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SOUTH  AUSTRALIA

SEVENTY-NINTH REPORT
of the
LAW REFORM COMMITTEE
of
SOUTH AUSTRALIA
to
THE ATTORNEY-GENERAL

**DEALING WITH 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:

THE HONOURABLE MR. JUSTICE ZELLING, C.B.E., *Chairman.*

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

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

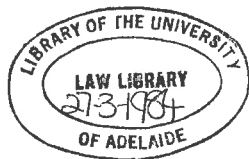
M. F. GRAY, Q.C., S.-G.

P. R. MORGAN.

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A. L. C. LIGERTWOOD.

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

**SEVENTY-NINTH REPORT OF THE LAW REFORM COMMITTEE
OF SOUTH AUSTRALIA DEALING WITH THE INHERITED
IMPERIAL LAW**

To:

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

Sir,

In our Seventy-Eighth Report relating to the inherited Imperial Law, we dealt in general with all the Imperial statutes of a particular year from 1225 to 1557 insofar as they had not been dealt with in prior reports, indicating whether they had been repealed prior to 1836 or by any Act or Ordinance of South Australia since 1836, or whether they now need to be repealed with or without any savings. We now follow the same procedure for the statutes from 1558-1702.

Statutes 1 Eliz. I (1558) cc.1-24:

Chapter 1, the Act of Supremacy, had section 18 repealed by 16 Car. I c.11 s.3, and section 19 by 1 Will. III & Mary Sess. 1 c.8 s.2. The remainder has been repealed in England by statutes from 1846 to 1974. The statute is referred to in our Sixty-Fifth Report. It can be repealed in South Australia but with a saving for the rights and privileges of the Church of England which partly derive from this statute.

Chapter 2, the Act of Uniformity, has been repealed partly by statutes from 1846 to 1969 and is partly still in force. Again, it is an Act touching the rights and privileges of the Church of England and can be repealed saving those rights and privileges. Section 4 of the Act is a section from one of the Acts dealing with the Book of Common Prayer. As we have said before, the Tables of kindred and affinity, so far as not affected by the Commonwealth Marriage Act, derive their statutory force from the relevant part of the Book of Common Prayer and these also should be preserved.

Chapter 3 dealing with the Queen's title to the Crown was repealed in 1948.

Chapter 4 dealing with first fruits and tenths was repealed by a series of statutes from 1863 to 1948. Chapter 5 dealing with treason was repealed in 1863 as was chapter 6, dealing with seditious words. Chapter 7, dealing with the sale of horses to Scotland, was repealed by 4 Jac. I c.1 and again in 1863. Chapter 8 dealing with cordwainers and chapter 9 dealing with leather workers were both repealed by 5 Eliz. I c.8 and 1 Jac. I c.22 and again in each instance in 1863. Chapter 10 dealing with export, was repealed by 18 Eliz. I c.9 and again by 3 Geo. IV c.41 s.10. Chapter 11 dealing with customs was repealed by 6 Geo. IV c.105. Chapter 12, dealing with linen cloth, was repealed in 1863. Chapter 13 is a Navigation Act and was repealed by 3 Geo. IV c.41 s.2. Chapter 14 dealing with woollen cloth was repealed by 49 Geo. III c.109 s.1. Chapter 15 dealing with timber was repealed in 1856. Chapter 16 dealing with riots was repealed in 1863. Chapter 17 dealing with fish conservation was partly repealed by 18 Geo. III c.33 s.1 and the remainder by Acts

from 1861 to 1948. Chapter 18 dealing with acts continuance was repealed in 1863. Chapter 19 dealing with alienations of land by bishops was repealed by a series of statutes from 1863 to 1948. It should be repealed but with a saving in relation to the rights of the Church of England. Chapters 20-22 dealing with taxation and with ordinances for collegiate churches were all repealed in 1863. Chapter 23 dealing with the rehabilitation of Queen Anne Boleyn was repealed in 1948. Chapter 24 dealing with title to religious houses was repealed by statutes from 1926 to 1948. This statute was local to England and does not need any saving clause in relation to the Church of England in this State. Accordingly of the statutes of that year, chapters 1 (so far as not already repealed), 2 and 19 need to be repealed but in each case with a saving in favour of the Church of England and in the case of chapter 2 with a saving in relation to the Tables of kindred and affinity; chapters 3-6, 12, 15 and 16, 17 insofar as not already repealed prior to 1836, 18 and 20-24 all need to be repealed in South Australia today.

Statutes 5 Eliz. I (1562) cc.1-31:

Chapter 1, dealing with the Royal Supremacy in relation to the Church, was repealed in 1846 and should be repealed here with a saving of the rights and privileges of the Church of England. Chapter 2 dealing with husbandry was repealed by 21 Jac. I c.28 s.11. Chapter 3 relating to vagabonds was repealed by 14 Eliz. I c.5 s.1. Chapter 4 dealing with artificers and apprentices was repealed in 1875 and is dealt with in our Fifty-Eighth Report. Chapter 5 dealing with the Navy was repealed in 1868. Chapter 6 dealing with foreign wares was repealed in 1863. Chapter 7 dealing with imports was repealed by 3 Geo. IV c.41 s.10. Chapter 8 dealing with tanning was repealed in 1856. Chapter 9 dealing with perjury was repealed in England in 1911 and is probably still in force in South Australia and is dealt with in our Fifty-Ninth Report. Chapter 10 dealing with embezzlement, was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 11 making the clipping of coin treason was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 12 dealing with cattle droving was repealed by 12 Geo. III c.71 s.1. Chapter 13 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapter 14 dealing with forgery was repealed by 11 Geo. IV & 1 Will. IV c.66 s.31. Chapter 15 dealing with false prophecies was repealed in 1863. Chapter 16 dealing with witchcraft was repealed by 1 Jac. I c.12 and 9 Geo. II c.5. Chapter 17 dealing with buggery was repealed by 9 Geo. IV c.31 s.1. Chapter 18 dealing with the authority of the Lord Keeper is dealt with in our Sixty-First Report. Chapter 19 dealing with sale of horses was repealed in 1863. Chapter 20 dealing with gypsies was repealed by 23 Geo. III c.51. Chapter 21 dealing with game was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 22 dealing with export is dealt with by 3 Geo. IV c.41 s.4. Chapter 23 dealing with the writ of De Excommunicato Capiendo was repealed by Church Assembly Measure 1963 No. 1. It is one of the statutes which the Church of England Act in Tasmania continues, but we cannot see how it can possibly apply in South Australia because there is no authority given to the Supreme Court or any other Court to issue the writ; i.e. we inherited no ecclesiastical jurisdiction except in probate matters. Chapter 24 dealing with gaols was repealed in 1863. Chapter 25 dealing with juries in Wales is repealed by 6 Geo. IV c.50 s.62. Chapters 26 and 27 are local and were repealed in 1924 and 1863 respectively. Chapter 28 dealing with the translation of the Bible into Welsh was repealed in 1973. Chapters 29 and 31 dealing with taxation, chapter 30 dealing with pardon, and chapter 32 dealing with the Queen's household were all repealed in 1863. Accordingly of the statutes of this year, chapter 1, but with the saving referred to,

chapters 5 and 6, 8, 15, 19, 24 and 26-32 all need to be repealed in South Australia today.

Statutes 8 Eliz. I (1566) cc.1-22:

Chapter 1 deals with the making and consecrating of Archbishops and Bishops. It was repealed in England in 1863. It can be repealed here but with a reservation of the rights of the Church of England.

Chapter 2 deals with writs of latitat. It was repealed in England in 1925 and is dealt with in our Fifty-Fifth Report. Chapter 3 dealing with export of sheep and chapter 6 dealing with export of cloth were both repealed by 3 Geo. IV c.41 s.4. Chapter 4 dealing with benefit of clergy was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 5 dealing with the Court of Delegates was repealed by 2 & 3 Will. IV c.92 s.2. Chapter 7 which is a local Act was partly repealed by 14 Eliz. I c.12 and partly in 1863. Chapters 8 dealing with horses, 9 dealing with barrels and 10 dealing with bows were all repealed in 1856. Chapter 11 dealing with hats and caps was repealed by 17 Geo. III c.55 s.1. Chapter 12 a local Act was repealed in 1856. Chapter 13 dealing with sea marks was repealed in 1864. Chapters 14 dealing with leather, 15 dealing with sheriff's tourns, 16 dealing with taxation, 17 dealing with pardon, 18 and 19 dealing with taxation, and 20 dealing with trial of offences in Wales, were all repealed in 1863. Chapters 21 and 22 dealing with patents were repealed in 1948. Accordingly of the statutes of that year, chapter 1 but with the reservation referred to, chapter 7 insofar as not already repealed, chapters 8-10 and 12-22 all need to be repealed in South Australia today.

Statutes 13 Eliz. I (1571) cc.1-29:

Chapter 1 dealing with treason was repealed in 1863. Chapter 2 stating that Bulls from Rome are to be treason was repealed by statutes from 1863 to 1969. The Tasmanian Church of England Act has a reservation of this statute but we cannot see how it was ever in force in South Australia as it is criminal and not ecclesiastical law and had long become obsolete even in England by 1836. Chapter 3 dealing with fugitives was repealed in 1863. Chapter 4 dealing with Crown debts was repealed by statutes of 1924 and 1976. *Lynn on Execution on Crown Judgments* page 62 says that the statute was rarely used but obviously there would have to be a reservation in favour of the Crown if the Crown so desires. It is dealt with in the Sixty-Fifth Report of this Committee.

Chapter 5 dealing with fraudulent conveyances is now contained in Sections 86 and 88 of the Law of Property Act 1936 and is dealt with in the Fifty-Fourth Report of the Committee. Chapter 6 dealing with exemplification of letters patent is partly still in force and partly repealed in 1948 and is dealt with in the Sixty-First Report of this Committee. Chapter 7 dealing with bankruptcy was repealed by 6 Geo. IV c.16 s.1. Chapter 8 dealing with usury was repealed in 1856. Chapter 9 dealing with Commissions of sewers was repealed in 1930. Chapter 10 dealing with ecclesiastical leases is partly still in force and partly repealed by a series of statutes from 1839 to 1964. It should be repealed but with a reservation in favour of the Church of England. Chapter 11 dealing with navigation was repealed by 3 Geo. IV c.41 s.2 and 5 Geo. IV c.74 s.23. Chapter 12 dealing with the ordination of ministers was repealed by a series of statutes from 1863 to 1969. It should be repealed here but with a reservation in favour of the Church of England. Chapter 13 dealing with tillage was repealed in 1863. Chapters 14 and 15 dealing with importation and shipping respectively were both repealed by 3 Geo. IV c.41 s.2.

Chapters 16-18 are private Acts. Chapter 19 dealing with caps was repealed by 39 Eliz. I c.18 s.5. Chapter 20 which says that livings are not to be corruptly transferred was repealed in part by 14 Eliz. I c.11 s.14 and the balance in 1948. So far as the statute was not repealed before 1836 it should be repealed but with a reservation in favour of the Church of England. Chapters 21 and 22 dealing with purveyance and sheriffs were repealed in 1863. Chapters 23 and 24 are private Acts which were repealed in 1948 and 1837 respectively. Chapters 25-28 dealing with acts continuance, taxation and pardon were all repealed in 1863. Chapter 29 dealing with the privileges of Oxford and Cambridge, is still partly in force and partly repealed by statutes of 1888 and 1894. Accordingly of the statutes of this year, chapters 1-3, 8 and 9; 10, 12 and 20 (so far as not already repealed) but in each case with reservations in favour of the Church of England; 13, 16-18, and 21-29 all need to be repealed in South Australia today.

