



# RESIDENT MAGISTRATES' COURTS' ordinance AMENDMENT ACT.

[AS AMENDED IN COMMITTEE, AND REPORTED JUNE 30, 1856.]

IN THE TWENTIETH YEAR OF THE REIGN OF HER MAJESTY QUEEN  
VICTORIA.

Session 4, No.

## ANALYSIS.

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A BILL to amend An Ordinance to provide for the Establishment of Resident Magistrates' Courts, and to make special provision for the administration of Justice in certain cases, passed by the General Legislative Council of New Zealand, Session 7 No. 16. Title.

**W**HEREAS it is expedient to make further provision to secure the satisfactory administration of Justice in Resident Magistrates' Courts in New Zealand, Preamble.

Be it enacted by the General Assembly of New Zealand as follows :

*shall after being of this*  
1. ~~After three months from the passing of this Act, no Resident Magistrate shall practise at the bar, or as a special pleader or equity draftsman, or be directly or indirectly concerned as a conveyancer, notary public, solicitor, attorney, or proctor and~~ No Resident Magistrate to practise as attorney or conveyancer under a penalty of £50. Provision not to apply to persons at present holding office.

*appointed shall die or*  
2. ~~Any Resident Magistrate practising or being directly or indirectly concerned as aforesaid, shall, for every such offence forfeit and pay the sum of Fifty Pounds, to be recovered by action in the Supreme Court by any one who may sue for the same provided always that~~ Any Resident Magistrate practising as aforesaid to be liable to a penalty.

*retained*  
3. ~~The foregoing provisions of this Act shall not be held to apply to persons holding the office of Resident Magistrate at the time of the passing hereof.~~ Act not to apply to Resident Magistrates now in office.



Limitation of powers.  
under Resident  
Magistrates Ord

4. And whereas it is now lawful, under and by virtue of an Ordinance intituled the "Resident Magistrates Ordinance," Session 7 No. 16, for any Resident Magistrate or any two or more Justices of the Peace to hear and determine in a summary way any claim or demand whatsoever of a civil nature in which neither of the parties are of the Native race, and where the debt or damage shall not exceed twenty pounds; and whereas it is expedient that such jurisdiction should be restricted, be it further enacted as follows: It shall not be lawful for any Resident Magistrate nor Justices of the Peace to take cognizance of any ~~action~~ <sup>such claim or demand</sup> in which the validity of any devise, bequest, or limitation under any will or settlement may be disputed or for any malicious prosecution, or for any libel or slander, or when any title to land is in dispute, or ~~(except in cases where either or both of the parties are of the Native Race)~~ of any action for criminal conversation, or for seduction, or breach of promise of marriage.

In cases of assault, Resident Magistrate to have power to imprison.

2. In every case of assault over which a Resident Magistrate shall have jurisdiction, it shall be lawful for him to adjudge in lieu of fine a term of imprisonment <sup>with or without hard labour</sup> not exceeding two calendar months.

Plaintiff not to divide cause of action.

3. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in any Resident Magistrate's Court.

Power to summons witnesses in civil cases.

4. It shall be lawful for every Resident Magistrate or Justice of the Peace to issue a summons to any person to appear and give evidence before him in any civil action then pending, and every person who shall neglect or refuse to appear as aforesaid, or who shall refuse to give evidence, shall be liable to a penalty not exceeding ten pounds, or, in default of payment, to be imprisoned for a term not exceeding fourteen days.

Process to be served by bailiff, if one appointed.

*in a straight line from the place where the said Court is usually held*

5. In all cases where a bailiff shall have been appointed for any Resident Magistrate's Court, all process from the said Court shall be served by the bailiff or his assistants when the person upon whom the process is to be served shall reside within ~~a radius of~~ <sup>from</sup> ten miles from the said Court, and the said bailiff or his assistants shall be entitled to receive the fees specified in Schedule A to this Act annexed, which fees shall be accounted for to the Clerk of the said Court, who shall pay over the same in like manner as other fees received by such Clerk: Provided always, that all such fees shall be prepaid: Provided further that it shall be lawful for the said Resident Magistrate to refund to the said bailiff or his assistants any amount actually expended by him or them in serving such process as aforesaid.

*out of the fees which shall be received in respect of schedule A to this Act annexed*

Witnesses entitled to expenses.

6. Every person who shall be summoned, and who shall appear as a witness, shall be entitled to an allowance or compensation for expenses and loss of time according to the scale contained in Schedule B to this Act annexed. And in any case of nonsuit any Resident Magistrate or any two Justices of the Peace shall have power to award to the defendant such costs as to him or them shall

seem reasonable, and the amount so awarded may be recovered in the same manner as if judgment had been given for the said amount.

\* 4. ~~This Act shall be intituled the "Resident Magistrates' Courts Amendment Act, 1856," and may be cited and referred to by that title.~~ Short title.

*8. This Act may be cited for all purposes as the "Resident Magistrates Courts Ordinance Amendment Act 1856".*

SCHEDULES REFERRED TO.

A.

TABLE OF FEES TO BE PAID FOR SERVING PROCESS.

Serving Summons or Subpoena, if within one mile of the Court House	. 3s.
For every extra mile (one way)	. 1s.
For executing Warrant beyond one mile from the Court House, per mile one way	. 1s.

B.

ALLOWANCE TO WITNESSES.

For every Witness residing within one mile from the Court House, a sum not exceeding	. 10s.
For every extra mile (one way)	. 1s.

*Geo W. White*  
*CORWARD*