australia was founded. It was repealed in England in 1863 and should be repealed here.

Capitula Itineris:

This like the previous statute deals with enquiries to be made by justices in eyre and is similarly obsolete. It was repealed in England in 1863 and can be repealed here.

Capitula Escaetrie:

This statute dealt with enquiries by the King's Escheators. We have now reported to you separately on escheat. This particular statute is of no importance and it can be repealed. It was repealed in England in 1863.

Extenta Manerii (in Ruffhead (1276) 4 Edw. I stat. 1):

This statute provides for surveys of the Crown demesnes, commons parks and woods and other holders from the Crown. As we have said in previous reports, it is a matter of some debate how far the forest and game laws applied in this State, even though the latter were undoubtedly applied in the early days of the colony. We do not think this statute has any application to South Australia. It was repealed in England in 1863 and can be repealed here.

Assisa de Foresta:

This is another one in the series of the forest laws. It was repealed in England by the Wild Creatures and Forest Laws Act 1971 (1971 Chapter 47). For the same reasons as we have discussed in relation to the immediately preceding statute, it can be repealed here.

Articles of Inquisition upon the Statute of Wynton (in Ruffhead (1306) 34 Edw. I stat. 2 and referred to as the *Statute of Winchester*):

This was repealed in England in 1863 and can be repealed here.

Visus Franciplegii: (in Ruffhead (1324) 18 Edw. II):

View of frankpledge and the old Court of the Sheriff's tourn were long obsolete in 1836. The statute was repealed in England by the Sheriffs Act 1887 and can be repealed here.

Le Serement du Visconte (in Ruffhead (1306) 34 Edw. I):

This deals with the oath to be taken by a sheriff in the days when the sheriff was a high judicial officer of the Crown. It is totally obsolete today. It was repealed in England in 1863 and can be repealed here.

Forma Juramenti Illorum:

This deals with the oaths to be taken by the King's Council. Again it is totally obsolete today. It was repealed in England in 1863 and can be repealed here.

Juramentum Episcoporum:

This deals with the oaths to be taken by bishops and does not apply in South Australia. It was repealed in England in 1863 and can be repealed here.

Juramentum Escaetorum:

This Statute is of no importance in South Australia. It was repealed in England in 1863 and can be repealed here.

Juramentum Majorum et Ballivorum:

This deals with the oaths to be taken by Mayors and Bailiffs. It is inconsistent with our present Local Government Act 1934. It was repealed in England in 1887 and can be repealed here.

Dictum de Kenilworth (1266) 51 & 52 Hen. III (in Ruffhead 51 Hen. III):

This deals with the upheavals following the rising of Simon de Montfort and is in nature of a writ of enquiry rather than a statute. It is totally

obsolete today. It was repealed in England in 1863 and can be repealed here.

Statutum de Marleberge (1267) 52 Hen. III:

Chapter 1: penalty for taken wrongful distress. This was left by our Fifty-Fourth Report. It is still in force in England. It can be repealed here.

Chapter 4: distress for services as between lord and tenant. As we pointed out earlier, distress for services in freehold were abolished in 1948 in England. Insofar as the statute may deal with the ordinary relationship of landlord and tenant, distress is now abolished with regard to private dwelling houses and this statute does not add anything to the general law. Strangely enough it appears still to be in force in England. It may in our opinion be repealed here.

Chapter 5: This is a confirmation of Magna Carta and according to the heading also the Charter of the forest. It is however to be observed that the original Latin text of the statute in Ruffhead does not refer to the Charter of the forest. However the missing part in the Latin appears in II Co. Inst. page 108 which suggests that there must be more than one Latin version of the statute. It really deals with enquiries to be made by justices in eyre. It was repealed in England in 1881 and can be repealed here.

Chapter 16: This deals with wardship, and is now obsolete. It was repealed in England in 1863 and can be repealed here.

Chapter 17 deals with guardians in socage tenure. This chapter would have ceased to have been of any importance with the Statute of Tenures 1660. It was repealed in England by the Statute Law Revision Act 1948 and can be repealed here.

Chapter 21: Replevin of distresses. This is probably in force in South Australia. It is the only legislation so far as we know on the topic at the moment. The remedy given by this statute did not exist at the common law: see II Co. Inst. page 139. The chapter was repealed in England in 1888 and can be repealed here.

Chapter 22: Freeholders—Prohibition of distress against freeholders without the King's Writ. This probably did not survive the Statute of Tenures 1660. The ancient and dubious learning which can be found in II Co. Inst. pages 142-143 is of no importance today and the statute can be repealed here. It was repealed in England in 1863.

Chapter 24: Amercements of towns by justices in eyre. For the reasons we have discussed previously, this was all obsolete learning before 1836. It was repealed in England in 1863 and can be repealed here.

Chapter 27: This deals with a clerk claiming his clergy. Benefit of clergy had nearly all gone before 1836 in this State. There were rare exceptions as for example in relation to peers. This statute was repealed in England by the Statute Law Revision Act 1863 and it can be repealed here.

Chapter 28: Wrongs done to the predecessor of a bishop or abbot or prior or other prelate. This was a serious mischief at the common law as is set out by Coke (II Co. Inst. c.29 pages 151-152) (Coke's numbering differs in part of his commentary on this statute and he is referring to the chapter which both Ruffhead and the King's Printer's version of the statutes refer to as Chapter 28). However this statute could not now

apply except where a prelate is a corporation sole. We do not know of any such corporation sole in South Australia. The Act was repealed in England in 1879 and can be repealed here.

Chapter 29: A writ of entry sur disseisin the post. As we have in said in previous reports, if the real actions were still in force in South Australia in 1836 we must no doubt have inherited them. They were certainly obsolete by that date and have no value now. The chapter was repealed in England in 1863 and can be repealed here.

Statute of Westminster I (1275); 3 Edw. I cc.1-51:

Chapter 3: Escapes. As appears from Coke (II Co. Inst. page 165), this relates to escapes in the old court of the sheriff and in the leet courts of the lords. It is very doubtful whether any of this was still available in 1836 or if we inherited it if it was. It was repealed in England in 1863 and can be repealed here.

Chapter 5: This enacts that elections should be free of disturbances. It is still in force in England and we no doubt inherited it here. It should be repealed and placed in our Electoral Act 1919.

Chapter 6: Amerciaments. This statute was passed in augmentation of Chapter 14 of Magna Carta which reads "A free man shall not be amerced" etc. The Courts decided that Chapter 14 did not apply to corporations. This chapter of the Statute of Westminster provides that corporations are not to be amerced without reasonable cause, with exceptions. There seems to be no other statute dealing with the liability of corporations in this respect. The statute was repealed in England in 1967 and can we think be repealed here, but with a saving of the amendment to the law made by the statute.

Chapter 7 dealt with the ancient problem of purveyance to the use of the superior lord. It was repealed in England in 1863 and can be repealed here.

Chapter 16 which enabled justices in eyre to fine a county in default, was repealed in England in 1863 and can be repealed here.

Chapter 22: This provides for a penalty for an heir marrying without the consent of the guardian. This again belongs to the ancient concept of guardianship under which it was a valuable asset to be sold or otherwise disposed of according to the pleasure of the guardian. It was repealed in England in 1872 and can be repealed here.

Chapter 23: Distrain of foreigners. As Coke points out (II Co. Inst. page 204), it was possible before the statute, if one member of a merchant guild owed money in any city in England in which the custom occurred, to arrest any other member of the same guild for the debt of the first merchant. That is long since obsolete. It was repealed in England in 1872 and can be repealed here.

Chapter 36: This dealt with the lord's power to demand aids to make his son a knight or for his daughter's dowry. It was repealed in England in 1863 and can be repealed here.

Chapter 50: This is a saving of the rights of the Crown in relation to the statute. It is unnecessary to retain this portion of the statute unrepealed. It appears to be still unrepealed in England but it can be repealed here.

Chapter 51: Assizes and darrein presentments. Originally these actions could not be taken in Advent, Septuagesima and Lent. This disability is

taken away by the statute. It was repealed in England in 1863 and can be repealed here.

Statute de Rageman (1276) 4 Edw. I (in Ruffhead placed among the Statutes of uncertain date):

This deals with justices of oyer and terminer and justices going on assize. It is obsolete now. It was repealed in 1863 in England and can be repealed here.

Exposition of the Statute of Gloucester (1278) 6 Edw. I:

This deals with damages and with real actions. It was repealed in England in 1863 and can be repealed here.

Statutum de Viris Religiosis (1279) 7 Edw. I (in Ruffhead 7 Edw. I stat. 2):

This is the major statute dealing with mortmain. It was repealed in England by the Mortmain and Charitable Uses Act 1888. For reasons discussed earlier in this report, it is probable that we never inherited the Mortmain Acts in South Australia but for certainty it would be as well to repeal the statute.

Statutum Walliae (1284) 12 Edw. I:

This dealt with the recent conquest of Wales by Edward I. It was repealed in England in 1887 and can be repealed here.

Statute of Westminster II (1285) 13 Edw. I cc. 1-50:

Chapter 1: Entail. This is in force in South Australia as amended by 3 & 4 Will. IV c.74 by reason of the Estates Tail Act 1881 section 2. It should be dealt with as part of the general review of real property law.

Chapter 2: Recordare. This was the form of recordare used to challenge distress and attachment. The writ was generally used to remove proceedings from the Court of a lord into the King's Court. The use of the writ and the reasons for its name are set out in *Carter: A History of the English Court* page 35 and in *Plucknett: A concise History of the Common Law (4th Edition 148)* page 102. All of this law is obsolete now. It was repealed in England in 1881 and it can be repealed here.

Chapter 5: This deals with the recovery of advowsons. It could affect rights of presentation created by grant in relation to an Anglican Church in this State. It was repealed in England in 1969. It should be repealed here with the saving relating to the Anglican Church referred to at the beginning of this report.

Chapter 19: Debts in intestate estates. This provides that the administrator, who in those days was the Ordinary of the Bishop, should pay the debts of the intestate deceased out of the assets which came into his hands. This would appear still to be the law in South Australia. We recommend that the statute be repealed, but that a section in the same terms be placed in the Administration and Probate Act 1919.

Chapters 32 and 33: Mortmain. For the same reasons as we have discussed above, these statutes probably did not become part of the law of South Australia but for greater certainty they ought to be repealed. Chapter 32 was repealed in England in 1888 and chapter 33 in 1857.

Chapter 37: Distress to be levied only by bailiffs. This chapter is impliedly repealed in South Australia by the Landlord and Tenant Act 2301 of 1936 Section 14. The statute was repealed in England in 1969 and can be repealed here.

Chapter 41: Lands given in alms. This was probably never received in South Australia. It equally probably did not survive the Statute of Tenures 16660. It was repealed in England by 19 & 20 Vict. c.64 and can be repealed here.

Chapter 46: This deals with commonage. We have had reason to deal with this subject previously in this report, and have pointed out that although no customary commons exist in South Australia, some commons have been erected by grant. The statute was repealed in part in England by 7 & 8 Geo. IV c.27 s.1 and by the Law of Commons Act Amendment Act 1893 and the remainder is still in force in England. However we see no reason why the statute should remain in force in South Australia and the balance of the statute remaining after the amendment made by the statute of 7 & 8 Geo. IV can be repealed in South Australia.

Chapter 47 is early fisheries legislation relating to the taking of salmon out of season. It was repealed in England in 1863 and can be repealed here.

Chapter 48: View of land. This again has been dealt with by us in this report. It is obsolete learning. It was repealed in England in 1863 and can be repealed here.

Statute Civitatis Londonii (1285) 13 Edw. I regulates the City of London. This was repealed in England in 1959 and can be repealed here.

Forma Concessionis Exemplificationis Cartarum (1285) 13 Edw. I (in Ruffhead 13 Edw. I stat. 6):

This is one of the inexpressible statutes relating to the confirmation of the Great Charter. It was repealed in England in 1863 and can be repealed here.

Pardon to Henry de Bohun and Others (not in Ruffhead):

This was treated in England as a statute and was repealed in 1948. It can be repealed here.

Statutum de Tallagio (1297) 25 Edw. I (in Ruffhead 34 Edw. I st. 4):

Chapter 1 says that the King shall have no tallage or aid without consent of Parliament. This is one of the constitutional statutes giving the power of the purse to Parliament. It is still in force in England and will be dealt with in our report on constitutional statutes. Chapters 2-5 were repealed in 1969 and can be repealed here.

Sententia Domini (1297) 24 Edw. I (in Ruffhead 25 Edw. I stat. 2):

This pronounced a solemn curse on breakers of the Great Charter. One can only say by reading subsequent history that the curse was not very effective. It would be even less effective in this age of unbelief. It was repealed in England in 1863 and can be repealed here.

Articuli super Cartas (1300) 28 Edw. I (in Ruffhead 28 Edw. I stat. 3):

Parts of this statute have been dealt with in previous reports and we now deal with the remaining chapters.

Chapter 13 deals with the persons to be chosen as sheriffs. It was repealed in England in 1887 and can be repealed here.

Chapter 14 restricted the power of the Crown to make exorbitant charges for bailiwicks and hundreds. It was repealed in England in 1863 and can be repealed here.

Chapter 17 dealing with the observance of the Statute of Winchester was repealed in England in 1863 and can be repealed here.

Chapter 18 deals with waste by escheators in the lands of wards. We have already reported to you on the subject of escheat. It was repealed in England in 1863 and can be repealed here.

Chapter 20 dealing with goldsmith's marks was repealed in England partly in 1857 and partly in 1969. It may be repealed here.

Ordinato de Foresta (1306) 34 Edw. I:

This was part of the King's forest laws. It was repealed in England in 1971 and can be repealed here.

Statutum de Apportis Religiosorum (1307) 35 Edw. I (in Ruffhead 35 Edw. I stat. 1):

This was a general statute dealing with the clergy. It was we think never in force in South Australia but in any event the matters dealt with are long out of date and it should be repealed for certainty. It was repealed in England in 1863.

De Prisis (1308) 2 Edw. II:

This ordered the observance of 3 Edw. I c.1. It was repealed in England in 1863 and may be repealed here.

Statutum Apud Staunford (1309) 3 Edw. II (in Ruffhead (1308) 3 Edw. II):

This is supplementary to the Articuli Super Carta and the same observations apply to it as to the previous statute. It was repealed in England in 1863 and can be repealed here.

Quod nullus molestatur and Ne quis occasionetur (1313) 7 Edw. II:

These were two statutes relating to Piers Gaveston Edward II's favourite who had been banished under pain of death. The statutes were passed to reverse the banishment and death penalty. They were repealed in England in 1948 and can be repealed here.

Statute on coming armed to Parliament (1313) 7 Edw. II (in Ruffhead (1279) 7 Edw. I stat. 1):

This forbade members to come armed or to use force against the King's peace. This is a constitutional statute and will be dealt with in that report.

Articuli Cleri (1315) 9 Edw. II stat. 1:

We have already dealt with Chapters 10, 15 and 16 of this statute in our Fifty-Ninth Report. The balance of the statute deals with matters ecclesiastical. The statute has been repealed in England by a series of statutes from 1828 to 1969, and can be repealed here, but with a saving in favour of the Church of England.

Statutum Pro Clero (1316) 2 Edw. II (in Ruffhead (1309) 3 Edw. II):

This dealt with purveyance as charged against the clergy. This is long obsolete. The statute was repealed in England in 1863 and can be repealed here.

Exilium Hugh le Despenser (1322) 15 Edw. II:

This was another statute dealing with the exile of another of the King's favourites. It was repealed in England in 1948 and can be repealed here.

Statute revoking pardon (1322) 15 Edw. II:

This statute revoked the pardon granted to the pursuers of the Despensers and swung the pendulum back in favour of the King's favourites. It was also repealed in England in 1948 and can be repealed here.

It should be observed that these two statutes as they appear in the Statutes of the Realm are represented by three charters and a statute in Ruffhead (Ruffhead Volume I page 179 and Appendix) and a note to that effect should be added to the repealing statute here.

Statute regarding the King's Household (1323) 15 Edw. II (In Ruffhead (1323) 16 Edw. II):

This statute which regulated the King's Household is said in the official chronological table of statutes to have been amended by the Parliament Act 1911 (1 & 2 Geo. V c.13). The Parliament Act does not say that it amends the Statute of Edward II and there is nothing in the discussion in *May's Parliamentary Practice 17th Edn. (1964)* to suggest that it does. Subject to that amendment the statute appears to be still in force in England. In any event it seems to have no application in South Australia and should be repealed here.

Statutum de Forma Mittendi Extractas (1323) 16 Edw. II:

This statute dealt with estreats. It was repealed in England in 1863 and can be repealed here.

Statutum Pro Hibernia (1323) 17 Edw. II stat. 1 (in Ruffhead (1289) 17 Edw. I):

This statute dealt with Ireland and almost certainly had no bearing on anything in this State. However for certainty it should be repealed. It was repealed in England in 1863.

Statutum de terris Templariorum 17 Edw. II stat. 2 (in Ruffhead 17 Edw. II stat. 3):

This statute followed the dissolution of the Templars' Order and the disposal of its lands after prosecutions for blasphemy and sodomy, mainly in France, and the decree of the Pope subsequent thereto. It mainly dealt

with the future disposition of their lands, some part of which of course ultimately came to be Middle Temple and Inner Temple Inns of Court. The statute deals with the conveyance of certain of the property and rights of the Templars to the Order of St. John of Jerusalem. We cannot think that that part of the Act has any bearing on the present order of St. John in South Australia. The statute needs to be removed from the statute book. It was repealed in England in 1948 and can be repealed here.

Statutue 1 Edw. III stat. 2 (1327):

This deals with various aspects of civil procedure. Chapters 4, 5 and 12 were dealt with in the Sixty-Fifth Report of this Committee, chapter 14 in the Fifty-Ninth Report of the Committee and Chapter 16 in the Fifty-Eighth Report of the Committee. There is nothing in the balance of the statute which requires preservation in this State and the balance of the statute can be repealed. They were repealed in England by a series of statutes from 1863 to 1967.

