

New Zealand.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 12.

**AN ACT for the regulation of Appeals from
Justices of the Peace acting in their
Summary Jurisdiction.**

[10th October 1867.]

BE IT 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 Appeals from Justices Act 1867.” Short Title.

2. In the interpretation of this Act words shall bear the same meaning as in “The Justices of the Peace Act 1866” provided that the expression “a Justice of the Peace” shall include “Justices of the Peace” And the expression “District Court” shall mean a District Court constituted under “The District Courts Act 1858” the Judge of which is a barrister or solicitor of the Supreme Court of New Zealand whether he shall have been appointed under the proviso in the fourth section of the said Act or otherwise. Interpretation clause.

3. The Acts and Ordinances in the first Schedule to this Act to the extent to which the same are in and by the same Schedule expressed to be repealed shall be and the same are hereby repealed but all proceedings taken or commenced before the coming into operation of this Act shall be continued dealt with and disposed of in like manner as if this Act had not been passed. Repeal of former Acts.

PART I.

APPEALS ON POINTS OF LAW ONLY BY WAY OF CASE STATED.

4. After the hearing and determination by a Justice of the Peace of any information or complaint which he has power to determine in a summary way by any law now in force or hereafter to be made either party to the proceeding before the said Justice may if dissatisfied with the said determination as being erroneous in point of law apply in writing within fourteen days after the same to the said Justice to state and sign a case (which may be in the form in the second Schedule hereto) setting forth the facts and the grounds of such determination for the opinion thereon of the Supreme Court and such party hereinafter called the “Appellant” shall within fourteen days after receiving such case transmit the same to the Registrar of the Supreme Court in the judicial district within which the Justices adjudicating shall at the time of such adjudication have been sitting or if there shall be more than one Supreme Court office Justice on application of a party aggrieved to state a case for the opinion of the Supreme Court. [S.P. Act 1860 § 3.]

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in such district then to the Registrar of such office of the Supreme Court in the said judicial district as shall by any general rule be appointed by the Judge or the Judges to whom such judicial district shall have been assigned which rules such Judge or Judges (as the case may be) is and are hereby authorized to make for his or their judicial district but the Appellant shall first give notice in writing of such appeal with a copy of the case so stated and signed to the other party to the proceeding in which the determination was given hereinafter called the "Respondent" and such notice shall state the time when and the office of the Supreme Court to which the Appellant proposes to transmit such case Provided always that no such determination may be appealed against on the ground of improper admission or rejection of evidence.

Security and notice
to be given by
Appellant.
[S.P. Act 1860 § 4.]

5. The Appellant at the time of making such application and before a case shall be stated and delivered to him by the Justice shall in every instance enter into a recognizance before such Justice or Justices or one of them or some other Justice exercising the same Jurisdiction with or without surety or sureties and in such sum as to the Justice or Justices shall seem meet conditioned to prosecute without delay and with effect such appeal and to submit to the judgment of the Supreme Court and pay such costs as may be awarded by the same or shall in lieu of such recognizance deposit in the hands of the Clerk of the Petty Sessions or of the Resident Magistrate's Court such sum as to the Justice or Justices shall seem meet on the like condition and the Appellant shall at the same time and before he shall be entitled to have the case delivered to him pay such fees for and in respect of the case and recognizance as are specified in the third Schedule to this Act or shall for the time being be fixed under the powers hereinafter contained and thereafter it shall not be lawful for any Justice to issue any warrant in execution of the conviction or order appealed against until such appeal shall have been decided or until the Appellant shall have failed to perform the condition of such recognizance except when an Act shall expressly authorize the levy of any sum to be made notwithstanding the appeal and except when any person ordered to enter into a recognizance of the peace has failed to enter into the required recognizance and if any warrant of distress shall have been issued or executed any Justice upon application made to him in that behalf shall order that such warrant shall not be executed or if executed and the distress not sold that the distress shall be returned to the owner and the Appellant if then in custody shall be liberated upon the recognizance being further conditioned for his appearance within ten days after the judgment of the Court shall have been given before the same Justice or Justices or if that is impracticable before some other Justice or Justices exercising the same jurisdiction who shall be then sitting to abide such judgment unless the determination appealed against be reversed.

