

Hon. Dr. Findlay.

## JUDICIARY.

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23. Sections 19 to 24 of Supreme Court Act modified.

### BILL INTITULED

AN ACT to abolish District Courts and to make Further Provision Title.  
for the Administration of Justice.

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

1. This Act may be cited as the Judiciary Act, 1907, and shall  
come into operation on the first day of January, nineteen hundred  
and *eight*. hort Title.

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#### PART I.

##### DISTRICT COURTS.

2. (1.) After the coming into operation of this Act no action  
for the recovery of any debt or damages shall be commenced in a  
District Court. No future action in  
District Court for  
recovery of debt.

Pending actions to be continued in District Court.

(2.) All such actions which at the time of the coming into operation of this Act are pending in a District Court shall be continued and prosecuted in that Court in the same manner as if this Act had not been passed.

No future commitment for trial before a District Court.

3. (1.) After the coming into operation of this Act no person accused of any offence shall be committed for trial before a District Court. 5

(2.) All persons who before the coming into operation of this Act have been committed for trial before a District Court shall be tried and dealt with as if this Act had not been passed. 10

No future appeal from order of Magistrate, &c., to be heard by District Court.

4. (1.) No appeal from any order or conviction made by a Magistrate or Justice of the Peace after the coming into operation of this Act shall be heard by a District Court under the provisions of section two hundred and forty-eight of the Justices of the Peace Act, 1882. 15

Such appeals to be to Supreme Court.

(2.) Every appeal from an order or conviction so made as aforesaid after the coming into operation of this Act shall be made to the Supreme Court in the same manner as if there were no District Court within the judicial district in which such order or conviction is made.

Pending appeals to be heard in District Court.

(3.) Every appeal from an order or conviction made before the coming into operation of this Act shall be heard and determined in the same manner as if this Act had not been passed. 20

No future probate or administration to be granted by District Court.

5. After the coming into operation of this Act no probate of any will, and no letters of administration of any estate, shall be granted by a District Court or by any Judge thereof. 25

No future bankruptcy petitions to be filed in District Court.

6. (1.) After the coming into operation of this Act no petition for an adjudication of bankruptcy shall be filed in a District Court.

District Court to exercise jurisdiction with respect to petitions already filed.

(2.) With respect to all such petitions already filed in a District Court before the coming into operation of this Act, and with respect to all adjudications of bankruptcy already made by a District Court before the said date, the District Court shall continue to exercise the same jurisdiction, and the same proceedings may be continued or taken, as if this Act had not been passed. 30

Supreme Court to have jurisdiction in bankruptcy heretofore exercised by District Court.

(3.) After the coming into operation of this Act the Supreme Court shall have the same jurisdiction in bankruptcy as if no jurisdiction in bankruptcy had been conferred upon any District Court in pursuance of the provisions of section seven of the Bankruptcy Act, 1892. 35

No future appeal from Warden to be heard by District Court.

7. (1.) No appeal from any order, judgment, or other decision of a Warden or of a Warden's Court made or given after the coming into operation of this Act shall be heard by a District Court under the provisions of section three hundred and thirty-four of the Mining Act, 1905. 40

Such appeals to be to Supreme Court.

(2.) Every appeal from any such order, judgment, or other decision of a Warden or Warden's Court so made or given after the coming into operation of this Act shall be to the Supreme Court in the same case and in the same manner as if there were no District Court having jurisdiction within the place where the said order, judgment, or decision was made or given. 45

Repeal.

8. Sections two hundred and seventeen to two hundred and nineteen of the Companies Act, 1903, are hereby repealed; but this repeal shall not affect any proceedings which at the time of the 50

coming into operation of this Act are already pending in a District Court by virtue of the sections so repealed.

9. Section one hundred and sixty-five of the Magistrates' Courts Act, 1893, is hereby repealed; but all appeals from any determination or direction of a Magistrate's Court made or given before the coming into operation of this Act shall be heard by the same Court and in the same manner as if this Act had not been passed. Repeal.

10. Section eleven of the Mining Companies Act, 1904, is hereby amended by omitting from subsection six thereof the words "or of a District Court." Section 11 of Mining Companies Act amended.

11. (1.) The District Courts are hereby abolished as from the last day of March, nineteen hundred and *eight*. Abolition of District Courts.