Statutes of Northampton Chapters 1-17; 2 Edw. III cc.1-17 (1328):

Chapters 1, 2, 7, 8, 9, 10, 11 and 13, 16 and 17 have been dealt with in the Fifty-Fifth Report. Chapter 3 was dealt with in the Fifty-Ninth Report and chapters 5 and 6 in the Sixty-Fifth Report. Chapter 14 was repealed by 49 Geo. III c.109 s.1. The balance of the statute, chapters 4, 12 and 15 are all of historical interest only. They were repealed in 1863. They can be repealed here.

Statutes 4 Edw. III cc.1-15 (1330):

Chapters 1-14 were dealt with in the Fifty-Fifth Report of this Committee. Chapter 15 dealing with leases of wapentakes and hundreds was repealed in England in 1881 and can be repealed here.

Statutes 5 Edw. III cc.1-4 (1331):

We reported to you on these in the Fifty-Fifth Report of the Committee recommending that all the chapters in the statute be repealed.

Since writing that report our attention has been drawn to an article entitled "*Due Process and Inquisitions by Mummery in (1981) 97 L.Q.R. 287 at 294 and note 34* where the learned author regards 5 Edw. III c.9 as being one of the statutes underlying the concept of due process. We think therefore that our recommendation in the Fifty-Fifth Report should be varied by advising you to repeal 5 Edw. III c.9 but with a saving of the law contained in that chapter of the statute.

We should also have pointed out that chapter 10 was repealed by 6 Geo. IV c.50 s.62 before the coming into existence of the then Province of South Australia.

Statute of York 9 Edw. III stat. 1 (1335):

Chapter 3 of this statute was dealt with in the Fifty-Fifth Report and Chapter 5 in the Sixty-Fifth Report. There is nothing in Chapters 1, 2 and 4 which need to be kept. They were repealed in England in 1863 and can be repealed here.

Statute of Pardons 10 Edw. III stat. 1 (1336):

Chapter 2 of this Statute was dealt with in the Sixty-Fifth Report and Chapter 3 was repealed by 5 Will. III & Mary c.13. Chapter 1 dealing

with confirmation of charters was repealed in England in 1863 and can be repealed here.

Statute of Purveyors 10 Edw. III stat. 2 (1336):

Purveyance was a very great grievance in the Middle Ages when the King had to live off the country as the court travelled around from place to place. That is long since obsolete. It was repealed in England in 1863 and can be repealed here.

Statutum de Cibariis Utendis 10 Edw. III stat. 3 (1336):

This statute was a sumptuary law of a type common in the Middle Ages. It was repealed in England by the state 19 & 20 Vict. c.64 and can be repealed here.

The State of Wool 11 Edw. III (1337) cc.1-5:

This statute was of temporary importance and indeed Ruffhead treats part of it as having expired. However it would not appear on the face of it that is so and some parts of it, as for example chapter 3 which declares that no clothes made beyond the seas shall be brought into the King's Dominions, would be merely mischievous today. The statute was repealed in England in 1863 and can be repealed here.

Statute 14 Edw. III stat. 1 cc.1-9 (1340):

Chapters 5-9 inclusive are dealt with in the Fifty-Fifth Report of this Committee. Chapters 1-4 deal with pardons and with Englishry. Chapter 2 was repealed by 25 Edw. III stat. 3 c.2. Chapters 1, 3 and 4 are obsolete and can be repealed here. They were repealed in England in 1863 and 1969.

Statute 14 Edw. III stat. 1 cc.10-12 (1340):

Chapter 10 deals with custody in gaols. Subclause (4) deals with excessive custody in gaols and could possibly be in force in this State. These matters are however regulated today by the Prisons Act 1936 and the regulations made thereunder. The statute was repealed in England in 1863 and can be repealed here. Chapters 11 and 12 deal with statutes merchant and weights and measures. They were likewise repealed in 1863 and can be repealed here.

Statute 14 Edw. III stat. 1 c.13 (1340):

This deals with escheators and waste in the lands of the King's wards. This probably did not survive the Statute of Tenures (1660) 12 Car. II c.24 but it is treated in England as not having been repealed until the Statute Law Revision Act 1863. It can be repealed here.

Statute 14 Edw. III stat. 1 cc.14-21 (1340):

Chapter 14 is dealt with in the Sixty-First Report of this Committee; chapter 15 in the Fifty-Ninth Report and chapters 16-18 in the Fifty-Fifth Report. Chapter 19 is on purveyors and chapters 20-21 are mediaeval taxation law which were repealed in England in 1863 and can be repealed here.

14 Edw. III Statute 2 — (1340):

This dealt with taxation for Edward III's war with France. It was repealed in England in 1863 and can be repealed here.

14 Edw. III Statute 3 (1340) (in Ruffhead Statute 5):

The statute denies that England was subject to the Kings of France. It was repealed in England in 1948 and can be repealed here.

14 Edw. III Statute 4 —1340): cc.1-5:

This statute deals with bishop's temporalities and purveyances with regard to the clergy. Chapter 2 was repealed by 25 Edw. III stat. 3 c.2. The balance of the Statute was repealed in England in 1863 and can be repealed here.

15 Edw. III Statute 1 (1341):

This dealt with trial by peers and was repealed by 15 Edw. III stat. 2.

15 Edw. III Statute 2 (1341):

This is the repealing statute last referred to. It was repealed in England in 1863 and can be repealed here.

15 Edw. III statute 3 (1341):

This deals with conditions attached to a parliamentary grant for carrying on the war with France. It was repealed in England in 1863 and can be repealed here.

Statute 18 Edw. III statute 1 (1344):

This statute dealt with writs of exigent. We recommended its repeal in the Fifty-Fifth Report of this Committee.

Statute 18 Edw. III stat. 2 cc.1-5 (1344):

Chapter 1 is dealt with in the Sixty-Fifth Report of this Committee; chapter 2 in the Fifty-Eighth Report and chapter 5 in the Fifty-Fifth Report. Chapters 3 and 4 deal with wool and weights and measures. They were repealed in England in 1863 and can be repealed here.

Statute 18 Edw. III stat. 2 c.6 (1344):

This is the first of the statutes dealing with the question of what moneys can be tendered to pay small debts and in this case of less than twenty shillings. It is treated in Ruffhead as having expired but it was treated by the King's Printers' Edition of the Statutes as being in force and was therefore repealed in 1863. For greater certainty it should be repealed here. The matter would today be governed by Commonwealth legislation in Australia.

Statute 18 Edw. III stat. 2 c.7 (1344):

This deals with soldiers' wages. It was repealed in England in 1863 and can be repealed here.

Statute 18 Edw. III stat. 3 cc.1-7 (1344):

Chapter 3 is another one in the long line of mortmain statutes. As we said earlier, we doubt whether they were ever received in South Australia but for certainty it should be repealed now. It was repealed in England in 1888.

Chapter 2 was repealed by 9 Geo. IV c.31 s.1. Chapter 1 deals with an exemption of the clergy from secular jurisdiction and was repealed in 1967. Chapter 5 is dealt with in the Sixty-First Report of this Committee. Chapters 4, 6 and 7 deal with purveyance and ecclesiastical matters. They were repealed in England between 1863 and 1967 and can be repealed here. That means of the statutes of that year, chapters 1, 3, 4, 6 and 7 can now be repealed in South Australia.

Statute 20 Edw. III cc.1-6 (1346):

Chapter 5 deals with the ever present mediaeval problem of maintenance. It was probably never received by us in South Australia. It was repealed in England in 1881 and it can be repealed here. Chapters 1-2 are dealt with in the Fifty-Fifth Report of this Committee, chapters 3 and 6 in the Sixty-First Report and chapter 4 in the Fifty-Ninth Report.

Oath of the Clerks of Chancery 20 Edw. III (1340):

This was repealed in England in 1871 and can be repealed here.

Statute 23 Edw. III—Statute of Labourers (1349):

Most of this statute was repealed by 5 Eliz. I c.4 and the balance was impliedly repealed here by Ordinance 10 of 1841. It was repealed in England in 1863 and can be repealed here.

Statute 25 Edw. III stat. 2 (1350) (in Ruffhead stat.1):

This statute was impliedly repealed in South Australia by the Ordinance 10 of 1841. It was repealed in England in 1863 and for certainty it should be repealed here now.

Statute 25 Edw. III stat. 3, the Statute of Cloths (1350) (in Ruffhead stat. 4):

Chapter 3 of this statute relating to forestalling was probably in force in South Australia in 1836 as that offence was capable of applying in this State (then Province). The whole of the statute is long since obsolete. It was repealed in England in 1863 and can be repealed here.

Statute 25 Edw. III stat. 4 (350):

This is a statute of provisors. We probably never received it here. It was repealed in England in 1948 and can be repealed here.

Statute 25 Edw. III stat. 5, the Statute of Purveyance (1350):

Parts of this statute have been dealt with in the Fifty-Fourth, Fifty-Fifth, Fifty-Ninth, Sixty-First and Sixty-Fifth Reports, namely chapters 2, 3, 4, 5, 13, 14, 16, 17 and 19. The remainder of the statute deals entirely with obsolete law. Chapters 2 and 4 were in fact in force in England down to 1979 when the whole of the balance of the statute was repealed. Chapter 2—The Statute of Treason—and chapter 4 on Lawful Presentment are still in force in South Australia. The balance of the

statute, so far as it has not been dealt with in our previous reports, can similarly be repealed here. We should add that our comments in the Sixty-First Report on chapter 4 are reinforced by the article to which we have referred above: *Due Process and Inquisitions by Mummery (1981) 97 L.Q.R. 287 at 294 note 30.*

Statute 25 Edw. III stat. 6 (1350) (statute 3 in Ruffhead):

This is one of the statutes relating to the rights of the clergy. Chapters 4 and 5 were repealed by 7 & 8 Geo. IV c.27 and 9 Geo. IV c.53. It was never in force in South Australia and the balance of the statute has been repealed in England by a series of statutes from 1863 to 1969. The balance of the statute should be repealed in this State.

Statute 25 Edw. III stat. 7 (1350):

This dealt with labourers, subsidies, and benefit of clergy. It was repealed in England in 1863 and can be repealed here.

Statute 27 Edw. III stat. 1 (1353):

This is a further statute of provisors. Chapter 1 was dealt with in the Fifty-Fifth Report and chapter 2 in the Fifty-Ninth Report. Chapters 5, 7 and 8 were repealed by 3 Geo. IV c.41 s.1. The balance of the statute was repealed by statutes of 1845, 1863 and 1948. Similarly the balance not dealt with in our previous reports or in the Statute of George IV should be repealed here.

Statute 27 Edw. III stat. 2 (1353):

This is a statute of the staple which was repealed in England in 1863 and can be repealed here.

Statute 28 Edw. III cc.1-15 (1354):

Chapters 1 and 2 deal with confirmation of charters and with the marches of Wales. They were repealed in 1863 and 1887 and can be repealed here. Chapter 12 dealt with the long vexed argument of purveyances for the King's Household. It was repealed in England in 1863 and it can be repealed here. Chapters 3, 4, 6-10 and 13 are dealt with in the Fifty-Fifth, Fifty-Eighth and Fifty-Ninth Reports of this Committee. Chapter 5 was repealed by 5 Will. III and Mary c.17, chapter 11 by 9 Geo. IV c.74 and chapter 15 by 3 Geo. IV c.41 s.5. Chapters 12 and 14 dealt with purveyances and the Statutes of the Staple. They were repealed in England in 1863 and can be repealed here.

Statute 31 Edw. III stat. 1 cc.1-2, 6-8, 10 and 13-14 (1357):

These deal with confirmation of charters, wool, trade, victuallers and escapes. They were repealed in England by a series of statutes from 1863 to 1948 and can be repealed here. Chapters 5 and 9 were repealed by 3 Geo. IV c.41 sections 1 and 5 respectively.

Statute 31 Edw. III stat. 1 c.3 (1357):

This deals with the discharge of estreats of the goods of a felon. It was impliedly repealed in South Australia by the Forfeiture for Treason and Felony Abolition Act 25 of 1874. It was repealed in England in 1948 and can be repealed here.

Statute 31 Edw. III stat. 1 c.4 (1357):

This deals with extortionate probate fees. Probate fees are dealt with in South Australia by rules of Court made under the Administration and Probate Act 1919. The statute was repealed in England in 1863 and can be repealed here.

Statute 31 Edw. III stat. 1 c.11 (1357):

This statute deals with letters of administration of intestate estates. The statute has been heavily amended by latter statutes 21 Hen. VIII c.5; 43 Eliz. I c.8; 22 & 23 Car. II c.10, 29 Car. II c.3; 1 James II c.17 and 14 Geo. II c.20. With those amendments it is probably still in force in South Australia and reference may be made to the Administration and Probate Act 1919 Section 21. We have to report to you in full on the subject of executorship and this Statute should remain in force until that report reaches you. The statute was repealed in England in 1925.

Statute 31 Edw. III stat. 1 c.12 (1357):

This deals with the first Court of Exchequer Chamber. It is of importance in South Australia only in so far as judgments of that Court may still be occasionally cited as precedents in our Courts. It is however not necessary to keep the statute itself. It was repealed in England in 1863 and can be repealed here.

Statute 31 Edw. III stat. 1 c.15 (1357):

This deals with the old Court of the Sheriff's tourn. As we have said in previous reports, it is very doubtful whether this Court was ever received in South Australia, and certainly no court of that kind appears ever to have been held here. The statute was repealed in England in 1887 and can be repealed here.

Statutes 31 Edw. III stats. 2, 3 and 4 (1357):

These deal with fish and with Ireland. They were repealed in England in 1844 and 1863 respectively, and can be repealed here.

Statute 34 Edw. III cc.1, 4, 6-8 and 12-22 (1361):

Chapter 1 is dealt with in our Fifty-Eighth Report and chapters 7, 12-14 and 16 in our Fifty-Fifth Report. Chapters 4 and 8 are repealed by 6 Geo. IV c.50 s.62, chapters 6 and 20 by 21 Jac. I c.28 s.11, and chapter 22 by 7 & 8 Geo. IV c.27 and 9 Geo. IV c.53 s.1. The balance of the statute deals with trade and customs, and was repealed in England in 1863 and 1948. It can be repealed here.

Statute 34 Edw. III cc.2 and 3 (1361):

These are further statutes of purveyance. As we said with regard to previous statutes they are obsolete, if they ever applied here. They were repealed in England in 1863 and can be repealed here.

Statute 34 Edw. III c.5 (1361):

This is an early weights and measures Act. The matter is now dealt with by weights and measures legislation in South Australia and has been for many years. The statute was repealed in England in 1863 and can be repealed here.

Statute 34 Edw. III cc.9-11 (1361):

These are all statutes of labourers which are quite incompatible with modern views on this topic. They were repealed in England in 1863 and can be repealed here.

Statute 35 Edw. III (1361):

This deals with herrings. It was repealed in England in 1844 and can be repealed here.

Statute 36 Edw. III stat. 1 cc.1-6 (1362):

These chapters deal with confirmation of previous statutes and purveyance. For the reasons we have given earlier they do not need to be kept in force in South Australia. They were repealed in England in 1863 and can be repealed here.

Statute 36 Edw. III stat. 1 cc.7-8, 10-13 and 15 (1362):

Chapter 8 was repealed by Jac. I c.28 s.11 and chapter 10 by 16 Car. II c.1 and again in 1863. Chapters 12, 13 and 15 are dealt with in the Fifty-Eighth, Fifty-Fifth and Sixty-First Reports respectively of this Committee. The balance of the statute not dealt with hereunder was repealed in England in 1863 and 1948 and can be repealed here.

Statute 36 Edw. III stat. 1 c.9 (1362):

This confers jurisdiction in Chancery for breaches of various statutes including the one now under consideration. Coke (2 Inst. 553) says that this chapter is declaratory of the common law and if so it is part of the foundation of the undoubted jurisdiction of equity to deal with breaches of statutes and uses of statutes amounting to fraud. The statute was repealed in England in 1863 and can be repealed here but with a saving of the jurisdiction conferred in equity by this chapter.

Statute 36 Edw. III stat. 1 c.14 (1362):

The deals with fines in relation to the Statutes of Labourers. It is treated by Ruffhead as having expired and on the face of it that would appear to be correct, but the King's Printer's Edition does not treat it as expired and accordingly it was repealed in England in 1863. For greater certainty it should be repealed here.

Statute 36 Edw. III stat. 2 (1362): is a general pardon. It was repealed in England in 1863 and can be repealed here.

Statute 37 Edw. III cc.1-19 (1363):

Chapter 2 is dealt with in the Fifty-Fifth Report of this Committee. Chapter 3 is repealed by 21 Jac. I c.28, chapter 5 by 38 Edw. III stat. 1 c.2, chapter 6 by 5 Eliz. I c.4, chapter 7 by 4 Hen. VII c.10 and chapters 8-14 by 24 Hen. VIII c.13 and 1 Jac. I c.25. 37 Edw. III c.18 is another of the statutes relative to due process referred to in the article cited above under 5 Edw. III c.9: *Due Process and Inquisition (1981) 97 L.Q.R. 287 at 294 and note 34*. As in the case of 5 Edw. III c.9 we think it should be repealed with a saving of the law contained in the statute. The balance of the statute was repealed in England in 1863 and can be repealed here.

Statute 38 Edw. III stat. 1 (1363):

Chapters 4 and 12 of this statute were dealt with in the Fifty-Eighth and Fifty-Ninth Reports respectively of this Committee. The balance of the statute deals with pledges for fines, wager of law, merchants and trading. It is most unlikely that the balance of the statute was inherited by us. It was repealed in England in 1863 and for greater certainty the balance of the statute not dealt with in those reports should be repealed here.

Statute 38 Edw. III stat. 2 (1363): is a statute of benefices. It was repealed in England in 1948 and can be repealed here.

Statute 42 Edw. III cc.1-5, 7 and 11 (1368):

Chapter 3 is dealt with in our Sixty-First Report, chapters 4-5 in the Sixty-Fifth Report and chapter 11 in the Fifty-Ninth Report. The balance of the statute not dealt with hereunder was repealed in England in 1863 and can be repealed here. In our Sixty-First Report as we said we dealt with the Statute 42 Edw. III c.3. We recommended that it remain in force in South Australia. Since then there has been a considerable discussion of the statute in relation to Royal Commissions by the High Court of Australia in *State of Victoria and Another v. Australian Building Construction Employees' and Builders Labourers' Federation* [1982] 41 A.L.R. 71. There is also a more wide ranging discussion of the application of the statute in this sphere in the article referred to before: *Due Process and Inquisitions by Mummery* in (1981) 97 L.Q.R. 286. That case and article serve to reinforce our recommendation to you in our Sixty-First Report.