Justice may refuse a
case when he thinks
the application
frivolous.
[S.P. Act 1860 § 5.]

6. If the Justice be of opinion that the application be merely frivolous but not otherwise he may refuse to state a case and shall on request of the Appellant sign and deliver to him a certificate of such refusal Provided that the Justice shall not refuse to state a case when application for that purpose is made to him on behalf of the Crown by or under the direction of Her Majesty's Attorney-General for the Colony.

When the Justice
refuse the Court may
by rule order a case
to be stated.
[S.P. Act 1860 § 6.]

7. When the Justice shall refuse to state a case as aforesaid it shall be lawful for the Appellant to apply to the Supreme Court upon an affidavit of the facts for a rule calling upon such Justice and also upon the Respondent to show cause why such case should not be stated and the Court may make the same absolute or discharge it with or without payment of costs as to the Court shall seem meet and the

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Justice upon being served with such rule absolute shall state a case accordingly upon the Appellant entering into such recognizance as is hereinbefore provided.

8. The Supreme Court shall hear and determine the question or questions of law arising on any case transmitted to it under this Act and shall thereupon reverse affirm or amend the determination in respect of which the case has been stated or remit the matter to the Justice with the opinion of the Court thereon or may make such other order in relation to the matter and may make such orders as to costs as to the Court may seem fit and all such orders shall be final and conclusive on all parties Provided always that no Justice of the Peace who shall state and deliver a case in pursuance of this Act shall be liable to any costs in respect or by reason of such appeal against his determination.

Supreme Court to determine the questions on the case.
[S.P. Act 1860 § 7.]

Its decision final.

9. The Supreme Court shall have power if it thinks fit to cause the case to be sent back for amendment and thereupon the same shall be amended accordingly and judgment shall be delivered after it shall have been amended.

Case may be sent back for amendment.
[S.P. Act 1860 § 8.]

10. The authority and jurisdiction hereby vested in the Supreme Court for the determination of any question of law upon a case stated under this Act may subject to any rules and orders of such Court in relation thereto be exercised by a Judge of such Court sitting in chambers.

Power of the Court may be exercised by a Judge at Chambers.
[S.P. Act 1860 § 9.]

11. Any person who shall appeal under the provisions contained in this part of this Act against any determination of a Justice of the Peace from which he is under the provisions hereinafter in this Act contained or otherwise by law entitled to appeal to the Supreme Court or to a District Court shall be taken to have abandoned such last-mentioned right of appeal finally and conclusively and to all intents and purposes.

Appellant under Part I. not allowed to appeal otherwise.

12. No writ of *certiorari* or other writ shall be required for the removal of a conviction order or other determination in relation to which a case is stated under the provisions hereinbefore contained or otherwise for obtaining the judgment or determination of the Supreme Court on such case under this Act.

Certiorari not to be required when appeal upon case stated.
[S.P. Act 1860 § 11.]

PART II.

GENERAL APPEAL AND PRACTICE AND PROCEDURE THEREIN.

13. Except as herein expressly provided or by any law now or hereafter in force otherwise expressly provided when upon the hearing and determination by a Justice of the Peace of any information or complaint which he shall have power to determine in a summary way by any law now in force or hereafter to be made the penalty or sum of money ordered to be paid shall exceed five pounds exclusive of costs or the term of imprisonment adjudged shall exceed one calendar month exclusive of any further period of imprisonment adjudged for non-payment of costs or whenever any order for the estreat of a recognizance shall be made by Justices it shall be lawful for the party convicted or against whom any such order shall be made to appeal to the District Court at the next sitting which shall be holden after the expiration of fifteen days next after the date of such conviction or order in and for the district within which the Justice adjudicating shall at the time of such adjudication have been sitting or (if such Justice shall not at the time of such adjudication have been sitting within a district in and for which there shall at the time being be a District Court) to the Supreme Court

General right of appeal to Supreme or District Court when penalty exceeds five pounds or imprisonment exceeds one month.

