

New Zealand.

ANNO TRICESIMO PRIMO

V I C T O R I Æ R E G I N Æ .

No. 13.

AN ACT to Consolidate and Amend the Title.
Laws relating to Resident Magistrates
and to the jurisdiction of Justices of
the Peace in Civil matters.

[10th October 1867.]

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

1. The Short Title of this Act shall be “The Resident Magistrates’ Act 1867.” Short Title.

2. The Acts and Ordinances specified in Schedule A. to this Act are to the extent in such Schedule stated hereby repealed and the several Imperial Acts or parts of Imperial Acts specified in Schedule B. to this Act shall no longer be in force in the Colony of New Zealand but all proceedings taken or commenced under the authority or in execution of the said Acts and Ordinances or any of them before this Act comes into operation shall be as valid to all intents and purposes and may be continued executed and enforced after this Act shall come into operation in the same manner as if this Act had not been passed and where by the provisions of any Act or Ordinance now in force proceedings are directed to be taken or penalties enforced under any Act or Ordinance or part of any Act or Ordinance hereby repealed or in a Resident Magistrate’s Court or before a Resident Magistrate such proceedings may be taken and such penalties may be recovered under this Act or in a Resident Magistrate’s Court established or before a Resident Magistrate appointed hereunder. Repeal clause.

3. In the interpretation of this Act except where there is something in the context repugnant thereto or inconsistent therewith the following expressions and words shall have the meanings hereinafter assigned to them the word “Court” and the expression “Resident Magistrate’s Court” shall mean a Court constituted by this Act and held before the Resident Magistrate appointed thereto alone or before the persons and in the manner provided in the tenth and sixteenth sections of this Act respectively “Petty Sessions” shall mean Petty Sessions held under the authority of “The Petty Sessions Act 1865” the word “tenements” shall mean only lands houses or other hereditaments of a corporeal nature the word “landlord” shall be understood as signifying the person entitled to the immediate reversion of tenements or if the property be held in joint tenancy coparcenary or tenancy in common shall be understood as signifying any one of the persons entitled to such reversion and for the purposes of this Act Half Castes and other persons of mixed race living as members Interpretation clause.

Resident Magistrates.

of any Native Tribe and all Aboriginal Natives of any of the Islands of the Pacific Ocean shall be deemed to be persons of the Native Race and the Forms referred to by number only or by a number and a letter in this Act are those in Schedule C. to this Act.

CREATION AND CONSTITUTION OF COURTS.

Resident Magistrates to be appointed.

4. For the purposes hereinafter mentioned there shall be appointed fit persons being Justices of the Peace who shall be and be called Resident Magistrates.

Mode of appointment and tenure of office.

5. Every Resident Magistrate shall be appointed by the Governor and shall hold office during the Governor's pleasure. Provided that every person lawfully holding the office of a Resident Magistrate immediately before this Act comes into operation shall continue to hold such office and be deemed to have been appointed under this Act.

To have the powers of two Justices of the Peace.

6. Every Resident Magistrate though sitting alone shall have all such powers unless otherwise specially provided as now are or hereafter may be exercised by two Justices of the Peace.

Resident Magistrates to hold Courts for certain districts.

7. It shall be lawful for the Governor from time to time by proclamation in the *New Zealand Gazette* to constitute throughout the Colony or in any part thereof districts to be called Resident Magistrates' Districts and such districts from time to time to abolish and the boundaries to define and alter and in any such proclamation to fix a time on and from which any such district shall be constituted or abolished as the case may be and it shall, also be lawful for the Governor to appoint for each district a Resident Magistrate to exercise his office therein who shall hold Courts to be called Resident Magistrates' Courts in and for such districts at such times and places as shall be deemed most convenient by the Resident Magistrate or as shall from time to time be appointed by the Governor. In case any Resident Magistrate shall by reason of sickness absence suspension from office or other cause be unable to discharge the duties of his office it shall be lawful for the Governor to appoint a fit person being a Justice of the Peace to act in the place of such Resident Magistrate as long as such inability shall continue.

Substitute may be appointed.

Where within the extended jurisdiction more Resident Magistrates than one may be appointed for the district the Governor to appoint who are to exercise the extended jurisdiction.

8. When the limit of jurisdiction of any Resident Magistrate's Court of any district shall have been extended by the Governor under the powers given to him by the twenty-first section of this Act it shall be lawful for the Governor if he think fit to appoint for such district more than one Resident Magistrate in such case each Resident Magistrate shall be deemed the Resident Magistrate of the district but it shall be lawful for the Governor to order which of the several Resident Magistrates so appointed to such district shall exercise the extended jurisdiction therein and such extended jurisdiction shall be exercised only by the Resident Magistrates who by such order are authorized to exercise it. Provided that if only one Resident Magistrate be appointed to any district the jurisdiction of the Court of which shall have been extended such Resident Magistrate shall exercise such jurisdiction without any order from the Governor.

No Resident Magistrate to practise.

9. No Resident Magistrate appointed to act for any district shall practise or be directly or indirectly concerned as a solicitor attorney or proctor and any Resident Magistrate so appointed who shall offend against this provision 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.

Justice of the Peace may sit with Resident Magistrate.

