

*Resident Magistrates' Courts Extension of Jurisdiction.***No. XXIX.****THE RESIDENT MAGISTRATES' COURTS EXTENSION OF JURISDICTION.**

AN ACT to extend the Jurisdiction of Resident Magistrates' Courts in Civil Cases. [15th August, 1856.]

Preamble.

WHEREAS it is expedient that the jurisdiction of the Resident Magistrates' Courts in the Colony of New Zealand should be extended in civil matters:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Governor to bring Act into operation.

1. It shall be lawful for the Governor, upon the request of the Superintendent of any Province, by Proclamation in the Government *Gazette*, to bring this Act into operation in respect to any Resident Magistrate's Court having jurisdiction within such Province, from and after a certain day to be named in such Proclamation, and to define the districts within which cases may be heard in such Court under the provisions of this Act.

Superintendent to fix times of sitting.

2. The Superintendent of the Province within which any such Resident Magistrate's Court shall be situated shall, by Proclamation in the Government *Gazette* of such Province, fix the days upon which such Court shall sit to hear and determine causes under the provisions of this Act.

Jurisdiction extended to £100.

3. Every case of a civil nature, of such kind as may now be lawfully tried in any Resident Magistrate's Court where the debt or damage claimed does not exceed twenty pounds, may be tried in a Resident Magistrate's Court in respect to which this Act is in operation, where the debt or damage claimed shall not exceed one hundred pounds.

Cases to be heard before the Resident Magistrate or person appointed by Governor.

4. All cases that shall be tried by a jury as hereinafter provided shall be tried before a Resident Magistrate: Provided always that it shall be lawful for the Governor from time to time to appoint some other person, being one of Her Majesty's Justices of the Peace, to preside at the trial of such causes in the place of the Resident Magistrate.

Cases above £5 may be tried by jury.

5. In any action in which the amount of the debt or damage claimed shall exceed five pounds, it shall be lawful for either the plaintiff or the defendant to require a jury to be summoned to try the said action.

Party demanding jury to give notice.

6. The party requiring the jury to be summoned shall give a written notice thereof to the Clerk of the Court, either personally or by leaving the same at his office, and shall pay into Court the costs hereby fixed for the summoning and attendance of the said jury.

Clerk to summon twelve jurors.

7. Upon receiving such notice the Clerk of the Court shall summon twelve jurors, residing within three miles of the place where the sittings thereof shall be held, chosen in alphabetical order as their names shall appear on the Jury List of the Province or district.

Summons when to be served.

8. Every such summons shall be served on such juror personally, or by leaving the same at his ordinary place of abode, at least two clear days before the sitting of the Court.

Jury to be reduced to four by challenge.

9. When the jurors shall be in attendance, if their number shall be odd the Clerk shall strike off one, and the number being even, the defendant and plaintiff alternately shall each strike off one, until the number shall be reduced to four, and the four thus remaining shall be impanelled and sworn to give their verdict in the cause to be brought before them.

When jury cannot agree to a verdict.

10. In every trial where the jury shall have remained six hours in deliberation and shall be unable to agree upon a verdict, the Court shall

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shall order them to be discharged; and in every such case where the amount claimed shall not exceed twenty pounds the Court shall determine the case summarily, and where such amount shall exceed twenty pounds, no judgment shall be given.

11. Any juryman or witness failing to attend a summons or subpoena issued under this Act, or to produce such documents or papers as may be set forth in any such subpoena, shall be liable to a penalty not exceeding ten pounds, to be imposed by the Court, and in default of payment shall be imprisoned for a term not exceeding fourteen days.

Penalty for non-attendance to summons.

12. Whenever the sum claimed shall exceed five pounds, either party may appeal against the decision on any point of law, such appeal to be made to the Supreme Court as follows:—The plaintiff and the defendant shall each, within one week after the day of trial, deliver to the presiding Judge a statement in writing of the point in issue; and such presiding Judge shall state in writing his decision of the point in issue in accordance with the facts as proved at the trial; and the statements so prepared shall be forwarded by such presiding Judge without delay to the Registrar of the Supreme Court having jurisdiction over the Province where the trial took place. And the Judge of the said Supreme Court shall decide the point at issue within fourteen days after such statement shall have been received by him, and shall direct the judgment of the Resident Magistrate's Court to be given accordingly, and the same shall be given accordingly.

Appeal to Supreme Court in certain cases.

13. In all cases where such appeal to the Supreme Court shall be demanded, notice thereof in writing shall be given to the presiding Judge, and also to the opposing party in the action, within forty-eight hours after the trial shall have concluded; and such notice may be given either personally or by leaving the same at the office or residence of the presiding Judge, or, in the case of the plaintiff or defendant, by leaving the same at his ordinary place of business or abode, or at the office of the counsel or attorney appearing for him at the trial.

Notices to be given in case of appeal.

14. No judgment or execution shall be stayed unless the party appealing shall give such security as the Court shall deem sufficient for the sum required to meet the whole costs of the action and appeal; and, in the case of the defendant, for such additional sum as shall meet the amount of the judgment.

Execution when to be stayed.

15. It shall be lawful for the presiding Judge in any such Court to reserve any points of law for the decision of the Supreme Court, and any Judge having jurisdiction over the district in which any Resident Magistrate's Court may be situated shall give his decision on any point of law so referred to him, and the decision of the Resident Magistrate's Court shall be in accordance therewith.

Presiding Judge may reserve points of law.

16. In addition to the fees now payable by suitors in the Resident Magistrate's Court, there shall be paid the fees hereinafter mentioned, that is to say,—

Additional fees.

		s.	d.
For serving each summons	...	2	6
For each juror sworn	...	10	0

and such fees shall be borne by the plaintiff or defendant, as the Court may direct.

17. Nothing in this Act shall be taken to alter any of the provisions of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, intituled "*The Resident Magistrates' Courts Ordinance*," Session VII., No. 16, so far as the same relates to the trial of causes in which one or both of the parties shall be of the Native race.

Native cases excepted.

18. In all cases not herein specially provided for, the Governor, with the approval of any Judge of the Supreme Court, may from time to

Governor may make rules.

Local Posts.

to time frame and establish rules and orders for all proceedings under this Act, and may from time to time alter the same, and such rules and orders, and all alterations thereof, shall be published in the *Government Gazette*, and when so published shall have the force of law.

19. The term "Governor" shall mean the person for the time being lawfully administering the Government of New Zealand.

20. This Act may be cited for all purposes as "*The Resident Magistrates' Courts Extension of Jurisdiction Act, 1856.*"

Interpretation of
word "Governor."

Short Title.