[S.P. Ord. § 18.]
[S.P. Amdt. Ord. District Court Act 1858.]

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sitting within the judicial district within which such Justice shall at the time of such adjudication have been sitting and such appeal shall be heard at the next of those sittings of the Supreme Court specially appointed by the Judge or Judges to whom such judicial district shall have been assigned for the hearing of appeals from Justices which shall be held after the expiration of fifteen days next after the conviction or making of such order. Provided always that whenever any Judge of a District Court shall be also a Resident Magistrate or a Justice of the Peace the Supreme Court alone shall have jurisdiction to hear and determine appeals against convictions by such Resident Magistrate or Justice.

Notice of appeal and
recognizance required.
[S.P. Ord. § 19.]

14. The Appellant under the provisions of the last section shall within seven days after the conviction or the making of the order give to the complainant notice in writing of such appeal and of the matter and grounds thereof and the Court to which it is to be made and the Appellant shall within such period of seven days enter into the like recognizance and execution shall be suspended in like manner and the Appellant if in custody shall be entitled to be liberated upon the like conditions as this Act provides in the case of appeals upon questions of law only by way of case stated. Provided that it shall not be lawful for the Appellant on the trial of any appeal under this part of this Act to go into or give evidence of any ground of appeal which shall not have been set forth in such notice.

Upon notices being
given and recogniz-
ance entered into
form of appeal may
be delivered to
Appellant.

15. Whenever the Appellant shall have entered into such recognizance as last aforesaid there shall be delivered to him a Form of Appeal which may be in the form in the fourth Schedule hereto containing a certificate of the conviction or order against which he shall appeal (signed by the Justice who shall have made the same or any other Justice having jurisdiction in the district) and it shall also be therein certified that the said recognizance was duly entered into if the fact be so.

Witnesses to be
bound over to attend
at hearing of appeal.
[S.P. Ord. § 21.]

16. If the facts of the case be in question upon such appeal as last aforesaid the Justice from whose decision appeal shall be made being required so to do shall bind over the witnesses who shall have been examined in sufficient recognizances to attend at the hearing of the appeal and may issue his summons or warrant to compel the appearance of any such witness before him for the purpose of being so bound over and every witness so bound shall be allowed compensation for his time trouble and expenses for attending the appeal which compensation shall be paid by the Colonial Treasurer upon order made for that purpose by the Court hearing the appeal and all sums so paid shall be charged in account against the Province within which the cause of complaint shall have arisen and may be deducted from any moneys thereafter at any time payable to or for such Province.

When appeal is to be
heard.

17. The Appellant under this part of this Act shall deliver the Form of Appeal to the Registrar or Clerk of the Court to which appeal is to be made and shall enter the same for hearing at the first practicable sitting of the Supreme or District Court as the case may be subject to the provisions hereinbefore contained relating to the time of such sitting and shall give to the opposite party notice of his intention to prosecute his appeal and of the matter and grounds thereof three clear days before the commencement of the sittings but it shall be lawful for a Judge at chambers where the appeal is to the Supreme Court or to the Judge of the District Court when the appeal is to such Court to appoint that the case shall be heard at any other time provision being made that sufficient notice shall be given to the Respondent and to the Justice of the time so appointed for the hearing.

Respondent may by
certiorari remove

18. If any such appeal under this part of this Act be brought in any District Court it shall be lawful for either the Appellant or the

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Respondent at any time before hearing to remove the same by *certiorari* into the Supreme Court but if the said appeal be not so removed the decision of the District Court shall be final in all respects.

appeal from District Court to Supreme Court.