Statutes 14 Eliz. I (1572) cc.1-14:

Chapter 1 dealing with rebellion and chapter 2 dealing with escape of traitors were both repealed in 1863. Chapter 3 dealing with counterfeit coin was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 4 dealing with hides was repealed by 18 Eliz. I c.9 and again in 1863. Chapters 5 and 6 and 7 dealing with vagabonds, fugitives and tithes were all repealed in 1863. Chapter 8 dealing with collusive recoveries was repealed in 1863 and is dealt with in our Fifty-Fourth Report. Chapter 9 dealing with juries is repealed by 6 Geo. IV c.50 s.61. Chapter 10 dealing with kerseys was repealed by 3 Jac. I c.16. Chapter 11 dealing with ecclesiastical leases is partly still in force and was partly repealed between 1863 and 1976. It should be repealed here but with a saving in favour of the Church of England. Chapter 12 was partly repealed by 8 Eliz. I c.7 and partly in 1863. Chapter 13 is a local Act which was repealed in 1975. Chapter 14 deals with hospitals for the poor and was repealed in 1960. Accordingly chapters 1 and 2, 5-7, 11 so far as not previously repealed but with a saving in favour of the Church of England, 12 so far as not previously repealed, and 13 and 14 ought to be repealed in South Australia today.

Statutes 18 Eliz. I (1575) cc.1-24:

Chapter 1 dealing with corn was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 2 dealing with Crown lands was repealed in 1948 and is dealt with in the Sixty-First Report of this Committee. Chapter 3 dealing with bastardy was repealed in 1863. Chapter 4 dealing with fraudulent deeds was repealed in 1948. Chapter 5 dealing with common informers was partly impliedly repealed by Section 237 of our Criminal Law Consolidation Act 1935. It was repealed in England in 1959 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 6 dealing with universities and colleges was repealed in 1925. Chapter 7 dealing with benefit of clergy was repealed by 9 Geo. IV c.31 s.1. Chapter 8 dealing with justices of the peace in Wales was repealed in 1863. Chapter 9 dealing with leather and hides was repealed by 3 Geo. IV c.41 s.2. Chapter 10 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapter 11 dealing with leases of spiritual promotions was repealed in England by statutes from 1888 to 1976. It should be repealed here but with a reservation in favour of the Church of England. Chapter 12 dealing with nisi prius trials in Middlesex was repealed in 1879. Chapter 13 dealing with knight service in the Counties Palatine was impliedly repealed by 12 Car. II c.24 and was finally repealed in 1863. Chapter 14 dealing with jeofails was repealed in 1883 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 15 dealing with goldsmith's marks was repealed

by statutes of 1863 and 1969. Chapter 16 dealing with drapery was repealed by 21 Jac. I c.28 s.11. Chapter 17 is a local Act. Chapter 18 dealing with Chepstow Bridge was repealed by 3 Jac. I. c.23. Chapter 19 dealing with Chichester was repealed by 31 Geo. III c.63. Chapters 20 and 21 are local Acts. Chapters 22 and 23 dealing with taxation and chapter 24 dealing with a general pardon were repealed in 1863. Accordingly chapters 3 and 4, 6, 8, 11 but with a reservation, 12 and 13, 15, 17 and 20-24 of that year need now to be repealed in South Australia.

Statutes 23 Eliz. I (1580) cc.1-17:

Chapter 1 dealing with religious conformity was repealed in 1844 and should be repealed here but with a reservation in favour of the Church of England. Chapter 2 dealing with seditious words was repealed in 1863. Chapter 3 dealing with fines and recoveries was repealed in 1881 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 4 dealing with border defences was repealed in 1863. Chapter 5 dealing with iron mills was repealed in 1856. Chapter 6 dealing with the repair of Dover Harbour was repealed in 1948. Chapter 7 dealing with navigation was repealed by 39 Eliz. I c.10 and again by 3 Geo. IV c.41 s.2. Chapter 8 dealing with beeswax was repealed in 1856. Chapter 9 dealing with the dyeing of cloth was repealed by 49 Geo. III c.109 s.1. Chapter 10 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 11 dealing with bridges was repealed by 1 Anne c.12. Chapters 12 and 13 are local Acts and were repealed in 1948. Chapters 14 and 15 dealing with taxation and 16 dealing with general pardon were all repealed in 1863. Chapter 17 dealing with a local Act was repealed in 1948. Accordingly of the statutes of that year, chapter 1 but with a reservation, chapter 2, chapters 4-6, chapter 8 and chapters 12-17 have now to be repealed in South Australia.

Statutes 27 Eliz. I (1584) cc.1-31:

Chapter 1 dealing with the safety of the Queen was repealed in 1863. Chapter 2 dealing with the Jesuits was repealed in 1844. Tasmania in its Church of England Act provides for a reservation in favour of the Church of England. We are unable to see how this statute touches any of the powers, privileges or discipline of the Church of England today. Chapter 3 dealing with the lands of Crown accountants was repealed in 1924 and is dealt with in our Sixty-Fifth Report. Chapter 4 dealing with fraudulent conveyances is similar to Section 87 of the Law of Property Act 1925 and was dealt with in our Fifty-Fourth Report. Chapter 5 dealing with pleadings was repealed in 1883 and is dealt with in our Fifty-Fifth Report. Chapters 6 and 7 dealing with juries were both repealed by 6 Geo. IV c.50 s.62. Chapter 8 dealing with the Court of Exchequer Chamber was repealed in 1863 and is dealt with in the Sixty-First Report of this Committee. Chapter 9 dealing with fines and recoveries was repealed in 1887. Chapter 10 dealing with common informers and chapter 11 dealing with acts continuance, were both repealed in 1863. Chapter 12 dealing with under sheriffs was repealed in 1887. Chapter 13 dealing with hue and cry was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 14 dealing with malt was repealed in 1863. Chapter 15 dealing with imports was repealed by 3 Geo. IV c.41 s.2. Chapter 16 dealing with leather was repealed in 1863. Chapters 17 and 18 both dealing with cloth were both repealed by 49 Geo. III c.109 s.1. Chapter 19 dealing with timber was repealed in 1856. Chapters 20-22 are local Acts. Chapter 23 dealing with cloth was repealed by 21 Jac. I c.28 and again in 1863. Chapters 24-27 are local Acts. Chapters 28 and 29 dealing with taxation and chapter 30 dealing with general pardon were all repealed in 1863. Chapter 31 dealing with

Westminster was repealed in 1861. Accordingly of the statutes of that year chapters 1-2, 9-12, 14, 16, 19-22 and 24-31 need to be repealed in South Australia today.

Statutes 29 Eliz. I cc.1-9 (1586):

Chapters 1 and 2 deal with attainders and were repealed in 1863, as was chapter 3 dealing with grants by traitors. Chapter 4 dealing with sheriff's poundage was repealed in 1887 and is dealt with in our Sixty-First Report. Chapter 5 dealing with acts continuance was repealed in 1879. Chapter 6 dealing with the lands of recusants was repealed in 1846. The Tasmanian Act again has a saving in favour of the Church of England but the statute appears to have no relevance at all in South Australia either in 1836 or today. Chapters 7 and 8 dealing with taxation and chapter 9 dealing with general pardon were all repealed in 1863. Accordingly of the statutes of that year, chapters 1-3 and 5-9 need to be repealed in South Australia today.

Statutes 31 Eliz. I (1588) cc.1-16:

Chapter 1 dealing with writs of error was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 2 dealing with proclamations on fines was also repealed in 1863 and is dealt with in the same report. Chapter 3 dealing with outlawry was repealed in 1879 and is dealt with in our Fifty-Fifth Report. Chapter 4 dealing with embezzlement was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 5 dealing with common informers was repealed in 1959 and is dealt with in our Fifty-Ninth Report. Chapter 6 dealing with simony in Church offices is based on the passage in Acts chapter VIII verses 18-24. Part of it is still in force in England and part has been repealed by statutes from 1888 to 1951. The Act can be repealed here with a reservation in favour of the Church of England. Chapter 7 dealing with cottages was repealed by 15 Geo. III c.32. Chapter 8 dealing with the sale of beer was repealed in 1863. Chapter 9 dealing with proclamations and exigents was repealed in 1938. Chapter 10 relating to acts continuance was repealed in 1879. Chapter 11 dealing with forcible entry was repealed in 1965 and 1977 and is dealt with in our Fifty-Ninth Report. Chapter 12 dealing with horse stealing was partly repealed by 7 & 8 Geo. IV c.27 s.1, and the remainder in 1967. Chapter 13 dealing with Dover Harbour was repealed in 1948. Chapters 14 and 15 dealing with taxation and chapter 16 with general pardon were repealed in 1863. Accordingly of the statutes of that year, chapter 6 but with the reservation mentioned, chapters 8, 9 and 10, chapter 12 so far as not already repealed, and chapters 13-16 need to be repealed in South Australia.

Statutes 35 Eliz. I cc.1-14 (1592):

Chapter 1 dealing with the obligation to hear Divine Service was repealed in 1844. It can be repealed here with a reservation in favour of the Church of England. Chapter 2 dealing with recusancy was repealed in 1844. Chapter 3 dealing with Abbey lands and confirmation of letters patent was repealed in 1969. Chapter 4 dealing with disabled soldiers was repealed by 43 Eliz. I c.3 s.1. Chapters 5 and 6 are local Acts. Chapter 7 dealing with acts continuance was repealed in 1863. Chapter 8 dealing with cordage was repealed by 25 Geo. III c.56 s.1. Chapter 9 dealing with cloth was repealed in 1856. Chapter 10 dealing with cloth was repealed by 49 Geo. III c.109 s.1. Chapter 11 dealing with clapboard was repealed by 3 Geo. IV c.41 s.4. Chapters 12 and 13 dealing with taxation and 14 dealing with pardon were repealed in 1863. Accordingly chapter 1 but with the reservation mentioned, chapters 3, 5-7, 9 and 12-14 need to be repealed in South Australia today.

Statutes 39 Eliz. I (1597) cc.1-28:

Chapters 1 dealing with houses of husbandry and 2 dealing with tillage were both repealed in 1863. Chapter 3 dealing with poor relief is dealt with in our Fifty-Fifth Report and was repealed in 1863. Chapter 4 dealing with vagabonds was repealed by 13 Anne c.26. Chapter 5 dealing with poor houses was repealed in 1960. Chapter 6 dealing with charitable trusts was repealed by 43 Eliz. I c.9 s.4. Chapter 7 dealing with Crown debts was repealed in 1863 and is dealt with in our Sixty-Fifth Report. Chapter 8 dealing with Bishops and Deans is only temporary legislation dealing with the reign of Elizabeth I and was repealed in 1863. Chapter 9 dealing with abduction was repealed by 9 Geo. IV c.31 s.1. Chapter 10 dealing with navigation was repealed by 3 Geo. IV c.41 s.2. Chapter 11 dealing with the dyeing of cloth was repealed by 13 & 14 Car. II c.11 s.26 and again in 1863. Chapters 12 dealing with labourers, 13 dealing with fustians and 14 dealing with import of wool, were all repealed in 1863. Chapter 15 dealing with robbery was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 16 dealing with malt was repealed by 9 Will. III c.22. Chapter 17 dealing with vagabonds was repealed by 52 Geo. III c.31. Chapter 18 dealing with acts continuance was repealed in 1863. Chapter 19 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapter 20 dealing with cloth was repealed by 49 Geo. III c.109 s.1 and by a local Act 55 Geo. III c. xciii s.1. Chapter 21 dealing with ex-servicemen's relief was repealed by 43 Eliz. I c.3 s.1. Chapter 22 is a private Act. Chapters 23-25 are local Acts and were repealed in 1948. Chapters 26 and 27 relating to taxation and 28 relating to general pardon were all repealed in 1863. Accordingly chapters 1 and 2, 5, 8, 12-14, 18 and 22-28 of the statutes of that year remain to be repealed in South Australia.

