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Enforcement of Judgments Bill

Sir G. Grey.

ENFORCEMENT OF JUDGMENTS.

ANALYSIS.

Title.

1. Short Title.

2. Certificate of judgment of inferior Court.

3. Certificate may be filed in Supreme Court.

4. Final judgment.

5. No certificate to be granted before time at which execution could be issued out of inferior Court. Issue of certificate bar to further proceedings in inferior Courts.

6. Rules of Supreme Court repugnant hereto repealed. Schedules.

A BILL INTITULED

AN ACT to provide Facilities for the Enforcement of Judgments recovered in Courts of Inferior Jurisdiction. Title.

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 is "The Enforcement of Judgments Act, 1885." Short Title.

2. Whenever any sum of money to the amount of ten pounds or upwards shall have been recovered by the judgment of any District Court, or by the order or judgment of any Resident Magistrate's Court, the Clerk of such Court, upon the application of the judgment creditor, or of any person on his behalf, shall grant and deliver to the person making such application, a certificate in the form or to the effect contained in the First Schedule to this Act. Certificate of judgment of inferior Court.

3. Such Clerk shall register in his office a minute or memorandum thereof; and it shall be lawful for such person to file the said certificate in the Supreme Court in the judicial district in which the district over which such District Court or Resident Magistrate's Court is. Certificate may be filed in Supreme Court.

4. Thereupon such person, without any previous process, may sign final judgment in such Supreme Court in the form or to the effect contained in the Second Schedule to this Act (on which final judgment no appeal or proceeding in error shall lie) for the sum mentioned in such certificate as unpaid, together with interest thereon at the rate of eight pounds per centum per annum, from the day whereon the judgment of the District Court was given, or the judgment or order of the Resident Magistrate's Court was given or made, until the date of the said final judgment on the amount for the time being owing, and the fee paid for the said certificate to the Clerk of the said District Court or Resident Magistrate's Court, as the case

may be, as well as the fees paid in the Supreme Court for ascertaining the amount to be recovered on the said final judgment and for signing such judgment, and the sum of one pound eleven shillings and sixpence for the costs and charges of obtaining the said certificate and signing the said judgment; and upon such final judgment execution may be forthwith issued, and all other remedies had thereon, in the same manner as on any other judgment of the Supreme Court. 5

No certificate to be granted before time at which execution could be issued out of inferior Court.

5. No such certificate shall be granted before the time at which execution could be issued out of the District Court or Resident Magistrate's Court, as the case may be; and, if any execution against the goods and chattels shall have been issued out of such Court, no such certificate shall be granted until after the return of the warrant of execution; and after any such certificate shall have been granted, no further proceeding shall be had or taken in such action in the District Court or Resident Magistrate's Court, as the case may be: Provided that any certificate or final judgment signed under the provisions of this Act may be set aside or amended by a Judge of the Supreme Court, upon such terms as to costs or otherwise as to him may seem just. 10 15 20

Issue of certificate bar to further proceedings in inferior Courts.

Rules of Supreme Court repugnant hereto repealed.

6. All general rules of the Supreme Court, and all provisions of any Act or Ordinance, so far as such rules or provisions are repugnant to or inconsistent with this Act, shall be respectively cancelled and repealed.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

THIS is to certify to the Supreme Court of New Zealand that in the Court at , on the day of , 188 , A obtained and had a judgment against B for the recovery of the sum of pounds, and that the whole [or pounds, part] of the said sum is still due upon the said judgment; and I do further certify that the sum of five shillings has been paid into the said Court for this my certificate.

Given under my hand this day of

C,
Clerk of the said District Court [or Resident Magistrate's Court].

SECOND SCHEDULE.

In the Supreme Court, District. No.
The day of , 188 .

A, in his own proper person [or by E. F., his solicitor], sues B for that on the day of , in the Court at , the plaintiff obtained and had a judgment against the defendant for the sum of , as by the certificate of the Clerk of the said Court, now remaining on record in this Court, appears, and the whole [or pounds, part] of the said sum still remains unpaid according to such certificate, together with the sum of pounds for interest to the day of the date hereof. Therefore it is this day adjudged that the plaintiff do recover against the defendant the said sums of and , and also the sum of pounds, for the costs and charges of the said certificate and of this judgment, which several sums of money amount altogether to the sum of pounds.

Registrar.