19. Upon the hearing of any appeal to the Supreme or any District Court no objection on account of any defect in the form of setting forth any ground of appeal in the notice of appeal shall be allowed and no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail unless the Court shall be of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement and to prepare for trial. Provided always that in all cases where the Court shall be of opinion that any objection to any ground of appeal ought to prevail it shall be lawful for such Court if it shall so think fit to cause any such ground of appeal to be forthwith amended by some officer of the Court or otherwise on such terms as to payment of costs to the other party or postponing the trial or both payment of costs and postponement as to such Court shall appear just and reasonable.

Defects in statement of ground of appeal. [12 and 13 Vic. c. 45 § 3.]

20. If in any notice of appeal as last mentioned the Appellant shall have included any ground of appeal which shall in the opinion of the Court determining the appeal be frivolous or vexatious such Appellant shall be liable if the Court so think fit to pay the whole or any part of the costs of the Respondent in disputing such ground of appeal such costs to be recoverable in the manner hereinafter directed as to the other costs incurred by reason of such appeal.

Amendment of grounds of appeal.

Frivolous ground of appeal. [12 and 13 Vic. c. 45 § 4.]

21. The Supreme or any District Court upon proof of notice of any appeal to such Court having been given to the party entitled to receive the same though such appeal was not afterwards prosecuted or entered may if it so think fit order to the party or parties receiving the same such costs and charges as by the said Court shall be thought reasonable and just to be paid by the party giving such notice such costs to be recoverable in the manner in which costs of an appeal are made recoverable. Provided always that no costs shall be allowed upon taxation after the period at which any notice shall have been served by the Appellant withdrawing the notice of appeal.

Party giving notice of appeal and not prosecuting same may be ordered to pay costs. [12 and 13 Vic. c. 45 § 6.]

22. The Supreme Court or the District Court (as the case may be) shall hear and determine the matter and make such order in relation thereto and such orders as to payment of costs to either party and to the Justice if appearing in support of his decision as to the Court shall seem fit.

Judges to hear and determine appeal. [S.P. Ord. § 20.]

23. In case the conviction judgment or order shall be affirmed the Court shall order the compensation to witnesses allowed under the provisions hereinbefore contained to be paid by the Appellant.

Witnesses costs to be paid by unsuccessful appellant. [S.P. Ord. § 22.]

24. A Judge of any District Court on the application of either the Appellant or Respondent on the hearing of any appeal under this part of this Act may state a case in respect of such appeal or any question of law arising thereon for the opinion of the Supreme Court and the applicant shall within fourteen days after receiving such case transmit the same to the office of the Supreme Court at the nearest city or town at which a Judge of the Supreme Court usually resides first giving notice in writing of such case having been stated with a copy of the case to the other party and thereupon the said Court shall hear and shall deal therewith in the like manner as the Court of Queen's Bench in England deals with cases so stated and the like proceedings in relation to such case shall be had and taken thereon in the Supreme Court and the District Court as are usually taken in like cases in the Court of Queen's Bench and Courts of Quarter Sessions in England or as near thereto as circumstances will permit

District Court may state case for opinion of Supreme Court.

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and the Supreme Court may make such order as it thinks proper as to the costs of and occasioned by the hearing of such case.

Justice may grant a rehearing.

25. It shall be lawful for any Justice of the Peace before whom any information or complaint shall have been heard in his discretion to grant a rehearing of such information or complaint upon such terms as to him shall seem fit provided that when a rehearing shall have been granted the applicant shall in every instance enter into a recognizance before such Justice in manner provided for by the fifth section of this Act and thereafter it shall not be lawful for any Justice to issue any warrant in execution of the conviction or order made at the first hearing until the second hearing thereof or until the applicant for the rehearing shall have failed to perform the condition of such recognizance and except as in the fifth clause of this Act is excepted.

PART III.

PROHIBITIONS.

Rule for a prohibition.

26. When any person feels aggrieved by the summary conviction or order of any Justice he may within fourteen days after such conviction or order upon showing by affidavit a *prima facie* case of error or mistake on the part of such Justice apply to the Supreme Court or any Judge thereof for a rule or order calling on such Justice and the party interested in maintaining the conviction or order to show cause to the Court why they should not be prohibited from proceeding or further proceeding (as the case may be) upon or in respect of such conviction or order.

