

## JUDICATURE AMENDMENT BILL

---

### EXPLANATORY NOTE

*Clause 2* of this Bill authorizes the Governor-General to establish offices of the Supreme Court in Supreme Court districts, and to abolish any such office. At present the power to establish Court offices is implied in the provisions of the principal Act relating to the establishment of districts and the appointment of Registrars and other officers, but there is no express power to abolish an office and substitute one in another town.

*Clause 3* substitutes new provisions for sections 28 and 29 of the Civil Procedure Act 1833 (under which interest could be recovered on debts or damages in certain cases) and for section 87 of the principal Act (under which interest recoverable on "a loan of money or on any other contract" is not to exceed 8 per cent where the rate is not previously agreed upon). Subsection (1) of the new section substituted by this clause gives Courts a discretion to award interest, at a rate not exceeding 5 per cent, on any debt or damages. It does not authorize the giving of compound interest, or apply to a debt on which interest is payable as of right (for example, under an agreement, by statute, or by mercantile custom), or affect the special provisions of section 57 of the Bills of Exchange Act 1908 relating to the dishonour of a bill of exchange. This subsection is in the same terms as section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 (U.K.), except that the United Kingdom Act does not prescribe a maximum rate of interest. The maximum of 5 per cent fixed by this Bill is the highest rate usually allowed by the English Courts, and is the rate allowed by our Code of Civil Procedure for interest on judgment debts in Supreme Court actions.

Subsection (2) of the new section deals with cases where interest is payable as of right on debts, but where the rate of interest is not fixed or agreed upon. In those cases the rate is to be fixed by the Court, with the same maximum, namely 5 per cent.

Hon. Mr. Webb

## JUDICATURE AMENDMENT

### ANALYSIS

Title.	3. Power of Courts to award
1. Short Title.	interest on debts and
2. Offices of the Supreme Court.	damages. Repeals.

### 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

5 of the same, as follows:—

1. This Act may be cited as the Judicature Amendment Act 1952, and shall be read together with and deemed part of the Judicature Act 1908 (hereinafter referred to as the principal Act).

Short Title.  
See Reprint  
of Statutes,  
Vol. II, p. 60

10 2. (1) The principal Act is hereby amended by inserting, after section twenty-three, the following section:—

Offices of the  
Supreme  
Court.

15 “23A. (1) The Governor-General may from time to time, by notice in the *Gazette*, declare an office or offices of the Court to be established at such place or places in any district as may be specified in the notice, as from such date, in the case of each office, as may be so specified.

20 “(2) The Governor-General may at any time in like manner abolish any office of the Court.

“(3) Where any office of the Court is abolished, the Minister of Justice may direct that all documents, books, and records in that office shall be delivered to some other office of the Court in the same district (in this section referred to as the substituted office). From the time of their delivery to the Registrar of the substituted office, those documents, books, and records shall be deemed to be in the lawful custody of that Registrar. 5

“(4) Where any office of the Court is abolished, the following provisions shall apply: 10

“(a) Any act or thing that could have been done under any enactment or rule by the Registrar of that office may be done by the Registrar of the substituted office:

“(b) Any step in any proceedings that would, but for the abolition of that office, have been taken there under any enactment or rule may be taken at the substituted office: 15

“(c) Any act or thing required or authorized by any enactment or rule to be done by any person at that office, whether in respect of any proceedings or in respect of any transaction recorded or document filed there, may be done at the substituted office: 20

“(d) Any address for service, being an address conforming to the requirements of the rules of Court, that has been given by any party to any proceedings in respect of which the records are delivered to the substituted office shall continue to be the address for service of that party for the purposes of those proceedings, notwithstanding that because of its distance from the substituted office it may cease to conform to those requirements: 25 30 35

“Provided that where, because of its distance from the substituted office, the address does not conform to the requirements of the rules, the party shall give a new address for service conforming to those requirements when he first files in the substituted office any document in the proceedings: 40

5 “(e) If in respect of any proceedings, or of any transaction, document, record, or other matter, any question arises as to the application of any provision of this section or as to the proper procedure to be followed, the Court or a Judge may determine the question and make such order thereon as the Court or Judge thinks fit.”

10 (2) Every office of the Court heretofore established shall be deemed to have been lawfully established.

3. (1) The principal Act is hereby further amended by repealing section eighty-seven, and substituting the following section:—

15 “87. (1) In any proceedings in any Court for the recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate, not exceeding five per cent per annum, as it thinks fit on the whole or any part of the debt or damages for  
20 the whole or any part of the period between the date when the cause of action arose and the date of the judgment:

“Provided that nothing in this subsection shall—

25 “(a) Authorize the giving of interest upon interest; or

“ (b) Apply in relation to any debt upon which interest is payable as of right, whether by virtue of any agreement, enactment, or rule of law, or otherwise; or

30 “(c) Affect the damages recoverable for the dishonour of a bill of exchange.”

“ (2) In any proceedings in any Court for the recovery of any debt upon which interest is payable as of right, and in respect of which the rate of interest is  
35 not agreed upon, prescribed, or ascertained under any agreement, enactment, or rule of law or otherwise, there shall be included in the sum for which judgment is given interest at such rate, not exceeding five per cent per annum, as the Court thinks fit for the period between  
40 the date as from which the interest became payable and the date of the judgment.”

Power of Courts to award interest on debts and damages.

*Cf. Law Reform (Miscellaneous Provisions) Act 1934 (24 & 25 Geo. V, ch. 41), s. 3 (U.K.)*

(2) Section eighty-seven of the principal Act, as substituted by this section, shall apply to proceedings pending or in progress at the passing of this Act as well as to proceedings commenced after the passing of this Act.

Repeals.  
3 and 4  
Will IV, ch. 42

(3) Sections twenty-eight and twenty-nine of the Civil Procedure Act 1833 shall cease to have effect in New Zealand.

5