

This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
18th July, 1870.*

(Hon. Mr. Gisborne.)

Appeals from Provincial Rating.

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A BILL INTITULED

AN ACT to provide a system of Appealing against Rates imposed under the authority of Ordinances passed or to be passed by Provincial Legislatures.

WHEREAS great inconvenience has arisen from the inability of Provincial Legislatures to provide any effectual means of appealing against or for amending or quashing rates imposed by Ordinances of such Provinces, and many Ordinances purporting to provide such means have been deemed invalid: And it is expedient to make provision for such purposes by Act of the General Assembly:

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

- 10 **1.** The Short Title of this Act shall be “The Appeals from Provincial Rating Act, 1870.” Short Title.
- 2.** This Act shall come into operation on the last day of the present Session. Date of coming into operation.
- 3.** In this Act, and in every Ordinance in which the clauses hereinafter contained shall be incorporated, the term “the principal Ordinance” shall mean the Act or Ordinance of any Provincial Council in which the said clauses are incorporated; and the term “Board” shall mean every Board of Commissioners or body corporate or unincorporate, or person or persons by the principal Ordinance empowered to impose rates. Interpretation.
- 15 **4.** In every Ordinance passed or to be passed by any Provincial Council, whereby any Board is empowered to impose rates upon any property real or personal, or upon any person in respect of property real or personal, the sections of this Act numbered from five to ten inclusive, shall be deemed to be incorporated in such Ordinance. Clauses to be incorporated in rating Ordinances.
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Appeal to Magistrate's Court in valuation of property in rate.

5. If any person think himself aggrieved on the ground of unfairness or incorrectness in the valuation of any rateable property included in any rate made under the authority of the principal Ordinance, or in the amount assessed thereon, or if any rate not being a special or separate rate expressly authorized by any principal Ordinance shall exceed five per centum upon the net annual value of any property, or if he think himself entitled to appeal against any rate to a Resident Magistrate's Court or Court of Petty Sessions, on any ground which by the principal Ordinance is declared to be a ground of appeal to a Resident Magistrate's Court or Court of Petty Sessions, he may personally or by his duly authorized agent, at any time within one month after such rate is made, give notice of appeal to the Resident Magistrate's Court, or if there shall be no Resident Magistrate's Court for the district, then to the Court of Petty Sessions holden nearest to such rateable property, which appeal may afterwards be heard and determined by such Court, but no such appeal shall be entertained by such Court unless seven days' notice in writing of such appeal be given by the aggrieved party, or by his duly authorized agent to the Board, or to such person as by the principal Ordinance, it shall be provided that such notice is to be served upon; and at the sitting of the Court for which such notice is given or any adjournment thereof, the Resident Magistrate or any two or more Justices acting in the place of the Resident Magistrate, or in the case of a Court of Petty Sessions the quorum of Justices there present, shall hear and determine all matters of complaint on any such ground of which notice has been given, but no other objection, and his or their decision shall be final, but such Resident Magistrate and Justices shall not have power to quash or set aside any rate.

Appeal to District Court and Supreme Court.

6. If any person think himself aggrieved for any cause of grievance not cognizable under the last section by any rate made under the authority of the principal Ordinance, or by any matters included in or omitted from the same, he may personally or by his duly authorized agent, at any time within fourteen days after the same is made, give notice of his intention to appeal to the next sitting of the District Court for the district in which such rateable property is situated, holden not less than fourteen clear days after such notice; but if such rateable property is not within any district over which a District Court has jurisdiction, the last-mentioned appeal shall be to the next sitting of the Supreme Court appointed for such appeals, sitting in the judicial district within which such rateable property is situate, and shall be to such Supreme Court at a sitting thereof specially appointed by the Court for appeals under Ordinances in which these provisions are incorporated; and if sittings of the Supreme Court be usually holden at more places than one in such judicial district, the appeal shall be to the Court holden at that place which is nearest to the rateable or rated property: Provided no such appeal shall be entertained at such Court, unless *fourteen* ~~seven~~ clear days' notice in writing of such appeal, stating the nature of the grounds thereof, be given by the aggrieved party to the Board or to such person as aforesaid: Provided also that no such notice of appeal shall prevent the recovery of any such rate as provided in the principal Ordinance.