10. At the sittings of the Resident Magistrate's Court it shall be lawful for any Justice or Justices of the Peace having jurisdiction at the place where the Court is holden to sit and act with the Resident Magistrate and the decision shall be given according to the judgment

Resident Magistrates.

of the majority of the Court Provided that the Resident Magistrate of the district if present or if he should be absent any other Resident Magistrate shall act as chairman of the Court and shall have an original as well as a casting vote.

11. For every Resident Magistrate's District there shall be a clerk of the Court who shall be appointed by and hold office during the pleasure of the Governor and when sittings of the Court shall be held at more than one place within the district it shall be lawful for the Governor if he shall so think fit to appoint a clerk in each of such places Provided that it shall be lawful for the Resident Magistrate if he think fit to suspend any clerk within his district from the exercise of his office until the Governor's pleasure shall be known Provided that every person lawfully holding the office of clerk of a Resident Magistrate's Court immediately before this Act comes into operation shall continue to hold such office and be deemed to have been appointed under this Act. Clerk to be appointed.

12. The clerk of every Resident Magistrate's Court shall take charge of all Court fees and fines payable or paid into Court and of all moneys paid into and out of Court under executions or otherwise and shall enter an account of all such fees and moneys in books belonging to the Court to be kept for that purpose and shall do and perform all other acts and duties properly incident to the office of clerk. Duties of clerk.

13. There shall be a bailiff or bailiffs for every such district who shall be appointed by and hold office during the pleasure of the Resident Magistrate and shall be sworn as and have the powers of a constable Provided that every person lawfully holding the office of bailiff to a Resident Magistrate's Court immediately before this Act comes into operation shall continue to hold such office and be deemed to have been appointed under this Act. Bailiffs to be appointed.

14. The bailiff shall attend the sittings of the Court and shall serve all summonses within ten miles of the Court House or within such other distance as may be prescribed by any general rule to be made for the Court by the Resident Magistrate and shall also serve all orders and execute all warrants issued out of the Court and shall in the execution of his duties be under the order and direction of the Resident Magistrate and every such bailiff shall be responsible for all the acts and defaults of himself and those acting under him and by his authority in like manner as any sheriff in New Zealand is responsible for the acts and defaults of himself and his officers. Duties of bailiffs.

15. For service of process from any Resident Magistrate's Court the bailiff or his assistant shall be entitled to receive the fees specified in Schedule E. 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 that it shall be lawful for the Resident Magistrate to refund to the bailiff or his assistants out of the fees which shall be received in respect of Schedule E. to this Act annexed any money actually expended by him or them in serving such process as aforesaid. Bailiff's fees.

16. If upon the day appointed for the sitting of a Resident Magistrate's Court the Resident Magistrate thereof cannot or does not attend it shall be lawful for any other Resident Magistrate to act in his stead during such non-attendance and it shall be lawful for such Resident Magistrate so acting in the place of the Resident Magistrate of the District or for any two or more Justices of the Peace without any Resident Magistrate to hold a Court and to hear and determine all civil cases in which the debt or damage claimed does not exceed twenty pounds and to hear and determine all applications Two Justices may act in the place of Resident Magistrate.

Resident Magistrates.

made under this Act in relation to any such case either already heard and determined or about to be heard in the Court and in relation to any such case to make any order or to do any act matter or thing which by this Act the Court or the Resident Magistrate is empowered to make or do and to adjourn the hearing of any cases in which the debt or damage claimed shall exceed twenty pounds to such day as they may deem most convenient Where no Resident Magistrate is present the Justices shall sit and act together without a chairman and no one of them shall have a casting vote.

No Resident Magistrate to sue or be sued in any Court within his district but power to do so in adjoining district.

17. A Resident Magistrate may sue or be sued in the Resident Magistrate's Court held in the district for which he is Resident Magistrate but in such case he shall take no part in the hearing of or in adjudicating on the matter but the same shall be heard and determined in the manner hereinbefore provided for the hearing and determining cases when the Resident Magistrate of a district does not attend upon the day appointed for the sitting of the Court.

Clerk may adjourn Court.

18. If from any cause a Resident Magistrate's Court cannot be held upon the day appointed for the same any Justice of the Peace present or if no Justice of the Peace be present the clerk may adjourn the Court to such day as he may deem most convenient.

JURISDICTION OF COURTS.

Jurisdiction in civil cases.

19. Save as herein excepted the Resident Magistrate's Court of any district shall have jurisdiction in the following cases—

- (1.) Where the plaintiff seeks pecuniary compensation for a wrong or payment of a debt and the amount claimed does not exceed twenty pounds whether on balance of account or otherwise
- (2.) Where the plaintiff seeks to enforce a claim upon some specific moveable property and to be put in possession thereof where the value of such property does not exceed twenty pounds

Provided that the cause of action has arisen either wholly or in some material point within the district in which the action is brought or the party sought to be charged is residing or carrying on business or is served with the process of the Court within such district Provided also that no Resident Magistrate's Court shall take cognizance of any claim or demand in which the validity of any devise bequest or limitation under any will or settlement or except as hereinafter provided in which the title to land or other hereditaments is in dispute or of any action for false imprisonment or malicious prosecution or libel or slander or criminal conversation or seduction or breach of promise of marriage.