(2.) The Governor may by Order in Council direct that the records of the said Courts so abolished shall be transferred to the custody of the Supreme Court at such offices of the Supreme Court as are named in the said Order. Records thereof to be transferred to Supreme Court.

(3.) Notwithstanding such abolition of the District Courts, all judgments, orders, and convictions theretofore made or given by the said Court or by any Judge thereof, and all acts and things theretofore lawfully done by the said Courts or by any Judge thereof, shall remain in full force and effect. Savings.

(4.) Notwithstanding anything hereinbefore contained, all actions and other proceedings pending in any District Court at the time of its abolition shall be transferred to the Supreme Court in such manner as is determined by the Governor by Order in Council, and all such actions and proceedings shall be continued in the Supreme Court, in accordance with the procedure thereof, as if they had been originally commenced in that Court. Actions pending in District Court on abolition thereof to be transferred to Supreme Court.

(5.) All judgments, orders, and determinations of any District Court so abolished or of any Judge thereof may be enforced, varied, reversed, annulled, or otherwise dealt with by a Supreme Court or a Judge thereof in like manner as if they had been given or made by a Supreme Court or a Judge thereof.

(6.) The Acts and parts of Acts mentioned in the Schedule hereto are hereby repealed as from the last day of March, nineteen hundred and *eight*. Repeal.

(7.) All provisions contained in any Act and relating to a District Court or to a Judge thereof are hereby repealed as from the last day of March, nineteen hundred and *eight*, so far as they so relate to such Court or Judge.

12. (1.) After the coming into operation of this Act it shall not be necessary on the hearing of any appeal to the Supreme Court, whether on a point of law or on a point of fact, from any judgment, order, conviction, or other determination of a Magistrate, Justice of the Peace, Magistrate's Court, Warden, or Warden's Court, that the parties to such appeal should appear either personally or by counsel, and the hearing of any such appeal may, if the parties so agree, take place by way of written arguments delivered by each party to the other and filed in the Supreme Court. Procedure in hearing of appeal.

(2.) The procedure in and preliminary to the hearing of any appeal in manner aforesaid may be determined by rules to be made in manner provided by section thirty-one of the Supreme Court Act, 1882.

(3.) Nothing in this section shall be so construed as to prevent any appeal from being heard and determined in the same manner as if this section were not in force.

## PART II.

## SUPREME COURT AND COURT OF APPEAL.

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**Governor may assign judicial districts to Judges of Supreme Court.**

13. (1.) The Governor may by Order in Council from time to time assign judicial districts to the Judges of the Supreme Court.

(2.) The same Judge may have two or more judicial districts assigned to him.

(3.) The same judicial district may be assigned to two or 10 more Judges.

(4.) The term "judicial district" means a district constituted under the authority of section twenty of the Supreme Court Act, 1882.

**Judge to exercise judicial powers only in district assigned to him unless otherwise authorised.**

14. (1.) Every Judge of the Supreme Court other than the 15 Chief Justice thereof, or the Judge for the time being acting as the Chief Justice thereof, shall exercise his judicial powers and functions in the judicial district or judicial districts which have been so assigned to him and not elsewhere, save with the permission of the Chief Justice or Judge so acting as the Chief Justice first 20 had and obtained, or in accordance with the provisions in that behalf hereinafter contained.

**No act of Judge invalidated because done outside judicial district.**

(2.) Notwithstanding anything hereinafter contained, no act or thing done by any Judge of the Supreme Court shall be invalidated or questioned merely because it is done outside the judicial district 25 or districts so assigned to him.

**Wellington Judicial District to be assigned to three Judges.**

15. (1.) The judicial district in which the City of Wellington is situated (hereinafter referred to as the Wellington District) shall at all times be assigned to three Judges and no more, and of these three the Chief Justice of the Supreme Court or the Judge for 30 the time being acting as the Chief Justice of the Supreme Court shall be one.

(2.) No Judge to whom the Wellington District has been so assigned may be removed therefrom except with the concurrence of a majority of all the Judges of the Supreme Court, or in pursuance 35 of resolutions to that effect passed by both Houses of the General Assembly.

(3.) If any Judge to whom the Wellington District has been so assigned is absent from New Zealand, or gives notice to the Governor that he is unable from illness to perform his judicial duties, the 40 Governor may by Order in Council temporarily assign the said district to any other Judge of the Supreme Court during the absence or incapacity of the first-mentioned Judge.