Statutes 43 Eliz. I (1601) cc.1-19:

Chapter 1 dealing with confirmation of grants was repealed in 1863. Chapter 2 dealing with poor relief was repealed in 1967, and is dealt with in our Fifty-Eighth Report. Chapter 3 dealing with ex-servicemen's relief was dealt with in 1863. Chapter 4 the Statute of Charitable Uses is dealt with in our Sixty-First Report. It was repealed by 51 & 52 Vict. c.42 but that repeal expressly preserves the preamble by Section 13(2) of that Act and that preamble is still the law governing charitable uses in South Australia today. Chapter 5 dealing with perjury was repealed by statutes of 1863 and 1948. Chapter 6 dealing with frivolous suits was repealed by statutes of 1863 and 1887 and was dealt with in our Fifty-Fifth Report. Chapter 7 dealing with robbing orchards was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 8 dealing with the fraudulent administration of the goods of an intestate was repealed in 1925 and is dealt with in our Fifty-Fourth Report. Chapter 9 dealing with acts continuance was repealed in 1863. Chapter 10 dealing with woollen cloth was repealed by 49 Geo. III c.109 s.1. Chapter 11 dealing with drainage of the Fens was repealed in 1948. Chapter 12 dealing with policies of assurance was repealed in 1863. Chapter 13 dealing with border reivers was repealed by 7 & 8 Geo. IV c.27 s.1. Chapters 14 dealing with assize of fuel and 15 with fines of land in Chester were both repealed in 1863. Chapter 16 is a local Act which was repealed in 1948. Chapters 17 and 18 relating to taxation and 19 relating to pardon were repealed in 1863. This means that of the statutes of that year, chapters 1, 3, 5, 9, 11 and 12 and 14-19 need to be repealed in South Australia today.

Statutes 1 Jac. I (1603) cc.1-33:

Chapter 1 dealing with the succession to the Crown was repealed in 1948. Chapter 2 dealing with commissioners to treat with regard to the

Union of England and Scotland was repealed in 1863. Chapter 3 dealing with leases of Bishops' lands was repealed in 1948. It can be repealed here but with a saving in favour of the Church of England. Chapter 4 dealing with Jesuits was repealed in 1846. The Tasmanian Church of England Constitution Act has this as one of the statutes that needs to be retained but from a reading of it, it seems to deal almost entirely with recusancy and not to need any reservation here. Chapter 5 dealing with court leets was repealed in 1958. Chapter 6 dealing with labourers was repealed in 1856 and is dealt with in our Fifty-Eighth Report. Chapter 8 dealing with benefit of clergy was repealed by 9 Geo. IV c.31 s.1. Chapter 9 dealing with ale houses was repealed by 9 Geo. IV c.61 s.35. Chapter 10 dealing with officers of Courts was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 11 dealing with bigamy was repealed by 9 Geo. IV c.31 s.1. Chapter 12 dealing with witchcraft was repealed by 9 Geo. II c.5. s.1. Chapter 13 dealing with privilege of Parliament is one of the constitutional statutes and will be dealt with in our report on constitutional law. Chapter 14 dealing with small debts was repealed by 3 Jac. I c.15 s.3. Chapter 15 dealing with bankruptcy was repealed by 6 Geo. IV c.16 s.1. Chapter 16 dealing with Thames watermen was repealed by 7 & 8 Geo. IV c. lxxv s.1. Chapter 17 dealing with hats was repealed by 17 Geo. III c.55 s.1. Chapter 18 dealing with hops was repealed in 1863. Chapter 19 dealing with spices was repealed by 6 Anne c.68 s.1. Chapter 20 dealing with painters was repealed in 1856. Chapter 21 dealing with mercantile agents and brokers was repealed by our Sale of Goods Act 630 of 1895. Chapter 22 dealing with leather was repealed by 3 Geo. IV c.41 s.10. Chapter 23 dealing with fisheries, chapter 24 dealing with sale cloth, chapter 25 dealing with acts continuance, were all repealed in 1863. Chapter 26 dealing with the Court of Exchequer was repealed in 1863 and is dealt with in our Fifty-Fifth report. Chapter 27 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapters 28-30 are local Acts. Chapter 31 dealing with infectious diseases was repealed by 6 & 7 Will. IV c.91. Chapter 32 dealing with Dover Harbour was repealed in 1948. Chapter 33 dealing with taxation was repealed in 1863. Accordingly of the statutes of that year, chapters 1 and 2, 3 but with a reservation, 4 and 5, 18, 20, 23-25, 28-30 and 32-33 all need to be repealed now.

Statutes 3 Jac. I (1605) cc.1-27:

Chapter 1 dealing with Guy Fawkes was repealed in 1858. Chapter 2 dealing with the attainder following the Gunpowder Plot appears to be unrepealed in England but has no force in South Australia. Chapter 3 dealing further with commissioners for the Union of England and Scotland was repealed in 1863. Chapters 4 and 5 dealing with recusancy were repealed as to chapter 4 in 1846 and as to chapter 5 by statutes from 1846 to 1948. Chapter 6 dealing with foreign trade was repealed by 3 Geo. IV c.41 s.2. Chapter 7 dealing with the legal profession was repealed in 1843 and is dealt with in our Fifty-Fifth report. Chapter 8 dealing with stay of writs of execution was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 9 dealing with skinnners was repealed in 1856. Chapter 10 as to gaols was partly repealed by 27 Geo. II c.3 s.2 and the balance by statutes from 1863 to 1914. Chapter 11 dealing with export was repealed by 3 Geo. IV c.41 s.4. Chapter 12 dealing with fish was repealed in 1861. Chapter 13 dealing with deerstealing was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 14 is a local Act. It was repealed in 1903. Chapter 15 dealing with small debts was repealed by 5 & 6 Will. IV. c. xciv. Chapter 16 dealing with kerseys and chapter 17 dealing with cottons were both repealed in 1856. Chapter 18 is a local Act. Chapter 19 dealing with highways was repealed in 1948. Chapter 20 dealing with Thames navigation was repealed by 21 Jac. I c.32 s.9. Chapter 21 dealing

with actors was repealed in 1843. Chapters 22-24 are local Acts. Chapters 25 and 26 dealing with taxation, and chapter 27 dealing with pardon were all repealed in 1863. Of the statutes of that year therefore, chapters 1-5, 10 so far as still unrepealed, 12, 16-19 and 21-27 remain to be repealed now.

Statutes 4 Jac. I (1606) cc.1-13:

Chapter 1 dealing with the union with Scotland repeals the previous statutes of the English Parliament directed against the Scots and was repealed in 1863. Chapter 2 dealing with woollen cloth was repealed in 1856. Chapter 3 dealing with costs was repealed in 1883 and is dealt with in our Fifty-Fifth Report. Chapter 4 dealing with ale and chapter 5 dealing with the odious and loathsome sin of drunkenness were repealed by 9 Geo. IV c.61 s.35. Chapter 6 dealing with leather was repealed in 1856. Chapters 7 and 8 are local Acts. Chapter 9 dealing with foreign trade was repealed in 1863. Chapters 10-12 are local Acts. Chapter 13 dealing with drainage was repealed by 9 Geo IV c. lxxxix. Of the statutes of that year, chapters 1-2 and 6-12 remain to be repealed now.

Statutes 7 Jac. I (1609) cc.1-24:

Chapter 1 dealing with border offences was repealed in 1863. Chapter 2 dealing with naturalization was repealed in 1870. Chapters 3 dealing with apprentices, and 4 dealing with vagabonds were both repealed in 1863. Chapter 5 dealing with public authorities protection was repealed in 1893 and is dealt with in the Fifty-Eighth Report of this Committee. Chapter 6 dealing with recusants was repealed in 1846. Chapters 7 and 8 dealing with wool sorters and cattle were both repealed in 1863. Chapter 9 is a local Act. Chapter 10 dealing with alehouses was repealed by 9 Geo. IV c.61 s.35. Chapter 11 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 12 dealing with shop books as evidence was repealed by a series of statutes from 1863 to 1969 and is dealt with in our Sixty-First Report. Chapter 13 dealing with deer stealing was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 14 dealing with horners was repealed in 1863. Chapter 15 dealing with Crown debts was repealed by statutes from 1948 to 1969 and is dealt with in the Sixty-Fifth Report of this Committee. Chapter 16 dealing with cloths was repealed in 1863. Chapters 17-20 are local Acts. Chapter 21 dealing with copyhold was repealed in 1948. Chapters 22 and 23 relating to taxation and 24 relating to pardon were all repealed in 1863. Accordingly of the statutes of that year, chapters 1-4, 6-9, 14 and 16-24 still remain to be repealed now.

Statutes 21 Jac. I (1623) cc.1-35:

Chapter 1 dealing with workhouses was repealed in 1948. Chapter 2 dealing with Crown suits is dealt with in the Sixty-Fifth Report of this Committee and was repealed in 1863. Chapter 3 dealing with the Statute of Monopolies was partly repealed by statutes of 1863 to 1969 and is still partly in force in England. It is dealt with in our Sixty-First Report. Chapter 4 dealing with penal statutes was repealed in 1959 and is dealt with in our Sixty-First Report. Chapter 5 dealing with sheriffs was repealed in 1863, and is dealt with in our Fifty-Fifth Report. Chapter 6 dealing with female convicts was repealed in 1863 and is dealt with in our Fifty-Ninth Report. Chapter 7 dealing with drunkenness was repealed in part by 9 Geo. IV c.61 s.35 and partly by statutes of 1863 to 1872. Chapter 8 dealing with certiorari was repealed in 1938 and is dealt with in the Sixty-First Report of this Committee. Chapter 9 dealing with cloth was repealed in 1863. Chapter 10 dealing with Wales was repealed in

1948. Chapter 11 dealing with the voiding of a monopoly was repealed in 1948. Chapter 12 dealing with public officers protection was repealed in 1893 and is dealt with in the Fifty-Eighth Report of this Committee. Chapter 13 dealing with jeofails was repealed in 1883 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 14 dealing with pleading in Crown suits was repealed in 1863 and is dealt with in the Sixty-First Report of this Committee. Chapter 15 dealing with forcible entry was repealed by statutes from 1948 to 1977 and is dealt with in the Fifty-Ninth Report of this Committee. Chapter 16, the first of the major statutes of limitation, was probably repealed in South Australia by Act 13 of 1861. In England it was repealed between 1863 and 1939 in part and is still in force. It is dealt with in the Fifty-Fifth Report of this Committee. Chapter 17 dealing with usury was repealed in 1863. Chapter 18 dealing with woollen cloth was repealed in 1856. Chapter 19 dealing with bankruptcy was repealed by 6 Geo. IV c.16 s.1. Chapter 20 dealing with swearing was repealed by 19 Geo. II c.21 s.15. Chapter 21 dealing with horse bread was repealed in 1856. Chapter 22 dealing with trade in butter and cheese was repealed in 1863. Chapters 23 and 24 dealing with inferior courts and the liability of persons dying after a writ of execution has been issued and before execution is levied was repealed in 1948 and are dealt with in the Fifty-Fifth Report of this Committee. Chapter 25 dealing with Crown lands is partly still in force in England and partly repealed by statutes of 1888 and 1968. It has one important matter in it, namely that a breach of covenant in a Crown lease or grant does not make it automatically forfeitable if the breach is subsequently amended. The chapter should therefore be repealed but with a saving of the amendment of the law contained in the statute and a section in those terms should be placed in the Crown Lands Act 1939. Chapter 26 dealing with fines and receivers was repealed by 11 Geo. IV and 1 Will. IV c.68 s.31. Chapter 27 dealing with murder was repealed by 43 Geo. III c.58 s.3. Chapter 28 dealing with acts continuance was repealed in 1863. Chapter 19 dealing with the Duchy of Cornwall was repealed in 1968. Chapters 30-32 are private Acts. Chapters 33 and 34 dealing with taxation and chapter 35 dealing with pardon were all repealed in 1863. Therefore of the statutes of that year, chapters 1, 7 so far as not already repealed, 9-11, 17-18, 21-22, 25 but with the saving referred to, and 28-35 still need to be repealed in South Australia.

