

**THE SOUTH AUSTRALIAN LAW  
REPORTS. REPORTS OF CASES  
ARGUED AND DETERMINED IN  
THE SUPREME COURT OF SOUTH  
AUSTRALIA, VOL. I.-1867**

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**JAMES BROOK**

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REPORTS OF CASES

ARGUED AND DETERMINED

IN THE

SUPREME COURT OF SOUTH AUSTRALIA.

EDITED BY

JAMES BROOK,

A PRACTITIONER OF THE SUPREME COURT.

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Vol. I.--1867.

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JUDGES OF THE SUPREME COURT,

1867.

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RICHARD DAVIES HANSON, Esq. . . . . CHIEF JUSTICE.  
BENJAMIN BOOTHBY, Esq. . . . . SECOND JUDGE.  
EDWARD CASTRES GWYNNE, Esq. . . . . THIRD JUDGE.

*Primary Judge in Equity.*

EDWARD CASTRES GWYNNE, Esq.

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On the 29th July, 1867, an order was made by the Governor and Executive Council removing BENJAMIN BOOTHBY, ESQUIRE, from his office of Second Judge of the Supreme Court [a], and on the 8th day of August, 1867, the following appointments were made:—

EDWARD CASTRES GWYNNE, Esq. . . . . SECOND JUDGE.  
WILLIAM ALFRED WEARING, Esq. . . . . THIRD JUDGE.

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[a] Mr. Boothby gave notice of appeal to the Privy Council against this order of removal, but died on the 21st June, 1868, before the appeal had been set down for hearing.

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## N O T E .

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The materials for this volume have been obtained mainly from the reports of proceedings in the Supreme Court as published in the *South Australian Register*. These have been revised and corrected by the Editor, and in many instances where judgments have not been delivered in writing the reports have been submitted to their Honors the Judges, who have kindly made the necessary alterations.

In addition to the reports of the year, several cases previously decided by the Supreme Court, and involving points of local importance, have been given in the shape of notes or in the Appendix.

J. B.

*Adelaide, August, 1868.*

#### ADDENDA ET CORRIGENDA.

Page 32, line 11 from top, in head-note, for "issued" read "executed."

- " 39. *Mr. Thespy* did not it appears argue in support of the jurisdiction of the Primary Judge, but simply assisted in the consideration of the question by calling His Honor's attention to the authorities.
- " 64. Title, "NATIONAL BANK V. CHERRY," should be "STEPHENS V. FRANKLIN."
- " 85. *KILGEBRICK V. PALMER*.—On the 29th February, 1868, the Judicial Committee of the Privy Council granted leave to the defendant to appeal herein from the decision of the Supreme Court.
- " 98. *SOUTH AUSTRALIAN BANK V. HORNER*.—On appeal, the Full Court (*Gwynne, J. dissentiente*) reversed this decision, and the defendants have appealed to the Privy Council from the decision of the Full Court. (7th July, 1868.)
- " 145, line 8 from top, for "*The King v. Ware and Main*," read "*The King v. Hare and Mann*," 1 Strange, 146.

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