Proceedings on return of the rule.

27. Where on the return of such rule or order the mistake or error (if any) appears to be amendable the Court shall amend the conviction or order or if there be no such mistake or error shall affirm such conviction or order and in either case shall discharge such rule or order with or without payment of costs as to the Court seems meet but where on such return the Court after considering the evidence adduced before the Justice think that the conviction or order cannot be supported the Court may make such rule or order absolute with or without payment of costs as to the Court seems meet.

Judges to make rules of procedure.

28. The Supreme Court is hereby empowered to make rules and orders for prohibition and to issue writs of prohibition for carrying into effect the objects aforesaid and the Judges of the said Court may from time to time make such rules for regulating the procedure of the Court in relation thereto as they may think fit in like manner as they may now by law make rules of procedure in relation to other matters within the jurisdiction of the said Court.

MISCELLANEOUS PROVISIONS.

Justice may be heard in support of his decision.

29. At the hearing of any appeal under the first or second part of this Act or any application for a rule or order under this Act the Justice from or in relation to whose decision such appeal or such application shall be made shall be entitled to be heard by himself or counsel in support of such decision.

Mistake in conviction or order may be amended on appeal when the evidence before Justices was sufficient to establish a valid conviction or order.

[12 and 13 Vic. c. 45 § 7.]

30. If at the hearing of any appeal under this Act or upon the return to any writ of *certiorari* any objection shall be made on account of any omission or mistake in the drawing up of the conviction judgment or order by the Justice and it shall be shown to the satisfaction of the Court that sufficient grounds were in proof before the Justice making such conviction judgment or order to have authorized the drawing up thereof free from such omission or mistake it shall be lawful for the Court to amend such conviction or order and to adjudicate thereupon as if no such omission or mistake had existed Provided

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that no objection on account of any omission or mistake in any such conviction or order shall be allowed unless such omission or mistake shall have been specified in the notices of appeal or the rule for issuing such *certiorari*.

31. The Justice taking a recognizance for the prosecution of an appeal before the Supreme or any District Court shall cause the same with the recognizances of the witnesses (if any) to be forthwith transmitted to the Registrar or Clerk of the Court to which such appeal is to be made and if such appeal shall be upon a case stated the Justice shall certify upon the recognizance the time at which the case stated was delivered to the Appellant.

Objections to convictions or orders on the ground of error or mistake must be stated in notice of appeal.

Recognizances to be transmitted to Registrar or Clerk of Court to which appeal is made.

[12 and 13 Vic. c. 45 § 1.]

32. When any recognizance which shall have been entered into before any Justice within the time by law required for the purpose of complying with the requirements of this Act or any other Act or law giving a right of appeal against orders or summary convictions if such recognizance shall appear to the Court before which such appeal is brought to have been insufficiently entered into or to be otherwise defective or invalid it shall be lawful for such Court if it shall so think fit to permit the substitution of a new and sufficient recognizance to be entered into before such Court in the place of such insufficient defective or invalid recognizance and for that purpose to allow such time and make such examination and impose such terms as to payment of costs to the Respondent as the said Court shall deem just and reasonable and such substituted recognizance shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at an earlier time or times as required by any Act or law for that purpose.

Amendment of recognizance.

[12 and 13 Vic. c. 45 § 8.]