Statutes 1 Car. I (1625) cc.1-7:

Chapter 1 is the first of a series of statutes called the Lord's Day Acts. They are all still in force in South Australia. They have recently been the subject of a report in Canada. There are still strong feelings held by many in South Australia on Sabbath observance and in any event it also has a bearing on work and conditions of pay and other things not immediately connected with Sabbath observance. We think that it would be wise if we did a separate report on all the Lord's Day Acts as we come to them, as has been done in Canada. It was repealed in England by a series of statutes from 1948 to 1969. Chapter 2 dealing with the Duchy of Cornwall was repealed in 1948. Chapter 3 dealing with alienation of land was repealed in 1863. Chapter 4 dealing with ale houses is repealed by 9 Geo. IV c.61 s.35. Chapters 5 and 6 dealing with taxation were repealed in 1863. Chapter 7 making provision for the Acts of this Session to come into force notwithstanding the dissolution of that particular Parliament due to plague was repealed in 1863. Accordingly chapters 2-3 and 5-7 should now be repealed in South Australia.

Statutes 3 Car. I (1627) cc.1-8:

Chapter 1, the famous Petition of Right, is a constitutional statute

which we will deal with in the report on constitutional statutes. Chapter 2 is the second of the Lord's Day Acts. It was repealed in England in statutes from 1948 to 1969 and as we have said ought to be the subject of a separate report to you. Chapter 3 dealing with recusancy was repealed in 1844. Chapter 4 dealing with ale houses was repealed by 9 Geo. IV c.61 s.35. Chapter 5 dealing with acts continuance was repealed in 1863. Chapter 6 is a private Act. Chapters 7 and 8 deal with taxation and were repealed in 1863. Accordingly chapters 3 and 5-8 of the statutes of that year need to be repealed at present in South Australia.

Statutes 16 Car. I (1640) cc.1-38:

Chapter 1 dealing with Parliament was repealed by 16 Car. II c.1. Chapters 2, 3 and 4 dealing with taxation were repealed by statutes from 1863 to 1950. Chapter 5 dealing with the press gang was repealed in 1863. Chapter 6 dealing with Michaelmas Term was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 7 dealing with the untimely adjournment of Parliament refers only to that particular Parliament and was repealed in 1863. Chapters 8-9 dealing with taxation were repealed in 1863. Chapter 10 dealing with the Star Chamber is a great constitutional statute. It is partly dealt with in the Sixty-Fifth Report and has recently been dealt with by the High Court of Australia in *State of Victoria and Others v. The Australian Building Construction Employees and Builders Labourers Federation (1982) 41 A.L.R. 71*. The constitutional aspects of this statute should be dealt with in the report on constitutional statutes. Chapter 11 deals with the abolition of the High Court of Commission. Section V was repealed by 13 Car. II stat. 1 c.12 and the balance in 1963. Chapter 12 dealing with taxation and chapter 13 dealing with payment for pilletting were repealed in 1863. Chapter 14: the Act dealing with Ship Money and the famous case of Hampden, was repealed in England by statutes of 1888 and 1969. However it is also the statute which repeats as law the Petition of Right. There was, as is well known, a long historical argument as to whether the Petition of Right was in fact a statute because the King did not give assent to the statute in normal form. Instead of saying as is usual "Le roy le veult", he gave assent as to a petition, "soit droit fait comme est désiré". If there was ever any doubt as to whether the statute of 3 Car. I c.1 was a statute, that argument is put at rest by 16 Car. I c.14. Accordingly it will be dealt with in its due sequence in constitutional statutes. Chapter 15 dealing with Stannary Courts was repealed in 1896. Chapter 16 dealing with the forest laws was repealed in 1971. Chapters 17 and 18 dealing with Scotland and chapter 19 dealing with the Clerk of the Market were repealed in 1863. Chapter 20 dealing with knighthood is dealt with in the Sixty-Fifth Report of this Committee and was repealed in England in 1863. Chapter 21 dealing with gun powder and chapter 22 dealing with subsidy were repealed in 1863. Chapter 23 dealing with the press gang was repealed by 16 Car. I c.26 s.4. Chapter 24 dealing with Turkish captives and chapter 25 dealing with taxation, and chapter 26 dealing with the press gang were all repealed in 1863. Chapter 17 dealing with the clergy was repealed by 13 Car. II stat. 1 c.2. Chapters 28-36 which deal with taxation and with Ireland were repealed by statutes from 1863 to 1950. Chapter 37 dealing with the Irish rebellion of the time was repealed in 1950. Chapter 38 dealing with the attainder of the Earl of Strafford was repealed by 14 Car. II c.29. Accordingly of the statutes of that year, chapters 2-5, 11 so far as not already repealed, 12-13, 15-19, 21-22, 24-26 and 28-37 still remain to be repealed in South Australia today.

Statutes 12 Car. II (1660) cc.1-36:

Chapter 1 dealing with the legality of the Convention Parliament was repealed in 1969. Chapter 2 dealing with taxation was repealed in 1863. Chapter 3 dealing with continuance of proceedings was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 4 dealing with a subsidy is repealed by 6 Geo. IV c.105. Chapters 5 dealing with excise, 6 dealing with commissioners of sewers, and 8, 9 and 10 dealing with taxation were all repealed in 1863. Chapter 7 is a private Act. Chapter 11 dealing with pardon was repealed in 1948. Chapter 12 dealing with confirmation of legal proceedings under the Commonwealth was repealed in 1948. Chapter 13 dealing with usury was repealed in 1854 and is dealt with in our Sixty-First Report. Chapter 14 dealing with Oak Apple Day refers to the celebration which used to be held in every parish Church on May 29th every year to celebrate King Charles II's escape from Cromwell's troops by hiding in an oak apple tree. It has been continued in Tasmania for the Church of England. We know of no observance of the day anywhere in Australia today, and it certainly does not seem to be necessary to keep it in being for this State. It is referred to in the Sixty-Fifth Report of this Committee. The only difficulty is that it is expressed to be in force throughout the King's Dominions and accordingly we will deal with it separately as one of the statutes affected by the Colonial Laws Validity Act.

Chapter 15 deals with the disbanding of the Army, chapter 16 with disbanded soldiers, and chapter 17 with the restoring of the King's Ministers, all of which were repealed in 1863. Chapters 18 and 19 dealing with navigation and customs were repealed by 6 Geo. IV c.105. Chapters 20 and 21 dealing with taxation, 22 dealing with Colchester Bay, and 23 dealing with excise, were all repealed in 1863. Chapter 24, the important statute for the abolition of tenures, is still partly in force in England and was partly repealed by statutes from 1863 to 1973. It is dealt with in the Fifty-Fourth Report of this Committee. Chapter 25 relating to wine, and chapters 26-29 inclusive relating to taxation, were repealed in 1863. Chapter 30 dealing with the attainder of Cromwell and the regicides was repealed by statutes of 1857 and 1969. Chapter 31 dealing with the confirmation of leases and grants by colleges and hospitals was repealed in 1948. Chapter 32 dealing with exports was repealed in 1856. Chapter 33 dealing with the confirmation of marriages under the Commonwealth was repealed in 1863. Chapter 34 dealing with tobacco planting was repealed in 1910. Chapter 35 dealing with the post office was repealed in 1863. Chapter 36 dealing with the estate of the Master of the Rolls was repealed by 17 Geo. III c.59 ss.1 and 2. It should be noted that Ruffhead has a private Act No. 37 for making the precinct of Covent Garden parochial and it may be as well that this statute should be included for greater certainty. Accordingly of the statutes of this year, chapters 1 and 2, 5-12, 14 and 15, 20-23, 25-33 and the Ruffhead chapter 37 should be repealed now in South Australia.

Statute 13 Car. II stat. 1 (1661) cc.1-15:

Chapter 1 dealing with sedition and with Parliament was repealed by statutes from 1863 to 1967. The declaration that no statute is valid without the concurrence of the King and both houses of Parliament is still law today and should be preserved. It will be dealt with in our constitutional statutes report. The remainder of the statute is of importance only at that time.

Chapters 2 relating to the clergy and 3 relating to public monies were each repealed in 1863. Chapter 4 dealing with benevolences is partly in

force and partly was repealed in 1887 and is dealt with in the Sixty-Fifth Report of this Committee. Chapter 5 dealing with tumultuous petitions to Parliament was repealed in England from 1948 to 1967. It is almost certainly in force in South Australia and will be dealt with by us when we report to you on constitutional statutes. Chapter 6, stating that the King is to be Commander in Chief, was dealt with in the Sixty-Fifth Report of this Committee. Chapter 7 dealing with acts confirmation was dealt with in the Sixty-Fifth Report of this Committee and was repealed in 1863. Chapter 8 relating to the King's journeys was repealed in 1863. Chapter 9 dealing with the Navy was repealed by 22 Geo. II c.33 s.1. Chapter 10 dealing with game was repealed by 16 Geo. III c.30 s.27. Chapter 11 dealing with acts confirmation was dealt with in the Sixty-Fifth Report of this Committee and was repealed in 1863.

Chapter 12 dealing with ecclesiastical jurisdiction was repealed in England by statutes from 1888-1969. It may be repealed here but with a reservation of the rights of the Church of England. Chapter 13 relating to excise and chapter 14 relating to taxation were repealed in 1863. Chapter 15 dealing with legal proceedings during the Commonwealth was repealed in 1948. Therefore of the chapters of this statute, chapters 2-3, 8, 12 with the reservation referred to, and 13-15 should now be repealed here.

Statutes 13 Car. II stat. 2 (1661) cc.1-4:

Chapter 1 dealing with corporations was repealed in 1871. Chapter 2 dealing with vexatious arrests was repealed in 1879 and is dealt with in our Fifty-Fifth Report. Chapter 3 relating to taxation was repealed in 1863 and chapter 4 relating to the Duchy of Cornwall was repealed in 1948. Accordingly of this statute, chapters 1, 3 and 4 ought to be repealed now in South Australia.

Statutes 14 Car. II (1661) cc.1-33:

Chapter 1 dealing with Quakers was repealed by 52 Geo. III c.155 s.1. Chapters 2 and 3 are local Acts. Chapter 3 was repealed in 1981. Chapter 4 is the most important of the Acts of Uniformity. Part of it is still in force in England and part has been repealed between 1846 and 1974. It should be repealed here but with a saving in favour of the Church of England. Chapters 5 dealing with stuffs, 6 dealing with highways, 7 dealing with leather, 8 dealing with taxation, and 9 dealing with disabled soldiers were all repealed in 1863, but in fact 6 had been partly repealed previously by 30 Car. II stat. 1 c.5. Chapter 10 dealing with taxation was repealed by 1 Will. III & Mary c.10 s.1. Chapter 11 dealing with customs was repealed by 6 Geo. IV c.105. Chapter 12 dealing with the poor law was partly repealed by 35 Geo. III c.101 s.1 and the balance in 1927, and is dealt with in the Fifty-Eighth Report of this Committee. Chapter 13 dealing with foreign lace was repealed by 6 Geo. IV c.105. Chapter 14 dealing with prize, chapter 15 dealing with silk throwing, and chapter 16 dealing with an amendment to the Act of Oblivion were all repealed in 1863. Chapter 17 dealing with collectors of public money was repealed in 1863 and is dealt with in the Sixty-Fifth Report of this Committee.

