

(Hon. Mr. Gisborne.)

Appeals from Provincial Rating.

ANALYSIS.

Title.	5. Appeal to be determined in a summary way and to be conclusive.
Preamble.	6. Courts to have power to amend rates.
1. Short Title.	7. Power to award costs.
2. Interpretation.	8. Orders not to be removed by <i>certiorari</i> .
3. Appeal against rates for certain causes to Resident Magistrate's Court or Petty Sessions.	9. Badness of rate not to prevent recovery.
4. Appeal for other causes to District Court or Supreme Court.	

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 authorized to be made by such Legislatures 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 1871."
- 15 **2.** In the Act the word "rate" shall mean any rate other than a rate for the repair or construction of roads made under any Act or Ordinance of a Provincial Legislature if such Legislature shall after the passing of this Act enact that as to rates made under such Act or Ordinance there shall be an appeal under this Act. And the expression "rating authority" means the person body or authority empowered by the Act or Ordinance under which the rate is made to make such rate.
- 20 **3.** If any person think himself aggrieved on the ground of unfairness or incorrectness in the valuation or in the estimation of acreage or measurement of any ratable property included in any rate or in the amount assessed on such property or on any other ground of

appeal which by any Act or Ordinance of the Legislature of the Province within which the rate is leviable is made a ground of appeal to the Resident Magistrate's Court or Court of Petty Sessions he may at any time within one month after such rate is made appeal to the Resident Magistrate's Court or Court of Petty Sessions holden 5 nearest to such ratable property 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 to the rating authority and at the sitting of the Court for which such notice is given or any adjournment thereof the Resident Magistrate and Justices there present shall 10 hear and determine all matters of complaint on the ground of unfairness or incorrectness in the valuation or estimation of the acreage or measurement of such ratable property or in the amount assessed thereon or any such other ground of appeal aforesaid of which notice has been given but no other objection and their decision shall be 15 final but such Resident Magistrate and Justices shall not have power to quash or set aside any rate.

Appeal for other causes to District Court or Supreme Court.

4. If any person think himself aggrieved for any cause of grievance not cognizable under the last section by any rate or by any matters included in or omitted from such rate he may at any time 20 within one month 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 the property is wholly or partly situate holden not less than fourteen clear days after such notice but if such property is not wholly or partly within any district over 25 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 the property is wholly or partly situate and shall be to such Supreme Court at a sitting thereof specially appointed by the Court for appeals hereunder and if sittings 30 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 ratable or rated property: Provided no such appeal shall be entertained at such Court unless seven clear days' notice in writing of such appeal stating the nature of the grounds 35 thereof be given by the aggrieved party to the rating authority: Provided also that no such notice of appeal shall prevent the recovery of any such rate.

Appeal to be determined in a summary way and to be conclusive.

5. The District Court or Supreme Court as the case may be shall 40 hear and determine the appeal in a summary way at the sitting thereof for which any such notice of appeal is given or at the following sitting when the Court thinks fit to adjourn the appeal to the following sitting and the decision of the Court shall be final and conclusive on all parties.

Courts to have power to amend rates.

6. Upon any such appeals as aforesaid where there shall appear 45 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 and the said District Court and Supreme Court 50 respectively 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: Provided always that if any District Court or the Supreme Court shall be of opinion that it is necessary for the 55 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 persons 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.

7. 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 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 Court respectively in cases of appeal may lawfully be recovered: 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.

Power to award costs.

8. 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.

Orders not to be removed by certiorari.

9. Upon any suit for the recovery of any rate from any person the invalidity or badness of the rate as a whole shall not avail to prevent such recovery.

Badness of rate not to prevent recovery.

