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## JUDICATURE AMENDMENT BILL.

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### EXPLANATORY MEMORANDUM.

Clause 2: The immediate necessity for this clause (which authorizes the permanent appointment of an additional Judge of the Supreme Court) arises from the appointment of one of the present Judges to be the Judge of the Court of Review of Mortgagors' Liabilities, while he continues to hold his office as a Judge of the Supreme Court.

Clause 3: This clause is consequential on the appointment of an additional Judge in accordance with clause 2.

While any Judge is absent on leave or, by reason of being engaged on duties other than his judicial duties as a Judge of the Supreme Court or for any other reason, is not available to sit in the Court of Appeal, the constitution of the two Divisions of the Court of Appeal will remain as at present—that is to say, each Division will consist of five Judges. When, however, all the Judges are present in New Zealand and are available to sit in the Court of Appeal, provision is made to permit of the appointment of six Judges to one of the Divisions. This is necessary for the continuance of the established rule by virtue of which the Chief Justice is a member and the President of each of the Divisions of the Court of Appeal.

Clause 4: This clause is an adaptation of section 15 of the Administration of Justice Act, 1920 (Imperial). It was enacted in New Zealand as section 8 of the Administration of Justice Act, 1922, which has been repealed by the Reciprocal Enforcement of Judgments Act, 1934.

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

*House of Representatives,  
22nd October, 1935.*

*Hon. Mr. Cobbe.*

JUDICATURE AMENDMENT.

ANALYSIS.

Title.	3. Variation of provisions as to constitution of Divisions of Court of Appeal.
1. Short Title.	
2. Judges of the Supreme Court. Consequential repeal.	4. Question of foreign law to be decided by Judge.

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.** This Act may be cited as the Judicature Amendment Act, 1935, and shall be read together with and deemed part of the Judicature Act, 1908 (hereinafter referred to as the principal Act). Short Title.
- 10    **2.** (1) The Supreme Court shall consist of one Judge, who shall be called the Chief Justice of New Zealand, and *nine* other Judges. Judges of the Supreme Court.
- 15    (2) The *last preceding* subsection is in substitution for subsection one of section two of the Judicature Amendment Act, 1913, as enacted in section five of the Judicature Amendment Act, 1923, and the last-mentioned section is hereby accordingly repealed. Consequential repeal.  
See Reprint of Statutes, Vol. II, p. 92

Variation of provisions as to constitution of Divisions of Court of Appeal. See Reprint of Statutes, Vol. II, p. 93

Question of foreign law to be decided by Judge. Cf. 10 and 11 Geo. V, c. 81, s. 15

3. Section five of the Judicature Amendment Act, 1913, is hereby amended by adding to subsection two the following proviso:—

“ Provided that whenever all the Judges of the Supreme Court are present in New Zealand and are available to act as members of the Court of Appeal one of the Divisions may consist of *six* Judges.” 5

4. Where for the purpose of disposing of any action or other matter which is being tried by a Judge of the Supreme Court with a jury it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the Judge alone. 10 15