

New Zealand.

ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

No. 4.

ANALYSIS.

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AN ACT to amend "The District Courts Act 1858." Title. [26th September 1865.]

WHEREAS by the "District Courts Act 1858" the Governor was empowered to constitute throughout the Colony certain Courts to be called "District Courts" and it is expedient to amend the said Act and to make further provisions respecting such Courts and the proceedings therein 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 District Courts Act Amendment Act 1865." Short Title.

II. Whenever the Judge of any such District Court shall be required to hold sittings of the Court in more than one place within his district it shall be lawful for the Governor if he shall so think fit to appoint a clerk for such Court in each of such places. In every place where sittings of a Court established the Governor may appoint a clerk.

III. Facsimiles shall be made of the seal of such Court each of which facsimiles shall be deemed an original seal of the said Court and at each of such places for which a clerk shall be so appointed there shall be one of such seals in charge of the clerk assigned to such place. Facsimiles of seals to be made.

IV. The clerk so assigned shall act at such place in all respects as the clerk of such Court and shall enter register and issue all plaints summonses minutes orders writs judgments precepts warrants and all other processes entries or documents entered in proceedings of or pertaining to such Court at such place and shall seal all documents requiring to be so sealed and shall in all respects perform the duties possess all the powers and be liable to all the responsibilities and liabilities of the clerk of the Court at such place and all provisions of the said District Courts Act and rules and regulations of the said District Courts made respecting the clerk thereof shall apply to and be deemed to have been made respecting each of such clerks unless there be in the context and purpose of such rule something repugnant to such interpretation. Clerk to act as clerk under District Courts Act.

District Courts Act Amendment.

Proceedings to be kept separately.

V. All complaints shall be entered all summonses orders judgments and proceedings shall be issued had and registered and all records entries books and accounts shall be made and kept separately at and for such place to which such clerk and seal shall have been so assigned and all other the proceedings of such Court sitting at such place shall be had and conducted at such place independently of any other place as if the Court sitting at such place were a Court for such place only not sitting in any other place within the said district Provided always that nothing herein contained shall be taken in any respect to limit the jurisdiction of any Court sitting at any such place but such jurisdiction shall extend over the whole of such district.

Additional bailiffs may be appointed.

VI. It shall be lawful for the said Judge anything in the said District Courts Act to the contrary notwithstanding to appoint if he shall so think fit for any such Court more than one bailiff of whom one may be assigned to each place at which sittings of such Court may be held or otherwise as the said Judge may think fit and every such bailiff shall have all the powers perform all the duties and be subject to all the liabilities and responsibilities of the bailiff provided for under the said District Courts Act And every enactment and rule relating to such last mentioned bailiff shall apply to every bailiff appointed under this Act unless there be something in such enactment or rule repugnant to such construction.

Juries in Civil cases.

VII. And whereas by the said District Courts Act certain provisions are made respecting juries in civil cases and also in criminal cases to be tried under the said Act and doubts are entertained whether and to what extent such provisions are suspended by the provisions of the "Jury Law Amendment Act 1862" and whereas it is expedient that such doubts should be removed Be it enacted by the authority aforesaid that the provisions of the said "Jury Law Amendment Act 1862" shall be deemed and taken not to apply to any juries to be summoned in any civil case under the said "District Courts Act 1858" and all proceedings under the said last mentioned Act respecting juries in civil cases shall be had and conducted in accordance with the provisions of the said District Courts Act But the provisions of the said "Jury Law Amendment Act 1862" shall be deemed to apply to all juries to be summoned in criminal cases to be tried under the provisions of the said District Courts Act and all proceedings respecting juries in criminal cases shall be had and taken in accordance with the provisions of the said "Jury Law Amendment Act 1862."

Juries in Criminal cases.

When debt or damages proved under £20.

VIII. And whereas by the 15th section of the said District Courts Act the jurisdiction of the said Court is limited to cases in which the claim or demand shall exceed twenty pounds and not exceed one hundred pounds and whereas doubts have arisen whether the Court shall lose its jurisdiction and be precluded from further hearing or determining the case if upon the trial it appears that the plaintiff cannot establish a claim to an amount exceeding twenty pounds and it is expedient that the jurisdiction should not of necessity be so lost Be it enacted by the authority aforesaid that in any such event the Judge if he so think fit shall either nonsuit the plaintiff with costs or he shall proceed to hear and determine the case but if the plaintiff succeed he shall recover no costs unless the Judge shall certify that the case was a proper case to have been so tried and though the plaintiff so succeed the judge may if he shall so think fit make an order for the payment by the plaintiff of all or any portion of the costs of the defendant and the same shall be recoverable in the same manner as costs in a judgment for defendant.

Governor may fix intervals instead of dates of sittings.

IX. And whereas by the 155th section of the said District Courts Act it is made lawful for the Governor from time to time by notification

District Courts Act Amendment.

in the *New Zealand Gazette* to fix the times and places within the district at which every such Court shall be held. Be it enacted that as to the times of holding such Courts it shall be sufficient for the Governor if he shall so think fit to fix the interval only within which such Courts shall be held at each place and it shall in such case be lawful for the Judge of such Court to fix the particular times and days for the holding of such Courts and from time to time to alter the same provided that such time and days shall fall within the interval so fixed by the Governor and such times and days shall be notified by affixing a notice in a conspicuous place in the Court house of the place at which such Court is to be held and by publishing a notice thereof in the *Provincial Government Gazette* of the Province in which the district is situated or if such district comprises portions of more Provinces than one in the *New Zealand Gazette*.

X. The 132nd section of the said District Courts Act shall be and the same is hereby repealed. And in lieu thereof it is enacted that it shall be lawful for the Governor in Council with the concurrence of one of the Judges of the Supreme Court to frame general rules and orders for regulating the practice of the said Courts and the form of proceedings therein and from time to time to rescind suspend alter or amend all rules orders and forms now framed or hereafter to be framed or any of them or any part thereof and such original or amended rules orders and forms or any rules rescinding the same or any of them shall be in force in any District Court respectively from a day to be fixed by the said Governor in Council.

Governor in Council
may alter rules.

XI. Notwithstanding anything in the said Act any Resident Magistrate may be appointed a Judge of a District Court provided that he shall have acted as such Resident Magistrate for a period of two years immediately preceding his appointment as Judge of a District Court.

Resident Magistrates
may be appointed
Judges of District
Courts.

XII. Notwithstanding anything in "The District Courts Act 1858" to the contrary the powers conferred on judges of District Courts in and by the XXV XXVI and XXVII sections of "The District Courts Act 1858" shall be exercised only within such districts as shall from time to time be named by the Governor by Order in Council published in the *New Zealand Gazette* as districts within which such powers may be exercised and it shall be lawful for the Governor in Council at any time to revoke and cancel any such order and on any such order of cancellation or revocation being published in the *New Zealand Gazette* the powers conferred by the said sections of the said Act shall cease to be exercised within the district to which such last mentioned order relates.

Powers conferred
to be exercised only
in certain districts.