Cases above twenty pounds may be tried by consent.

20. The Resident Magistrate's Court of any district shall have power to hear and determine any case in which the amount claimed or value of the specific moveable property sought to be recovered shall exceed twenty pounds Provided that the parties thereto shall agree by memorandum (1) signed by them or by their solicitors that the case shall be tried by such Court and provided that the case is such as might have been lawfully tried in such Court if the amount claimed or value of property sought to be recovered had not exceeded twenty pounds.

Power to Governor to extend jurisdiction.

21. It shall be lawful for the Governor from time to time or at any time by proclamation in the *New Zealand Gazette* to declare that the limit of jurisdiction of the Resident Magistrate's Court of any district shall be extended to fifty pounds or to one hundred pounds as he may think proper and thereupon such Court shall have power to hear and determine any case in which the amount of the debt or

Resident Magistrates.

damage claimed shall not exceed the limit fixed by such proclamation and which might have been lawfully tried in such Court in case the amount of the debt or damage claimed therein had not exceeded twenty pounds.

22. It shall be lawful for the Governor by proclamation in the *New Zealand Gazette* at any time to abolish the extended jurisdiction which he is hereby authorized to confer upon any Resident Magistrate's Court Provided that such abolition shall not be held to prevent the issue of warrants of distress or commitment or otherwise enforcing satisfaction of any judgment obtained in such Resident Magistrate's Court previously to such abolition.

Governor may suspend or abolish extended jurisdiction.

23. It shall not be lawful for any plaintiff to divide a cause of action for the purpose of bringing two or more suits in any Resident Magistrate's Court but any person having a cause of action which but for the largeness of the amount claimed might have been lawfully tried in any Resident Magistrate's Court may by abandoning the excess bring it within the jurisdiction of such Court and the judgment of the Court thereupon shall be in full discharge to the defendant of all demands in respect of such cause of action Provided always that such abandonment be stated in the particulars annexed to the summons.

Division of cause of action not allowed.

24. It shall be lawful for any person under the age of twenty-one years to prosecute a suit in any Resident Magistrate's Court for wages or piece work or for work as a servant in the same manner as if such person were of full age.

Minors may sue.

25. No privilege shall be allowed to any solicitor or other person to exempt him from the jurisdiction of any Court held under this Act.

No privilege allowed.

26. It shall be lawful for any executor or administrator to sue and be sued in any Resident Magistrate's Court in like manner as if he were a party in his own right and in any such case the Court shall give such judgment as would in the like case be given in the Supreme Court and where by any such judgment any sum of money whether for debt damage or costs shall have been adjudged to be paid by an executor or administrator execution shall be had of the assets of the testator or intestate or of the proper goods and chattels of the executor or administrator according as execution might in the like case be had upon a judgment obtained in the Supreme Court.

Executor may sue and be sued.

27. Where any plaintiff shall have any demand recoverable under this Act against two or more persons jointly answerable it shall be sufficient if any one of such persons be served with process and judgment may be obtained and enforced against the person or persons so served notwithstanding that others jointly liable may not have been served or sued or may not be within the district or within the Colony and every such person against whom judgment shall have been obtained under this Act and who shall have satisfied such judgment shall have a right of action for contribution against the persons so jointly liable.

One of several persons jointly liable may be sued.

28. 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 costs unless the Judge before whom the case is tried shall certify that the case was a proper case to have been so tried.

Person suing in Supreme Court in matter triable in Resident Magistrate's Court allowed no costs.

PROCEDURE AND PRACTICE OF COURTS.

29. The process of the Court may be served by the bailiff or his assistants or by any other person the Resident Magistrate or Justice of the Peace issuing the same may think fit to direct.

Process to be served by any person the Resident Magistrate may direct.

30. It shall be lawful for the party to any suit or proceeding to be taken under this Act to appear and act personally or by a

Except by leave of Court party to appear

Resident Magistrates.

personally or by
barrister or solicitor.

barrister or solicitor of the Supreme Court and not otherwise. Provided that under special circumstances the Court may permit any party to appear by an agent authorized in writing not being a barrister or solicitor but such agent shall not be entitled to receive any fee or reward for so appearing or acting.

Mode of commencing
suit.

31. Upon the application of any person desirous of prosecuting a suit in the Resident Magistrate's Court the clerk of the Court or the Resident Magistrate if there is no clerk shall enter in a book to be kept for the purpose in his office a plaint in writing which shall state the names and the last known places of abode of the parties and the substance of the action intended to be brought every one of which plaints shall be numbered in every year according to the order in which it shall be entered and when the party does not sue in his own right there shall be stated the character in which he sues and the intending plaintiff shall at the same time deliver to the Resident Magistrate or clerk of the Court a full and explicit statement in writing of the particulars of his claim to be filed for the use of the Court together with so many copies of such statement as there are defendants to the suit and one copy thereof shall be annexed to and served with each summons and be deemed a part thereof. Provided that where any person whose usual place of residence is in a district under this Act and is not within ten miles from any Court House in the district at which a clerk of the Court has been appointed to attend continuously he may make such application as aforesaid to any Justice of the Peace resident within the district and such Justice shall take down a plaint (2) containing the particulars which are hereinbefore directed to be entered in the book and the same proceeding shall be had and taken as is provided when the application is made to the clerk of the Court and any Justice of the Peace receiving any such application shall with all convenient despatch transmit such plaint and statement of particulars to the Resident Magistrate or the clerk of the Resident Magistrate's Court at the place at which such plaint is to be heard and any such application as aforesaid may be made either by the party himself or by any agent authorized by him in writing or by a solicitor of the Supreme Court on his behalf.

