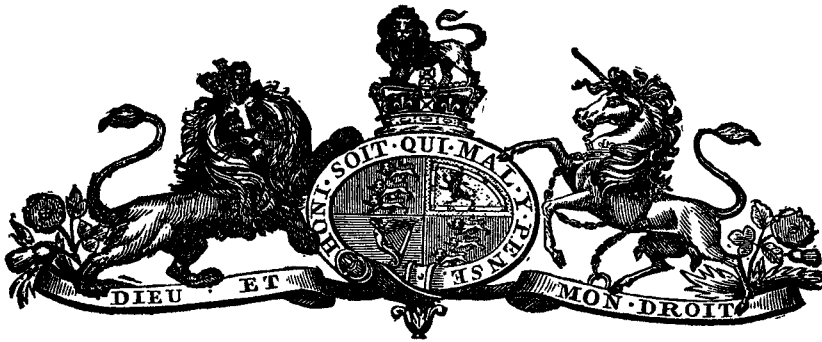


NEW ZEALAND.



TRICESIMO SEXTO

VICTORIÆ REGINÆ.

No. XXVII.

ANALYSIS.

- | | |
|---|--|
| <p>Title.
Preamble.
1. Short Title.
2. Interpretation.
3. Costs of appeal to Supreme Court limited.
4. Person appealing to Supreme Court to transmit statement of case to Registrar.
5. Appellant to give notice of appeal to respondent.</p> | <p>6. Appellant not prosecuting appeal, respondent may proceed on former judgment.
7. Costs in last two cases.
8. Governor may extend the jurisdiction of Resident Magistrates' Courts.
9. Twenty-first section of said Act amended.
10. Oath to be taken before Clerk of Court.
11. Affidavit of service of summons to be made before Clerk of Court.</p> |
|---|--|

AN ACT to amend "The Resident Magistrates Act, 1867." Title.
[25th October, 1872.]

WHEREAS it is expedient that the costs of appeal under "The Resident Magistrates Act, 1867," be limited in amount: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "The Resident Magistrates Act Amendment Act, 1872." Short Title.

2. The term "the said Act," when used in this Act, shall mean "The Resident Magistrates Act, 1867," and this Act shall be read and construed as part of the said Act. Interpretation.

3. The sum allowable by the Supreme Court under the hundredth or hundred and first sections of the said Act as costs of appeal shall not exceed the sum of ten pounds over and above the fees of Court. Costs of appeal to Supreme Court limited.

4. Whenever any person shall, under the provisions of the said Act, have appealed against the decision of the Court in the manner therein provided such person (hereinafter called the appellant) shall within ten clear days after the statement of the case, as required by the said Act, transmit the same, by post or otherwise to the Registrar of the Supreme Court, to whom the same ought, according to the requirements of the said Act, to be transmitted. Every such case shall be prepared in duplicate, and one copy thereof shall be kept by the Resident Magistrate. Person appealing to Supreme Court to transmit statement of case to Registrar.

Resident Magistrates Act Amendment.

Appellant to give notice of appeal to respondent.

5. The appellant shall give notice in writing, by post or otherwise, of the transmission of such case within three clear days of such transmission, to the party who shall have obtained judgment, or in whose favour the decision of the Court shall be (hereinafter called the respondent); and in default of the appellant so doing, the respondent may proceed on the judgment, and shall, on application to the Court, be entitled to such costs (not exceeding five pounds) as he shall have incurred in consequence of the appellant's proceedings; or instead of proceeding on such judgment, the respondent may, if he thinks fit, within fifteen clear days from the statement of the case, obtain a copy of such case from the Resident Magistrate, and transmit it in the manner prescribed, and give the like notice to the appellant of such transmission.

Appellant not prosecuting appeal, respondent may proceed on former judgment.

6. If after the case has been transmitted the appellant does not prosecute his appeal at the next practicable sitting of the Supreme Court in banco, according to the rules and practice thereof in such cases, the respondent may apply to the Court which shall have pronounced the judgment or given the decision appealed against for leave to proceed on the judgment, and leave for that purpose may be granted accordingly if the last-mentioned Court thinks fit; and the respondent shall also be entitled to such costs (not exceeding ten pounds) as he shall have incurred in consequence of the appellant's proceedings, which costs shall be added to the judgment.

Costs in last two cases.

7. The costs to be allowed in either of the cases mentioned in the two last preceding sections shall be settled and determined by the Court; and for the purposes of this section and the three preceding sections, the term "Court" shall mean and include a Court held before a Resident Magistrate or before two Justices of the Peace in any case where such Justices may lawfully hold such Court under the said Act.

Governor may extend the jurisdiction of Resident Magistrates' Courts.

8. Notwithstanding anything contained in the twenty-first section of the said Act, all the jurisdiction given to Resident Magistrates' Courts by the nineteenth section of the said Act may be extended by the Governor as by the said Act provided; and whenever at any time heretofore such jurisdiction has been extended by the Governor in respect of any Resident Magistrate's Court, such extended jurisdiction shall, to the extent and in the manner mentioned in the Proclamation declaring such jurisdiction, be deemed to be and at all times to have been lawfully held and exercised under the said Act.

Twenty-first section of said Act amended.

9. Wherever the words "debt or damage" occur in the said twenty-first section, the same shall be read and construed as if the words "debt damage claim or demand" had been inserted in lieu thereof.

Oath to be taken before Clerk of Court.

10. The oath required by the thirty-fourth section of the said Act to be taken before the issue of a summons against a defendant residing or being without the district within which the Court has jurisdiction may be taken before the Clerk of the Court; and the Clerk of the Court is hereby empowered to administer the necessary oath in any such case.

Affidavit of service of summons to be made before Clerk of Court.

11. An affidavit of the service of a summons in a civil case may be sworn before the Clerk of any Resident Magistrate's Court, whether such Court shall be the Court out of which the summons was originally issued or any other Court; and such Clerk is hereby empowered to take any such affidavit.