

JUDICATURE AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

At the present time, under the Judicature Act, the Rules of the Supreme Court contained in the Code of Civil Procedure may be altered, revoked, or added to by the Governor-General in Council, with the concurrence of any two or more of the Judges; while a similar power in respect of the Rules of the Court of Appeal may be exercised by any three or more of the Judges (of whom the Chief Justice must be one), subject to the approval of the Governor-General in Council.

Independent powers to make rules of procedure are conferred by the several Acts mentioned in the Schedule to the Bill. In some cases it is provided that the power may be exercised by the Governor-General, with the concurrence of three or more of the Judges (of whom the Chief Justice must be one); in other cases two or more of the Judges, without express reference to the Chief Justice, are empowered to make recommendations as to the rules of procedure in relation to particular matters. It is proposed in the Bill to transfer the functions of the Judges in relation to the amendment of the Rules of Procedure to a Rules Committee, the membership of which, in addition to the Judges, will include the Attorney-General and representatives of the legal profession. This Committee will be similar in constitution to the Rules Committee constituted in England under section 99 of the Supreme Court of Judicature (Consolidation) Act, 1925.

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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.

20th August, 1930.

Hon. Sir Thomas Sidey.

JUDICATURE AMENDMENT.

ANALYSIS.

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| <ul style="list-style-type: none"> Title. 1. Short Title. Commencement. 2. Constitution of Rules Committee. 3. Power to make rules. | <ul style="list-style-type: none"> 4. Consequential repeals. 5. Rules of Court under other Acts to be made in manner provided by this Act. Schedule. |
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A BILL INTITLED

AN ACT to make Better Provision for prescribing the Rules of Procedure of the Supreme Court and the Court of Appeal, and for that Purpose to constitute a Rules Committee.

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

- 1. (1) This Act may be cited as the Judicature Amendment Act, 1930, and shall be read together with and deemed part of the Judicature Act, 1908 (hereinafter referred to as the principal Act). Short Title.
- (2) This Act shall come into force on the first day of January, nineteen hundred and thirty-one. Commencement.
- 2. (1) For the purposes of the principal Act there shall be a Rules Committee, to consist of— Constitution of Rules Committee.
 - 15 (a) The Chief Justice and four other Judges of the Supreme Court ;
 - (b) The Attorney-General ; and
 - (c) Three persons, being barristers or solicitors of the Supreme Court, to be nominated by the Council of the New Zealand Law Society and approved by the Chief Justice.
- 20 (2) The members of the Rules Committee, other than the Chief Justice and the Attorney-General, shall be appointed by the Chief Justice for a term not exceeding three years. Any such member may be reappointed, or may at any time resign his office by writing addressed to the Chief Justice.
- 25 3. (1) The Governor-General in Council, with the concurrence of the Chief Justice and any four or more of the other members of the Rules Committee, of whom at least one shall be a Judge, may from time to time alter or revoke the rules contained in the Code of Civil Procedure set forth in the Second Schedule to the principal Act, or the Rules of the Court of Appeal set forth in the Third
- 30 Act, or the Rules of the Court of Appeal set forth in the Third

Schedule to the principal Act, or any of them, or any other rules of the Supreme Court or the Court of Appeal which are now or may hereafter be in force, and may also from time to time make such additional rules touching the practice and procedure of the said Courts in all causes and matters within the jurisdiction of such Courts as may be deemed advisable. All rules made under the authority of this section, including rules altered under such authority, shall be deemed to form part of the Code of Civil Procedure or the Rules of the Court of Appeal as if they had been set forth in the Second or Third Schedule to the principal Act, as the case may be.

(2) In this Act the power to make rules of procedure includes the power to fix scales of fees and costs.

Consequential
repeals.

4. The foregoing provisions are in substitution for subsection two of section fifty-one, subsections two and three of section seventy-one, and section seventy-five of the principal Act, and those enactments are hereby accordingly repealed.

Rules of Court
under other Acts to
be made in manner
provided by this
Act.

5. The power to make rules of procedure in relation to proceedings in the Supreme Court or the Court of Appeal conferred by the Acts mentioned in the Schedule hereto, or by any other Act, shall hereafter be exercised by the Governor-General in Council in the manner prescribed by section *three* of this Act, and not otherwise.

Schedule.

SCHEDULE.

- 1908, No. 25.—The Commissions of Inquiry Act, 1908.
- 1908, No. 26.—The Companies Act, 1908.
- 1908, No. 32.—The Crimes Act, 1908.
- 1908, No. 34.—The Crown Suits Act, 1908.
- 1908, No. 81.—The Industrial and Provident Societies Act, 1908.
- 1908, No. 159.—The Public Trust Office Act, 1908.
- 1908, No. 175.—The Settled Land Act, 1908.
- 1912, No. 26.—The Aged and Infirm Persons Protection Act, 1912.
- 1921–22, No. 18.—The Patents, Designs, and Trade-marks Act, 1921–22.
- 1927, No. 37.—The Justices of the Peace Act, 1927.
- 1927, No. 44.—The Electoral Act, 1927.
- 1928, No. 16.—The Divorce and Matrimonial Causes Act, 1928.