33. After the decision of the Supreme Court in relation to any conviction or order brought before such Court by *certiorari* or otherwise or in relation to any rule or order or to any case stated for the opinion of such Court under the provisions of this Act and after the decision of the Supreme or District Court (as the case may be) upon any appeal brought under the provisions of this Act has been given the Registrar or the Clerk of the District Court (as the case may be) shall certify such decision at the foot of the form of appeal or on the case or otherwise and shall return the certificate to the Justice from whose decision the appeal was made and whenever any such appeal whether made by way of case stated or otherwise shall not have been duly prosecuted the Registrar or Clerk (as the case may be) shall so certify upon such recognizance and shall return such recognizance to the Justice by whom the same was transmitted after the termination of the sitting at which such appeal ought to have been prosecuted and which certificate shall be free from any charge and whenever it shall appear from such certificate that such appeal has not been duly prosecuted or that the original conviction or order has been confirmed the Justice who shall have made such conviction or order or any other Justice exercising the same jurisdiction shall issue the proper warrant for the execution of the same as if no such appeal had been brought or case stated or writ issued and in every case in which it shall appear from such certificate that the Court has varied or amended the original conviction or order the said Justice shall forthwith issue the proper warrant for the execution of the order so made by the Court in like manner as they might have issued a warrant for the execution of the original conviction or order in case no appeal had been prosecuted or case stated or writ issued and if upon any such appeal either by way of case stated or otherwise either party shall be ordered to pay costs such order shall direct such costs to be paid to the Registrar of the Supreme Court or Clerk of the District Court (as the case may be)

Registrar or Clerk to certify decision on appeal.

Or certify upon and return recognizance if appeal not prosecuted.

Justice may enforce the decision on appeal.

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Costs of appeal how recovered.

to be by him paid over to the party entitled to the same and shall state within what time such costs shall be paid and it shall be lawful for such Justice upon the amount and the non-payment thereof being certified by the Registrar or Clerk of the Court making such order which certificate may be in the form contained in the fifth Schedule to this Act to enforce payment thereof by warrant of distress or commitment which warrants may respectively be in the forms contained in the fifth Schedule hereto in like manner as if such costs had been costs awarded by such Justice upon the original adjudication of the case and in any case where a conviction or order by which any person shall be adjudged to be imprisoned shall be confirmed such person shall be liable to be imprisoned for the period adjudged by such conviction or order where he shall not have been imprisoned under such conviction or order or any warrant of commitment in execution of such conviction or order or where he shall have been so imprisoned and discharged then for such period as together with the time during which he shall so have been in custody shall be equal to the period adjudged by such conviction or order and no action or proceeding whatsoever shall be commenced or had against any Justice for enforcing such conviction or order by reason of any defect in the same.

Party who has been already imprisoned only to be imprisoned for remainder of period.

Estreat of recognizance of Appellant.

34. Whenever the party bound by recognizance to prosecute an appeal whether by way of case stated or otherwise against a conviction or order by which imprisonment was adjudged shall have absconded or being bound to appear before a Justice to abide the judgment of the Court to which any such appeal was made shall have failed so to appear or when a party bound to prosecute any such appeal and liable under the original conviction or order or under the order of the Court to which appeal was to be made to pay any sum of money whether by way of penalty or otherwise shall have no goods whereon to levy such sum by distress it shall be lawful for two or more Justices of the Peace having jurisdiction at the place where the original conviction or order was made and sitting in open Court and after like proof of notice to the parties as in estreating recognizances under the provisions of "The Justices of the Peace Act 1866" to make an order estreating the recognizance in any such case to such amount as they shall see fit and for paying out of such amount such sum as shall have been directed to be paid to any party by the original conviction or order or by the order of the Supreme or District Court and thereupon to issue a warrant for the levy of the same upon the goods of the several persons bound by such recognizance.

Supreme Court may make rules for proceedings on appeal.

35. The Judges of the Supreme Court may from time to time and as often as it shall see occasion make and alter rules and orders to regulate the practice and proceedings upon appeals and applications made to it under the provisions of this Act and in reference to the cases stated for opinion hereinbefore mentioned and the practice and proceedings upon appeals and applications to the District Court so far as may be shall be the same as upon appeals and applications to the Supreme Court.

Fees in Appeals to be those fixed under Justices of the Peace Act.

36. The fees to be taken in respect of appeals and of proceedings and matters relating thereto shall be the fees specified in the third Schedule hereto or such fees as shall hereafter be fixed by the Governor by proclamation published in the *New Zealand Gazette* which fees he is hereby authorized from time to time to fix vary or abolish as he may think fit and from and after the coming into operation of this Act so much of "The Justices of the Peace Act 1866" as fixes fees in respect of appeals and of proceedings and matters relating thereto and so much of the said Act as empowers the Governor in Council to fix vary or abolish such fees shall be repealed.