Summons to be issued.

32. A summons (3) which shall be signed by the Resident Magistrate or a Justice of the Peace or by the clerk of the Court shall thereupon be issued to each defendant.

When summons to
be issued and served.

33. Such summons shall be issued and served forty-eight hours at least before the day on which the defendant is to appear or at such longer interval before such day as the Resident Magistrate Justice of the Peace or clerk issuing the same may appoint. Provided that a summons may issue and be served at any time before the holding of the Court if the Resident Magistrate or Justice of the Peace issuing the summons is satisfied that the defendant is about to remove out of the jurisdiction of the Court but in every such case the Court may at its discretion and on such terms as it shall think fit adjourn the hearing.

Upon what condition
summons to be issued
against defendant
residing beyond
district.

34. Such summons may be issued against any defendant residing or being without the district within which the Court has jurisdiction but not out of the Colony upon the application of any plaintiff who will depose on oath that he has good cause of action and that such cause of action arose wholly or in some material point within the jurisdiction of the Court.

Summons to give
evidence and penalty
for disobedience.

35. The Resident Magistrate or any Justice of the Peace may at the request of either party to a civil suit issue a summons (4) to any person to appear and give evidence in such suit and to produce any books deeds papers or writings relating to such suit and in his possession or under his control which summons

Resident Magistrates.

may be signed either by the Resident Magistrate or by a Justice of the Peace or by the clerk of the Court and any person upon whom any such summons shall have been served and to whom at the same time payment or a tender of his travelling expenses shall have been made on the scale fixed in Schedule D. to this Act and who shall refuse or neglect without sufficient cause to appear or to produce any books deeds papers or writings required by such summons to be produced and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn and 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 and such penalty may be set upon any such person by the Court after he shall have been afforded opportunity to show cause why he should not be so fined and shall have failed to satisfy the Court in that behalf or may be recovered before any Justice of the Peace by way of summary proceedings in the manner provided by "The Justices of the Peace Act 1866" but the payment of any such fine or the undergoing any such term of imprisonment shall not exempt any person from liability to an action for disobeying such summons.

36. No misnomer or inaccurate description of any person or place in any plaint or summons or in any subsequent proceeding shall vitiate the same provided that the person or place be therein described so as to be commonly known.

Misnomer not to vitiate plaint or summons.

37. Every summons in cases of a civil nature 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 with some inmate of the house appearing to be above the age of fourteen years Provided that before 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 case where personal service of the summons to a defendant is dispensed with service at the last or usual place of abode shall be effected at least seven days before the day fixed for trial of the cause Provided that nothing in this section contained shall apply to a summons to witnesses to give evidence.

Mode of service of summons.

38. The service of any summons in civil cases may be proved by affidavit (5) by the person who shall have served such summons setting forth the fact and mode of such service and duly sworn before a Justice of the Peace or a Solicitor of the Supreme Court or the clerk of the Court who are respectively empowered to take such affidavits or such service may be proved upon oath at the hearing.

Proof of service of summons.

39. Every summons order notice or warrant of which any form is given in Schedule C. to this Act with a translation in the Maori language shall if under the provisions of this Act the same be issued by any Resident Magistrate addressed to any person of the native race be accompanied by such translation thereof into the Maori language but the execution of any such warrant shall not be illegal by reason only of its not being accompanied by such a translation.

Summons warrants &c. addressed to Natives to be accompanied by a Maori translation.

40. Every person who shall be summoned and who shall appear as a witness in a civil suit shall be entitled to an allowance or compensation for expenses and loss of time according to the scale contained in Schedule D. to this Act annexed.

Allowances to witnesses.

41. If the Court shall be satisfied by either party to a cause pending therein that such cause can be more conveniently or fairly tried before the Resident Magistrate's Court or Court of Petty Sessions

Power to Resident Magistrate to change venue.

Resident Magistrates.

of some other district it shall make an order (6) that the cause be sent for hearing to such other Resident Magistrate's Court or Petty Sessions Court and the clerk of the Court in which the plaint was entered shall forthwith transmit to the clerk of the Court to which the same is to be sent a certified copy of the plaint and the duplicate copy of the summons and particulars served on the defendant and a certified copy of the order for changing the place of hearing and the Resident Magistrate or Chairman of Petty Sessions Court to which the cause is sent shall appoint a day for the hearing notice whereof shall be given to both parties in such manner as such Resident Magistrate or Chairman of Petty Sessions shall direct.

Confession of debt.