Statute 42 Edw. III c.6 (1368):

This is a further example of the Statutes of Labourers. It was repealed in England first by 5 Eliz. I c.4 and again in 1863. For certainty it can be repealed here.

Statute 42 Edw. III cc.7 and 8 (1368):

These statutes deal with the retail trade in victuals and in wine. They are long since obsolete, and Ruffhead considers that chapter 8 was repealed by 5 Eliz. I c.5 but if so it must have been by implication. They were repealed in England in 1863 and can be repealed here.

Statute 42 Edw. III c.9 (1368):

This deals with estreats and their returns into the Exchequer. We certainly did inherit the general law relating to estreats but this part of the accounting procedure is obsolete and had been so for some years prior to the founding of the Province of South Australia in 1836. It was repealed in England in 1863 and can be repealed here.

Statute 42 Edw. III c.10 (1368):

This deals with the naturalization of children born abroad. It is possible to argue that by parity of reasoning at least it might have had some bearing on naturalization in South Australia in 1836. However the early ordinances deal only with naturalization of aliens. The whole subject of naturalization is now dealt with by Commonwealth law. The statute was repealed in England by the Status of Aliens Act 1914 (4 & 5 Geo. V c.17 s.28) and it can be repealed here.

Statute 43 Edw. III cc.1-4 (1369):

These statutes deal further with trading and in chapter 4 with the forest laws. They are all obsolete. They were repealed in England in 1863 and can be repealed here.

Statute 45 Edw. III cc.1-4 (1371):

These confirm the Great Charter, deal with weirs and with prohibition to the Courts spiritual. Chapters 1, 2 and 4 were repealed in 1863 and chapter 3 in 1948. They can all be repealed here.

Statute 46 Edw. III (1372):

This dealt with knights of the Shire in Parliament. It was almost certainly obsolete in 1836. It was repealed in England in 1871 and can be repealed here.

Statute 47 Edw. III cc.1 and 2 (1373):

These are obsolete statutes dealing with cloth and with currency. They were repealed in England in 1863 and can be repealed here.

Statute 50 Edw. III cc.1-8 (1376):

Chapter 6 of this statute was dealt with in the Sixty-First Report of this Committee. Most of the remainder of the statute deals with ecclesiastical matters except for the subject of cloths in chapters 7 and 8. Chapter 1 of the statute is a confirmation of the liberties of the Church and the repeal should have a saving clause in relation to the Church of England in this State. The ecclesiastical matters were repealed in England by Church Assembly Measure Ecclesiastical Jurisdiction 1963 No. 1 section 87. The whole of the statute apart from chapter 6 which as we have said is dealt with in our Sixty-First Report may be repealed here with the saving clause as to chapter 1 above referred to.

Statute 1 Richard II cc.1-3 (1377):

These statutes deal with confirmation of charters, the peace of the realm and purveyance. They are all obsolete. They were repealed in England in 1863 and can be repealed here.

Statute 1 Richard II c.4 (1377):

This deals with penalties for maintenance. Maintenance has almost ceased to be either a crime or a tort today and we doubt whether chapter 4 is in force in South Australia in any event, as it appears to be confined to events occurring within the realm of England. However, the statute was repealed in England by the Criminal Law Act 1967 chapter 58 and for certainty it should be repealed here.

Statute 1 Richard II cc.5-10 (1377):

These statutes deal with officers of the Exchequer, villeinage, maintenance again twice, protections, and confirmation of pardons. Chapter 9 is an early pretended titles Act. It was however restrictively construed: see *1 co. Inst. 369* and Coke obviously considers the matter is better dealt with in 32 Hen. VIII c.9. Chapters 5-10 were repealed in England in 1863 and can be repealed here.

Statute 1 Richard II c.11 (1377):

This deals with the reappointment of sheriffs. This section is based on an annual appointment of sheriffs such as was in force in South Australia in the earliest years of the colony. It ceased to be so when the sheriff became an officer of the public service in 1853. It is therefore unnecessary to keep the statute on the statute book today. It was repealed in England in 1887 and can be repealed here.

Statute 1 Richard II cc.13-15 (1377):

These are all matters of ecclesiastical law. Chapter 15 was repealed by 9 Geo. IV c.31 s.1. Chapters 13 and 14 were repealed in England in 1863 and can be repealed here.

Statute 2 Richard II stat. 1 c.1 (1378):

This deals with merchant trading and is obsolete. It was repealed in England in 1863 and can be repealed here.

Statute 2 Richard II stat. 1 c.2 (1378):

This is a confirmation of the statute 25 Edw. III stat. 4 c.3 against forestalling. As we have said, forestalling was an offence in South Australia in 1836 and this statute was without doubt received here at that time. It is however a method of unlawful trading which would come within federal and state consumer legislation today. It is not necessary to keep the statute in force in South Australia. It was repealed in England in 1863 and it can be repealed here.

Statute 2 Richard II stat. 1 cc.3 and 4 (1378):

These statutes deal with merchants and mariners. They were probably never in force in South Australia but for certainty it would be as well to repeal them here. They were repealed in England in 1863.

Statute 2 Richard II stat. 1 cc.5 and 6 (1378):

Chapter 5 is dealt with in our Fifty-Ninth Report and chapter 6 was repealed by 2 Rich. II stat. 2 c.2.

Statute 2 Richard II stat. 1 cc.7 and 8 (1378):

These deal with papal events at that date and with the ever present problems of the Statutes of Labourers. They are both obsolete. They were repealed in England in 1863 and can be repealed here.

Statute 2 Richard II stat. 2 cc.1-3 (1378):

These chapters deal with the Church, the repeal above referred to and fraudulent deeds. Chapter 3 dealing with fraudulent deeds is referred to in our Fifty-Fifth Report. Chapters 1 and 2 were repealed in England in 1863 and can be repealed here.

Statute 3 Richard II cc.1-3 (1379):

These statutes deal with confirmation of liberties, clothing and aliens granting benefices. Chapters 1 and 2 were repealed in 1863 and chapter 3 in 1948. All three statutes are obsolete and can be repealed here.

Statute 4 Richard II cc.1-2 (1380):

Chapter 1 was repealed by 3 Geo. IV c.41 s.1. Chapter 2 relating to pardons was partly repealed by 5 Geo. IV c.73 and the balance was repealed in 1863 and can be repealed here.

Statute 5 Richard II stat. 1 cc.1-17 (1382):

Chapter 7 of this statute, one of the statutes of forcible entry, is dealt with in our Fifty-Ninth Report and was ultimately repealed in England in 1977. Chapters 4 and 5 were repealed by 6 Ric. II c.7. The other chapters of the statute deal with trading, pardons, loss of charters and impeachment and other proceedings in Exchequer. All of these are obsolete. The remainder of the statute does not need to remain in force in South Australia. The balance of the statute other than chapters 4, 5 and 7 was in fact repealed in England in 1863.

Statute 5 Richard II stat. 2 cc.1-5 (1382):

Chapter 4 is a constitutional statute which we will deal with in a later report dealing with constitutional statutes in the inherited Imperial law. Chapter 5 was repealed by 1 Edw. VI c.12 and 1 Eliz. I c.1. Chapters 1-3 were we think never in force in South Australia. They dealt with merchant strangers and with subsidies. They were repealed in England in 1863 and those chapters can be repealed here.

Statute 6 Richard II stat. 1 cc.1-13 (1382):

Chapters 2, 3 and 5 of this statute were dealt with in the Fifty-Fifth Report of this Committee. Chapters 9-12 were repealed by 7 Ric. II. c.11. With the exception of chapter 2 the whole statute was repealed in England in 1863 and chapter 2 was repealed in 1879. The balance of the statute, apart from an obsolete reference to appeals of rape, deals with liberties and with trade and with aliens. Accordingly chapters 1, 4, 6-8 and 13 can be repealed in South Australia as obsolete.

Statute 6 Richard II stat. 2 cc.1-5 (1383):

Chapter 4 of the statute dealing with limitation on actions for trespass is dealt with in the Fifty-Fifth Report of this Committee. Chapter 1 deals with pardon, chapter 2 with purveyors, chapter 3 to the insurrection of Wat Tyler which had recently occurred and chapter 5 to compurgators. They were repealed in England in 1863 and can be repealed here.

Statute 7 Richard II cc.1-17 (1383):

Chapter 5 was repealed by 39 Eliz. I c.4 and 21 Jac. I c.28. Chapter 7 was repealed by 6 Geo. IV c.56 and 62 and 3 & 4 Will. IV. c. 91 s.50. Chapter 14 dealing with attorneys was dealt with in the Sixty-Fifth Report of this Committee. The balance of the statute deals with real actions, jurors, aliens occupying benefices, trading and maintenance. The statute was repealed in England by a series of statutes from 1863 to 1967. Accordingly, with the exceptions of chapters 5 and 7 which we never received in 1836, and chapter 14 which is dealt with in our Sixty-Fifth Report, the balance of the statute can be repealed in South Australia.

Statute 8 Richard II cc.1-5 (1384):

Chapter 4 of this statute dealing with the duties of judges is dealt with in the Fifty-Fifth Report of this Committee. Chapter 3 was repealed by

9 Ric. III c.1 and was repealed again for good measure by the Statute Law Revision and Civil Procedure Act 1881 (44 & 45 Vict. c.59 s.3). Chapters 1 and 2 deal with confirmations of previous statutes and chapter 5 with the obsolete Court of the Constable and Marshal of England and those chapters can be repealed here. They were repealed in England in 1881.

Statute 9 Richard II cc.1-5 (1385):

It is just possible that chapter 3 dealing with writs of error by reversioners is still in force in South Australia, as it is arguable that that could be the only remedy given to a reversioner in the circumstances. The other chapters deal with confirmation of statutes, villeins and ecclesiastical law. We think that all the chapters can be repealed here. They were repealed in England in 1863. In the repeal of chapter 3 in this State, any jurisdiction given to a reversioner, in the circumstances mentioned in the statute, should be preserved.

Statute 10 Richard II (1386):

This provided for a general Commission of Inquiry into the Courts. It probably was only temporary in nature and has expired but it was treated as still being substantive law in England in 1863 and repealed in that year and for certainty it should be repealed here.

Statute 11 Richard II cc.1-11 (1387):

Chapter 7 is dealt with in the Sixty-Fifth Report of this Committee and Chapter 10 is dealt with in the Sixty-First Report of the Committee. The other chapters dealing with treasons and forfeitures, annuities, merchandises and assizes were we think never in force in South Australia but it would be wise to repeal them for certainty. They were repealed in England in 1881.

Statute 12 Richard II cc.1-16 (1388):

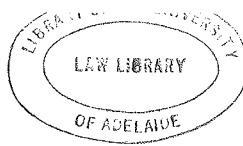
Chapter 2 is dealt with in the Sixty-Fifth Report of this Committee, chapter 10 in the Fifty-Eighth Report and chapter 11 in the Fifty-Ninth Report of the Committee. Chapters 3-9 dealing with labourers were repealed by 5 Eliz. I c.4 and 21 Jac. I c.28 and were repealed again for good measure in the Statute Law Revision and Civil Procedure Act 1881. Chapter 16 was repealed by 3 Geo. IV c.41 s.5. Chapter 13 is of interest as being the first clean air act passed but it would appear to be restricted to England only. The balance of the statute which was still in force in England in 1836 has been repealed there by a series of Acts from 1855 to 1948 and can be repealed here.

Statute 13 Richard II stat. 1 cc.1-20 (1389):

Chapter 5 is dealt with in the Sixty-First Report of this Committee, chapter 7 in the Fifty-Eighth Report, chapter 14 in the Sixty-Fifth Report and chapters 17 and 18 in the Fifty-Fifth Report. The balance of the statute, chapters 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 15, 16, 19 and 20 are all obsolete. They were repealed by a series of statutes from 1881 to 1969 and can all be repealed here.

Statute 13 Richard II stat. 2 cc.1-3 (1389):

Chapter 1 is dealt with in the Fifty-Ninth Report of this Committee. Chapters 2 and 3 are statutes of provisors and were repealed in 1948 and can be repealed here.



Statute 13 Richard II stat. 3 (1389):

This statute is one of the statutes against maintenance in judicial proceedings. It deals in particular with the granting of liveries to servants who then tended to over-awe Courts. That is all obsolete today. The statute was repealed in England in 1863 and can be repealed here.

Statute 14 Richard II cc.1-12 (1390):

Chapter 11 dealing with county justices has been dealt with in the Fifty-Eighth Report of this Committee. Chapter 4 was repealed by 21 Jac. I c.28 and chapter 7 partly by 15 Ric. II c.8 and the balance by 21 Jac. I c.28. Chapters 1-3, 5, 6, 8-10 and 12 can be repealed here. They were repealed in England by statutes of 1855, 1863 and 1948.

Statutes 15 Richard II cc.1-12 (1391):

Chapter 2, one of the statutes of forcible entry, is still in force in South Australia and was dealt with in the Fifty-Ninth Report of this Committee. It was not repealed until 1977 in England. Chapter 3, dealing with the jurisdiction of the Lord High Admiral, is also in force in South Australia and is dealt with in the Fifty-Ninth and Sixty-First Reports of this Committee. Chapter 11 was repealed by 1 Jac. I c.26 s.7. Chapter 12, dealing with private courts, is dealt with in the Sixty-Fifth Report of the Committee. Chapters 1, 4, 5, 6, 7, 8, 9 and 10 have all been repealed in England by statutes from 1863 to 1969 and they can all be repealed here, but with a saving of the rights of the Church of England in relation to chapter 6.

Statute 16 Richard II cc.1-6 (1392):

Chapter 6 is dealt with in the Sixty-Fifth Report of this Committee. Chapter 4 was repealed by 3 Car. I c.5 s.8. Chapters 1, 2, 3 and 5 are obsolete and were repealed in England by statutes of 1863 and 1967 and can be repealed here.

Statute 17 Richard II cc.1-13 (1393):

Chapter 2 was repealed by 49 Geo. III c.109 s.1. Chapter 3 was repealed by 3 Geo. IV c.41 s.3. Chapter 5 was repealed by 6 Geo. IV c.105 and chapter 7 was repealed by 21 Jac. I c.28 s.11. Chapter 6 was dealt with in the Fifty-Fifth Report of this Committee and chapter 10 in the Fifty-Eighth Report of the Committee. The balance of the statute is obsolete and accordingly chapters 1, 4, 8, 9 and 11-13 can be repealed in South Australia. Two relating to London seem to be probably still in force in England and the balance were repealed by statutes from 1856 to 1967.

Statute 20 Richard II cc.1-6 (1396):

Chapter 3 of this statute says that nobody shall sit upon the bench with a justice of assize. This is a very proper reform and necessary to be observed today as much as ever. The whole statute was repealed in England in 1863. We think it should be repealed here but with a saving of the amendment of the law contained in chapter 3.

Statute 21 Richard II cc.1-20 (1397):

This whole statute was repealed by 1 Hen. IV c.3 but was revived in part by 10 Hen. VI c.5. It was repealed in England in 1863. There is nothing in the statute which requires preservation today and in so far as it was revived by 10 Hen. VI c.5 it can be repealed here.

Statute 1 Hen. IV cc.1-20 (1399):

Chapter 1 of this statute is dealt with in the Sixty-First Report of this Committee. The balance of the statute deals with matters of importance at that time but chapters 2-20 inclusive can be repealed here. They were repealed in England partly in 1863 and partly in 1887.

Statute 2 Hen. IV cc.1-24 (1400):

Chapter 6 was repealed by 3 Geo. IV c.41 s.10. Chapter 12 was repealed by 21 Jac. I c.28 s.11 as were chapters 16-18 and chapter 20. Chapter 15 was repealed by 1 Eliz. I c.1 s.6 Chapter 7 is dealt with in the Fifty-Fifth Report of this Committee; chapter 10 in the Sixty-Fifth Report of the Committee; and chapter 11 in the Sixty-First Report of the Committee. There is nothing in the other chapters which require preservation in South Australia and accordingly chapters 1-5, 8, 9, 13, 14, 19, and 21-24 can be repealed here.

Statute 4 Hen. IV cc.1-35 (1402):

Chapters 15 and 16 were repealed by 3 Geo. IV c. 41 ss. 1 and 3. Chapter 20 was repealed by 3 Geo. IV c.41 s.1 and 6 Geo. IV c.105. Chapter 21 was repealed by 6 Geo. IV c.125. Chapters 26, 28 and 31-34 were repealed by 21 Jac. I c.28 s.11 and chapter 35 was repealed by 5 Eliz. I c.3 and 1 Jac. I c.22. Chapter 4 is dealt with in the Sixty-Fifth Report of this Committee, and chapters 5, 7, 18, 19 and 23 are dealt with in the Fifty-Fifth Report of this Committee. There is nothing in the balance of this statute which is of any importance today. Accordingly chapters 1, 2, 3, 6, 8, 9, 10, 11, 12, 13, 14, 17, 22, 24, 25, 27, 29 and 30 can be repealed in their application to South Australia. They were repealed by a series of statutes in England from 1843 to 1969.

Statute 5 Hen. IV cc.1-15 (1403):

Chapter 4 dealing with the Philosopher's Stone is repealed by 1 Will. III and Mary stat. 1 c.30. Chapter 5 dealing with maiming and chapter 6 dealing with assaults on the servants of members of Parliament are both repealed by 9 Geo. IV c.31 s.1. Chapter 7 dealing with merchant strangers is repealed by 3 Geo. IV c.41 s.1. Chapter 8 is dealt with in the Fifty-Fifth Report of this Committee Chapter 10 is dealt with in the Fifty-Eighth Report of the Committee. The only chapter which is probably in force in South Australia today and not yet dealt with is chapter 1 which provides that property, the legal estate of which is vested in traitors to the use of others, is not to be forfeited to the Crown. It would be one of the earliest of the statutes of uses distinguishing between the legal and the equitable estate. It is highly unlikely that the statute will be called upon today. Accordingly chapters 1, 2, 3, 9 and 11-15 should all be repealed in their application to South Australia but there should be a saving of the amendment in the law made by chapter 1. Chapter 1 was not repealed in England until 1948. The other chapters to which we have referred were repealed by statutes from 1857 to 1948.