Chapter 18 dealing with wool was repealed in 1856. Chapter 19 dealing with wool carting was repealed by 6 Geo. IV c.105. Chapter 20 dealing with the Navy was repealed in 1863. Chapter 21 dealing with Sheriff's accounts was repealed by statutes from 1863 to 1887 and is dealt with in the Fifty-Fifth Report of this Committee. Chapters 22 dealing with moss troopers and chapter 23 erecting a standing commission for merchants' insurance problems were both repealed in 1863. Chapter 24

dealing with bankrupts was repealed by 6 Geo. IV c.16 s.1. Chapter 25 dealing with legal proceedings during the Commonwealth was repealed in 1948. Chapter 26 dealing with the packing of butter was repealed by 36 Geo. III c.86 s.19. Chapter 27 dealing with Dover Harbour was repealed in 1948. Chapter 28 dealing with fishing was repealed in 1868. Chapter 29 dealing with the reversal of an attainder was repealed in 1948. Chapter 30 dealing with madder was repealed by 15 Car. II c.16 s.5. Chapter 31 dealing with the coinage was repealed by 59 Geo. III c.49 s.11. Chapter 32 relating to wool, and chapter 33 relating to the licensing of the press, were both repealed in 1863. Accordingly of the statutes of that year, chapters 2 and 3, 4 with the reservation referred to, 5-9 except for the part repeal prior to 1836 of chapter 6, chapters 14-16, 18, 20, 22-23, 25, 27-29 and 32-33 should now be repealed in South Australia.

Statutes 15 Car. II (1663) cc.1-17:

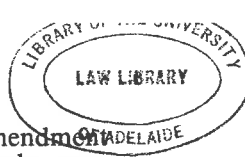
Chapter 1 is a local Act, and was repealed in 1948. Chapter 2 dealing with the destruction of trees was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 3 dealing with payment to the troops was repealed in 1863. Chapter 4 dealing with the ordering of troops was repealed in 1921. Chapter 5 dealing with select vestries was repealed in 1863. Chapter 6, the Act of Uniformity Explanation Act, was repealed by statutes from 1863 to 1969 and can be repealed here but with a reservation in favour of the Church of England. Chapter 7 was repealed by 6 Geo. IV c.105 but sections 15-17 were revived by 1 & 2 Will. IV c.13 s.1 and were finally repealed in 1910. Chapter 8 relating to butchers was repealed by 12 Geo. III c.71 s.1. Chapters 9-10 relating to taxation, and 11-12 relating to excise, were repealed in 1863. Chapter 13 dealing with hearth money was repealed by 1 Will. III & Mary c.10 s.1. Chapter 14 dealing with the Duke of York, chapter 15 dealing with linen cloth, chapter 16 dealing with fisheries and chapter 17 a local Act, were all repealed in 1863. Accordingly of the 1663 statutes, chapters 1, 3-5, 6 with the reservation referred to, 7 so far as not already repealed, 9-12 and 14-17 remain to be repealed in South Australia today.

Statutes 16 Car. II (1664) cc.1-8:

Chapter 1 dealing with triennial Parliaments was repealed in England in 1887 and is impliedly repealed in this State by the Constitution Act 1934 Section 7. Chapter 2 dealing with writs of error was repealed in 1863 and is dealt with in our Fifty-Fifth Report. Chapter 3 dealing with hearth money was repealed by 1 Will. III & Mary c.10 s.1. Chapter 4, the first of the infamous Statutes of Conventicles, was repealed in England in 1863. The only good thing which can be said about any of these disgraceful Acts is that by unjustly imprisoning John Bunyan they produced the Pilgrim's Progress. Chapters 5 and 6 dealing with the Navy and merchant ships respectively were repealed in 1863. Chapter 7 dealing with gaming was repealed in 1845 and is dealt with in the Sixty-Eighth Report of this Committee. Chapter 8 dealing with the licensing of the press was repealed in 1863. In relation to the statutes of that Session of Parliament, chapters 1, 4-6 and 8 should now be repealed in South Australia.

Statutes 16 & 17 Car. II (1664) cc.1-12:

Chapter 1 dealing with taxation was repealed in 1863. Chapter 2 dealing with the coal trade was repealed by 47 Geo. III Sess. 2 c. xviii. Chapter 3 dealing with jurors and chapter 4 dealing with excise were repealed in 1863. Chapter 5 dealing with execution on recognisances and judgments



was repealed in England in 1965. It provided an important amendment in the law in that it prevented Crown execution against heirs who were infants. It does not seem necessary to preserve this amendment in the law however as we no longer have heirs as a legal concept in South Australia. Chapter 6 relating to prize goods and chapter 7 relating to the registration of the press were repealed in 1863. Chapter 8 dealing with arrest of judgment was repealed in 1879, and is dealt with in our Fifty-Fifth Report. Chapter 9 dealing with the taking of oaths in the Duchy of Lancaster was repealed in 1889. Chapter 10 dealing with highways was repealed by 6 Geo. II c.24 and chapters 11 and 12 are local Acts. Accordingly of that Session, chapters 1, 3-7, 9 and 11 and 12 should now be repealed in this State.

Statutes 17 Car. II (1665) cc.1-9:

Chapter 1 dealing with taxation was repealed in 1863. Chapter 2, the second of the Statutes of Conventicles—the Five Mile Act—under which no dissenter could come within five miles of a city, town or borough, was repealed by 52 Geo. III c.155 s.1. Chapter 3 dealing with benefices was repealed by a series of statutes from 1838 to 1960. No reservation in relation to the Church of England is needed in relation to this Statute as its operation is confined to the period of time when the statute was enacted. Chapters 4 relating to press regulation and 5 relating to attainder were both repealed in 1863. Chapter 6 dealing with damage cleer was repealed in 1863 and is dealt with in the Sixty-First Report of this Committee. Chapter 7 dealing with distress and replevin was repealed in 1881 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 8 which enacts that the death of a plaintiff is not to cause a judgment to abate before execution, is an important amendment of the law which is probably in force in South Australia today. It was repealed in England in 1883. It can be repealed here but with a saving of the amendment of the law made by the statute. The relevant section should be placed in the Supreme Court and Local Courts Acts but if as we believe there is to be a new comprehensive statute on civil procedure, then the section should find a place in that statute. Chapter 9 dealing with taxation was repealed in 1863. Therefore of the statutes of that year, chapters 1, 3-5, 8 with the saving referred to, and 9 can be repealed in South Australia today.

Statutes 18 & 19 Car. II (1666) cc.1-13:

Chapter 1 dealing with taxation was repealed in 1863. Chapter 2 dealing with imports was repealed by 6 Geo. IV c.105. Chapters 3 and 4 dealing with moss troopers and woollen shrouds respectively were repealed in 1863. Chapter 5 dealing with the coinage was repealed in 1870 and is dealt with in the Sixty-Fifth Report of the Committee. Chapter 6 dealing with taxation was repealed in 1863. Chapters 7 and 8 dealing with the Great Fire of London were repealed in 1948 and 1848. Chapter 9 dealing with prisons was repealed in 1863. Chapter 10 dealing with replevin in Wales was repealed in 1879. Chapter 11 the Cestui que vie Act is still partly in force and partly repealed by statutes from 1863 to 1948 and is dealt with in the Fifty-Fourth Report of this Committee. Chapters 12 and 13 dealing with the Navy and with taxation respectively were repealed in 1863. Accordingly of the statutes of that year, chapters 1, 3-4, 6-10 and 12-13 should be repealed now in South Australia.

Statutes 19 & 20 Car. II (1667) cc.1-13:

Chapter 1 dealing with public accounts was repealed in 1863. Chapter 2 is a personal Act which was repealed in 1948. Chapter 3 dealing with

prize ships was repealed by statutes of 1863 and 1950. Chapter 4 dealing with Exchequer orders, chapter 5 dealing with trade, chapter 6 dealing with taxation and chapter 7 dealing with public accounts, were all repealed in 1863. Chapter 8 dealing with forests was repealed by statutes from 1838 to 1971. Chapter 9 dealing with writs of error was repealed in 1863 and is dealt with in the Sixty-First Report of this Committee. Chapters 10 dealing with export, 11 dealing with silk throwing, 12 dealing with import and 13 a local Act, were all repealed in 1863. So of the statutes of that year, chapters 1-8 and 10-13 should now be repealed in South Australia.

Statutes 22 Car. II (1670) cc.1-14:

Chapter 1 dealing with conventicles was repealed by 52 Geo. III c.155 s.1. Chapter 2 a local Act was repealed in 1948. Chapters 3 and 4 dealing with taxation were repealed in 1863. Chapter 5 dealing with benefit of clergy was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 6 dealing with the Duchy of Cornwall was partly repealed by 19 Geo. III c.45 s.1 and 26 Geo. III c.87 s.10 and the remainder in 1948. Chapter 7 was repealed in 1948. Chapters 8 dealing with measures, 9 dealing with the union between England and Scotland, and 10 a private Act, were all repealed in 1863. Chapter 11 is a local Act which was partly repealed by 1 & 2 Geo. IV c.89 s.1. Chapter 12 dealing with bridges was repealed in 1973. Chapter 13 dealing with tillage was repealed in 1863, and chapter 14 is a local Act. Therefore of the statutes of that session, chapters 2-4, 6 so far as not already repealed, and 7-10, 11 so far as unrepealed and 12-14 all need to be repealed in South Australia today.

Statutes 22 & 23 Car. II (1670) cc.1-27:

Chapter 1 dealing with maiming was repealed by 9 Geo. IV c.31 s.1. Chapters 2-6 dealing with extents, taxation, judgments, excise, and wine licences were all repealed in 1863. Chapter 7 dealing with arson was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 8 dealing with weavers was repealed in 1863. Chapter 9 dealing with vexatious actions was probably impliedly repealed by our Ordinance No. 5 of 1843. It was repealed in England in 1863 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 10 deals with the Statute of Distributions. Section 7 was repealed by our Act 99 of 1975 and the chapter had previously been impliedly amended by sections 53-55a of the Administration and Probate Act 1919. It is dealt with in the Sixty-Fourth Report of this Committee. It was repealed in England in 1925. Chapter 11 relates to piracy. Section 8 was repealed by 7 & 8 Geo. IV c.27 s.1 and the remainder in 1966 and is dealt with in the Fifty-Ninth Report of this Committee. Chapters 12 dealing with measures and 13 dealing with export were both repealed in 1863. Chapters 14, 15 and 16 are local Acts dealing with the rebuilding of London after the Great Fire, and were repealed in 1948. Chapter 17 dealing with the paving of London was partly repealed by 8 Geo. III c.21 s.100 and 11 Geo. III c.29 s.121 and the remainder in 1850. Chapters 8 dealing with poor law, and 19 dealing with sale of cattle, were repealed in 1863. Chapter 20 dealing with insolvent debtors' relief was repealed in 1863 and is dealt with in our Sixty-First Report. Chapter 21 dealing with taxation was repealed in 1863. Chapter 22 dealing with fines was repealed by statutes of 1863 and 1948. Chapter 23 dealing with the Navy was repealed in 1863. Chapter 24 dealing with fee farm rents was repealed by 19 Geo. III c.45 s.1 and 26 Geo. III c.87 s.10. Chapter 25 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 26 dealing with tobacco was partly repealed by 6 Geo. IV c.105 and the remainder in 1950. Chapter 27 dealing with

the post office revenues was repealed in 1863. Therefore of the statutes of that year, chapters 2-6, 8, 12-16, 17 so far as not repealed before 1836, 18-19, 21-23, 26 so far as unrepealed and 27 still remain to be repealed in South Australia today.