42. Any person against whom a plaint shall be entered in any Resident Magistrate's Court whether he has been summoned upon such plaint or not may if he think fit in the presence of the Resident Magistrate or a Justice of the Peace or the clerk of the Court or in the presence of a solicitor of the Supreme Court sign a statement (7) confessing the debt or demand or a part of the debt or demand and thereupon it shall not be necessary for the plaintiff to prove the debt or demand or the part thereof so confessed but the Court upon proof by affidavit or otherwise of the signature of the party if such statement were not signed in the presence of the Resident Magistrate or some Justice present or the clerk of the Court shall proceed to give judgment for the debt or demand or the part thereof so confessed in the same manner and subject to the same conditions as if it had tried the cause and such affidavit as aforesaid may be in form (7A) or to the like effect.

Agreement between parties.

43. If the person against whom a plaint shall be entered in any Resident Magistrate's Court can agree with the plaintiff upon the amount of the debt or demand in respect of which such plaint shall have been entered and upon the terms and conditions upon which the same shall be paid or satisfied they may in the presence of the Resident Magistrate or a Justice of the Peace or the clerk of the Court or in the presence of a solicitor of the Supreme Court sign a statement (8) of the amount of the debt or demand, so agreed upon between them and of the terms and conditions upon which the same shall be paid or satisfied and the Court having first received proof by affidavit or otherwise of the signature of the parties if such statement were not signed in the presence of the Resident Magistrate of the District or some Justice of the Peace or the clerk of the Court shall give judgment for the plaintiff for the amount of the debt or demand so agreed on upon the terms and conditions mentioned in such statement and such affidavit as aforesaid may be in the form (7A) or to the like effect.

Payment into Court.

44. The defendant may at any time before the hearing of the cause pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff together with the costs incurred by the plaintiff up to the time of such payment and the said sum of money and costs shall be paid to the plaintiff but if he shall elect to proceed and shall recover no further sum in the action than shall have been so paid into Court the plaintiff shall pay to such defendant the costs incurred by him in the said action after such payment and the Court shall give judgment for the same accordingly. The defendant shall give notice (9) to the plaintiff of any such payment into Court and which notice shall state explicitly the item or items upon which payment is made and if he shall have failed to do so in sufficient time the Court may order him to pay such reasonable costs as the plaintiff shall have incurred in preparing for trial before the notice of such payment was received by him or in the attendance of himself or witnesses at the Court.

Resident Magistrates.

45. The defendant in an action for the possession of a specific chattel may deliver the same to the plaintiff and pay into Court a sum of money by way of compensation for the detention thereof or damage thereto together with the costs incurred by the plaintiff up to the time of such payment.

Delivery of specific chattel and payment into Court of damages for detention allowed.

46. Where it is shown to the satisfaction of the Court by affidavit that certain parts of books or documents to be produced in evidence do not relate to the matters in dispute the party producing the same shall be allowed to seal up such parts.

Parts of documents not relating to matters in dispute may be sealed up.

47. The Court in all actions brought in the Court shall have full power to determine all questions as well of fact as of law and to give such judgment between the parties as it shall find to stand with equity and good conscience and to examine witnesses on oath and the Court shall be at liberty to receive any such evidence as to it may seem fit whether the same shall be strictly legal evidence or not and in any judgment to prescribe such terms and conditions as to the time and mode of satisfying such judgment as it shall deem just and reasonable.

The Court may examine witness on oath.

48. If at the time and place of trial or at any continuation or adjournment of the Court or cause the plaintiff shall fail to appear the cause shall be struck out and if the defendant shall appear and shall not admit the demand it shall be lawful for the Court to adjudge to the defendant by way of costs such sum as the Court in its discretion shall think fit but if the defendant admit the cause of action to the full amount claimed and pay the fees payable in the first instance by the plaintiff the Court may proceed to give judgment as if the plaintiff had appeared. Provided that the Court may order any such cause to be reinstated if it shall think fit.

Proceedings when plaintiff does not appear.

49. If at the time and place of hearing or trial or at any continuation and adjournment of the Court or case the plaintiff shall appear but not make proof of his demand or of some part of it to the satisfaction of the Court it shall be lawful for the Court to nonsuit the plaintiff or give judgment for the defendant and if the defendant shall appear and shall not admit the demand to adjudge to the defendant by way of costs such sum as the Court in its discretion shall think fit.

When Resident Magistrate may nonsuit plaintiff or adjudge costs to defendant.

50. If at the time and place of hearing or at any continuation or adjournment of the Court or cause the defendant shall not appear or sufficiently excuse his absence or shall neglect to answer when called the Court upon due proof of the service of the summons may proceed to the trial of the case on the part of the plaintiff only and the judgment thereupon shall be as valid as if both parties had attended. Provided always that the Court in any such case on the same or any subsequent day may on sufficient cause shown to it for that purpose set aside any judgment so given in the absence of the defendant and the execution thereupon and may grant a new trial of the cause upon such terms (if any) as to the payment of costs giving security for or paying into Court debt and costs or any part thereof or upon such other terms as it may think fit.

In case of non-appearance of defendant Magistrate may hear and determine *ex parte*.

51. Except by special leave of the Court no defendant shall be allowed to set off any debt or demand recoverable by him from the plaintiff or to set up by way of defence and to claim and to have the benefit of infancy coverture or any statute of limitations or of a discharge under any Act relating to Bankruptcy or Insolvency unless notice thereof accompanied in the case of set off by such particulars of his claim as would be necessary in case he were suing thereon shall have been given to the clerk of the Court, and a copy thereof served on each plaintiff or left at his place of abode twenty-four

No claim to set-off &c. to be allowed except on notice being first given.

