

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]

House of Representatives, 22nd October, 1913.

Hon. Mr. Herdman.

JUDICATURE AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title. Commencement.</p> <p><i>The Supreme Court.</i></p> <p>2. The Judges of the Supreme Court. Repeal.</p> <p>3. Salaries of Judges of the Supreme Court. Civil List Act, 1908, amended. Repeal.</p> <p>4. Section 12 of principal Act amended.</p>	<p><i>The Court of Appeal.</i></p> <p>5. Constitution of the Court of Appeal.</p> <p>6. Temporary Judges not to belong to Court of Appeal.</p> <p>7. Either Division may exercise jurisdiction of Court of Appeal.</p> <p>8. Sittings of each Division. Repeal.</p> <p>9. Joint sittings of both Divisions.</p> <p>10. Vacancies in Supreme Court or Court of Appeal.</p>
--	---

A BILL INTITULED

AN ACT to amend the Judicature Act, 1908.

Title.

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

5

1. (1.) This Act may be cited as the Judicature Amendment Act, 1913, and shall be deemed part of and read together with the Judicature Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

(2.) This Act shall come into operation on the first day of April, *February*, nineteen hundred and *fourteen*.

Commencement.

10

*The Supreme Court.*

2. (1.) The Supreme Court shall consist of one Judge, who shall be called the Chief Justice of New Zealand, and eight other Judges.

The Judges of the Supreme Court.

15

(2.) The Judges of the Supreme Court shall be appointed by the Governor in the name and on behalf of His Majesty.

(3.) The Chief Justice of the Supreme Court in office at the commencement of this Act shall be the Chief Justice of New Zealand as if appointed under this Act, and all references in any Act or other instrument to the Chief Justice of the Supreme Court shall be read and construed as references to the Chief Justice of New Zealand,

20

*New.*

and for all purposes the office of Chief Justice of the Supreme Court shall be deemed to be identical with that of Chief Justice of New Zealand.

25

(4.) The puisne Judges of the Supreme Court in office at the commencement of this Act shall continue in office as if appointed under this Act, but their existing seniority shall be retained.

(5.) Nothing in this section shall affect the powers vested in the Governor in Council by section eleven of the principal Act (relating to the appointment of temporary Judges).

Repeal.

(6.) Section four of the principal Act (relating to the Judges of the Supreme Court) is hereby repealed. 5

Salaries of Judges of the Supreme Court.

3. (1.) There shall be payable to the Judges of the Supreme Court out of the Consolidated Fund, without further appropriation than this Act, the annual salaries following, that is to say: To the Chief Justice of New Zealand the sum of two thousand pounds, and to each of the eight other Judges of the Supreme Court the sum of one thousand eight hundred pounds. 10

Civil List Act, 1908, amended.

(2.) The Civil List Act, 1908, is hereby amended by repealing the Second Schedule thereto so far as it relates to the salaries of Judges.

Repeal.

(3.) The Industrial Conciliation and Arbitration Amendment Act, 1910, is hereby amended by repealing subsection five of section four thereof, relating to the salaries of Judges. 15

Section 12 of principal Act amended.

4. (1.) Section twelve of the principal Act is hereby amended by omitting all words after the words "that is to say," and substituting the following words therefor:— 20

"After he has held office for not less than ten years, to an annual allowance of six twenty-fourths of such salary increased by one twenty-fourth of such salary for each complete year (if any) during which he has held office in excess of ten years, but not exceeding in any case an allowance of sixteen twenty-fourths of such salary." 25

*New.*

(2.) Section 12 of the principal Act as so amended shall extend and apply to all Judges holding office at the commencement of this Act, save that no such Judge shall receive a smaller superannuation allowance than that to which he would have been entitled if this Act had not been passed. 30

#### *The Court of Appeal.*

Constitution of the Court of Appeal.