Statutes 25 Car. II (1672) cc.1-10:

Chapters 1 dealing with taxation and 2 dealing with recusancy were both repealed in 1863. Chapter 3 dealing with the Duchy of Cornwall was repealed in 1948. Chapters 4 dealing with the sale of cattle, 5 with general pardon, 6 with aliens and 7 with trade, were all repealed in 1863. Chapter 8 dealing with the coinage was repealed in 1863 and is dealt with in our Sixty-Fifth Report. Chapter 9 is a local Act which was repealed in 1887. Chapter 10 deals with property disputes arising out of the Great Fire and was repealed in 1948. Accordingly chapters 1-7 and 9 and 10 of the statutes of this year remain to be repealed in South Australia today.

Statute 27 Car. II (1675):

This is a local Act which was repealed in England in 1948 and can be repealed here.

Statutes 29 Car. II (1677) cc.1-10:

Chapters 1 and 2 dealing with taxation were repealed in 1863. Chapter 3 dealing with the Statute of Frauds is dealt with in our Thirty-Fourth, Fifty-Fourth and Sixty-Fourth Reports and the last section remaining section 4 was repealed by 81 of 1982 section 3. Chapter 4 is a local Act. Chapter 5 deals with affidavits and was dealt with in our Fifty-Fifth Report. Chapter 6 dealing with naturalization was repealed in 1948. Chapter 7 is a major one of the Lord's Day Acts or Sunday Observance Acts as they are sometimes called, and will be the subject of a separate report to you. It was repealed in England between 1948 and 1969. Chapter 8 dealing with augmentation of benefices was repealed in England in 1971 and it can be repealed here but with a saving of the rights of the Church of England. Chapter 9 dealing with ecclesiastical jurisdiction was repealed in England in 1963 and it can be repealed here also but with a saving of the rights of the Church of England. Chapter 10, a local Act, was repealed in 1948. Therefore of the statutes of that year, chapters 1-2, 4, 6 and 10 can be repealed outright and 8 and 9 with the reservations above referred to.

Statutes 29 & 30 Car. II (1677) cc.1-2:

Chapter 1 deals with taxation and chapter 2 with moss troopers. They were both repealed in 1863 and can be repealed here.

Statutes 30 Car. II stat. 1 (1678) cc.1-9:

Chapters 1 and 2 dealing with taxation were repealed in 1863. Chapter 3 dealing with woollen shrouds was repealed by 54 Geo. III c.108 s.1. Chapter 4 dealing with debtors' relief and chapter 5 dealing with highways were repealed in 1863. Chapter 6 dealing with Acts continuance was dealt with in our Sixty-First Report. Chapter 7 is an important statute giving a right of action against executors de son tort and is the foundation of that jurisdiction in South Australia today. It was repealed in England in 1925. It can be repealed here but a section in the same terms should be placed in the Administration and Probate Act which is where one would expect to find it. Chapters 8 and 9 are local Acts. Of the statutes

of this year therefore, chapters 1 and 2, 4, 8 and 9 should be repealed outright and chapter 7 should be repealed but placed in the relevant South Australian statute.

Statute 30 Car. II stat. 2 (1678):

This provides for disqualification by recusancy from taking a seat in Parliament. It was repealed in 1866 and can be repealed here.

Statutes 31 Car. II cc.1-3 (1679):

Chapter 1 dealing with billeting was repealed in England in 1966. Chapter 2 is one of the foundations of our liberty, the Habeas Corpus Act. It is still partly in force in England and partly amended by statutes from 1888 to 1976. We will deal with it in our report on constitutional statutes. Chapter 3, dealing with records lost from the Inner and Middle Temple as a result of the Great Fire, was repealed in 1863. Accordingly chapters 1 and 3 can be repealed in South Australia today.

Statutes 32 Car. II (1680) cc.1-2:

Chapter 1 dealing with woollen shrouds was repealed by 54 Geo. III c.108 s.1. Chapter 2 dealing with imports was repealed by 6 Geo. IV c.105.

Statutes 1 Jac. II cc.1-19 (1685):

Chapter 1 dealing with the civil list was repealed by 2 Will. III & Mary c.3 s.9. Chapter 2 dealing with the attainder of the Duke of Monmouth was repealed in 1948. Chapters 3-5 dealing with taxation, and 6 and 8 dealing with imports were all repealed in 1863. Chapter 7 dealing with the coinage was repealed in 1870. It has been dealt with in the Sixty-Fifth Report of this Committee. Chapter 9 dealing with the Duchy of Cornwall was repealed in 1948. Chapters 10 dealing with Royal carriages, 11 dealing with the Navy, 12 dealing with the post office, 13 dealing with trade, 14 dealing with moss troopers, and 15 dealing with coal duties levied for the rebuilding of St. Paul's Cathedral, were all repealed in 1863. Chapter 16 is a local Act which was repealed in 1948. Chapter 17 is the second of the Statutes of Distribution. Section 7 of it was repealed by our Act 99 of 1975 and this chapter is dealt with in the Sixty-Fourth Report of this Committee. Chapter 18 was repealed by 6 Geo. IV c.105. Chapter 19 dealing with tillage was repealed by 31 Geo. III c.30 s.1. Ruffhead has three more chapters 20-22 which are local Acts which do not appear in the Statutes of the Realm but had better be repealed for certainty. Accordingly of the statutes of this year, chapters 2-6, 8-16 and 20-22 should be repealed in South Australia today.

Statutes 1 Will. III & Mary cc.1-34 (1689):

Chapter 1 is the Parliament Act of that year. Some of it has expired but section 2, which in effect provides that Parliament can cure defects even in its own constitution and calling, is of great constitutional importance today. It is partly still in force in England and partly repealed by statutes from 1871 to 1948. Sections 6 and 7 appear to have been impliedly repealed by our Constitution Act 1934 section 42. We shall deal with it in our report to you on constitutional statutes.

Chapters 2 relating to conspiracy, 3 relating to taxation, 4 relating to the continuance of proceedings notwithstanding an interregnum, 5 dealing with mutiny and 7 dealing with conspiracy were all repealed in 1867.

Chapter 6 dealing with the Coronation Oath is of course a constitutional statute and expressly on its terms refers to the British Dominions. Accordingly we shall deal with it both under constitutional statutes and under statutes caught by the Colonial Laws Validity Act. Section 4 was amended in 1885, otherwise the statute is still in force in England. Chapter 8 dealing with the oaths of supremacy and allegiance is dealt with in the Sixty-Fifth Report of this Committee. Chapter 9 dealing with recusants was repealed in 1844. Chapter 10 dealing with hearth money was repealed in 1867. Chapter 11 a local Act was repealed in 1948. Chapter 12 dealing with export was repealed by 31 Geo. III c.30 s.1. Chapters 13 dealing with taxation, 14 dealing with revenue and 15 dealing with recusants, were all repealed in 1867. Chapter 16 dealing with simony is partly still in force and was partly repealed in 1888. It can be repealed here but with a saving in favour of the Church of England. Chapter 17 dealing with recusants was repealed in 1844. Chapter 18 dealing with the toleration of dissenters was repealed by statutes from 1871 to 1969. The Tasmanian Church of England Act preserves it as one of the statutes relating to the Church of England. However on a reading of it, it appears to refer only to the position of the Church of England as it was before the various disabilities on dissenters were taken away, and to have no application in South Australia today.

Chapters 19 and 20 dealing with conspiracy and taxation were repealed in 1867. Chapter 21 dealing with the use of the Great Seal by the Lord Keeper or by Commissioners of the Great Seal, was repealed by statutes from 1871 to 1968 and is dealt with in the Sixty-First Report of this Committee. Chapters 22 and 23 dealing with export, chapter 24 dealing with excise and chapter 25 dealing with oaths, were all repealed in 1867. Chapter 26 dealing with presentation to benefices applies only to rights to present by the Universities of Oxford and Cambridge. It is still partly in force in England and partly repealed by statutes from 1867 to 1898, but it has on the face of it no application in South Australia. Chapters 27 and 29 which are local Acts and 28 which is a revenue Act were all repealed in 1867. Chapter 30, the Royal Mines Act 1689, together with a later Act of this reign, was certainly in force here in 1836 and was the subject of major litigation before Cooper C.J. in our Supreme Court in 1849. However these Acts must be taken to be repealed by the Mining Act 1971 section 16 which vests the title to all minerals in South Australia in the Crown. It is dealt with in the Sixty-Fifth Report of this Committee. Chapters 31 dealing with tea, 32 dealing with wool, 33 dealing with leather and 34 dealing with trade with France were all repealed in 1867. Therefore of the statutes of that year, chapters 2-5, 7, 9-11, 13-15, 16 with the reservation referred to, 17-20, 22-29 and 31-34 need to be repealed in South Australia today.

Statutes 1 Will. III & Mary Sess. 2 (1689) cc.1-9:

Chapter 1 dealing with taxation was repealed in 1867. Chapter 2, the famous Bill of Rights, had its preamble repealed in part by 6 Geo. IV c.50 s.62, some of the remainder is still in force in England and part was amended between 1867 and 1950. There is no doubt that but for the part repealed before 1836, the Bill of Rights is in force in South Australia. It will be dealt with by us in our report on constitutional statutes.

Chapters 3 dealing with revenue, 4 with mutiny, 5-7 with taxation, and 8 with an indemnity, were repealed in 1867. Chapter 9 dealing with Irish Protestants was repealed in 1948. Accordingly chapter 1 and chapters 3-9 of this Session should be repealed in South Australia today.

Statutes 2 Will. III & Mary Sess. 1 (1689) cc.1-10:

Chapter 1 dealing with the Crown and recognition by Parliament and the power of Parliament to validate what has been previously done is a constitutional statute which will be dealt with by us under constitutional statutes. Chapters 2-4 are taxation Acts and were repealed in 1867. Chapter 5 dealing with distress is still partly in force and partly repealed by statutes from 1872 to 1965. It is dealt with by us in the Sixty-First Report of this Committee. Chapter 6 dealing with the absence of King William III overseas and 7 dealing with Parliamentary elections were both repealed in 1867. Chapter 8 is a local Act. Chapter 9 dealing with imports was repealed by 6 Geo. IV c.29. Chapter 10 dealing with pardon was repealed in 1867. Therefore of the statutes of this Session, chapters 2-4, 6-8 and 10 ought to be repealed at present in South Australia.

Statutes 2 Will. III & Mary Sess. 2 (1690) cc.1-15:

Chapter 1 dealing with taxation was repealed in 1867. Chapter 2 dealing with Commissioners for exercising the office of the Lord High Admiral was partly repealed by 22 Geo. II c.33 s.1 and the balance in 1948. Chapters 3-5 dealing with taxation, chapter 6 dealing with mutiny, chapter 7 dealing with coals, were all repealed in 1867. Chapter 8 dealing with London was partly repealed by 7 Geo. III c.42 s.57, 8 Geo. III c.21 s.100, 11 Geo. III c.29 s.121 and 36 Geo. III c.88 s.1, and the balance in 1948. Chapters 9 and 10 dealing with taxation, 11 with public accounts, 12 with the militia, 13 with an indemnity, 14 with trade with France and 15 with imprisonment for debts were all repealed in 1867. Accordingly chapter 1, chapter 2 so far as not already repealed, chapters 3-7, chapter 8 so far as not already repealed, and chapters 9-15 ought to be repealed in South Australia now.