Statute 6 Hen. IV cc.1-4 (1404):

Chapter 3 dealing with Crown debtors is dealt with in the Sixty-Fifth Report of this Committee. The balance of the statute is obsolete and was repealed in England in 1863. Accordingly chapters 1, 2 and 4 may be repealed here.

Statute 7 Hen. IV cc.1-18 (1405):

Chapter 4 was impliedly repealed by South Australian Act 466 of 1889 and is dealt with in the Fifty-Ninth Report of this Committee. Chapter 12 is dealt with in the Fifty-Ninth Report of this Committee and chapter 13 in the Fifty-Fifth Report of the Committee. Chapter 10 was repealed by 9 Hen. IV c.6 and chapter 14 was repealed by 3 Car. I c.5 s.8. There is nothing in the balance of the statute which requires continuance in South Australia. Accordingly chapters 1-3, 5-9, 11 and 15-18 can all be repealed in South Australia. Except for chapter 1 which is still in force, they were repealed in England by statutes from 1857 to 1971.

Statute 9 Hen. IV cc.1-10 (1407):

These all deal with matters of the time in which the statute was passed. They are long since obsolete. They were all repealed in England in 1863 and can be repealed here.

Statute 11 Hen. IV cc.1-9 (1409):

Chapter 4 was repealed by 33 Hen. VIII c.9. Chapter 3 is dealt with in the Fifty-Fifth Report of this Committee and chapter 9 is dealt with in the Fifty-Ninth Report of this Committee. The statute was repealed in England in 1863. Accordingly chapters 1, 2 and 5-8 can be repealed here.

Statute 13 Hen. IV cc.1-7 (1411):

Chapter 7 dealing with riot is dealt with in the Fifty-Ninth Report of this Committee. Chapter 3 was repealed by 3 Car. I c.4 and again by the Statute Law Revision Act 1863. Chapter 4 was repealed by 5 & 6 Edw. VI c.6 and again by the Statute Law Revision Act 1863. Chapters 1, 2, 5 and 6 were never in force in South Australia as far as we can see but for greater certainty should be repealed here.

Statute 1 Hen. V cc.1-10 (1413):

Chapter 1 was repealed by 14 Geo. III c.58. Chapter 3 was repealed by 5 Eliz. I c.14 and again by the Statute Law Revision Act 1863. Chapter 5 is dealt with in the Fifty-Fifth Report of this Committee. The remainder of the statute has been repealed in England by statutes from 1857 to 1948. Accordingly chapters 2, 4 and 6-10 can be repealed here.

Statute 2 Hen. V stat. 1 cc.1-9 (1414):

Chapter 2 was dealt with in the Fifty-Fifth Report of this Committee, chapter 4 in the Fifty-Eighth Report and chapters 6 and 8 in the Fifty-Ninth Report. Chapter 7 was repealed by 1 Eliz. I c.1 s.6. Chapters 1, 3, 5 and 9 were almost certainly never in force here but should be repealed for greater certainty. They were repealed in England by statutes from 1863 to 1948.

Statutes 2 Hen. V stat. 2 cc.1-6 (1414):

Chapter 1 of this statute is dealt with in the Fifty-Eighth Report of this Committee and chapter 3 in the Sixty-Fifth Report. Chapter 2 was repealed by 21 Jac. I c.28, as was part of chapter 4. The balance of the statute, chapters 5 and 6, deals with trade and with the Welsh and was repealed in England in 1863 and can be repealed here.

Statutes 3 Hen. V statutes 1 and 2 (1415):

Chapter 6 of 3 Hen. V stat. 2 is dealt with in the Fifty-Ninth Report of this Committee. The balance of the statutes except for 3 Hen. V stat. 2 c.8 deals with matters of that time and is obsolete. Chapter 8 deals with fees and was enforced by 21 Hen. VIII c.5. Both statutes were repealed in England in 1863 and can be repealed here except insofar as chapter 6 is dealt with in the Fifty-Ninth Report of this Committee. We think that the matters dealt with under chapter 8 are sufficiently covered by the provisions of 21 Hen. VIII c.5 to which we shall refer in due course.

Statute 4 Hen. V cc.1-8 (1416):

Chapter 7 was dealt with in the Sixty-Fifth Report of this Committee. Chapter 3 was repealed by 1 Jac. I c.25 and for good measure repealed once more in 1863. Chapter 1 dealing with confirmation of charters and forest laws is still partly in force in England and was partly repealed by the Wild Creatures and Forest Laws Act 1971 (1971 c.47). Except for chapter 7 which we have dealt with and chapter 3 which was repealed, the balance of the statute appears not to have ever been in force in South Australia. Other than chapter 1 it was repealed in England in 1863 and the part not dealt with in the Sixty-Fifth Report can be repealed here.

Statute 5 Hen. V (1417):

This deals with attorneys in lower Courts. It did not apply in South Australia. It was repealed in England in 1863 and can be repealed here.

Statute 7 Hen. V cc.1 and 2 (1419) was repealed by 7 Geo. IV c.64 s.32.

Statute 8 Hen. V cc.1-3 (1420):

Chapter 1 dealing with return of writs into Parliament will be dealt with in our report on constitutional statutes. Chapters 2 and 3 dealing with gold, silver and gilt and the seignorage of coinage were probably never in force in South Australia and in any case would be covered by Commonwealth legislation today. They were repealed in England in 1863 and can be repealed here.

Statute 9 Hen. V stat. 1 cc.1-12 (1421):

Chapter 1 was repealed by 7 Geo. IV c.64 s.32. Chapter 4 is dealt with in the Fifty-Fifth Report of this Committee and chapter 11 the Sixty-Fifth Report. Much of the balance of the statute is treated by Ruffhead as having expired but as the balance of the statute was repealed in England by statutes of 1856, 1863 and 1908 it would be wise to repeal chapters 2, 3, 5-10 and 12 here for certainty.

Statute 9 Hen. V stat. 2 cc.1-11 (1421):

Again practically all of the statute is treated by Ruffhead as having expired but it is nevertheless repealed in England as to chapters 1-10 by the Statute Law Revision Act 1863 and it would seem that chapter 11 which is really a local Act may still possibly be in force there. However, none of the statute needs to be kept in force in South Australia, if we received any of it, which is doubtful, and it can be repealed here.

Statute 1 Hen. VI cc.1-6 (1422):

This statute deals with a number of matters of concern at the time but not of importance now including the redemption of the Crown jewels in chapter 5. The whole statute was repealed in England in 1863 and can be repealed here.

Statute 2 Hen. VI cc.1-17 (1423):

Chapter 5 was repealed by 3 Geo. IV c.41 s.5. Chapter 7 was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22. Chapter 11 was repealed by Geo. IV c.41 s1 and 5 Geo. IV c.74 s.23. Chapter 13 was repealed by 21 Jac. I c.28. Chapters 6 and 10 are dealt with in the Sixty-Fifth Report of this Committee and chapter 17 in the Fifty-Ninth Report. The balance of the statute deals with matters that were then local and transitory and has been repealed by a number of statutes from 1863 to 1953. All chapters not dealt with in our previous reports, i.e. chapters 1-4, 8-9, 12 and 14-17 can be repealed here insofar as they were not repealed before 1836.

Statute 3 Hen. VI cc.1-5 (1424):

Chapter 1 was repealed by 6 Geo. IV c.129 s.2; chapter 2 by 3 Geo. IV c.41 s.3; chapter 3 by 6 Geo. IV c.105; chapter 4 by 3 Geo. IV c.41 ss. 3 and 5 was repealed in England in 1948 and can be repealed here.

Statute 4 Hen. VI cc.1-5 (1425):

Chapter 1 of this statute is dealt with in the Fifty-Fifth Report of this Committee and chapter 3 in the Sixty-First Report of the Committee. The statute was repealed in England by statutes of 1863, 1883 and 1950 and subject to the comments in the reports referred to, chapters 2, 4 and 5 can be repealed here. Chapter 4 is interesting historically in that it would appear that in those days conferring a knighthood on a plaintiff caused his writ to abate.

Statute 6 Hen. VI cc.1-6 (1427):

Chapter 1 of this statute is dealt with in the Sixty-Fifth Report of this Committee. Chapter 4 dealing with returns to Parliament will be dealt with in the report of this Committee dealing with constitutional statutes. Chapters 2, 3, 5 and 6 are of merely transitory importance which were repealed in England in 1863 and can be repealed here.

Statute 8 Hen. VI cc.1-29 (1429):

Chapter 1 was repealed by 3 Geo. IV c.41 s.10; chapter 2 by 1 Hen. VIII c.1; chapter 4 by 3 Car. I c.4; chapter 6 by 1 Edw. VI c.12; chapter 8 by 5 Eliz. I c.4; chapters 17-21 by 3 & 4 Geo. IV c.41 ss. 1 and 5; and chapters 23-24 by the same statute sections 1 and 5. Chapters 9 and 29 are dealt with in the Fifty-Ninth Report of this Committee (chapter 9 was not repealed in England until 1977); chapter 10 in the Sixty-First Report and chapters 12, 15 and 16 in the Fifty-Fifth Report. Chapter 7 is election legislation which has recently been considered by our Supreme Court and which will be dealt with in our report dealing with constitutional statutes. The remainder of the statute so far as it is unrepealed or not dealt with in the reports of the committee to which we have referred, i.e. chapters 3, 5, 7, 11, 14, 22 and 25-28, was repealed in 1863 and can be repealed here.

Statute 9 Hen. VI cc.1-11 (1430):

Chapter 2 was repealed by 3 Geo. IV c.4 s.1 and chapter 8 by 5 Geo. IV c.74 s.23. Chapter 4 is dealt with in the Fifty-Fifth Report of this Committee. The balance of the statute, i.e. chapters 1, 3, 5-7 and 9-11, was repealed in England in 1863 and 1948 and can be repealed here.

Statutes 10 Hen. VI stat. 1 cc.1-7 and stat. 2 (1432):

In statute 1 chapter 1 was repealed by 3 Geo. IV c.41 s.5. Chapter 2 which deals with Parliament was partly repealed by 14 Geo. III c.58 and the balance will be dealt with in our report on constitutional statutes. Chapter 4 was dealt with in the Sixty-First Report of this Committee and chapter 6 in the Sixty-Fifth Report of the Committee. Chapter 7 was repealed by 3 Geo. IV c.41 s.5. Insofar as this statute is not repealed or has been or is to be dealt with in the reports of the committee, i.e. chapters 3 and 5, it was repealed in 1863 and 1948 and can be repealed here. As far as statute 2 is concerned, this was repealed in England in 1863, but has already been dealt with in the Sixty-First Report of this Committee.

Statute 11 Hen. VI cc.1-16 (1432):

Chapters 2-5 are dealt with in the Fifty-Fifth Report of this Committee; chapter 6 in the Fifty-Fourth and Fifty-Eighth Reports of the Committee; and chapter 10 in the Fifty-Eighth Report. Chapter 9 was repealed by 49 Geo. III c.109. Chapter 11 was repealed by 9 Geo. IV c.31 s.1. Chapter 12 was repealed by 21 Jac. I c.28 s.11 and chapter 14 by 3 Geo. IV c.41 s.5. The balance of the statute, i.e. chapters 1, 7-8, 13 and 15-16 not dealt with in previous reports of this Committee was probably never inherited here and can be repealed. It was repealed in England by statutes from 1863 to 1948.

Statute 14 Hen. VI cc.1-8 (1435):

Chapter 1 of this statute was dealt with in the Fifty-Ninth Report of this Committee. Chapter 2 and chapters 5-7 were repealed by 3 Geo. IV c.41. The balance of the statute, chapters 3, 4 and 8, is either local or has expired and was repealed in England in 1856 and 1863.

Statute 15 Hen. VI cc.1-8 (1436):

Chapter 3 was dealt with in the Sixty-Fifth Report of this Committee and chapters 4 and 5 in the Fifty-Fifth Report. Chapter 1 deals with the old Court of the Marshal and chapters 2 and 6-8 with trade. They were repealed in England in 1863 and can be repealed here.

Statute 18 Hen. VI cc.1-19 (1439):

Chapters 3, 4 and 15 have been repealed by 3 Geo. IV c.41. Chapters 6 and 8 were dealt with in the Sixty-Fifth Report of this Committee, chapters 7 and 9 in the Fifty-Fifth Report of this Committee, chapter 11 in the Fifty-Eighth Report of the Committee and chapter 14 in the Fifty-Ninth Report of the Committee. Chapter 1 dealing with the date of letters patent is probably still in force in South Australia and will be dealt with in the report of this Committee on constitutional statutes. The balance of the statute insofar as it has not been or will be dealt with in reports of this Committee, i.e. chapters 2, 5, 12, 13 and 16-19, is of merely local and transitory importance. It was repealed in England in 1857 and 1863 and can be repealed here.

Statute 20 Hen. VI cc.1-12 (1442):

Chapter 1 of this statute was dealt with in the Sixty-Fifth Report and chapter 9 in the Fifty-Ninth report of this Committee. Chapter 2 was repealed by 35 Hen. VI c.2 and was again repealed in 1863. The balance of the statute not dealt with in our reports or repealed by statute prior to 1836, i.e. chapters 3-8 and 10-12 is of transitory importance only. It was repealed in England in 1863 and it can be repealed here.

Statute 23 Hen. VI cc.1-17 (1444):

Chapter 2 was repealed by 3 Geo. IV c.41 s.3. Chapter 12 was repealed by 5 Eliz. I c.4. Chapter 13 was impliedly repealed by 12 Car. II c.24. Chapter 14 was partly repealed by 14 Geo. III c.58 (this statute deals with elections and will be dealt with in our report on constitutional statutes). Chapter 15 was repealed by 3 Geo. IV c.41 s.1. Chapter 9 is dealt with in the Sixty-Fifth Report of this Committee. Chapter 16 was dealt with in the Fifty-Fifth Report of this Committee. The balance of the statute, i.e. chapters 1, 3-8, 10-11 and 17 was repealed in England by statutes from 1863 to 1887 and can be repealed here.

Statutes 25 Hen. VI (1446):

This dealt with Wales and was repealed by 21 Jac. I c.28 s.11.

Statute 27 Hen. VI cc.1-6 (1448):

Chapter 5 of this statute penalizes those who keep fairs or markets on Sundays. It would appear that this prohibition applies only within England. Except for chapter 5 dealing with Sunday fairs the statute was repealed in 1863 and chapter 5 was repealed with savings in 1969. The whole statute can be repealed here.

Statute 28 Hen. VI cc.1-5 (1449):

These chapters deal with matters of importation, misuse of Crown patents, purveyance and pardon and customs. They were all repealed in England in 1863 and can be repealed here.

Statute 29 Hen. VI cc.1-3 (1450):

This deals with the consequences of the rebellion of Jack Cade and with local letters patent granted to the citizens of York. They were repealed in England by statutes of 1863 and 1948 and can be repealed here.

Statute 31 Hen. VI cc.1-9 (1452):

Chapter 3 was repealed by 4 Jac. I c.1 and chapter 6 by 33 Hen. VI c.2. Chapter 4 was dealt with in the Sixty-Fifth Report of this Committee and chapter 9 in the Fifty-Fifth Report. The balance of the statute is largely concerned with the consequences of the Cade rebellion and with expired statutes. The whole statute was repealed in England in 1863 and leaving aside those matters with which we have dealt in other reports, chapters 1, 2, 5, 7 and 8 can be repealed here.

Statute 33 Hen. VI cc.1-7 (1452):

Chapter 1 of this statute is dealt with in the Sixty First Report of this Committee. The balance of the statute is of local or trading importance

and we probably did not receive any part of it. It was repealed in 1863 and can be repealed here.

Statute 38 Hen. VI (1459):

This was repealed by 39 Hen. VI c.1.

Statute 39 Hen. VI cc.1-2 (1460):

This deals with the repeal of Acts of the previous year and with liberty of seisin in the case of a woman. The whole statute was repealed in England in 1863 and can be repealed here.

Statute 1 Edw. IV cc.1 and 2 (1461):

These chapters deal with what Acts of the Lancastrian Kings should stand good and with Sheriff's tourns. The first has probably expired. The second, as we have said before, was probably never received in South Australia. Both chapters can be repealed here. They were repealed in England in 1863 and 1887 respectively.

Statute 3 Edw. IV cc.1-5 (1463):

These statutes deal with imports and exports and with sumptuary laws. Chapter 2 was repealed by 21 Jac. I c.28 and all of them were repealed (chapter 2 again for good measure) in 1863. They can be repealed here.

Statute 4 Edw. IV cc.1-10 (1464):

Chapter 1 was partly repealed by 5 & 6 Edw. VI c.6. Chapter 7 was repealed by 14 & 15 Hen. VIII c.9 and 5 Eliz. I c.3. Chapter 8 was repealed by 1 Jac. I c.25 but was partly revived by 7 Jac. I c.14. All ten chapters were repealed for good measure in 1863. The statutes deal mainly with trade except for three local Acts and they can all be repealed here.

Statute 7 Edw. IV cc.1-5 (1467):

These statutes deal with trade, with the King's grants and with seignories of attainted lands. They were repealed in England in 1863 and can be repealed here.

Statute 8 Edw. IV cc.1-4 (1468):

Chapter 1 was repealed by 5 & 6 Edw. VI c.6. Chapter 2 was repealed by 3 Car. I c.4 and all four were repealed, the first two again, in 1863. They can all be repealed here.

Statute 12 Edw. IV cc.1-9 (1472):

Chapter 1 dealing with Sheriff's returns is dealt with in the Fifty-Fifth Report of this Committee. Chapter 9 dealing with escheators was dealt with in the Sixty-Fifth Report of this Committee. The other chapters, chapters 2-8, dealing with bowstaves, subsidies, liveries, wool, sewers, weirs and letters patent for searchers and surveyors of victuals were repealed in England in 1863. They can be repealed here.

