

NEW ZEALAND.

ANNO VICESIMO SEXTO

VICTORIÆ REGINÆ.

No. 36.

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**An Act for the extension of the Jurisdiction of Resident Magistrates in civil cases in certain places.**

**W**HEREAS it is expedient that provision should be made for extending the Jurisdiction of Resident Magistrates' Courts in civil cases in places within the Colony where it may be required : Preamble.

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

I. The short title of this Act shall be "the Resident Magistrates' Jurisdiction Extension Act 1862." Short Title.

II. Every case of a claim for debt or damages such as may at present be lawfully tried in a Resident Magistrate's Court where the Debt or Damages claimed do not exceed twenty pounds may be tried in any Resident Magistrate's Court with respect to which this Act shall be in operation when the Debt or Damages claimed do not exceed Fifty Pounds. Provided that the Governor may by proclamation in the *Government Gazette* of the Colony declare that the limit of Jurisdiction of any such Court shall be extended to £100 and such limit of Jurisdiction shall be in such case extended accordingly. Civil Jurisdiction.

III. Whenever the sum claimed exceeds Twenty Pounds (or by leave of a Resident Magistrate where the sum exceeds £5 but does not exceed £20) either party deeming himself aggrieved by the decision of the Resident Magistrate in point of law may on giving security to the satisfaction of the Resident Magistrate within seven days from the date of such decision for the execution of the final order appeal to the Supreme Court and such appeal shall be by way of special case and shall be subject to the rules of practice of the Supreme Court touching special Appeals.

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cases stated in the course of the proceedings of that Court. And if the parties do not agree in the statement of the case in writing the Resident Magistrate shall upon the request of either party settle the case. The party appealing shall transmit the case to the Registrar of the Supreme Court and the same shall be set down for hearing at the next practicable sitting of the Court *in banco*. If the applicant do not appear in person or by counsel the appeal shall be dismissed. The Registrar of the Supreme Court shall transmit to the Resident Magistrate a memorandum of the decision of the Supreme Court and such proceedings shall be had thereupon as if such decision had been given in the Resident Magistrate's Court. The costs of the appeal shall abide the decision of the case.

Costs.

IV. If any Plaintiff in an action in the Supreme Court which might have been brought in the Resident Magistrate's Court recover no greater amount than he might have recovered in the Resident Magistrate's Court he shall be entitled to no more costs than he would have been entitled to in the Resident Magistrate's Court unless the Judge before whom the case is tried shall certify that the same was a proper case to be brought in the Supreme Court.

Service of Summons.

V. Every Summons in cases of a Civil nature issued by any Resident Magistrate or Justice of the Peace may be served by delivering the same personally to the person to whom it is directed and where such person cannot conveniently be found then by leaving the same at his last or usual place of abode. Provided that before such personal service is dispensed with proof shall first be given to the satisfaction of a Justice of the Peace that reasonable efforts have been made to effect such personal service and in every such case where personal service is dispensed with service at the last or usual place of abode shall be effected at least fourteen days before the day fixed for the trial of the Cause.

Proof of Service.

VI. The due and proper service of any summons issued by any Resident Magistrate or Justice of the Peace whether in civil or criminal cases may be proved by affidavit made by the party who shall have served such Summons duly sworn before a Justice of the Peace.

Contempt of Court.

VII. If any person shall wilfully insult any Resident Magistrate or Justice of the Peace acting in either Civil or Criminal Proceedings or any Bailiff or Clerk of any Resident Magistrate's Court during his sitting or attendance in Court or shall wilfully interrupt the proceedings of the Court or be guilty in any other manner of any wilful contempt in the face of the Court it shall be lawful for any Bailiff or other officer of the Court with or without the assistance of any other person by order of the Resident Magistrate or Justice of the Peace to take such offender into custody and detain him until the rising of the Court and the Resident Magis-

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trate, or Justice shall be empowered if he shall think fit by a warrant under his hand and seal, to commit every such offender to Prison for any time not exceeding seven days or to impose upon any such offender a fine not exceeding £10 for such offence and in default of payment thereof to commit the offender to Prison for any time not exceeding seven days, unless the fine shall be sooner paid.

VIII. Where any sum of money shall be recovered in any Resident Magistrate's Court from any person who absconds from or leaves his usual place of abode It shall be lawful for the Resident Magistrate or Justices who shall try such case to award to the Plaintiff the whole or part of such costs as the Plaintiff may have incurred in the prosecution of his suit.

Costs recoverable against parties absconding.

IX. And whereas by the "Resident Magistrates' Ordinance Amendment Act 1861" it is enacted that an Ordinance to regulate Summary Proceedings before Justices of the Peace hereinafter called the "Summary Proceedings Ordinance" Session II No. 5 and the "Summary Convictions Act 1848" and the "Summary Proceedings Improvement Act 1860" shall be deemed and held not to apply to Civil proceedings and whereas it is expedient to amend the said first recited Act BE IT THEREFORE ENACTED that the "Summary Proceedings Ordinance" Session II No. 5 shall be deemed and held to apply to any case whatever of a Civil nature which may by any law in force within the Colony be heard and determined by a Resident Magistrate or Justices of the Peace by way of Summary Proceeding anything in the said "Resident Magistrates' Ordinance Amendment Act 1861" to the contrary notwithstanding.

Summary Proceedings Ordinance reserved to some extent.

X. The second and third Sections of this Act shall come into force in respect of any Resident Magistrate's Court on a day to be determined by a Proclamation in the *Government Gazette* pursuant to an order of the Governor in Council

Commencement of Sections 2 and 3 of Act.

XI. And whereas certain Judgments have been obtained and may be obtained in District Courts established under the "District Courts Act 1858" which cannot be enforced by reason of such Courts or the operation thereof having been suspended or abolished it shall be lawful for any Resident Magistrate having jurisdiction within any part of the District comprised within the boundaries of the District Court which or the operation of which may have been so abolished or suspended on receiving a copy of such Judgment certified under the hand of the late Judge or Clerk of the District Court in which such Judgment shall have been given and an affidavit that the same has not been satisfied to issue a distress or execution and order such proceedings therein to enforce satisfaction of such Judgment as if such Judgment had been originally obtained in his own Court.

Judgments of District Courts to be enforced.