Statutes 3 Will. III & Mary (1691) cc.1-15:

Chapter 1 dealing with taxation was repealed in 1867. Chapter 2 dealing with Ireland was repealed in 1871. Chapter 3 dealing with tithes, chapter 4 dealing with prize, chapters 5 and 6 dealing with taxation, chapter 7 dealing with the militia and chapter 8 dealing with cattle, were all repealed in 1867. Chapter 9 dealing with benefit of clergy was repealed by 7 & 8 Geo. IV c.27 s.1. Chapter 10 dealing with deer stealing was repealed by 16 Geo. III c.30 s.27. Chapter 11 dealing with the poor law was repealed in 1927. Chapter 12 dealing with highways was repealed in 1867 and is dealt with in Fifty-Eighth Report of this Committee. Chapter 13 dealing with correspondence with the enemy was repealed in 1867. Chapter 14 dealing with fraudulent devises was repealed by 11 Geo. IV & 1 Will. IV c.47 s.1. Chapter 15 dealing with taxation was repealed in 1867. Of the statutes of this year, chapters 1-8, 11, 13 and 15 should be repealed in South Australia today.

Statutes 4 Will. III & Mary (1692) cc.1-25:

Chapter 1 dealing with taxation, chapter 2 dealing with wills in the province of York, and chapter 3 dealing with taxation were all repealed in 1867. Chapter 4 dealing with special bail was partly repealed by 11 Geo. IV & 1 Will. IV c.66 s.31 and the balance in 1925 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 5 dealing with taxation and chapter 6 dealing with the militia were repealed in 1867. Chapter 7 dealing with cheese and butter was repealed in 1844. Chapter 8 dealing with highwaymen was repealed by 7 Geo. IV c.64 s.32. Chapter 9 dealing with highways was repealed by 6 Geo. II c.24. Chapter 10

dealing with imports was repealed by 6 Geo. IV c.105. Chapter 11 dealing with public accounts was repealed in 1867. Chapter 12 dealing with the apportionment of the liability to repair when parishes are united was repealed in 1867 and can be repealed here but with a saving of the rights of the Church of England. Chapter 13 dealing with mutiny and chapters 14 and 15 dealing with taxation were all repealed in 1867. Chapter 16 dealing with fraudulent mortgages was repealed in 1925 and is dealt with in the Fifty-Fourth Report of this Committee. Chapter 17 dealing with the Greenland trade was repealed in 1867. Chapter 18 dealing with malicious informations in the King's Bench was dealt with in the Fifty-Fifth Report of this Committee and was repealed in England in 1938. Chapter 19 dealing with indemnity was repealed in 1867. Chapter 20 dealing with the searching of judgments in the Courts of King's Bench, Common Pleas and Exchequer was repealed in 1867. Chapter 21 dealing with imprisoned debtors was repealed in 1867, and is dealt with in the Sixty-First Report of this Committee. Chapter 22 dealing with Crown Office procedure was repealed in 1938 and is dealt with in the Sixty-First Report of this Committee. Chapter 23 dealing with game was repealed by 1 & 2 Will. IV c.32 s.1. Chapter 24 dealing with Acts continuance is only of importance in relation to Section 12. Section 12 provides that any executor, administrator, administrator of an executor, or of an administrator of right, who wastes or converts to his own use the goods chattels or estate of his testator or intestate is liable as the testate or intestate should or might have been for waste, any law or usage to the contrary notwithstanding. That provision ought to be placed in our Administration and Probate Act 1919 as it is the foundation of the jurisdiction in South Australia today.

Chapter 25 dealing with the trade with France was repealed in 1867. Accordingly of the statutes of that year, chapters 1-3, 5-7, 11, 12 with the reservation therein referred to, 13-15, 17, 19-20, 24 but with the amendment of the Administration and Probate Act referred to, and 25 ought to be repealed in South Australia today.

Statutes 5 Will. III & Mary (1693) cc.1-7:

Chapters 1 dealing with taxation, 2 and 3 dealing with imports and 5 dealing with taxation, were all repealed in 1867. Chapter 4 dealing with Wales was repealed in 1948. Chapter 6 dealing with Royal Mines is still partly in force and was partly repealed in 1969. As we pointed out in relation to 1 Will. III & Mary c.30, the statute must be taken to be repealed by our Mining Act 1971 section 16 which vests the title to all minerals in South Australia in the Crown. It is dealt with in the Sixty-First Report of this Committee. Chapter 7 deals mainly with taxation. Its last section deals with a particular disqualification for the House of Commons of those who collect taxes. It was repealed in England in 1957. This disqualification was not carried forward into the 1957 Act in England because there is a general disqualification of all public servants contained in Section 1 (2) (b) and Section 1 (3) of the 1957 Act. It would appear to us on the face of it that the 1693 statute only applied in England from its localized terms and was not capable of general application to a Parliament such as our own in South Australia. The argument on the other side is that it is part of the undoubted privilege of Parliament to determine its own membership and that as this statute was unrepealed on October 24, 1856, the date as at which the South Australian Parliament took the privileges of the House of Commons, this statute is caught by Section 38 of our Constitution Act 1934 and is thereby brought into force in this State. We would have thought that the disqualification provisions in our Constitution Act Sections 44-54a dealt comprehensively with

disqualification in this State, and that there is in any event no room for the application of this statute of 1693, but we think it proper to draw your attention to the matter so that you may consider the matter for yourself. Accordingly of the statutes of 1693, chapters 1-5 should be repealed without question. Chapter 7 we advise you should be repealed but not until after you have had an opportunity of considering the disqualification point.

Statutes 5 & 6 Will. III & Mary cc.8-25 (1694):

Chapters 8-9 dealing with debtors' relief and cloth weavers were repealed in 1867. Chapter 10, a local Act, was partly repealed by 6 Geo. IV c.111 s.28. Chapter 11 dealing with certiorari was dealt with in the Fifty-Eighth Report of this Committee and was repealed in England in 1938. Chapter 12 dealing with a *capias pro fine* was repealed in 1867 and is dealt with in the Sixty-First Report of this Committee. Chapter 13 dealing with sureties to keep the peace where there has been a pardon of felony was repealed in 1856 and is dealt with in the Fifty-Ninth Report of this Committee. Chapters 14 dealing with taxation, 15 with mutiny, 16 with imports, 17 with export and 19 with the militia were all repealed in 1867. Chapter 18 dealing with the Duchy of Cornwall was repealed in 1948. Chapter 20 dealing with the Bank of England is partly still in force and was partly repealed by statutes from 1867 to 1976. It appears to have no bearing on anything in this State. Chapter 21 dealing with stamp duty was repealed in 1870. Chapters 22 dealing with hackney coaches, 23 with public accounts, 24 with shipbuilding and 25 with the Navy were all repealed in 1867. Accordingly in the statutes of that year, chapters 8-9, 10 so far as not already repealed, and 14-25 all should be repealed in South Australia today.

Statutes 6 & 7 Will. III & Mary (1694) cc.1-20:

Chapters 1 and 3 dealing with taxation were repealed in 1967. Chapter 2 providing for triennial Parliaments is still partly in force in England and has partly been repealed by statutes from 1867 to 1888. The matter appears to be covered by Section 7 of our Constitution Act 1934. Chapter 4 dealing with apothecaries was partly repealed by 6 Geo. IV c.50 s.62 and partly by statutes from 1867-1948. Chapter 5 dealing with Government annuities was repealed in 1867. Chapters 6 and 7 dealing with taxation were repealed in 1870 and 1867 respectively. Chapters 8 and 9 dealing with mutiny and public accounts were repealed in 1867. Chapter 10 dealing with the Port of Newcastle was repealed in 1948. Chapter 11 dealing with profane cursing was repealed by 19 Geo. II c.21 s.15. Chapter 12 dealing with stamp duty was repealed in 1870. Chapter 13 dealing with militia and chapter 14 dealing with acts continuance were repealed in 1867. Chapter 15, a personal Act, was repealed in 1948. Chapter 16 dealing with Thames navigation was repealed by 24 Geo. II c.8 s.26. Chapter 17 dealing with clipped coin was repealed in 1867 and is dealt with in our Fifty-Ninth Report. Chapters 18 and 20 dealing with taxation and pardon were repealed in 1867. Chapter 19, a personal Act, was repealed in 1948. Therefore of the statutes of that year, chapters 1-3, 4 so far as not already repealed, 5-10, 12-15 and 18-20 remain to be repealed in South Australia today.

Statutes 7 & 8 Will. III (1695) cc.1-40:

Chapter 1 dealing with the coinage was repealed in 1867 and is dealt with in our Sixty-Fifth Report. Chapter 2 dealing with annuities was repealed in 1867. Chapter 3 dealing with treason is partly in force and

partly repealed by statutes of 1888 and 1948 and is dealt with in our Fifty-Ninth Report. Chapter 4 dealing with corrupt practices was repealed in 1854 and appears to be covered by Part XV of our Electoral Act. Chapter 5 dealing with taxation was repealed in 1867. Chapter 6 dealing with tithes was repealed in 1887. Chapter 7 dealing with returns to Parliamentary elections was repealed in 1949, and is probably carried forward as part of the law and custom of Parliament into our own Constitution. We will deal with it in the report on Constitutional statutes. Chapter 8 dealing with public accounts, chapter 9 a local Act, chapter 10 dealing with taxation, chapter 11 dealing with habeas corpus suspension, chapter 12 dealing with poor prisoners and chapter 13 dealing with coining were all repealed in 1867. Chapter 14 is a local Act. Chapter 15 dealing with the demise of the Crown and its effect on Parliament, was repealed in 1867. It is still of importance in South Australia. We are doing a separate report on the demise of the Crown and it will be covered in that report. It will also be dealt with under constitutional statutes. Chapter 16 dealing with militia, chapter 17 dealing with moss troopers and chapters 18 and 20 with taxation, were all repealed in 1867. Chapter 19 dealing with the coinage was repealed in 1867 and is dealt with in the Sixty-Fifty Report of this Committee. Chapter 21 dealing with Greenwich Hospital was repealed by 4 & 5 Will. IV c.34 s.1. Chapter 22 dealing with plantation trade and chapter 23 dealing with mutiny were both repealed in 1867. Chapter 24 dealing with the oath of allegiance required to be taken by all practitioners which is still the position today in South Australia, was repealed in 1867 and is dealt with in our Sixty-First Report. Chapter 25 dealing with Parliamentary elections is partly in force and partly repealed by statutes of 1948 to 1969. From an inspection of this statute, it would appear that it applies only in polling in England and does not apply to South Australia. Chapter 26 dealing with roads in Norfolk was repealed by 7 Geo. III c.76. Chapter 27 dealing with the preservation of the King's life and chapter 28 dealing with wool were repealed in 1867. Chapter 29 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapters 30 and 31 were taxation Acts and were both repealed in 1867. Chapter 32 dealing with juries was repealed by 6 Geo. IV c.50 s.62. Chapter 33 dealing with the Greenland trade was repealed in 1867. Chapter 34 dealing with Quakers was repealed by statutes from 1867 to 1969 and is dealt with in our Sixty-First Report. Chapter 35 dealing with marriages was repealed in 1870. Chapter 36 dealing with Acts continuance was repealed in 1867. Chapter 37 dealing with mortmain was repealed in 1888. Chapters 38 dealing with wills and 39 dealing with linen manufacture were both repealed in 1867. Chapter 40 is a private Act. Accordingly of the statutes of that year, chapters 2, 4-6, 8-14, 16-18, 20, 22-23, 25, 27-28, 30-31, 33 and 35-40 require to be repealed in South Australia today.