**By whom appeals to be determined.**

16. Save in accordance with the provisions in that behalf hereinafter contained, no Judge of the Supreme Court other than those to 45 whom the Wellington District is assigned shall hear or determine any appeal to the Court of Appeal, or take part in the exercise by the Court of Appeal of any powers or functions of that Court other than the powers of making rules determining the procedure thereof.

17. Save as otherwise hereinafter provided, no Judge of the Supreme Court shall sit in the Court of Appeal to hear and determine any appeal from any judgment, order, direction, conviction, or other determination given or made by himself, or any application for the  
 5 new trial of any action or criminal prosecution heard by himself.
18. No appeal to the Court of Appeal shall be heard or determined by less than three Judges.
19. (1.) The Governor may from time to time by Order in Council establish a rota of the Judges of the Supreme Court other than those  
 10 to whom the Wellington District is for the time being assigned.
- (2.) Any such Order in Council may be revoked or altered with the consent of all the Judges in the said rota, but not otherwise.
- (3.) All Judges of the Supreme Court, whether permanent or temporary, appointed during the existence of any such rota shall be  
 15 added to the rota in the order of their appointment.
20. (1.) At any sitting of the Court of Appeal one of the Judges in the said rota, determined in accordance therewith, may sit in the Court of Appeal in order to hear and determine any appeals or other matters for the hearing and determination of which any one of the  
 20 three Judges to whom the Wellington District is assigned is for any reason not available.
- (2.) If any Judge who in accordance with the said rota is entitled to sit in the Court of Appeal at any sitting thereof is for any reason not available in respect of any appeal or other matter,  
 25 the Judge next in order in the rota may sit and act in his stead in respect thereof, but no such substitution shall affect the operation of the said rota at any subsequent sitting.
- (3.) For the purpose of this section a Judge shall be deemed to be not available for the determination of any appeal or other matter  
 30 if he is disqualified, or is absent from New Zealand, or gives notice to the Chief Justice, or to the Judge acting as Chief Justice, that he is unable or unwilling to sit in the Court of Appeal in order to hear and determine the said appeal or other matter.
21. Notwithstanding anything in this Act, the Governor may  
 35 at any time, on the recommendation of the three Judges to whom the Wellington District is assigned, or of a majority of all the Judges of the Supreme Court, summon to the Court of Appeal all or any of the Judges of the Supreme Court to sit in the Court of Appeal, there to hear and determine any appeal or other matter specified in the  
 40 summons, and the Judge or Judges so summoned may hear and determine the same accordingly, anything in this Act to the contrary notwithstanding.
22. No judgment, order, or other determination of the Court of Appeal shall be questioned or invalidated merely because it is given  
 45 or made by any Judge or Judges of the Supreme Court other than those by whom it ought to have been given or made in accordance with this Act, or because of any other breach or disregard of the provisions of this Act.
23. Sections nineteen to twenty-four of the Supreme Court  
 50 Act, 1882, shall be read subject to the provisions of this Act.

Judge not to act in appeals against judgments, &c., given by himself.

No appeal to be determined by less than three Judges.

Governor may establish rota of Judges other than those exercising jurisdiction in Wellington District.

Judges in such rota entitled to sit consecutively in Court of Appeal.

Provision where Judge so entitled to sit unable to do so.

In certain cases all Judges of Supreme Court may sit in Court of Appeal.

No determination of Court of Appeal invalid merely because not determined in conformity with this Act.

Sections 19 to 24 of Supreme Court Act modified.

Section 11.

## SCHEDULE.

- 1858, No. 30.—The District Courts Act, 1858.  
1865, No. 4.—The District Courts Act Amendment Act, 1865.  
1866, No. 5.—The District Courts Jurisdiction Extension Act, 1866.  
1870, No. 12.—The District Courts Criminal Jurisdiction Extension Act, 1870.  
1879, No. 14.—The District Courts Act 1858 Amendment Act, 1879.  
1880, No. 33.—The District Courts Act, 1880.  
1885, No. 45.—The Enforcement of Judgments Act, 1885.  
1888, No. 22.—The District Courts Acts Amendment Act, 1888.  
1888, No. 23.—The Local Courts Proceedings Act, 1888: So far as it applies to  
District Courts.  
1893, No. 28.—The District Courts Jurisdiction Extension Act, 1893.

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