Resident Magistrates.

hours before the day appointed for the hearing of the cause The defendant may require any such notice to be served by the bailiff of the Court on payment of such fees as are demandable for the service of a summons Provided that in cases where a summons has been issued under the proviso to the thirty-third section it shall not be necessary to give or serve any such notice in the first instance but if such case be adjourned the Court may order such notice to be given.

Cases may be put off or adjourned.

52. The Court shall have full power to put off or adjourn the hearing of any case from time to time upon such terms as it shall think proper.

Costs.

53. All the costs of a suit in any Resident Magistrate's Court shall be paid or apportioned between the parties in such manner as the Court shall think fit but in default of any special direction such costs shall abide the event of the suit The amount of costs awarded shall be ascertained and stated in the judgment.

When and to what extent costs of professional assistance may be allowed.

54. Costs of professional assistance may be allowed by the Court in addition to costs actually paid out of pocket as follows—When the amount claimed does not exceed twenty pounds a fee not exceeding one guinea and when the amount claimed is more than twenty pounds such costs shall not exceed three guineas in each case at the discretion of the Court.

Costs in case of nonsuit.

55. In case of nonsuit the Court shall have power to award to the defendant such costs as to it 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.

Money to be paid to clerk of Court to be paid over to parties entitled thereto.

56. Unless the Court shall otherwise order all money for which judgment shall have been obtained shall be paid to the clerk of the Court and such clerk shall give to the party paying the same a receipt in such form as may be prescribed by any general rule made by the Governor in that behalf or as shall in default of such rule be prescribed by the Resident Magistrate of the District or the Chairman of the Petty Sessions District and such clerk shall on demand pay over such money to the person entitled to receive the same or to any person by him authorized in writing to receive the same and shall keep a true and exact account of all moneys received by him of whom and when received and to whom and when paid.

Clerk to keep an exact account.

Bailiff and gaoler to pay moneys to clerk.

57. Every bailiff gaoler or other person levying or receiving money by virtue of any process issuing out of any Resident Magistrate's Court shall forthwith pay over the same to the clerk of the Court.

Restitution of goods detained.

58. When the suit shall have been brought to recover specific goods and the plaintiff shall have claimed a return of such goods or their value and damages for their detention and shall have recovered a judgment in such action it shall be lawful for the Court upon application of the plaintiff to issue a warrant to the bailiff (10B) requiring him to demand and seize the specific goods claimed if they can be found by him and to deliver them to the plaintiff and if the bailiff shall not find and seize the said goods it shall be lawful for the Court if it shall see fit on the application of the plaintiff to order the actual return thereof and if such order be not obeyed by warrant to commit the defendant to some convenient gaol there to be imprisoned for any time not exceeding one calendar month unless he shall in the meantime cause the goods so detained to be returned to the plaintiff and if such application be refused or such order be not obeyed the Court may on application of the plaintiff issue a warrant of execution for the value of the goods without prejudice to the plaintiff's right to obtain execution either before or after or concurrently therewith for his costs of suit and the damages awarded for the detention of the goods.

Resident Magistrates.

59. In every case of a civil nature heard and determined under the authority of this Act when judgment shall have been given or an order made for the payment of any sum of money and the amount thereof shall not be paid forthwith or at the time or times or in the manner thereby directed it shall be lawful for the Resident Magistrate or for any Justice of the Peace and he is hereby required at the request of the party prosecuting such judgment or order and upon receiving a certificate from the clerk of the Court or other person authorized to receive such money that the same or some part thereof remains unpaid to issue a warrant of distress (10) under his hand directed to the bailiff of the Court or to some other fit person to be named in such warrant authorizing and requiring him to levy or cause to be levied such sum of money as shall be ordered or adjudged to be paid or so much thereof as shall then remain unpaid and also the costs of the execution by distress and sale of the goods and chattels of the party against whom such judgment shall have been given or order made.

In civil cases distress warrant may issue.

60. If it shall at any time appear to the satisfaction of the Court by the oath of any person or otherwise that any defendant is unable from sickness or other sufficient cause to pay and discharge the debt or damages recovered against him or any instalment thereof ordered to be paid as aforesaid it shall be lawful for the Court in its discretion to suspend any judgment order or execution given made or issued in such action for such time and on such terms as the Court shall think fit and so from time to time until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

In case of illness of defendant time may be granted.

61. If the Court shall have made any order for payment of any sum of money by instalments execution upon such order shall not issue until after default in payment of some instalment according to such order and execution or successive executions may then be issued for the whole of the said sum of money and costs then remaining unpaid or for such portion thereof as the Court shall think fit.

Execution when money ordered to be paid by instalments.

62. If there shall be cross judgments between the parties execution shall be taken out by that party only who shall have obtained judgment for the larger sum and for so much only as shall remain after deducting the smaller sum and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum and if both sums shall be equal satisfaction shall be entered upon both judgments.

Execution how to issue when there are cross judgments.

