

ARBITRATION AMENDMENT BILL

EXPLANATORY NOTE

UNDER section 5 of the Arbitration Act 1908, where a person commences legal proceedings relating to a matter in respect of which there is a written agreement between the other party and himself to submit disputes to arbitration, the Court may order a stay of the legal proceedings. "Court", however, is defined in section 2 of the Act as meaning the Supreme Court, and, consequently, where proceedings are instituted in a Magistrate's Court that Court has no power to order a stay of proceedings under section 5.

This Bill substitutes a new section 5 which gives Magistrates' Courts the same power as the Supreme Court to order a stay of proceedings.

Hon. Mr. Webb

ARBITRATION AMENDMENT

ANALYSIS

Title.
1. Short Title.

2. Power of Court to stay proceedings where there is a submission.

A BILL INTITULED

AN ACT to amend the Arbitration Act 1908.

Title.

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

1. This Act may be cited as the Arbitration Amendment Act 1952, and shall be read together with and deemed part of the Arbitration Act 1908 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. I, p. 346

10 2. The principal Act is hereby amended by repealing section five, and substituting the following section:—

Power of Court to stay proceedings where there is a submission.

15 “5. (1) If any party to a submission, or any person claiming through or under him, commences any legal proceedings in any Court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to those legal proceedings may, at any time before filing a statement of defence or a notice of intention to defend or taking any other step in the
20 proceedings, apply to the Court in which the proceedings

were commenced to stay the proceedings; and that Court may, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, make an order staying the proceedings. 5

1947, No. 16

“(2) The refusal by any Magistrate’s Court of an application for a stay of proceedings under this section 10 in any action under the Magistrates’ Courts Act 1947 shall not affect the right of the defendant in the action to have the action transferred to the Supreme Court under subsection one of section forty-three of that Act or, as the case may require, to apply under subsection two 15 of that section for an order that the action be so transferred, and in any such case the time prescribed under that Act for giving notice under the said section forty-three shall not begin to run until the stay of proceedings is refused.” 20