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37. This Act shall come into operation on the first day of November one thousand eight hundred and sixty-seven. When Act to come into operation.

FIRST SCHEDULE

CONTAINING DESCRIPTION OF THE ACTS AND ORDINANCES IN WHOLE OR IN PART REPEALED BY THIS ACT.

Session and Number.	By what Legislature passed.	Title or Short Title.	Extent of Repeal.
Session III. No. 15	Governor and Legislative Council	"An Ordinance to amend an Ordinance to regulate Summary Proceeding before Justices of the Peace"	The whole.
21 and 22 Vic. 1858 No. 30	General Assembly	"The District Courts Act 1858"	Section 30.
24 Vic. 1860 No. 7	Ditto	"The Summary Proceedings Improvement Act 1860"	The whole.

SECOND SCHEDULE.

In the Supreme Court

In the matter of an Appeal from the determination of the undersigned of Her Majesty's Justices of the Peace in and for in a proceeding before us at

Between { Complainant.
Defendant.

THE [information or if a complaint say complaint] alleged that [here state the charge or claim]

The defendant pleaded not guilty and after hearing the parties and the evidence adduced by them we did on the day of 186 convict the defendant of the said offence and adjudged him to pay the sum of for the same [or if on complaint say, "make an order against the defendant for the payment by him to the complainant of the sum of " or dismiss the said information or complaint]

The [defendant or complainant] alleging that he was agrieved by the said determination as being erroneous in point of law did within fourteen days thereafter apply in writing to us to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of this honourable Court and did at the time of making such application and before the stating of this case before a Justice of the Peace enter into a recognizance to Her Majesty in the sum of with a condition to prosecute this appeal with effect and without delay and to submit to the judgment of this honourable Court and pay such costs as may be awarded by the same and thereupon in pursuance of the Act in such case made and provided we state the following case

It was proved [or admitted as the case may be] upon the hearing that [here state the facts]

We determine that the matter hereinbefore stated afforded no ground of answer or defence to the said * or was insufficient to support the said *

The question for the opinion of the Court is whether our said determination was erroneous in point of law.

* Complaint or information.

THIRD SCHEDULE.

FEEs.

For drawing case and copy where the case does not exceed five folios of ninety words each ...	s.	d.
... ..	10	0
Where the case exceeds five folios then for any additional folio ...	1	0
For the recognizance to be taken in pursuance of the Act ...	5	0
For every enlargement or renewal thereof ...	2	6
For certificate of refusal of case ...	2	0

FOURTH SCHEDULE.

FORM OF APPEAL.

District }
of Province of }
To wit. } Between C. D. complainant and A. B. defendant.

I CERTIFY that on the day of at upon the hearing of an infor-

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mation [or complaint] that [set forth the matter of the information or complaint] J. S. and J. B. Justices of the Peace did adjudge and order that [set forth the adjudication or order.]
(Signed) T. J.
Justice of the Peace.

The person against whom the said order was made hereby appeals against the same to the next sittings of the Court to be held at
(Signed)
Appellant.

This day of 186 .

I certify that the said appellant has duly entered into a recognizance to prosecute such appeal.
(Signed)
Justice of the Peace.

This day of 186 .

I certify that upon the hearing of the said appeal on the day of the Court ordered that [state order.]
(Signed)
Registrar of the Supreme Court
or Clerk of the District Court of

This day of 186 .

FIFTH SCHEDULE.

CERTIFICATE OF REGISTRAR THAT THE COSTS OF AN APPEAL ARE NOT PAID.

Office of Registrar of Supreme Court at [or Clerk of District Court at].