63. The Resident Magistrate Justice of the Peace or clerk of the Court shall note upon the plaint and upon the warrant of distress the precise time when application shall be made to issue such warrant and when more than one such warrant shall be issued they shall be executed in the order of the times so noted.

Time of application for distress warrant to be noted and executed in order of date.

64. When a writ or warrant against the goods of a party has issued from the Supreme Court or any District Court and a warrant of distress against the goods of the same party has issued under the provisions of this Act the right to the goods seized shall be determined by the priority of the time of the delivery of the writ to the sheriff to be executed or of the application to the clerk of the District Court for the issue of the warrant to be executed or of the application to the Resident Magistrate or Justice of the Peace or clerk of the Court for such warrant of distress and the sheriff on demand shall by writing signed by him inform the bailiff or other person to whom such warrant of distress shall be directed of the precise time of such delivery of the writ and the bailiff of the District Court on demand shall show his warrant to the bailiff or other person to whom such warrant of

Priority of execution of writs and of warrants from District Courts and Resident Magistrates' Courts.

Resident Magistrates.

distress shall be directed and the bailiff of the Resident Magistrate's Court or other person to whom such warrant of distress shall be directed shall on demand show such warrant to any sheriff's officer or to the bailiff of the District Court and such writing purporting to be so signed and the indorsements on such warrant shall respectively be sufficient justification to any sheriff or bailiff acting thereon.

What property may be seized.

65. Every bailiff or other person executing a warrant of distress issued under the authority of this Act may by virtue thereof seize and take any of the goods and chattels of the person named in such warrant (excepting the wearing apparel and bedding of such person and his family and the tools and implements of his trade to the value of five pounds which shall to that extent be protected from such seizure) and may also seize and take any money or bank notes and any cheques bills of exchange promissory notes bonds specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid and the party upon whose application any such execution shall have issued may give notice to the clerk of any Resident Magistrate's Court in which any moneys shall have been paid into Court in any proceeding therein for or to be paid over to the party against whom such execution shall have issued requiring him not to part with such moneys until the Court into which such moneys shall have been paid shall order him to do so and such clerk upon receiving such notice shall not pay over such moneys to the party for whom the same were paid into Court until such Court shall order him to do so and such party as aforesaid having given such notice as aforesaid may apply to the Court *ex parte* for an order to the clerk to deliver to the bailiff such moneys as moneys belonging to the party against whom such execution shall have issued and if such Court shall think fit it may make such order and the clerk shall deliver such moneys to the bailiff and he shall deal with and dispose of such moneys as if the same had been seized in the possession of such last mentioned party and any claim to or in respect of any such moneys shall be determined and disposed of in the manner hereinafter provided with respect to claims to goods taken in execution under a distress warrant under this Act.

Property seized how to be disposed of.

66. The bailiff shall deliver to the clerk of the Court for the benefit of the party upon whose application such execution shall have issued all cheques bills of exchange promissory notes bonds specialties or other securities for money which shall have been so seized or taken as aforesaid as security or securities for the amount directed to be levied by such execution or so much thereof as shall not have been otherwise levied or raised and such party may sue in the name of the person against whom execution shall have issued or in the name of any person in whose name the person against whom execution shall have issued might have sued for the recovery of the sum or sums secured or made payable thereby when the time of payment thereof shall have arrived.

No sale of goods seized to take place until five days after seizure.

67. No sale of any goods which shall be taken in execution as aforesaid shall be made until after the end of five days next following the day on which such goods shall have been so taken unless such goods shall be of a perishable nature or upon the request in writing of the party whose goods shall have been taken and until such sale the goods shall be deposited by the bailiff in some fit place or they may remain upon tenements occupied by the owner thereof at his request in the custody of a fit person to be put in possession by the bailiff.

Bailiff not required to have license to sell.

68. Any bailiff or other person authorized to execute any such warrant of distress as aforesaid may either employ an auctioneer to

Resident Magistrates.

sell the goods seized thereunder by auction or such bailiff or other person may himself sell such goods by auction without being obliged to take out a license to act as an auctioneer and may deduct out of the amount of such sale all reasonable costs and charges actually incurred in effecting the same.

69. The landlord of any tenement in which any goods shall be taken in execution under this Act or his agent may claim the rent thereof at any time within five clear days from the date of such taking or before the removal of the goods by delivering to the bailiff or other person executing the warrant any writing signed by such landlord or his agent which shall state the amount of the rent claimed to be in arrear and the time for and in respect of which such rent is due and if such claim be made the bailiff or other person making the levy shall in addition thereto distrain for the rent so claimed and the cost of such distress and shall not within five days next after such distress sell any part of the goods taken unless they be of a perishable nature or upon request in writing of the party whose goods shall have been taken and the bailiff shall afterwards sell such of the goods under the execution and distress as shall satisfy first the costs of and incident to the sale next the claim of such landlord not exceeding the rent of eight weeks where the tenement is let by the week the rent of two terms of payment where the tenement is let for any other term less than a year and the rent of one year in any other case and lastly the amount for which the warrant issued.

Landlord to be allowed rent.