Court to determine appeal in a summary way.

7. The District Court or Supreme Court (as the case may be) shall hear and determine the appeal in a summary way at the sitting thereof for which any such notice of appeal is given, or at a subsequent sitting when the Court thinks fit to adjourn the appeal, and the decision of the Court shall be final and conclusive on all parties.

All Courts may amend rate on appeal.

8. Upon any such appeal as aforesaid, where there shall appear to be just cause for giving relief, the Resident Magistrate's Court, or Court of Petty Sessions, and the District Court and Supreme Court respectively, shall have the power to amend the rate in respect of which

the appeal is made by altering the sum at or upon which any person is rated therein, or by inserting therein or striking out therefrom the name of any person, or in any other manner which such Courts respectively shall think necessary for giving relief and without quashing or wholly setting aside such rate, and shall have power to order the Board to repay to such person the amount of rate if any decided by the Court to be repayable to him : Provided always that if any District Court or the Supreme Court shall be of opinion that it is necessary for the purpose of giving relief to the person appealing that the rate should be wholly quashed, then such District Court or Supreme Court as the case may be may quash the same : Provided also that if such District Court or Supreme Court shall quash such rate, then, notwithstanding the quashing of such rate, all sums of money charged by such rate on any person charged by such rate may, if such Court so order, be levied by such means and in the same manner as if no appeal had been made against such rate ; and the money which any person charged on such rate pays, or which is recovered from him, shall be taken as a payment on account of the next effective rate made on him under the principal Ordinance.

Supreme Court and District Court may quash rate.

9. It shall be lawful for the Resident Magistrate's Court and Court of Petty Sessions, and for the District Court and Supreme Court respectively, upon any such appeal as aforesaid, to order and award to the party for whom such appeal shall be determined, or upon proof there to be made of notice of any appeal having been given under the provisions hereinbefore contained, where the person giving such notice has not afterwards prosecuted such appeal, to order and award to the Board or person to whom such notice shall appear to have been given such costs and charges as by the Court in its discretion shall be thought reasonable and just, to be paid respectively by the party against whom such appeal shall be determined, or by the party so giving notice and not prosecuting as the case may be ; and all such costs and charges may be recovered by the like means and in like manner respectively as any costs awarded by such Courts respectively in cases of appeal may lawfully be recovered, or with regard to appeals to Resident Magistrates or Petty Sessions in a summary way, in the manner in which debts for which judgment has been recovered in such Courts are ordinarily recovered in such Courts : Provided that no such Resident Magistrate's Court or Court of Petty Sessions shall order or award any costs to be paid to any person having appealed to it as aforesaid in any case in which the sum at or upon which such person was rated shall have been by such Court reduced by an amount less than one-fifth thereof.

Costs of appeal.

10. No order of the said Resident Magistrate's Court or Court of Petty Sessions, or of any such District Court upon any such appeal, shall be removed by *certiorari* or otherwise into the Supreme Court.

No *certiorari*.

11. The clauses hereby directed to be incorporated in the principal Ordinance shall be read and interpreted in the same manner as if the same were contained in an Act of the General Assembly coming into operation on the same day as the principal Ordinance ; and such Ordinances shall, so far only as concerns the said clauses, have the force and validity of an Act of the General Assembly coming into operation on the same day as the principal Ordinance.

Interpretation and effect of incorporated clauses.

12. Nothing in this Act shall affect or diminish the power of the Governor to disallow any Ordinance passed by the Provincial Council and assented to by the Superintendent of a Province.

Governor's powers of disallowance not to be affected.

13. The Provincial Legislature of every Province shall have full power to repeal every Provincial Ordinance in force in such Province in which the said clauses are incorporated, and to alter amend and repeal any parts of such Ordinance except the said clauses.

Powers of repeal and amendment.