Statute 14 Edw. IV cc.1-4 (1474):

Chapters 1 and 2 deal with soldiers chapter 3 with wool and chapter 4 is a law against truce breakers. They were repealed in England in 1863 and can be repealed here.

Statute 17 Edw. IV cc.1-7 (1477):

Chapter 3 was repealed by 33 Hen. VIII c.9. Chapter 7 has been dealt with in the Fifty-Fifth Report of this Committee. Chapters 1, 2, 4, 5 and 6 deal with coinage, courts of piepowder, tiles, cloths and a repeal of a statute of Hen. VI. They were repealed in England by statutes from 1863 to 1948. Chapters 1, 2, 4, 5 and 6 can be repealed here.

Statute 22 Edw. IV cc.1-8 (1482):

Chapter 3 was repealed by 3 Geo. IV c.41 s.1; chapter 5 was repealed by 1 Jac. I c.25 s.7 and chapter 6 was repealed by 1 & 2 Will. IV c. 32 s.1. Chapter 1 dealing with apparel, chapter 2 dealing with trade in fish, chapter 4 dealing with bows, chapter 7 dealing with forest and chapter 8 dealing with the town of Berwick-on-Tweed were repealed in England by statutes from 1863 to 1948 and can be repealed here.

Statute 1 Ric. III cc.1-15 (1483):

Chapter 3 was repealed by 7 Geo. IV c.64 s.32 and 9 Geo. IV c.53 s.1. Chapter 4 was repealed by 6 Geo. IV c.50 s.62 and 3 & 4 Will. IV c.91 s.50. Chapter 8 was repealed by 50 Geo. III c.83; chapters 9, 10 and 11 by 3 & 4 Geo. IV c.41 s.1; chapter 12 was repealed by Section 10 of the same Act; chapter 13 was repealed partly by 3 Geo. IV c.41 s.2 and partly by 5 Geo. IV c.74 s.23. Chapter 1 was dealt with in the Fifty-Fourth Report of this Committee. Chapter 2 was dealt with in the Fifty-Fourth Report of this Committee. Chapter 2 was dealt with in the Sixty-Fifth Report of this Committee. Chapter 7 was dealt with in the Fifty-Fifth Report of this Committee. Chapter 5 deals with the situation where the King is a person enfeoffed to uses or today would be a trustee. The statute provides that where prior to becoming the monarch, the King was a joint feoffee to uses or a joint trustee as we would call it today, the land vests in the other trustees. That amendment we would want to see perpetuated today. The chapter is probably in force in South Australia. We suggest that the chapter be repealed but that the amendment be placed in the Trustee Act 1936. Chapter 6 dealing with courts of piepowder, chapter 14 dealing with tithes and chapter 15 dealing with the resumption of grants of land to the then Queen Dowager were none of them ever in force in South Australia. They were repealed in England in 1863 and 1948 respectively and can be repealed here.

Statutes 1 Hen. VII (1485) cc.1-10:

Chapter 1 dealing with uses is dealt with in the Fifty-Fifth Report of this Committee.

Chapters 2 and 3 and chapters 8 and 9 are all repealed by the same statute 3 Geo. IV c.41 s.2.

Chapter 5 is repealed by the Statute 5 Eliz. I c.8 and 1 Jac. I c.22 and chapters 5 and 6 are repealed again for good measure in 1863.

Chapters 7, the first of the Waltham Black Acts is repealed by 7 & 8 Geo. IV c.27.

That then leaves chapters 4, 6 and 10. Chapter 4, relating to the punishment of clergy for incontinence was repealed in England in 1840 and chapter 6 relating to pardons and chapter 10, a revocation of penalties imposed in the previous reign against Italians were repealed in 1863. Chapters 4, 6 and 10 should be repealed here, with a saving of the rights of the Church of England in relation to chapter 4.

Statutes 3 Hen. VII (1487) cc.1-16:

Chapter 1 deals partly with the jurisdiction of the Star Chamber and partly with murders and with the duties of coroners. Sections 1-5 which deal with the jurisdiction of the Star Chamber were repealed by 16 Car. I c.10. The balance relating to murders and to coroners was repealed in 1863. Those parts of Sections 6-27 which deal with the jurisdiction of coroners are the foundation of the present Coroner's jurisdiction *super visum corporis* and that should be preserved in the repealing statute.

Chapter 2, dealing with abduction, was repealed by 9 Geo. IV c.31. Chapter 3, dealing with bail, is dealt with in the Fifty-Eighth Report of this Committee. Chapter 4 dealing with gifts to defraud creditors is dealt with in the Fifty-Fourth Report of this Committee. Chapter 5, dealing with usury, was repealed by the Statutes 11 Hen. VII c.8 and 37 Hen. VIII c.9 and was again repealed in 1863.

Chapter 6, also dealing with usury, was repealed by 37 Hen. VIII c.9. Chapter 7, dealing with customs duties, was repealed by 1 Hen. VIII c.5 s.2 and again in 1863. Chapter 8 dealing with merchant aliens was repealed by 3 Geo. IV c.41 s.2. Chapter 9, dealing with London, was repealed in 1863. Chapter 10, dealing with costs on a writ of error, is dealt with in our Fifty-Fifth Report. Chapter 11, dealing with exports, was repealed by 3 Geo. IV c.41 s.4. Chapter 12, dealing with liveries, was repealed by 3 Car. I c.5 s.8. Chapter 13, dealing with long bows was repealed in 1863. Chapter 14, dealing with the King's Household, was repealed by 9 Geo. IV c.31. There is no chapter 15 but there is a chapter 16 dealing with feoffees in trust which was repealed in 1863.

The result of all this is that Sections 6-27 of Chapter 1, chapter 9, chapter 13 and chapter 16 need to be repealed at this stage but with a saving in the case of chapter 1 of the Coroner's jurisdiction.

Statutes 4 Hen. VII (1488) cc.1-24:

Chapter 1 relating to the Commissioners of sewers was repealed in 1863. Chapter 3, relating to alloys of gold and silver, was repealed in 1857 as was chapter 3 dealing with the slaughter of beasts. Chapter 4, relating to protection to the King's servants, 5 relating to tithes, 6 relating to letters patent, and 7 relating to fees payable to the King's yeomen and grooms, were all repealed in 1863. Chapter 8, relating to the sale of cloth, and chapter 9, relating to hats, were both repealed by 21 Jac. I c.28 s.11. Chapter 10 relating to imports was repealed by 1 Eliz. I c.15 and again by 3 Geo. IV c.41 s.2. Chapter 11, relating to wool, was repealed in 1863. Chapter 12, relating to the commissions of Justices of the Peace, was dealt with in the Fifty-Eighth Report of this Committee. Chapter 13, relating to the benefit of clergy, was repealed by 7 & 8 Geo. IV c.27. Chapter 14, relating to Crown lands, and chapter 15 relating to the conservation of the Thames, are both local Acts. They appear to be still in force in England. Chapter 16, relating to farms in the Isle of Wight, was repealed in 1857. Chapter 17, relating to the heirs of a *cestui que use* was dealt with in the Fifty-Fourth Report of this Committee. Chapter 18 making forgery of coin treason was repealed by 1 Edw. VI c.12 and

1 Mary Sess. 1 c.1 and again for good measure in 1863. Chapter 19, relating to tillage, was repealed by 21 Jac. I c.28 s.11. Chapter 20, relating to settlements of collusive qui tam actions, provides that such settlements were not to bar the King's right and was repealed in England in 1958. We still have qui tam actions in South Australia, as for example in the Constitution Act 1934. Accordingly, whilst this section can be repealed, it ought to be done with a reservation of the jurisdiction in favour of the Crown which is granted by that chapter. Chapter 21, relating to illegal netting, was repealed in England by the Fisheries Act 1868, 31 & 32 Vict. c.45 s.71. Chapter 22, relating to gold not being of the proper fineness, and chapter 23, relating to the transport of money, plate or jewels were repealed in England in 1863. Chapter 24 relating to levying of fines in the Common Pleas was dealt with in our Fifty-Fifth Report. Accordingly chapters 1-7, 11, 14, 15 and 16, 20 but with the reservation above referred to, and 21-23 should all be repealed now.

Statute 7 Hen. VII cc.1-24 (1481):

Chapter 1 dealing with military penalties was repealed in 1863. Chapters 2 and 3 dealing with overseas service and with weights and measures were likewise repealed in 1863. Chapter 2 is important in that it appears to be the first of a series of Acts allowing for informal wills by persons on active service. The matter is of course now covered by section 11 of the Wills Act 1936. Chapter 4, challenge by the custom of London, was repealed in 1863. Chapter 5 dealing with tithes and fifteenths payable by the clergy was repealed also in 1863. Chapter 6 requiring all Scots to depart the realm within forty days unless they were denizens was not unnaturally repealed by 4 Jac. I c.1 and was again repealed for good measure in 1863. Chapter 7 dealing with customs duties was repealed in 1863. Chapter 8 dealing with a grant of office was repealed in 1948. Chapter 9 dealing with fisheries was repealed in 1868. Chapter 10 dealing with outlawry was repealed by 7 Hen. VII c.24: a most unusual case of a statute being repealed in the same session of Parliament. Chapter 11 relating to taxation was repealed in 1863. Chapters 12-23 are private Acts by modern classification and were mostly repealed in 1948. Chapter 24 is the statute repealing chapter 10 referred to above and was repealed in 1863. That means that chapters 1-5 and 7-24 need to be repealed now.

Statutes 11 Hen. VII cc.1-65 (1495):

Chapter 1 deals with treason. It is still in force and is dealt with in the Fifty-Ninth Report of this Committee. To that report we should add that it is quite likely that this is one of the statutes which cannot be repealed until South Australia ceases to be subject to the Colonial Laws Validity Act. It would be surprising indeed if the Queen lost the protection of the Statutes of Treason simply by going outside the realm, and indeed it is assumed in the judgment of the Privy Council in *De Jager v. The Attorney-General of Natal* [1907] A.C. 326 that the treason laws extend throughout the former Empire.

Chapter 2 relating to vagabonds was repealed by 21 Jac. I c.28. Chapter 3, dealing with offences against former statutes, was repealed by 1 Hen. VIII c.6. Chapters 4, dealing with weights and measures, 6 dealing with customs, and 7 dealing with riots, were all repealed in 1863. Chapter 5 dealing with weirs and salmon was repealed in 1861. Chapter 8 dealing with usury was repealed by 37 Hen. VIII c.9 and again for good measure in 1863.

Chapter 9 dealing with the lordship of Tyndal was partly repealed in 1948 and the rest in 1975. Chapters 10, dealing with taxation, and 11

dealing with worsted shearers were both repealed in 1863. Chapter 12 dealing with in forma pauperis suits is the foundation of the jurisdiction in this State and it is dealt with in the Fifty-Fifth Report of this Committee. It was repealed in England by a series of statutes from 1883 to 1973.

Chapter 13 dealing with export of horses was repealed by 3 Geo. IV c.41 s.4. Chapter 14 dealing with customs duties payable by denizens was repealed by 3 Geo. IV c.41 s.2. Chapter 15 dealing with sheriff's courts was repealed in 1887. Chapter 16 dealing with freehold use in Calais was repealed in 1863. Chapter 17 relating to game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 18 dealing with forfeiture is dealt with in the Sixty-Fifth Report of this Committee. Chapter 19 dealing with upholsterers was repealed in 1857. Chapter 20 dealing with a dowress was repealed by 3 & 4 Will. IV c.74 s.17. Chapter 21 dealing with perjury in London was repealed 1863. Chapter 22, a Statute of Labourers, was repealed partly by 12 Hen. VII c.3 and the balance by 5 Eliz. I c.4 and again for good measure in 1863. Chapter 23 relating to salmon and eels, chapter 24 relating to attaints, chapter 25 relating to perjury and chapter 26 relating to juries, were all repealed in 1863. Chapter 27 relating to fustian cloth was repealed in 1857. Chapters 28-64 are all personal and local Acts which were mostly repealed in 1948. Chapter 65 deals with the peace of Estaples and that was repealed in 1948. Accordingly we should now repeal chapters 4, 5-7, 9-11, 15 and 16, 19, 21, and 23-65 of that year.

Statute 12 Hen. VII cc.1-13 (1496):

Chapter 1 relating to worsteds, and chapter 2 relating to continuation of statutes, chapter 3 relating to part of 11 Hen. VII c.22, chapter 4 relating to woollen cloth and chapter 5 relating to weights and measures, were all repealed in 1863.

Chapter 6 relating to merchant adventurers was repealed by 3 Geo. IV c.41 s.2. Chapter 7 relating to benefit of clergy was repealed by 9 Geo. IV c.31 s.1. Chapters 8-11 are private which were repealed in 1948, 1953 and 1978 respectively. Chapters 12 and 13 deal with taxation and were repealed in 1863. Accordingly it is now necessary to repeal chapters 1-5 and 8-13 of that year.

Statute 19 Hen. VII cc.1-40 (1503):

Chapter 1 dealing with attendance on the King in time of war is dealt with in the Sixty-Fifth Report of this Committee. Chapter 2 relating to customs, and chapter 3 relating to attaints, were both repealed in 1863. Chapter 4 relating to cross bows was repealed by a series of statutes of Henry VIII's reign, 3 Hen. VIII c.13, 6 Hen. VIII c.13, 25 Hen. VIII c.17 and 33 Hen. VIII c.6 and again in 1863. Chapter 5 relating to counterfeit and clipping coin was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 6 dealing with pewterers was repealed in 1857. Chapter 7 dealing with the ordinances of bodies corporate is still except for section 3, which was repealed in 1887, in force in England and is dealt with in our Sixty-First Report. Chapter 8 relating to customs and scavage, and chapter 9 relating to process in the Courts of King's Bench and Common Pleas were both repealed in 1863. Chapter 10 relating to sheriffs and gaols was repealed in 1857. Chapter 11 relating to deer was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 12 relating to vagabonds was repealed by 21 Jac. I c.28 s.1. Chapter 13 dealing with riot was repealed by 5 Geo. IV c.50 s.2. Chapter 14 dealing with retainers was repealed in 1863. Chapter 15 which equates a cestui que use with an owner in fee simple for debts and taxation

purposes has been obsolete since 27 Hen. VIII c.10, the Statute of Uses, and was repealed in 1863.

Chapter 16: The Statute 11 Hen. VII c.26, was continued to the next Parliament and that was repealed in 1863. Chapter 17 dealing with worsted shearers was also repealed in 1863. Chapter 18 dealing with trade on the River Severn was repealed in 1948. Chapter 19 dealing with shoemakers was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in 1863. Chapter 20 dealing with writs of error was repealed in 1879 and is dealt with in our Fifty-Fifth Report. Chapter 21 dealing with silk imports was repealed by 3 Geo. IV c.41 s.2. Chapter 22 relating to Calais was repealed in 1863. Chapter 23 relating to the Hanse Towns was repealed by 3 Geo. IV c.41 s.2. Chapter 24 dealing with sheriffs was repealed in 1887 and chapters 25-40 were private Acts most of which have been repealed although some are still in force in England. That means that of the statutes of that year chapters 2-4, 6, 8 and 9, 14, 17-19, 22 and 24-40 now need to be repealed.

Statute 1 Hen. VIII (1509) cc.1-20:

Chapter 1 repealing 8 Hen. VI c.2, chapter 2 relating to woollen cloth, chapter 3 relating to receivers of revenue, and chapter 4 relating to penal statutes were all repealed in 1863. Chapter 5 relating to customs was repealed by 3 Geo. IV c.41 s.2. Chapter 6 repealing 11 Hen. VII c.3 was repealed in 1863. Chapter 7 relating to coroners was repealed in 1887 and is dealt with in our Fifty-Eighth Report. Chapter 8 dealing with escheators was repealed in 1887 and is dealt with in our Fifty-Fifth Report. Chapter 9 dealing with Staines Bridge was repealed by 31 Geo. III c.84. Chapter 10 dealing with the traverse of lands seized into the King's hands is dealt with in our Sixty-First Report. Chapter 11 dealing with perjury and continuing the statute of 11 Henry VII c.24 to the next Parliament was repealed in 1863. Chapter 12 dealing with the traverse of inquisitions by Empson and Dudley, who were attainted of treason, was repealed in 1863. Chapter 13 dealing with the export of coin, continuing 17 Edw. IV c.1 and 4 Hen. VII c.23, was repealed in 1863. Chapter 14 dealing with apparel was repealed by 1 Jac. I c.25 and again in 1863. Chapter 15 dealing with the lands of Empson and Dudley was repealed in 1953. Chapter 16 dealing with the expenses of the King's Household was repealed by 14 & 15 Hen. VIII c.19. Chapters 17-19 are private Acts and chapter 20 dealing with taxation was repealed in 1863. That means that chapters 1-4, 6, 11-13, 15 and 17-20 now all need to be repealed.

Statute 3 Hen. VIII (1511) cc.1-23:

Chapter 1 dealing with export of money and chapter 2 dealing with escheators were both repealed in 1863. Chapter 3 dealing with gaming and the use of bows and arrows was repealed by 33 Hen. VIII c.9 and then again for good measure in 1863. Chapters 4 dealing with service beyond seas, 5 dealing with soldiery and 6 dealing with woollen cloth were all repealed in 1863. Chapter 7 dealing with export of cloth was repealed by 3 Geo. IV c.41 s.4. Chapter 8 dealing with victualling and chapter 9 dealing with mummers and visors were both repealed in 1863. Chapter 10 dealing with leather was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in 1863. Chapter 11 dealing with the licensing of physicians and surgeons was repealed in 1948. Chapter 12 dealing with juries was repealed by 6 Geo. IV c.50 s.62. Chapter 13 dealing with cross bows was repealed by 6 Hen. VIII c.13 and again in 1863. Chapter 14 dealing with the import of oils was repealed in 1857. Chapter 15 dealing

with hats and caps was repealed by 1 Jac. I c.25 and again by 3 Geo. IV c.41 s.10. Chapters 16-21 are private Acts. Chapter 22 relating to taxation, and chapter 23 relating to surveyors of Crown lands were both repealed in 1863. Accordingly of the statutes of that year, chapters 1-2, 4-6, 8-9, 11 and 14 and 16-23 all need to be repealed now.