Statutes 8 & 9 Will. III (1696) cc.1-37:

Chapters 1-2 deal with the great recoinage of that year. They were repealed in 1867 and are dealt with in the Sixty-Fifth Report of this Committee. Chapters 3, 6 and 7 deal with taxation and were all repealed in 1867. Chapters 4 and 5 are Acts of attainder. Chapter 8 dealing with hallmarking of plate is partly in force and was partly repealed by statutes from 1867 to 1973 and is dealt with in the Sixty-Fifth Report of this Committee. The forgery of hallmarks is important to the antique trade today. There are a number of pre-1836 statutes which we may have inherited for the protection of hallmarking. Probably the best solution would be to put a section in the Criminal Law Consolidation Act punishing forgery or imitation by way of deception of hallmarks and to repeal the older statutes. Chapter 9 dealing with clothiers and chapter 10 dealing

with juries were both repealed in 1867. Chapter 11 dealing with vexatious suits was repealed by statutes from 1879 to 1948 and is dealt with in the Fifty-Fifth Report of this Committee. Chapters 12 dealing with taxation and 13 with mutiny were both repealed in 1867. Chapter 14 dealing with the repair of St. Paul's Cathedral and Westminster Abbey, and chapter 15 dealing with highways in Surrey and Sussex are local and personal Acts. Chapter 16 dealing with highways was repealed by 7 Geo. III c.42 s.57. Chapter 17, a local Act, was repealed by 11 Geo. IV & 1 Will. IV c.14 s.2. Chapter 18 dealing with bankruptcy was repealed by 9 Will. III c.29 s.1. Chapter 19 dealing with excise was repealed in 1867. Chapter 20 dealing with the Bank of England was partly repealed by 7 Anne c.30 s.8 and 11 Geo. IV & 1 Will. IV c.66 s.31 and the balance was repealed in 1973. Chapters 21, 22, 24 and 25 all deal with taxation and were repealed in 1867. Chapter 23 dealing with Greenwich Hospital was repealed by 4 & 5 Will. IV c.34 s.1. Chapter 26 dealing with the coinage was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 27 abolishing the last remnants of the old doctrine of sanctuary was repealed by statutes from 1867 to 1948 and is dealt with in the Sixty-First Report of this Committee. Chapter 28 dealing with the exchequer was repealed by 4 & 5 Will. IV c.15 s.36. Chapter 29 is a local Act which was repealed in 1837. Chapter 30 dealing with the poor law was repealed in 1927 and is dealt with in the Fifty-Eighth Report of this Committee. Chapter 31 dealing with partition was repealed in 1867 and is dealt with in the Fifty-Fourth Report of this Committee. Chapter 32 dealing with brokers was repealed in 1867. Chapter 33 dealing with Quarter Sessions was repealed in 1888 and is dealt with in the Sixty-First Report of this Committee. Chapters 34 and 36 dealing with the customs, chapter 35 dealing with the militia, were all repealed in 1867 and chapter 37 is a local Act. Therefore of the Acts of that year, chapters 3-7, 9 and 10, 12-15, 19 so far as unrepealed, 20-22, 24-25, 29, 32 and 34-37 all require to be repealed today in South Australia.

Statutes 9 Will. III (1697) cc.1-45:

Chapter 1 dealing with correspondence with the Pretender was repealed in 1867. Chapter 2 dealing with the coinage was repealed in 1867 and is dealt with in the Sixty-Fifth Report of this Committee. Chapter 3 dealing with the Bank of England was repealed in 1870. Chapters 4 dealing with the imprisonment of traitors, 5 with annuities and 6 with salt were all repealed in 1867. Chapter 7 dealing with fireworks was repealed in 1860. Chapters 8, 10, 13 and 14 dealing with taxation, and 9 dealing with lace, were all repealed in 1867. Chapter 11 dealing with the poor law was repealed in 1867 and is dealt with in the Fifty-Eighth Report of this Committee. Chapter 12 is a local Act and was repealed in 1948. Chapter 15, the Arbitration Act 1696, was repealed in England in 1889 and was repealed in South Australia by the Arbitration Act 1891 schedule 2. Chapter 16 dealing with the Marches of Wales was repealed in 1867. Chapter 17 dealing with bills of exchange were repealed in 1882 and is covered by Commonwealth legislation today. Chapter 18 is a local Act. Chapter 19 dealing with local navigation was repealed by 51 Geo. III c. xliii. Chapter 20 dealing with naturalization was repealed in 1948 and is covered by Commonwealth legislation. Chapter 21 dealing with the coinage was repealed by 2 & 3 Will. IV c.34 s.1. Chapter 22 dealing with malt and 24 dealing with annuities were both repealed in 1867. Chapter 23 dealing with taxation was repealed by 12 & 13 Will. III c.12 and 6 Geo. IV c.105. Chapter 25 dealing with stamp duties was repealed in 1870. Chapter 26 dealing with trade with Africa was repealed in 1867. Chapter 27 dealing with hawkers was repealed in 1871. Chapter 28 dealing with export was repealed by 6 Geo. IV c.105. Chapters 29 dealing with debtors,

30 dealing with taxation, and 31 dealing with the militia, were repealed in 1867. Chapter 32 dealing with marriage duties was repealed in 1871. Chapter 33 dealing with the New Forest was repealed in 1971. Chapter 34 dealing with taxation was repealed in 1867. Chapter 35 dealing with blasphemy was virtually repealed by 53 Geo. III c.160 s.2 and was finally repealed in 1967. Chapter 36 dealing with the coinage, chapter 37 dealing with lotteries, chapter 38 dealing with taxation, chapter 39 dealing with silver thread, chapter 42 dealing with ship registration, chapter 43 dealing with imports and chapter 45 dealing with taxation, were all repealed in 1867. Chapter 40 dealing with exports was repealed in 1856. Chapter 41 dealing with embezzlement was repealed by statutes of 1865 to 1875 and is dealt with in the Fifty-Ninth Report of this Committee. Chapter 44 dealing with the East India Company was repealed in 1892. Therefore of the statutes of that year, chapters 1, 3-10, 12-14, 16-18, 20, 22, 24, 25-27, 29-34, 35 so far as not already repealed, 36-40, and 42-45 all need to be repealed in South Australia today.

Statutes 10 Will. III (1698) cc.1-26:

Chapter 1 dealing with taxation and chapter 3 dealing with export were both repealed in 1867. Chapter 2 dealing with buttons was repealed in 1856. Chapter 4 dealing with distillation was repealed by statutes of 1867 and 1880. Chapter 5 is a private Act. Chapter 6 is also a private Act dealing with the Russian trade. It was partly repealed by 59 Geo. III c.103 and the remainder in 1948. Chapter 7 dealing with Parliamentary elections deals only with irregular returns by sheriffs and does not appear to be in force in South Australia. It was repealed by statutes of 1867-1872 in England. Chapter 8 is a local Act. Chapters 9-11 are taxations Acts and were repealed in 1867. Chapter 12 was partly repealed by 7 & 8 Geo. IV c.27 s.1 and the remainder in 1948. Chapters 13, 14 and 15 are local Acts. Chapter 16 dealing with export was repealed by 6 Geo. IV c.105. Chapter 17 dealing with trades, chapter 18 with militia and chapter 19 with habeas corpus suspension were all repealed in 1867. Chapter 20 dealing with writs of error was repealed in 1879 and is dealt with in the Fifty-Fifth Report of this Committee. Chapter 22 dealing with inheritance by posthumous children was repealed in 1924 and is dealt with in the Fifty-Fourth Report of this Committee. Chapter 23 dealing with lotteries was repealed in 1934 and is dealt with in the Sixty-Eighth Report of this Committee. Chapter 24 dealing with glass duties repeal was itself repealed in 1867. Chapters 25 and 26 are local Acts. Therefore of the statutes of that year, chapters 1-5, 6 so far as not already repealed, 7-11, 12 so far as not already repealed, 13-15, 17-19, and 24-26 still remain to be repealed in South Australia today.

Statutes 11 Will. III (1698) cc.1-24:

Chapter 1 dealing with bounties and chapter 3 dealing with taxation, were both repealed in 1867. Chapter 2 dealing with forfeited estates was repealed in part by 7 & 8 Geo. IV c.68 s.3 and the remainder in 1867 and was again repealed for good measure in 1978. Chapter 4 dealing with recusancy was repealed in 1846. Chapter 5 dealing with Dover Harbour was repealed by 9 Geo. IV c. xxxi. Chapter 6 dealing with inheritance by the children of aliens was repealed in 1870 and was dealt with in the Sixty-First Report of this Committee. Chapter 7 deals with piracy. Section 18 was repealed by 9 Geo. IV c.31 s.1. It is referred to in the Fifty-Ninth Report of this Committee but as it is a statute which on the face of it applies throughout the King's Dominions it cannot be repealed until the Colonial Laws Validity Act no longer has force in South Australia and we will deal with it under that heading. Chapter 8

dealing with debts due to the Army was repealed in 1867. Chapter 9 dealing with vexatious suits in Wales and the Counties Palatine was repealed in 1879. Chapter 10 dealing with the employment of the poor, and chapter 11 dealing with the repeal of 9 Will. III c.9 were both repealed in 1867. Chapter 12 dealing with the punishment of offences committed by the Governors of British Colonies is referred to in our Fifty-Ninth Report. It is still partly in force in England and partly repealed in 1948. It is another of the statutes to which the Colonial Laws Validity Act applies and will be dealt with under that head. Chapters 13 dealing with export, 14 dealing with militia, 15 dealing with ale and 17 dealing with failure to take prescribed oaths were all repealed in 1867. Chapter 16 dealing with tithes was repealed in 1887. Chapter 18 dealing with vagrancy was repealed by statutes of 1867 and 1948. Chapter 19 dealing with goods was repealed by 4 Geo. IV c.64 s.1. Chapter 20 dealing with taxation was repealed in 1867. Chapter 21 dealing with Thames watermen was repealed by 7 & 8 Geo. IV c. lxxv s.1. Chapters 22-24 are local acts. Accordingly of the statutes of that year, chapters 1, 2 so far as not already repealed, 3 and 4, 8-11, 13-18, 20 and 22-24, should be repealed at this stage in South Australia.

Statutes 12 & 13 Will. III (1700) cc.1-13:

Chapter 1 dealing with exchequer bills was repealed in 1867. Chapter 2, the well-known Act of Settlement, is still partly in force in England is partly amended by Acts from 1910 to 1981. It is a constitutional statute of the highest importance and will be dealt with in our report on constitutional statutes. Chapter 3 dealing with privilege of Parliament was repealed in England in 1867 and has without doubt been carried forward into South Australia as part of the law and custom of Parliament and will be dealt with under constitutional statutes. Chapter 4 dealing with plate assay was repealed in 1962. Chapter 5 dealing with returns of members of Parliament continues 7 & 8 Will. III c.7 and, as we said when we dealt with that statute, this is a constitutional statute under that heading. Chapter 6 dealing with moss troopers was repealed in 1867. Chapter 7 dealing with the founding of the British Museum on the acquisition of the Cottonian Collection was repealed in 1948. Chapter 8 dealing with the militia was repealed in 1948. Chapter 9 dealing with Minehead Harbour was repealed by 4 Geo. IV c. cxiii. Chapter 10 on the face of it mainly deals with taxation, but sections lxxxix and xci deal with disqualification of members of Parliament and raise constitutional issues and will be dealt with under constitutional statutes. Chapters 11 and 12 deal with taxation and were repealed in 1867. Chapter 13 dealing with the Duchy of Cornwall was repealed in 1948. So of the statutes of that year, chapters 1, 4, 6-8, and 11-13 should now be repealed in South Australia.

Statutes 13 & 14 Will. III (1701) cc.1-6:

Chapter 1 dealing with debts due to the Army and chapter 2 dealing with mutiny were repealed in 1867. Chapter 3 dealing with traitorous correspondence with the Pretender was repealed in 1948. Chapters 4 dealing with affirmations by Quakers, 5 dealing with taxation and 6 dealing with the security of the succession to the Throne were all repealed in 1867. Accordingly, all the chapters of the statute for 1701 should be repealed in South Australia now.

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)

7th December, 1983.