[Title of the Appeal]

I HEREBY certify that at a sitting of the Court holden at on the day of [instant or last past] an appeal by A. B. against a [conviction or order] of J. S. [one or two] of Her Majesty's Justices of the Peace for came on to be tried and was then heard and determined And the said Court thereupon ordered that the said [conviction or order] should be [confirmed or quashed] And that the said [appellant] should pay to the said [respondent] the sum of for [his or her] costs incurred by [him or her] in the said appeal and which sum was thereby ordered to be paid to the Registrar [or Clerk of the District Court at] on or before the day of [instant or next] to be by him handed over to the said [respondent] And I further certify that the said sum for costs has not nor has any part thereof been paid in obedience to the said order.

Dated the day of 186

Registrar of the Supreme Court or Clerk of the District Court of

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A CONVICTION OR ORDER.

To Constable of in the Colony of New Zealand and to all other Peace Officers in the said Colony.

WHEREAS [yc. as in Warrant of Distress in "Justice of the Peace Act 1866" to the end of the statement of the conviction or order and then thus] And whereas the said A. B. appealed to the Supreme Court [or District Court] of holden at against the said [conviction or order] in which appeal the said A. B. was the appellant and the said C. D. [or] J. S. Esquire the Justice of the Peace who made the said [conviction or order] was the respondent and which said appeal came on to be tried and was heard and determined at the sitting of the said Court holden at on the day of [instant or last past] And the said Court thereupon ordered that the said [conviction or order] should be [confirmed or quashed] and that the said [appellant] should pay to the said [respondent] the sum of [his] costs incurred by [him or her] in the said appeal which sum was to be paid to the Registrar [or Clerk] of the said Court on or before the day of 186 to be by him handed over to the said C. D. And whereas the said Registrar [or Clerk] of the said Court hath on the day of [instant or last past] duly certified that the said sum for costs had not then been paid.*

These are therefore to command you in Her Majesty's name forthwith to make distress of the goods and chattels of the said A. B. And if within the space of days after the making of such distress the said last mentioned sum together with the reasonable charges of taking and keeping the said distress shall not be paid that then you do sell the said goods and chattels so by you distrained and do pay the money arising from such sale to the Clerk of the Petty Sessions [or Resident Magistrate's Court] at in the said Colony that he may pay and apply the same as by law directed And if no such distress can be found then that you certify the same unto [me or us] to the end that such proceedings may be had therein as to the law doth appertain.

Given under [my or our] hand and seal this day of in the year of our Lord one thousand eight hundred and sixty- at in the Colony aforesaid.

(L.S.)

J. P.

Appeals from Justices.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

To Constable of _____ in the Colony of New Zealand and to the Keeper of
the Gaol at _____ in the said Colony.

WHEREAS [*ſc. as in the laſt Form to the * and then thus*] And whereas afterwards on
the _____ day of _____ in the year aforesaid [I or we] the undersigned issued a
warrant to the constable of _____ commanding him to levy the said sum of _____
for costs by distress and sale of the goods and chattels of the said A. B. And whereas
it appears to [me or us] as well by the return of the said constable to the said warrant
of distress as otherwise that the said constable hath made diligent search for the goods
and chattels of the said A. B. but that no sufficient distress whereon to levy the sum
above mentioned could be found These are therefore to command you the said
constable of _____ to take the said A. B. and [him or her] safely to convey to the
gaol at _____ aforesaid and there deliver [him or her] to the said keeper thereof with
this precept And [I or we] do hereby command you the said keeper of the said gaol to
receive the said A. B. into your custody in the said gaol there to imprison [him or her]
and to keep [him or her] to hard labour for the space of _____ unless the said sum and
all costs and charges of the said distress and of the commitment and conveyance of the
said A. B. to the said gaol amounting to the further sum of _____ shall be sooner
paid unto you the said keeper And for your so doing this shall be your sufficient
warrant.

Given under [my or our] hand and seal this _____ day of _____ in the
year of our Lord one thousand eight hundred and sixty _____ at
in the Colony aforesaid.

(L.S.)

J. N.

WELLINGTON, NEW ZEALAND :

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