Statute 4 Hen. VIII (1512) cc.1-20:

Chapter 1 dealing with fortifications in Cornwall was repealed in 1863. Chapter 2 relating to murder and benefit of clergy was repealed by 23 Hen. VIII c.1 and again in 1863. Chapter 3 relating to juries in London, chapter 4 relating to outlawry, chapter 5 relating to wages of labourers and chapter 6 relating to sealing cloth, were all repealed in 1863. Chapter 7 relating to pewterers was repealed in 1857. Chapter 8 dealing with privilege of Parliament will be dealt with when we come to deal with constitutional statutes. Chapters 9-16 are private Acts. Chapter 17 relating to the expenses of the King's wardrobe, chapter 18 relating to the surveyors of Crown lands, and chapter 9 relating to taxation, were all repealed in 1883. Chapter 20 relating to protection for the Sheriff of Cumberland was repealed in 1948. Accordingly chapters 1, 3-7 and 9-20 of the statutes of that year all need to be repealed here.

Statute 5 Hen. VIII (1513) cc.1-19:

Chapter 1 relating to the merchants of Tournai was repealed in 1863. Chapter 2 relating to cloths was repealed by 49 Geo. III c.109 s.1. Chapter 3 relating to exports was repealed by 6 Anne c.9 and again by 3 Geo. IV c.41 s.10. Chapter 4 relating to worsteds was repealed in 1857. Chapter 5 relating to juries in London was repealed in 1863. Chapter 6 relating to surgeons was repealed in part by 6 Geo. IV c.50 s.62 and the balance in 1948. Chapter 7 relating to leather was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22, and again by 3 Geo. IV c.41 s.10. Chapter 8 relating to pardon was repealed in 1863. Chapters 9-19 are private Acts. Accordingly of the statutes of that year chapters 1, 4, 5 and 8-19 require repeal in this State.

Statute 6 Hen. VIII (1514) cc.1-26:

Chapter 1 relating to apparel was repealed by 7 Hen. VIII c.6 and again in 1863. Chapter 2 relating to archery was repealed by 33 Hen. VIII c.9 and again in 1863. Chapter 3 dealing with artificers was repealed by 7 Hen. VIII c.5 and again in 1863. Chapter 4 dealing with exigents was repealed in 1938 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 5 dealing with tillage was repealed in 1863. Chapter 6 dealing with the venue of crimes was repealed in 1938. Chapter 7 relating to Thames watermen was repealed by a local Act, 7 & 8 Geo. IV c. lxxv s.1. Chapters 8 and 9 relating to cloths were repealed by 49 Geo. III c.109 s.1. Chapters 10-14 dealing with sewers, imports, exports, cross bows and taxation respectively were all repealed in 1863. Chapter 15 relating to Crown grants of land where the land has been previously granted and that previous grant has not been disclosed to the Crown by the second applicant, avoids the second grant, and was repealed in 1961. That law would still have applicability to Crown grants in South Australia today and the statute should be repealed but with a saving of the existing law. Chapter 16 relating to Parliament will be dealt with in our Report on constitutional statutes. Chapters 17-23 are private Acts. Chapter 17 was repealed in 1981. Chapter 24 relating to surveyors of Crown lands was repealed by 7 Hen. VIII c.7. Chapter 25 dealing with resumption of offices into the King's hands was repealed in 1948. As a result chapters 5-6, 10-14, 15 but with the reservation referred to, and 17-23 and 25-26 all should be repealed today.

Statute 7 Hen. VIII (1515) cc.1-11:

Chapter 1 on tillage was repealed by 21 Jac. I c.28 s.11. Chapter 2 dealing with navigation was repealed in 1863. Chapter 3 dealing with the limitation of penal actions was repealed by 31 Eliz. I c.5. Chapter 4 dealing with avowries for rent was repealed in England in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 5 dealing with labourers was repealed by 5 Eliz. c.4 and again in 1863. Chapter 6 dealing with apparel was repealed partly by 24 Hen. VIII c.13 and the rest by 1 Jac. I c.25 and again in 1863. Chapter 8 dealing with the French Queen's jointure on her marriage to the Duke of Suffolk was repealed in 1953. Chapters 9, 10 and 11 dealing with a subsidy, with the staple at Calais, and with general pardon were all repealed in 1863. Accordingly chapters 2 and 7-11 of that year should now be repealed in this State.

Statutes 14 & 15 Hen. VIII cc.1-35 (1523):

Chapter 1 dealing with cloth was repealed by 3 Geo. IV c.41 s.4. Chapter 2 dealing with aliens' apprentices and chapter 3 dealing with worsteds were both repealed in 1857. Chapter 4 dealing with customs was repealed by 3 Geo. IV c.41 s.2. Chapter 5 dealing with physicians was repealed partly in 1860 and partly in 1948. Chapter 6 dealing with the Weald of Kent highways was repealed in 1948. Chapter 7 dealing with crossbows was repealed by 33 Hen. VIII c.6 and again in 1863. Chapter 8 dealing with the marriage of the Six Clerks in Chancery who previous to that time being ecclesiastics were not allowed to be married, was repealed in 1863. Chapter 9 dealing with cord wainers was repealed by 5 Eliz. I c.8 and 1 Jac. I c.24 and again in 1863. Chapter 10 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 11 dealing with cloth was repealed in 1863. Chapter 12 dealing with coining was repealed in 1857. Chapter 13 dealing with the Port of Southampton was repealed in 1861. Chapter 14 dealing with service in war was repealed in 1863. Chapter 15 dealing with the survey of the Crown lands was repealed by 33 Hen. VIII c.39 s.30. Chapters 16 and 17 dealing with taxation and general pardon were repealed in 1863. Chapters 18-20 are private Acts. Chapter 21 dealing with the King's power to reverse attainders was repealed in 1977. Chapters 22-35 are private Acts. Accordingly chapters 2 and 3, 5 and 6, 8, 11-14 and 16-35 need to be repealed in this State.

Statute 21 Hen. VIII (1529) cc.1-26:

Chapter 1 dealing with a pardon was repealed in 1863. Chapter 2 dealing with sanctuary was repealed by 1 Jac. I c.25 and again in 1863. Chapter 3 dealing with the real actions was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 4 dealing with sale of land by executors was repealed in England in 1925 and is dealt with in our Fifty-Fourth Report. Chapter 5 dealing with probate is a very important statute because it is the foundation of part of our testamentary causes jurisdiction today. Sections III (6) and (7), IV, V and VIII are still in force in South Australia now and are used in the ordinary administration of the probate jurisdiction. Section III subsection (6) gives a discretion to grant administration of the goods of an intestate to his widow. For the exercise of the discretion see *Tristram & Coote's Probate Practice (19th Edition 1946) page 307* and in particular note (g). Under Section III (7) power is given to grant letters of administration to the next of kin and deals with the position where there are more than one next of kin of the same degree. Section IV deals with the position where the widow is capable of taking a grant and others make a request who are not in equality of degree and deals with inventories to be made by administrators of the testator's

property. Section V deals with the question of whether the profits of land sold should be accounted goods of a testator and gives power to grant exemplifications of probate and Section VIII deals with the power to cite executors to come in and prove. The Act was repealed in England in 1925 with a saving clause. We think that the Act ought to be repealed here but that the relevant sections ought all to be put in the Administration and Probate Act 1919 which is where one would expect to find them.

Chapter 6 deals with mortuaries which was repealed by the Church Assembly Measure Ecclesiastical Jurisdiction 1963 No. 1 section 87. Chapter 7 deals with embezzlement which is repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 8 deals with the killing of calves which was repealed in 1863. Chapter 9 which deals with foreign hats was repealed by 1 Jac. I c.25 and again by 3 Geo. IV c.41 s.10. Chapter 10 dealing with the export of brass was repealed by 3 Geo. IV c.41 s.4. Chapter 11 dealing with restitution of goods stolen was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 12 dealing with the manufacture of tables was repealed in 1857. Chapter 13 dealing with pluralities of the clergy was repealed in 1838. Chapter 14 dealing with import was repealed by 28 Hen. VIII c.4 and again by 3 Geo. IV c.41 s.10. Chapter 15 dealing with recoveries on feigned titles was repealed in 1863 and is dealt with in our Fifty-Fourth Report. Chapter 16 dealing with aliens was repealed in 1857. Chapters 17 and 18 dealing with shipping were repealed in 1948 and 1850 respectively. Chapter 19 dealing with avowries was repealed in 1883 and is dealt with in our Fifty-Fourth Report. Chapter 20 dealing with the President of the Council and his power to put down riots is repealed by statutes of 1863, 1888 and 1948. Chapter 21 dealing with worsteds was repealed in 1863. Chapters 22 and 23 are private Acts. Chapter 24 dealing with release of loans was repealed in 1863 and chapters 25 and 26 are private Acts. Accordingly chapters 1, 5 but with the re-enactment that we have referred to into the Administration and Probate Act, 6, 8, 12 and 13, 16 and 17, and 20-26, should all be repealed as far as this State is concerned.

Statute 22 Hen. VIII (1530) cc.1-23:

Chapter 1 deals with regrators of wool and chapter 2 with foreign pleas by felons, i.e. pleas in a foreign county, were both repealed in 1863. Chapter 3 dealing with Plumstead Marsh debts was repealed in 1948. Chapter 4 dealing with apprentices' fees was repealed in 1887. Chapter 5 dealing with bridges was repealed partly in 1959 and partly in 1963. Chapter 6 dealing with butchers was repealed by 1 Jac. I c.22 and again in 1863. Chapter 7 dealing with exports was repealed by 3 Geo. IV c.41 s.4. Chapter 8 dealing with customs duties was repealed by 3 Geo. IV c.41 s.2. Chapter 9 dealing with poisoning was repealed by 1 Edw. VI c.12 and again in 1863. Chapter 10 dealing with gypsies was repealed in 1857. Chapter 11 dealing with malicious injury to dykes was repealed in 1948. Chapter 12 dealing with vagabonds was repealed by 21 Jac. I c.28. Chapter 13 dealing with foreign craftsmen and Chapter 14 dealing with abjuration and sanctuary, and chapters 15 and 16 dealing with pardons were all repealed in 1863. Chapter 17 is a private Act. Chapter 18 dealing with the expenses of the King's Household was repealed in 1863. Chapters 19-23 are private Acts. Accordingly chapters 1-5, 10 and 11, and 13-23 ought to be repealed in South Australia today.

Statute 23 Hen. VIII (1531) cc.1-34:

Chapter 1 dealing with benefit of clergy was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 2 relating to gaols was repealed in 1863. Chapter 3

dealing with attaints was repealed in 1863 and is dealt with in the Sixty-First Report. Chapter 4 dealing with coopers was repealed in 1863. Chapter 5 dealing with sewers was repealed in 1930. Chapter 6 dealing with recognizances for debt was repealed in 1863. Chapter 7 dealing with foreign wines was repealed by 3 Geo. IV c.41 s.2. Chapter 8 dealing with tanners in Cornwall is a local Act which seems still to be in force in England. Chapter 9 dealing with ecclesiastical jurisdictions and the citation of persons within their own diocese and the exercise of jurisdiction by Church Courts was repealed by the Church Assembly Measure 1963 No. 1 with a saving. As it deals with the exercise of jurisdiction by Church Courts it is equally applicable in South Australia and there should be a saving in favour of the Church of England in this State. Chapter 10 dealing with mortmain was repealed in 1888. Chapter 11 dealing with prison breaking was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 12 dealing with tolls on the River Severn was repealed in 1958, as was chapter 13 dealing with qualification of jurors. Chapter 14 dealing with outlawry was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 15 dealing with damages on a non-suit was repealed in 1883 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 16 dealing with sales of horses to Scotsmen was repealed by 4 Jac. I c.1 and again in 1863. Chapter 17 relating to the winding of wools was repealed in 1863. Chapter 18 dealing with fish weirs was repealed in 1861. Chapter 19 dealing with the King's pardon to the clergy was dealt with in 1863. Chapter 20 dealing with the payment of annates was repealed in 1888 and 1969. Chapters 21-34 are private Acts. Accordingly chapters 2, 4-6, 8, 9 with the saving above referred to, 10, 12 and 13 and 17-34 ought now to be repealed in this State.

Statute 24 Hen. VIII (1532) cc.1-16:

Chapter 1 dealing with the sale of leather was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in 1863. Chapter 2 dealing with woollen cloth was repealed in 1863. Chapter 3 dealing with the sale of meat was repealed by 33 Hen. VIII c.11. Chapter 4 dealing with flax culture was repealed by 35 Eliz. I c.7 and again in 1863. Chapter 6 providing that a man killing a thief does not forfeit his goods was repealed by 9 Geo. IV c.31 s.1. Chapter 6 dealing with the sale of wine was repealed by 21 Jac. I c.28. Chapter 7 dealing with the killing of calves was repealed in 1863. Chapter 8 dealing with costs in non-suits was repealed in 1879 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 9 dealing with killing weaners was repealed in 1863. Chapter 10 dealing with destruction of crows was repealed in 1887. Chapter 11 is a local Act which was repealed in 1948. Chapter 12 forbidding appeals to Rome and constituting the ecclesiastical jurisdiction of the Church of England was repealed by the Church Assembly Measure No. 1 and there should be a reservation on repeal in respect of the Church of England in South Australia. Chapter 13 deals with apparel and was repealed by 1 Jac. I c.25. Chapters 14-16 are private Acts. Accordingly chapters 2, 7, 9-11, 12 with the reservation above referred to, and 13-16 should now be repealed in this State.

Statute 25 Hen. VIII (1533) cc.1-34:

Chapter 1 dealing with butchers was repealed by 33 Hen. VIII c.11. Chapter 2 dealing with the prices of victuals was partly repealed by 3 Geo. IV c.45 and the remainder by 7 & 8 Vict. c.24. Chapter 3 dealing with standing mute of malice was repealed by 7 Geo. IV c.64 s.32. Chapter 4 dealing with fish was repealed by 35 Hen. VIII c.7. Chapter 5 dealing with worsteds was repealed in 1857. Chapter 6 dealing with

buggery was repealed by 9 Geo. IV c.31 s.1. Chapter 7 dealing with fish spawn was repealed in 1863. Chapter 8 dealing with paving in Holborn was repealed in 1948. Chapter 9 dealing with pewterers was repealed in 1857. Chapter 10 dealing with Commissioners of Sewers was repealed in 1930. Chapter 11 dealing with wild fowl was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 12 dealing with the attainder for treason of Elizabeth Barton, the Maid of Kent who predicted the King's death, was repealed in 1948. Chapter 14 dealing with heresy was repealed by 1 Edw. VI c.12 s.2. Chapter 15 dealing with printing and binding was repealed in 1863. Chapter 16 assigning a chaplain to each Judge was repealed in 1863 and is dealt with in the Sixty-First Report of this Committee. Chapter 17 dealing with crossbows was repealed by 33 Hen. VIII c.6 s.9. Chapter 18 dealing with clothiers was repealed in 1857. Chapter 19 dealing with the submission of the clergy and the restraint of appeals to Rome is still partly in force in England and other sections have been repealed between 1888 and 1976. This again is a statute going to the jurisdiction of the Church of England and there should be a saving in favour of that Church in South Australia. Chapter 20 dealing with the appointment and jurisdiction of bishops is still partly in force and was partly repealed by statutes between 1888 and 1969. Again it should be repealed but with a saving in favour of the Church of England in this State. Chapter 21 dealing with ecclesiastical licences and powers of dispensation by bishops was repealed by a series of statutes from 1843 to 1969. Again there should be a repeal with a saving in favour of the Church of England in this State. Chapter 22 dealing with the succession to the Crown was repealed by 1 Mary Session 2 Chapter 1 section 2. Chapters 23-34 are private Acts. Accordingly chapters 2 so far as not already repealed, 5, 7-10, 12-13, 15, 18, 19, 20 and 21 with the saving referred to, and 23-34 should all be repealed in this State and chapters 19-21 should each be repealed but with a saving in each case in favour of the Church of England in this State.

Statute 26 Hen. VIII (1534) cc.1-26:

Chapter 1 dealing with the Royal supremacy was repealed by 1 & 2 Philip & Mary c.8. Chapter 2 relating to the succession to the Crown was repealed by 28 Hen. VIII c.7. Chapter 3 relating to first fruits was repealed by Church Assembly Measure No. 5. Chapter 4 dealing with jurors in Wales was repealed in 1863. Chapters 5 dealing with ferries on the River Severn, and 6 dealing with the marches of Wales, were both repealed in 1857. Chapter 7 dealing with Sussex highways was repealed in 1948. Chapters 8 and 9 are local. Chapters 10 relating to imports, 11 relating to assaults by the Welsh, and 12 relating to convicts in Wales, were all repealed in 1863. Chapter 13 dealing with treason was repealed in 1863 and it was dealt with in our Fifty-Ninth Report. As it specifically deals with treasons out of the realm it almost certainly is caught by the Colonial Laws Validity Act. Chapter 14 dealing with suffragan bishops and the right of Archbishops to consecrate them was partly repealed in England between 1888 and 1967. As it deals with the authority and jurisdiction of Archbishops in this regard, the Act should be repealed here but with a saving in favour of the Church of England in South Australia. Chapter 15 dealing with mortuaries was repealed in 1948. Chapter 16 referring to worsteds was repealed in 1857. Chapter 17 relating to first fruits was repealed by Church Assembly Measure 1926 No. 5. Chapter 18 relating to the general pardon and chapter 19 relating to taxation were both repealed in 1863. Chapters 20-25 are private. Chapter 26 relating to the Steel Yard was repealed in 1948. Accordingly of this year, chapters 3-12 and 15-26 have to be repealed outright in this State and chapter 14 with the saving we have referred to.

