

## No. III.

AN ORDINANCE to amend an Ordinance for establishing a Supreme Court, and to establish a Court of Appeals. [12th October, 1846.]

SUPREME COURT  
AMENDMENT.

WHEREAS by an Ordinance enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof (Session III., No. 1), intituled "*An Ordinance for establishing a Supreme Court,*" it is enacted (sections 6 and 7) that "the Court shall also be an Instance Court of Vice-Admiralty, with such power and jurisdiction as belong to Courts of the like nature within the Colonial Possessions of Her Majesty;" and also that "the Court shall have cognizance of all crimes and offences committed within the jurisdiction of the Vice-Admiral of the Colony of New Zealand as fully and effectually as if the same had been committed on the land within the limits of the Colony:" And whereas by the said Ordinance (sections 13, 14, and 15) it is enacted that "there shall belong to the Court such Registrars and inferior officers for each of such districts as to the Judge or Judges of each of such districts shall appear necessary, subject to the approval of His Excellency the Governor; and that "the Registrars shall be appointed provisionally by His Excellency the Governor, and shall hold their offices during Her Majesty's pleasure;" and also that "the inferior officers of each district shall be appointed by the Judge or Judges of the respective districts, with the sanction of His Excellency the Governor, and shall be removable on reasonable cause by the Judge or Judges of the respective districts, with the sanction of His Excellency the Governor:"

Preamble reciting  
secs. 6, 7, 13, 14, and  
15 of Supreme Court  
Ordinance.

BE IT ENACTED by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. So much of the said Ordinance as is hereinbefore recited shall be and the same is hereby repealed.

The said clauses  
repealed.

2. There

*Supreme Court Amendment.*

Appointment of Registrars &c.

2. There shall belong to the said Court such Registrars and other officers as Her Majesty shall from time to time be pleased to appoint: Provided always that it shall be lawful for His Excellency the Governor to appoint such Registrars and other officers provisionally until Her Majesty's pleasure shall be known, and the Registrars and other officers so appointed from time to time to remove as to him shall seem meet.

Court of Appeals constituted.

3. For the purpose of providing a Court of Appeals within the Colony from the decisions of the Supreme Court thereof: Be it enacted that until there shall be within the Colony a sufficient number of Judges to constitute a Court of Appeals, the Governor for the time being, and the Executive Council of the said Colony (excepting the Attorney-General), shall be a "Court of Appeals" for the said Colony, and shall have power and authority to receive and hear appeals from the judgments of the said Supreme Court where the sum or matter in issue shall amount to one hundred pounds or upwards, or shall involve directly or indirectly any claim or question respecting any property or civil right of the said amount or value, and to affirm alter or reverse such judgments in whole or in part, or to dismiss the said appeal with costs as may be just: Provided always that upon every appeal to be brought before the said Court of Appeals from any judgment of the Supreme Court upon the verdict of a jury of twelve men, the said Court of Appeals shall not reverse alter or inquire into such judgments except only for error of law apparent on the record.

Notice of appeal to be given to adverse party.

4. No appeal shall be allowed in any case unless the appellant shall, within fourteen clear days after the day on which the judgment shall have been pronounced, give notice to the adverse parties of such appeal, and enter into sufficient security, to be approved by a Judge of the Supreme Court, for the costs of appeal.

Execution when stayed.

5. In all cases of appeal where the appellant shall, within such fourteen clear days as aforesaid, enter into sufficient security to be approved as aforesaid to satisfy or perform such judgment, in case the same shall be affirmed or the appeal dismissed, execution shall be stayed but not otherwise.

Notice of appeal to be lodged with Court of Appeals.

6. No appeal shall be entertained by the said Court of Appeals unless notice thereof shall have been lodged in the said Court of Appeals within two clear calendar months after the day on which the judgment appealed from shall have been pronounced, nor shall any appeal be heard by the said Court of Appeals unless the appellant shall bring his case to a hearing and be prepared to take the judgment of the Court thereon within three calendar months after the day last mentioned.

Supreme Court to execute judgments of Court of Appeals.

7. In all cases of appeal as aforesaid the Supreme Court shall conform to and execute all such judgments and orders as the said Court of Appeals shall make, in such manner as any original order judgment or decree of the said Supreme Court might have been executed.

Appeal to Her Majesty in Council.

8. In case the Court of Appeals shall affirm reverse alter or vary any judgment of the Supreme Court to be given or pronounced in respect of any sum or matter in issue of the amount or value of five hundred pounds or upwards, or involving directly or indirectly any claim or question respecting any property or civil right of the said amount or value; or in case the said Court of Appeals shall reverse alter or vary any judgment of the Supreme Court (whatever be the amount or value involved therein), in either of the said cases the persons feeling aggrieved by any judgment of the said Court of Appeals may, within fourteen clear days next after the day on which the same shall have been given or pronounced, apply to the said Court of Appeals

*Sheriff's Office.*

Appeals by petition for leave to appeal therefrom to Her Majesty in Council.

**9.** In case such leave to appeal be prayed by a party who shall be required to pay any sum of money or to perform any act, the said Court of Appeals shall direct either that the judgment appealed from be carried into execution or that the execution thereof be stayed pending the appeal to Her Majesty, as to the Court shall appear just.

Execution when to be stayed.

**10.** In case the Court of Appeals shall direct the judgment appealed from to be carried into execution, the party in whose favour the same shall be given shall, before the execution thereof, enter into sufficient security, to be approved by the said Court of Appeals, for the due performance of such judgment or order as Her Majesty in Council shall make thereupon.

Security to be taken when judgment carried into execution.

**11.** In case the Court of Appeals shall direct the execution of any such judgment to be stayed, the party against whom the same shall have been given shall in like manner enter into sufficient security, to be approved as last aforesaid, for the due performance of such judgment or order as Her Majesty in Council shall make thereupon.

Security to be taken when execution stayed.

**12.** In all cases of appeal to Her Majesty in Council the party appellant shall give sufficient security, to be approved as last aforesaid, for the effectual prosecution of such appeal and for the payment of all such costs as may be awarded by Her Majesty in Council to the party respondent. And in case such last-mentioned security shall be entered into within three clear calendar months after the date of such petition for leave as aforesaid, and not otherwise, the said Court of Appeals shall allow the appeal to be prosecuted.

Security for due prosecution of appeal.

**13.** In all cases where leave to appeal to Her Majesty in Council shall be granted, the said Court of Appeals shall certify and transmit to Her Majesty in Council a true and exact copy of all proceedings and judgments in the cause appealed from or relating thereto.

Court of Appeals to transmit copies of proceedings to Her Majesty in Council.

**14.** Provided always that nothing herein contained shall be construed to affect the power and authority of Her Majesty to admit an appeal to Her Majesty in Council from any judgment either of the said Supreme Court or of the Court of Appeals hereby constituted.

Power of Her Majesty to receive appeals not to be affected.

**15.** For the purposes of this Ordinance, the word "Judgment" shall be taken to include any final order judgment or decree, and the word "Governor" shall be taken to include the Lieutenant-Governor or the Officer Administering the Government for the time being.

Interpretation.