5. (1.) The Court of Appeal shall consist of two Divisions, to be called respectively the First Division and the Second Division of the Court of Appeal. 35

(2.) Each Division shall consist of the Chief Justice, who shall be a member thereof *ex officio*, and of four other Judges of the Supreme Court to be appointed to that Division by the Governor in Council. 40

(3.) Save as hereinafter expressly provided, no puisne Judge of the Supreme Court shall belong to more than one Division.

(4.) The Governor in Council may at any time ~~transfer a Judge from one Division to the other~~ *revoke the appointment of any Judge as a member of either Division.* 45

(5.) If and so long as the Chief Justice is absent from New Zealand, or the office of Chief Justice is vacant, the senior Judge in New Zealand shall *ex officio* be a member of both Divisions.

(6.) Any puisne Judge of one Division may be appointed by the Governor in Council as a temporary member of the other Division also, during the absence from New Zealand of the Chief Justice or of 50

any puisne Judge belonging to that other Division, and any such appointment may be at any time revoked, but neither Division shall at any time comprise more than one such temporary member.

5 (7.) When any Judge ceases to be a member of any Division, he shall nevertheless, so long as he remains a Judge of the Supreme Court, be deemed still to continue a member of that Division (*in addition to all other members otherwise belonging thereto*) for the purpose of any appeal or other matter which has been already heard or partly heard before he ceased to belong to that Division.

10

*New.*

(8.) The appointment of any Judge as a member of either Division of the Court of Appeal shall, unless sooner revoked, lapse and determine on the thirty-first day of December following his appointment, but nothing herein shall prevent his reappointment to the same Division.

Appointments to either Division of Court of Appeal to lapse at the end of the year.

15

(9.) The power conferred by this Act upon the Governor in Council of appointing Judges as members of either Division of the Court of Appeal, or of revoking any such appointment, shall be exercisable on the recommendation of not less than three Judges of the Supreme Court (of whom the Chief Justice shall be one), and not otherwise.

Power of appointment and revocation to be exercised on recommendation of Judges.

20

6. No temporary Judge appointed under section eleven of the principal Act shall be a member of the Court of Appeal.

Temporary Judges not to belong to Court of Appeal.

25

7. (1.) The whole jurisdiction of the Court of Appeal may in any appeal or other proceeding be exercised by either Division thereof, even although such appeal or proceeding may have been commenced before the other Division.

Either Division may exercise jurisdiction of Court of Appeal.

(2.) Any three or more members of the same Division shall have power to act as the Court of Appeal.

30

(3.) At any sitting of either Division the Chief Justice, or in his absence the senior Judge of the Supreme Court who is present, shall preside.

(4.) Section fifty-seven of the principal Act (relating to the Court of Appeal) is hereby amended by repealing subsections three and four thereof.

35

8. (1.) The Court of Appeal shall hold its sittings at such times and places as are from time to time appointed by the Governor in Council and notified in the *Gazette* twenty-one days at least before the times so fixed respectively.

Sittings of each Division.

40

(2.) Throughout any such sitting and every adjournment thereof the jurisdiction of the Court of Appeal shall be exercised by the same Division and not otherwise.

(3.) The same Division shall not exercise the jurisdiction of the Court of Appeal at two successive sittings.

45

(4.) Every appointment by the Governor in Council of any sitting of the Court of Appeal shall determine in accordance with this Act the Division by which that sitting shall be held, and it shall be held by that Division accordingly and not otherwise.

50

(5.) Section fifty-nine of the principal Act (relating to sittings of the Court of Appeal) is hereby repealed.

Repeal.

*Struck out.*

Joint sittings of  
both Divisions.

9. Each Division of the Court of Appeal shall sit and exercise its jurisdiction separately, save that in respect of any sitting of either Division the Governor in Council may, on the certificate of the Chief Justice that any appeal or other proceeding is of special difficulty or importance, authorize all the Judges of the other Division to sit together with those of the former Division for the hearing and determination of that appeal or proceeding.

5

Vacancies in  
Supreme Court or  
Court of Appeal.

10. The jurisdiction of the Supreme Court or of the Court of Appeal or of either Division thereof shall not be affected by any vacancy in the number of the Judges of that Court or Division.

10