Statute 27 Hen. VIII (1535) cc.1-63:

Chapter 1 is a local Act. Chapter 2 dealing with treason was repealed by 1 Edw. VI c.12. Chapter 3 dealing with the city of Hull was repealed by 33 Hen. VIII c.33. Chapter 4 dealing with piracy was repealed in England in 1863 and is dealt with in our Fifty-Ninth report. Chapter 5 dealing with justices of the peace in Chester and Wales was repealed in 1887. Chapter 6 dealing with breeding horses was repealed in 1863. Chapter 7 dealing with forests in Wales was repealed in 1971. Chapter 8 dealing with first fruits was repealed by the 1926 Church Assembly Measure No. 5. Chapter 9 relating to butchers was repealed in 1863. Chapter 10 is the Statute of Uses which is still in force in South Australia and is dealt with in our Fifty-Fourth Report. We think we should also draw your attention in case you are considering repealing the relevant parts of the statute and substituting modern legislation, that New South Wales has made provision in Section 44(2) of its Conveyancing Act 1919 as follows:—

“Every limitation which may be made by way of use operating under the Statute of Uses or this Act may be made by direct conveyance without the intervention of uses”.

Chapter 11 dealing with clerks of the signet was repealed in 1884 and is dealt with in our Sixty-Fifth Report. Chapter 12 dealing with woollen materials was repealed by 49 Geo. III c.109. Chapter 13 relating to exports was repealed by 3 Geo. IV c.41 s.10. Chapter 14 relating to customs was repealed by 3 Geo. IV c.41 s.2. Chapter 15 dealing with ecclesiastical canons and constitutions was repealed by 1 & 2 Philip & Mary c.8 s.4. Chapter 16 dealing with enrolment of bargains and sales was dealt with by the Law of Property Act 1925. Chapter 17 dealing with embezzlement was repealed by 1 Mary Session 1 chapter 1 and again in 1863. Chapter 18 dealing with the Thames Conservancy was repealed in 1948. Chapter 19 dealing with sanctuary was repealed by 1 Jac. I c.25 and 21 Jac. I c.28 and again in 1863. Chapter 20 dealing with tithes was repealed in 1887. Chapter 21 dealing with tithes, specifically in London, was repealed in 1948. Chapter 22 relating to tillage was repealed by 39 Eliz. I and 1 Jac. I c.28. Chapter 23 is a local Act. Chapter 24 dealing with jurisdiction in liberties is dealt with in our Sixty-Fifth Report. Chapter 25 relating to vagabonds was repealed in 1863. Chapter 26 dealing with Wales is partly still in force and partly repealed by statutes from 1887 to 1948. Chapter 27 dealing with the court of Augmentations was repealed in 1863. Chapter 28 dealing with the suppression of the monasteries was partly repealed by 21 Jac. I c.28 s.11, and the remainder by statutes of 1948 and 1969. Chapters 29-61 are private Acts. Chapter 62 dealing with surveyors of Crown lands was repealed by 33 Hen. VIII c.39. Chapter 63 dealing with ordinances for Calais was repealed in 1863. Accordingly chapters 1, 5-9, 11, 16, 18, 20-23, 25-27, 28 so far as unrepealed, 29-61 and 63 should all be repealed in South Australia.

Statute 28 Hen. VIII (1536) cc.1-52:

Chapter 1 dealing with abjuration in petty treason was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 2 dealing with embezzlement was repealed by 1 Mary Session 1 c.1 and again in 1863. Chapter 3 relating to Wales and chapter 4 relating to cloth were both repealed in 1863. Chapter 5 dealing with apprentices was repealed by statutes from 1887 to 1969. Chapter 6 dealing with continuance of statutes was repealed in 1863. Chapter 7 dealing with succession to the Crown was dealt with partly in 1 Mary Session 2 c.1 and 1 & 2 Philip & Mary c.8 s.4 and the remainder was repealed in 1948. Chapters 8 and 9 dealing

with continuance of statutes was repealed in 1863. Chapter 10 stating that there was no authority in the See of Rome was repealed by 1 & 2 Philip & Mary c.8. Chapter 11 relating to tithe is partly in force and partly repealed by statutes from 1888 to 1976. Chapter 12 relating to the limits of the Palace is still in force. Chapter 13 relating to clergy was repealed by 57 Geo. III c.99 s.1. Chapter 14 relating to the price of wine was repealed by 21 Jac. I c.28 and again in 1863. Chapter 15 relating to piracy was repealed in 1967 and is dealt with in our Fifty-Ninth Report. Chapter 16 dealing with ecclesiastical dispensations was repealed by statutes from 1948 to 1969. Sections 3 and 4 relate to jurisdiction in this respect and there should be a saving in favour of the Church of England in South Australia. Chapter 17 dealing with repeal of Acts was dealt with by 1 Edw. VI c.11, and again by 24 Geo. II c.24. Chapter 18 in Ruffhead dealing with treason was repealed by 1 Edw. VI c.12. According to the King's Printer's Edition chapters 18-52 are all personal Acts so that there are apparently two chapters 18. Chapters 3-6, 7 so far as unrepealed, 8-9, 11-12, 18 second occurring and 19-52 should be repealed outright in this State and chapter 16 dealing with ecclesiastical dispensations with the saving referred to.

Statute 31 Hen. VIII (1539) cc.1-14:

Chapter 1 dealing with joint tenants and tenants in common was repealed in 1925 and is dealt with in our Fifty-Fourth Report. Chapter 2 dealing with fish was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 3 dealing with land in gavelkind in Kent was repealed in 1948. Chapters 4 and 5 are local. Chapter 6 relating to monasteries and chapter 7 relating to continuance of Acts were both repealed in 1863. Chapter 8, the famous Statute of Proclamations, was repealed by 1 Edw. VI c.12 s.4. Chapter 9 giving power to appoint bishops by patent was repealed by 1 & 2 Philip & Mary c.8 s.4. Chapter 10 relating to precedence in the House of Lords was partly repealed in 1888 and 1948 and is still partly in force. Chapter 11 dealing with Wales was repealed in 1863. Chapter 12 relating to the taking of hawks was repealed by 1 Edw. VI c.12 and again in 1863. Chapter 13 relating to the suppression of the monasteries and other religious houses was repealed except as to section 19 in 1969. Chapter 14 dealing with religion was repealed by 1 Edw. VI c.12. Accordingly chapters 3-7, 10, 11 and 13 of the statutes of this year need to be repealed in this State.

Statute 32 Hen. VIII (1540) cc.1-51:

Chapter 1 on wills was repealed by the Ordinance 16 of 1842. Chapter 2 on limitation of prescription was repealed in England in 1887 and is dealt with in our Fifty-Fifth Report. Chapters 3 and 4 dealing with continuation of Acts and treason in Wales were repealed in England in 1863. Chapter 5 on execution on debts was repealed in England in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 6 dealing with the export of horses into Scotland was repealed by 4 Jac. I c.1 and again in 1863. Chapter 7 dealing with tithe was repealed by a series of statutes from 1887 to 1963. Chapter 8 dealing with game was repealed in 1863. Chapter 9, the Pretenced Titles Act, was held to be in force in New South Wales in *Nichols v. Anglo-Australian Investment Finance & Land Co. (1890) 11 L.R. N.S.W. 354* and is dealt with in our Fifty-Fourth Report. It was repealed in England in 1967. Chapter 10 dealing with incontinency in priests was repealed in 1863. Chapter 11 dealing with wild life protection was repealed by 1 Edw. VI c.12 and again in 1863. Chapter 12 dealing with sanctuaries was repealed in 1863. Chapter 13 dealing with breeding of horses was repealed in 1857. Chapter 14 dealing with freight charges

was repealed by 3 Geo. IV c.41 s.2. Chapter 15 dealing with commissions in archdioceses was impliedly repealed by 1 Edw. VI c.12 and again in 1863. Chapter 16 dealing with aliens is dealt with in our Sixty-Fifth Report and was repealed in England in 1863. Chapters 17-19 are private Acts which were repealed in 1948. Chapter 20 dealing with the privileges and franchises of monasteries was repealed in 1969. Chapter 21 dealing with the shortening of Trinity Term was repealed in England in 1873 and is dealt with in our Sixty-First Report. Chapter 22 dealing with taxes within dioceses and chapter 23 dealing with subsidies were both repealed in 1873. Chapter 24 dealing with the Hospital of St. John of Jerusalem was repealed in 1948. This is the ancient order of Knights Hospitallers that is referred to in the statute and not the order that is in existence in Australia at the present day. Chapter 25 dealing with the annulment of the King's marriage with Anne of Cleves is still in force but it is not of any importance in Australia. Chapter 26 dealing with rites and ceremonies was repealed by 1 Edw. VI c.12 and again in 1863. Chapter 27 dealing with Crown grants was repealed in 1948. Chapter 28 dealing with lessee's rights against tenants in tail was repealed in England in 1924 and is dealt with in our Fifty-Fourth and Fifty-Fifth Reports. Chapter 29 dealing with descent of lands in Norfolk is a local Act and was repealed in 1948. Chapter 30 dealing with jeofails was repealed in England in 1883 and is dealt with in our Fifty-Fifth Report. Chapter 31 dealing with recoveries was repealed by 14 Eliz. I c.8 s.4. Chapter 32 dealing with joint tenants of leases and giving power to sever was repealed in England in 1924 and is dealt with in our Fifty-Fourth Report. Chapter 33 dealing with wrongful disseisin was repealed in England in 1863 and is dealt with in our Sixty-First Report. Chapter 34 dealing with grantees of reversions was repealed in 1925 and is dealt with in our Fifty-Fourth Report. Chapter 35 dealing with the forest clause was repealed in 1948. Chapter 36 dealing with the statute of fines was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 37 giving executors a right to recover arrears of rent is dealt with in our Fifty-Fourth Report. Chapter 38 dealing with precontracts and prohibited degrees was repealed in England in 1949 and would now be covered by the Commonwealth Marriage Act. Chapter 39 dealing with the King's Household was repealed by 1 Mary Session 3 c.4. Chapter 40 dealing with physicians was repealed in 1956. Chapter 41 dealing with horse bread was repealed by 21 Jac. I c.21. Chapter 42 dealing with barber surgeons in London seems to be unrepealed but has no bearing in Australia. Chapter 43 dealing with shire days in the city of Chester was repealed in 1948. Chapter 44 is local. Chapter 45 dealing with the courts of first fruits and tenths was repealed in 1863. Chapter 46 dealing with the Court of Wards was repealed by 12 Car. II c.24. Chapters 47 and 48 are local and were repealed in 1948. Chapters 49 and 50 dealing with general pardon and taxation were repealed in 1863. Chapter 51 dealing with the Queen Consort is still it seems partly in existence in England and the rest has been repealed by statutes from 1863 to 1969. That means that chapters 3 and 4, 7-10, 12 and 13, 15-20, 22, 25, 27, 29, 35, 38, 40, 42, 44 and 45 and 47-51 now need to be repealed in South Australia.

Statutes 33 Hen. VIII cc.1-39 (1541):

Chapter 1 dealing with counterfeit letters was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 2 relating to fish was repealed by 3 Geo. IV c.41 s.2. Chapter 3 dealing with cloth in North Wales was repealed by 49 Geo. III c.109. Chapter 4 dealing with pewterers was repealed in 1863. Chapter 5 dealing with horses was repealed by 21 Jac. I c.28 s.11. Chapter 6 dealing with crossbows and hand guns was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 7 dealing with scrap metal was repealed by 53 Geo. III

c.45. Chapter 8 dealing with witchcraft was repealed by 1 Edw. VI c.12 and 1 Mary stat. 1 c.1 and again in 1863. Chapter 9 dealing with unlawful games was partly repealed by 3 Geo. IV c.41 s.4 and the remainder in 1960 and is dealt with in our Sixty-Eighth Report. Chapter 10 dealing with justices' panels was repealed by 37 Hen. VIII c.7. Chapter 11 dealing with sale of meat was repealed in 1863. Chapter 12 dealing with offences within the verge of the Royal household was repealed partly by 9 Geo. IV c.31 s.1 and partly in 1967. Chapter 13 dealing with Wales was partly repealed in 1887 and partly in 1977. Chapter 14 dealing with false prophecies was repealed in 1863. Chapter 15 repealing the statute 32 Hen. VIII c.12 was repealed by 1 Jac. I c.25 and 21 Jac. I c.28 and again in 1863. Chapter 16 dealing with worsted was repealed in 1857. Chapter 17 dealing with continuation of Acts was repealed in 1863. Chapter 18 dealing with kerseys was repealed by 5 & 6 Edw. VI c.6 and again in 1863. Chapter 19 dealing with export was repealed by 3 Geo. IV c.41 s.10. Chapter 20 dealing with treason by a lunatic was repealed partly in 1863 and the remainder in 1948 and is dealt with in the Fifty-Ninth Report of this Committee. Chapter 21 dealing with the attainder of Queen Catherine is partly repealed by 1 Edw. VI c.12 and 1 Mary Session 1 c.1 and the remainder in England in 1967. However part of this statute enables the Crown to give assent to Acts by letters patent and this part of the statute we will deal with in our report on constitutional matters. Chapter 22 deals with the Court of Wards and was repealed by 12 Car. II c.24. Chapter 23 dealing with courts of oyer and terminer in cases of treason was repealed by 9 Geo. IV c.31 s.1. Chapter 24 dealing with justices of assize was dealt with in our Sixty-First Report. Chapters 25-26 are private Acts. Chapter 27 deals with leases by corporations which are an aggregate such as a dean and chapter. It was repealed in England in 1960 but it alters the general law relating to corporations and there ought to be in our repealing statute a reservation of the amendment of the law made by the statute. Chapters 28-38 are local. Chapter 39 deals with Crown debts. It was repealed in England by a series of statutes from 1863 to 1981. However this statute is the general statute for the recovery of all debts due to the Crown: see *Execution on Crown Judgments by Lynn (1932) page 37*, and as most of the Crown law on recovery of debts is in this Statute, whilst the statute should be repealed there should be a reservation in favour of the Crown. That means that chapters 4, 11, 12-14, 16-17, 25 and 26, 28-38 and 39 but with a reservation, should be repealed at this stage in South Australia.

Statutes 34 & 35 Hen. VIII (1542) cc.1-28:

Chapter 1 requiring that the Bible not be printed in English was repealed by 1 Edw. VI c.12. Chapter 2 dealing with collectors and receivers of public money was repealed in 1958. Chapter 3 dealing with weights and measures was repealed by 7 Edw. VI c.7. Chapter 4 dealing with bankruptcy was repealed by 6 Geo. IV c.16 s.1. Chapter 5 dealing with wills was repealed by the Ordinance No. 16 of 1842. Chapter 6 dealing with pins was repealed by 37 Hen. VIII c.13. Chapter 7 dealing with the price of wine was repealed in 1863. Chapter 8 licensing herbalists was repealed in 1958 as was chapter 9 dealing with the River Severn. Chapters 10-13 are local and were repealed between 1857 and 1948. Chapter 14 dealing with certificates of convictions was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 15 is a local Act. Chapter 16 dealing with sheriffs was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 17 dealing with tenths payable by bishops was repealed in 1948. Chapter 18 dealing with the liberties of Canterbury was repealed in 1981. Chapter 19 dealing with pensions from the dissolved abbeys appears to be still in force in England but has no relevance in Australia. Chapter

20 dealing with recovery of lands when the reversion is in the Crown was repealed by statutes from 1888 to 1969 and is dealt with in the Fifty-Fourth Report of this Committee. Chapter 21 dealing with confirmation of grants was repealed in 1978. Chapter 22 dealing with fines of lands was repealed in 1863. Chapter 23 which is ancillary to the Statute of Proclamations was repealed by 1 Edw. VI c.12 s.4. Chapters 24-25 are private Acts. Chapter 26 relating to Wales is still partly in force and the balance was repealed between 1881 and 1974 in England. Chapters 27 and 28 are taxation Acts which were repealed in 1863. Accordingly of the statutes of that Session, chapters 2, 7-13, 15, 17-19, 21 and 22, and 24-28 ought to be repealed in their application to South Australia.

Statutes 35 Hen. VIII (1543) cc.1-18:

Chapter 1 dealing with succession to the throne was partly repealed by 1 & 2 Philip & Mary c.8 s.5 and the rest between 1863 and 1948. Chapter 2 dealing with treasons out of the realm is dealt with in our Fifty-Ninth Report. Chapter 3 dealing with the royal style and titles was repealed by 1 & 2 Philip & Mary c.8 and this was confirmed by 1 Eliz. I c.1. Chapter 4 dealing with Wales was repealed in 1948. Chapter 5 dealing with religious offences was repealed by 1 Edw. VI c.12 s.2. Chapter 6 dealing with juries was repealed by 6 Geo. IV c.50 s.62. Chapters 7 and 8 dealing with fish and with coopers were repealed in 1863. Chapters 9 and 10 are local and were repealed in 1948. Chapter 11 dealing with wages for Welsh members of Parliament was repealed in 1857. Chapter 12 dealing with loans to the Crown was repealed in 1863. Chapters 13-14 dealing with religious houses were repealed in 1948. Chapter 15 dealing with street paving was repealed by 28 Geo. III c.64. Chapter 16 dealing with the canon law was repealed in 1950. Chapter 17 dealing with preservation of woods was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 18, a general pardon, was repealed in 1863. Accordingly of the statutes of that year, chapter 1 insofar as it was not repealed by the statute of Philip & Mary, and chapters 4, 7-14, 16 and 18 ought now to be repealed in their application to South Australia.

Statutes 37 Hen. VIII (1545) cc.1-25:

Chapter 1 relating to the clerk of the peace was repealed by a series of statutes from 1887 to 1968. Chapters 2 and 3 are local Acts and were repealed in 1948. Chapter 4 dealing with the dissolution of chantries was repealed partly in 1950 and partly in 1969. Chapter 5 dealing with attainments was repealed in 1863. Chapter 6 dealing with damaging house materials was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 7 dealing with the jurisdiction of justices was repealed in 1863 as was chapter 8 dealing with the form of indictments. Chapter 9 dealing with usury was repealed in 1854 and is dealt with in our Sixty-First Report. Chapter 10 making certain libels felonies was repealed by 1 Edw. VI c.12. Chapters 11 and 12 are local Acts and were repealed in 1948. Chapter 13 repealing the statute 34 & 35 Hen. VIII c.6 was itself repealed in 1863. Chapter 14 is a local Act and was repealed in 1936. Chapter 15 dealing with wool was repealed in 1863. Chapter 16 dealing with the Duchy of Lancaster appears to be still in force in England but is of no relevance in Australia. Chapter 17 providing for the exercise of ecclesiastical jurisdiction by doctors of law who had not taken holy orders was repealed in 1863. Chapter 18 is a local Act. Chapter 19 dealing with fines in counties palatine was repealed in 1863. Chapter 20 dealing with religious houses appears to be still in force in England but has no relevance here. Chapter 21 dealing with benefices was repealed in 1838. Chapter 22 dealing with juries was repealed in 1863, and is dealt with in our Fifty-Ninth Report. Chapter

23 relating to acts continuance and chapters 24 and 25 dealing with taxation, were all repealed in 1863. Accordingly of the statutes of that year, chapters 1-5, 7 and 8, 11-12, 14-21 and 23-24 ought now to be repealed in their application to South Australia.

Statutes 1 Edw. VI (1547) cc.1-15:

Chapter 1 dealing with the sacraments is still partly in force in England and is partly repealed by statutes from 1888 to 1969. It can be repealed here but with a saving in favour of the Church of England. Chapter 2 relating to election of bishops was repealed in 1863, as was chapter 3 relating to vagabonds, and chapter 4 relating to tenure in capite. Chapter 5 relating to export was repealed by 3 Geo. IV c.4 s.4. Chapter 6 relating to worsteds was repealed in 1856. Chapter 7 dealing with the demise of the Crown is referred to in our Fifty-Fifth Report but not there dealt with as we are to do a separate report to you on the statutes relating to the demise of the Crown. Chapter 8 dealing with correction of letters patent was repealed in 1948 and is dealt with in our Sixty-First Report. Chapter 9 dealing with churches in York was repealed in 1948. Chapter 10 dealing with exigents in Wales and Cheshire was repealed in 1938. Chapter 11 repeals 28 Hen. VIII c.7 and was in its turn repealed by 20 Geo. II c.24 s.33. Chapter 12, the repeal of the statutes of new treasons and felonies variously made in Henry VIII's time, was partly repealed by 9 Geo. IV c.31 s.1 and the balance by statutes between 1863 and 1948. It is dealt with in our Fifty-Ninth Report. Chapter 13 relating to taxation and chapter 15 relating to pardon were both repealed in 1863 and chapter 14 dealing with dissolution of colleges was repealed in 1960. Accordingly chapter 1 but with the reservation referred to, chapters 2-4, chapter 6, chapters 9 and 10, and chapters 13-15 now ought to be repealed in relation to South Australia.

Statutes 2 & 3 Edw. VI cc.1-39 (1548):

Chapter 1—the Act of Uniformity—may still be partly in force in South Australia. Section 1 subsection (4) makes the Book of Common Prayer part of the Statute. The tables of kindred and affinity in the Book of Common Prayer have always been taken as being given statutory force by the Book of Common Prayer being part of a statute. The matter no longer matters in Australia relating to marriage because very different tables of kindred and affinity are providing for marriage and for matrimonial causes, but there are still family relationships in relation to which the table in the Book of Common Prayer may be of some importance. In addition, the Act of Uniformity itself is one of the Acts which governs the Church of England. For this reason, chapter 1 may be repealed but with a saving of the rights of the Church of England and also with a saving of the tables of kindred and affinity insofar as they do not apply to marriage and divorce. Chapters 2 and 3 relating to the Army and to purveyors were repealed in 1863. Chapter 4 dealing with sheriffs was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapters 5 and 6 dealing with fee farms and commerce with Iceland were repealed in 1863. Chapter 7 dealing with the property of the monasteries was repealed in 1948. Chapter 8 dealing with escheators was referred to in our Sixty-First Report. Chapter 9 dealing with leather was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in 1856. Chapter 10 relating to malt was repealed in 1863. Chapter 11 also relating to leather was repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in 1856. Chapter 12 is a private Act. Chapter 13 relates to tithes and was repealed in 1887. Chapter 14 relating to hail shot was repealed by 6 & 7 Will. III and Mary c.13 s.3. Chapter 15 relating to victuallers was repealed by 6 Geo. IV c.129

s.2. Chapter 16 relating to custody of castles was repealed in 1863. Chapters 17 and 18 are Acts of attainder. Chapter 19 dealing with Lent was repealed in 1856. Chapter 20 dealing with payment of tenths to the King was repealed by Church Assembly Measure 1926 No. 5. Chapter 21 allowing the marriage of the clergy was repealed by statutes from 1887 to 1969. Chapter 22 relating to customs was repealed by 3 Geo. IV c.41 s.2. Chapter 23 relating to precontract in relation to marriage was repealed in 1949. Chapter 24 relating to the venue for murders and felonies was repealed by 7 Geo. IV c.64 s.32. Chapter 25 referring to the sheriff's county court was repealed in 1887. Chapter 26 relating to export was repealed by 3 Geo. IV c.41 s.10. Chapter 27 dealing with the wrongful substitution of iron for steel in goods was repealed in 1856. Chapter 28 dealing with fines was repealed in 1863. Chapter 29 dealing with buggery was repealed by 1 Mary Sess. 1 c.1 and again in 1863. Chapters 30 and 31 are local Acts. Chapter 32 dealing with Acts continuance was repealed in 1948. Chapter 33 dealing with horse stealing was repealed by 7 & 8 Geo. IV c.27 s.1. Chapters 34, 35 and 36 relating to the sheriff of Northumberland and taxation were repealed in 1863. Chapter 37 dealing with export was repealed by 53 Geo. III c.45. Chapter 38 dealing with Calais and chapter 39 dealing with pardon were both repealed in 1863. Accordingly it is now necessary to repeal chapter 1 but with the reservations above referred to, chapters 2 and 3, 5-7, 10, 12 and 13, 16-21, 23, 25, 27 and 28, 30-32, 34-36 and 38 and 39 in South Australia today.

Statutes 3 & 4 Edw. VI cc.1-24 (1549):

Chapter 1 dealing with the *custos rotulorum* was repealed in 1863. Chapter 2 relating to woollen cloths was repealed in 1856. Chapter 3 relating to improvement of commons was repealed in 1879. Chapter 4 dealing with letters patent was repealed in 1948 and is dealt with in our Sixty-Fifth Report. Chapter 5 dealing with riot was repealed by 1 Mary Sess. 2 c.12. Chapter 6 dealing with leather and chapter 7 dealing with wild fowl were repealed in 1863. Chapter 8 dealing with sewers was repealed in 1930. Chapter 9 dealing with hides was repealed in 1856. Chapter 10 dealing with putting away of books and images in churches was repealed in 1926. Chapter 11 forming a commission of thirty-two persons to make ecclesiastical laws was repealed in 1863. Chapter 12 relating to consecration of Divines was repealed in 1863. Chapters 13 and 14 are private Acts. Chapter 15 dealing with false prophecies was repealed in 1863. Chapter 16 dealing with vagabonds was repealed by 21 Jac. I c.28 s.11. Chapter 17 relating to unlawful hunting and chapter 18 dealing with fee farm rents were both repealed in 1863. Chapter 19 dealing with the buying of cattle was repealed in 1844. Chapter 20 dealing with victuallers was repealed in 1863. Chapter 21 dealing with butter and cheese was repealed by 12 Geo. III c.71 s.1. Chapters 22-24 dealing with labourers, taxation and pardon were repealed in 1863. Accordingly it is now necessary to repeal chapters 1-3, 6-15 and 17-20 and 22-24 in South Australia today, with a saving of the rights of the Church of England in respect of chapter 10.

Statutes 5 & 6 Edw. VI (1551) cc.1-26:

Chapter 1 is the second of the Acts of Uniformity. The same comments apply as for 2 & 3 Edw. VI c.1 in relation to the Church of England and the Book of Common Prayer, except that the Book of Common Prayer is referred to in Section V of this Act. It was repealed in England between 1846 and 1969. Chapter 2 dealing with the poor was repealed by 14 Eliz. I c.5 and again in 1863. Chapter 3 dealing with holidays and fast days was repealed between 1888 and 1969. Chapter 4 dealing with brawling

in Church was repealed by Church Assembly Measure 1963 No. 1. Chapter 5 dealing with tillage was repealed by 21 Jac. I c.28 s.11. Chapter 6 dealing with woollen cloth was repealed in 1856. Chapter 7 dealing with the sale of wool was repealed by 21 Jac. I c. 28. Chapter 8 dealing with woollen cloth was repealed by 1 Mary Sess. 3 c.7 and again in 1863. Chapter 9 dealing with robbery was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 10 dealing with other kinds of robbery was repealed by 7 Geo. IV c.64 s.32. Chapter 11 dealing with treason is dealt with in the Fifty-Ninth Report of the Committee. Because of section 5 which deals with the King's Dominions it is probable that it is one of the Acts to which the Colonial Laws Validity Act applies. It was repealed in England by a series of statutes from 1863 to 1948. Chapter 12 dealing with the marriage of priests was repealed by statutes from 1887 to 1969. Chapter 13 dealing with the monasteries was repealed in 1863. Chapter 14 dealing with forestallers was repealed by 12 Geo. III c.71 s.1. Chapter 15 dealing with regrators was partly repealed by 1 Mary Sess. 3 c.8, 5 Eliz. I c.8 and 1 Jac. I c.22 and the balance by statutes of 1844 and 1953. Chapter 16 dealing with the sale of offices is dealt with in our Sixty-Fifth Report. It was partly repealed by 6 Geo IV c.105. The balance is still in force in England and probably also in force in South Australia. Chapter 17 dealing with Acts continuation was repealed in 1863. Chapter 18 dealing with navigation was repealed by 3 Geo. IV c.41 s.2. Chapter 19 dealing with the exchange of gold and silver was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 20 dealing with usury was repealed by 13 Eliz. I c.8 s.1. Chapter 21 dealing with pedlars was repealed by 1 Jac. I c.25 s.7. Chapter 22 dealing with gig mills was repealed by 49 Geo. III c.109 s.1. Chapter 23 making all mattresses illegal not stuffed with feather, wool or flock, was repealed in 1863. As long as it stands unrepealed in South Australia, presumably all innerspring mattresses are illegal. Chapter 24 dealing with hats was repealed in 1856. Chapter 25 binding over proprietors of ale houses was repealed by 9 Geo. IV c.61 s.35. Chapter 26 relating to proclamations on exigents was repealed in 1938. That means that chapter 1 with the reservations we have referred to, chapters 3 and 4, 6, 12 and 13, 15 so far as not already repealed, 17, 23, 24 and 26 still need to be repealed in South Australia. Tasmania also has a reservation in relation to chapter 3 and it may be necessary to do the same here.

Statutes 7 Edw. VI (1553) cc.1-14:

Chapter 1 dealing with the Crown revenues was repealed in England in 1863 and is referred to in the Sixty-Fifth Report of the Committee. Chapter 2 dealing with courts of augmentations and wards was repealed in 1863. Chapter 3 dealing with Crown lands was repealed in 1948. Chapter 4 dealing with binding over collectors of tenths was repealed by Church Assembly Measure 1926 No. 5. Chapter 5 dealing with wine was repealed in 1856. Chapter 6 dealing with exports of gold and silver was repealed in 1863. Chapter 7 dealing with the assize of fuel was repealed in 1856. Chapter 8 dealing with the fulling of caps was repealed by 1 Jac. I c.25 s.7. Chapter 9 dealing with cloths was repealed by 27 Eliz. I c.18 s.1. Chapter 10 is a local Act and was repealed by 1 Mary Sess. 3 c.3 s.1. Chapters 11-14 deal with Acts continuation, taxation and general pardon and were all repealed in 1863. This means that chapters 2-7 and 11-14 now remain to be repealed in South Australia.

Statute 1 Mary Session 1 (1553):

This deals with treason. It was repealed in 1967 and is dealt with in the Fifty-Ninth Report of this Committee.

Statute 1 Mary Session 2 (1553) cc.1-18:

Chapter 1 deals with the legitimacy of the Queen and was repealed in 1948. Chapter 2 deals with the repeal of Acts and was repealed by 1 Jac. I c.25 s.8. Chapter 3 deals with the disturbance of worship and was repealed in 1967. Chapter 4 deals with the avoidance of the acts of Lady Jane Grey during the usurpation and was repealed in 1863. Chapter 5 deals with limitation of prescription of real actions, which was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 6 deals with counterfeiting coin, the Queen's sign manual or her privy seal and was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 7 deals with fines of land. It was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 8 says that sheriffs are not to be justices of the peace. It was repealed in 1887 and is dealt with in our Fifty-Fifth Report. Chapter 9 deals with the college of physicians which was repealed by statutes of 1938 and 1948. Chapter 10 dealing with dissolution of courts was repealed in 1863. Chapter 11 dealing with hats and caps was repealed by 1 Jac. I c.25 and again by 3 Geo. IV c.41 s.10. Chapters 12 dealing with riots, 13 with Acts continuation, 14 with gaols and 17 and 18 with taxation, were all repealed in 1863. Chapters 15 and 16 are local and personal Acts. Accordingly of the statutes of that session, chapters 1, 3, 4, 9 and 10 and 12-18 need to be repealed in South Australia today.

Statute 1 Mary Session 3 (1554):

Chapter 1 provides that a Queen regnant is to exercise the same powers as a King could exercise. It was repealed in England in 1969. It is a constitutional statute which would have effect in South Australia today and will be dealt with in our report on constitutional law. Chapter 2 deals with the Queen's marriage to Philip of Spain. It was partly repealed by 1 & 2 Philip & Mary c.1 and the remainder was repealed in 1863. Chapters 3-6 are local Acts. Chapter 7 deals with cloth making and was repealed by 49 Geo. III c.109 s.1. Chapter 8 deals with leather and chapter 9 with Cathedral churches and both were repealed in 1856. Chapters 10 and 11 are local Acts. Chapter 12 deals with Acts continuance and was repealed in 1863. Accordingly of the statutes of that Session, chapters 2 so far as unrepealed, 3-6 and 8-12 need to be repealed in South Australia today.

Statutes 1 & 2 Philip & Mary (1554) cc.1-17:

Chapter 1 provides that documents are to be sufficient if signed by the Queen only and was repealed in 1863. Chapter 2 dealing with apparel was repealed by 1 Jac. I c.25. Chapter 3 dealing with seditious words and chapter 5 dealing with export were repealed in 1863. Chapter 4 dealing with gypsies, and chapter 7 dealing with retail sales, were repealed in 1986. Chapter 6 dealing with heresy was repealed by 1 Eliz. I c.1 s.6. Chapter 8 dealing with the reconciliation with Rome was repealed by 1 Eliz. I c.1 and again in 1863. Chapter 9 dealing with treason by praying that harm might come to the Queen was repealed in 1863. Chapter 10, a general treason statute, was repealed in 1967. Chapter 11 dealing with counterfeit coin was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 12 dealing with distress was impliedly repealed by sections 14 and 18 of the Impounding Act 1920, and in England by Statutes of 1863 to 1969. Chapter 13 dealing with bail was repealed by 7 Geo. IV c.64 s.32. Chapter 14 dealing with worsteds was repealed in 1863. Chapter 15 dealing with the Lords Marchers was repealed in 1887. Chapters 16 and 17 dealing with Acts continuance and leases of benefices were both repealed in 1863. Of the statutes of that year, chapters 1, 3-5, 7, 9 and 10, 12, and 14-17 need to be repealed in South Australia today.

Statutes 2 & 3 Philip & Mary cc.1-23 (1555).

Chapter 1 dealing with fortifications was repealed by 4 Jac. I c.1 and again in 1863. Chapter 2 dealing with tillage was repealed in 1863. Chapter 3 dealing with cattle breeding was repealed by 12 Geo. III c.71 s.1. Chapter 4 dealing with first fruits was repealed by 1 Eliz. I c.4 s.1. Chapter 5 dealing with the poor law and chapter 6 dealing with purveyance were both repealed in 1863. Chapter 7 dealing with the sale of stolen horses was repealed in 1967. Chapter 8 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapter 9 dealing with gaming is dealt with in the Sixty-Eighth Report of this Committee. Chapter 10 dealing with the examination of prisoners was repealed by 7 Geo. IV c.64 s.32. Chapter 11 dealing with weavers and chapter 12 dealing with cloth were both repealed by 49 Geo. III c.109 s.1. Chapters 13 and 14 are local Acts. Chapter 15 relating to purveyors was repealed in 1863. Chapter 16 relating to the Thames watermen was repealed by a private Act 7 & 8 Geo. IV c. lxxv s.1. Chapter 17 is a private Act. Chapter 18 relating to commissions of the peace and gaol delivery was repealed in 1887. Chapters 19-20 are private Acts. Chapter 21 dealing with Acts continuance and chapters 22 and 23 dealing with taxation were repealed in 1863. Accordingly it is now necessary to repeal chapters 2, 5-7, 13-15 and 17-23 of the statutes of that year in South Australia.

Statutes 4 & 5 Philip & Mary (1557) cc. 1-11:

Chapter 1 dealing with Crown lands was repealed in 1948. Chapter 2 dealing with military service was repealed by 1 Jac. I c.25 s.7. Chapter 3 dealing with musters was repealed in 1863. Chapter 4 dealing with accessories to murder was repealed by 9 Geo. IV c.31 s.1. Chapter 5 dealing with cloth was repealed by 49 Geo. III c.109 s.1 and by a private Act 55 Geo. III c. xciii s.1. Chapter 6 dealing with aliens was repealed in 1863. Chapter 7 relating to juries was repealed by 6 Geo. IV c.50 s.62. Chapter 8 dealing with abduction was repealed by 9 Geo. IV c.31 s.1. Chapter 9 dealing with Acts continuance and chapters 10 and 11 relating to taxation were all repealed in 1863. Therefore of the statutes of that year, chapters 1, 3, 6, and 9-11 need to be repealed in South Australia today.

We have the honour to be

Howard Zelling
J. M. White
Christopher J. Legoe
M. F. Gray
P. R. Morgan
D. F. Wicks
G. Hiskey

Law Reform Committee of South Australia

(At the time of signing this report Mr Andrew Ligertwood was on sabbatical leave)

8th November, 1983.