70. If any replevin be made of the goods so taken the bailiff shall notwithstanding sell such portion thereof as will satisfy the costs of and incident to the sale under the execution and the amount for which the warrant issued and in any event the overplus of the sale (if any) and the residue of the goods shall be returned to the person whose goods shall have been so taken in execution and the poundage of the bailiff for keeping possession and sale under such distress shall be the same as would have been payable if the distress had been under a warrant of distress out of the Resident Magistrate's Court and no other fees shall be demanded or taken in respect thereof.

In cases of replevin bailiff to sell sufficient to pay costs.

71. When any goods taken in execution under the process of a Resident Magistrate's Court shall be claimed by any person not being the party against whom such execution shall have issued the person so claiming such goods or his agent may deposit with the bailiff or other person to whom such warrant of distress shall have been addressed the amount of the sum mentioned in such warrant and of the costs of the distress up to the time of such payment where the value of the goods shall exceed or be equal to such amount or in the event of the value of the goods so claimed being less than such amount then such sum as shall be equal to the value of such goods such value to be fixed by appraisement in case of dispute or may give such security for such an amount as may be satisfactory to such bailiff or other person who shall thereupon deliver up possession of such goods to the person so claiming the same and shall pay the amount so received by him to the clerk of the Court to abide the decision of the Court upon such claim or such claimant may deposit with such bailiff the sum which such bailiff shall be allowed to charge as costs for keeping possession of such goods until such decision can be obtained and such bailiff shall thereupon keep possession of such goods until such decision shall be obtained and in default of the claimant making any such deposit or giving such security as aforesaid the bailiff shall sell such goods as if no such claim had been made and shall pay into Court the proceeds of such sale to abide the decision of the Court.

In cases of interpleader amount of debt and costs to be paid into Court.

72. If any claim shall be made to or in respect of any goods or

Procedure on claim

Resident Magistrates.

to goods or chattels
taken in execution.

chattels taken in execution under any warrant of distress issued under the provisions of this Act or in respect of the proceeds or value thereof by any landlord for rent or by any person not being the party against whom such process has issued it shall be lawful for the Resident Magistrate or any Justice of the Peace upon application of the person charged with the execution of such process as well before as after action brought against such person to issue summonses for the appearance before the Court as well of the party upon whose application such process shall have issued as of the party making such claim and thereupon any action which shall have been brought in the Supreme Court or in any other Court in respect of such claim shall be stayed and the Court in which such action shall have been brought or any Judge thereof on proof of the service of such summons and that such goods and chattels were so taken in execution may order the party bringing such action to pay the costs of all proceedings had upon such action after the service of such summons upon him and the Resident Magistrate or Justice of the Peace to whom such application shall have been made shall adjudicate upon such claim and make such order between the parties in respect thereof and of the proceedings as to him shall seem fit and such order shall be enforced in like manner as any order made in a suit brought in the Resident Magistrate's Court.

Amount of debt and
costs to be endorsed
on distress warrant.

73. Upon every warrant of distress issued as aforesaid the Resident Magistrate or Justice of the Peace shall cause to be noted the sum of money and costs adjudged with the sums allowed as increased costs for the execution of such warrant and if the party against whom such execution shall be issued shall before an actual sale of the goods and chattels pay or cause to be paid or tendered to the clerk of the Court out of which such warrant has issued or to the bailiff or other person employed to execute such warrant such sum of money and costs as aforesaid or such part thereof as the person entitled thereto shall agree to accept in full for his debt or damages and costs together with the fees herein directed to be paid the execution shall be superseded and the goods and chattels of the said party shall be discharged and set at liberty.

Party may be
committed.

74. If upon return of such warrant it shall appear that no sufficient distress can be had or in case it shall appear to the satisfaction of the Resident Magistrate or Justice of the Peace that the party has not sufficient goods and chattels to satisfy such levy as aforesaid if a warrant were to be issued it shall be lawful for the Resident Magistrate or any Justice of the Peace making or concurring in such order by warrant under his hand to commit such party to some common gaol or house of correction there to remain for any time not exceeding one calendar month for every ten pounds or fractional part of ten pounds so to be paid and such warrant shall be directed to the bailiff of any Resident Magistrate's Court or Petty Sessions Court or to some other person by name and to all police constables and other peace officers who by such warrant shall be empowered to take the body of the person against whom such order of commitment shall be made and the gaoler or keeper of any gaol mentioned on such warrant shall be bound to receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by the course of law Provided that the time of imprisonment shall in no case exceed four calendar months and shall cease at any time upon payment of the sum of money ordered to be paid together with costs Provided also that no person shall be imprisoned on account of any judgment debt of less than ten pounds in amount.

No second imprison-
ment.

75. Where any person shall have been imprisoned under the provisions of this Act under any such warrant of commitment as

Resident Magistrates.

aforesaid he shall not be liable at any time hereafter to be again taken in execution or committed to prison for the debt or sum of money with respect to which he shall have been so imprisoned Provided always that no imprisonment under this Act shall in anywise deprive the plaintiff of any right to take out execution or successive executions against the goods and chattels of the defendant in the same manner as if such imprisonment had not taken place.

76. When any person shall under the provisions hereinbefore contained be committed to prison from any Resident Magistrate's Court or Court of Petty Sessions by any Resident Magistrate or any two Justices of the Peace he shall be committed to prison and be imprisoned in some public gaol in the Province in which such Court is situate and shall be kept in that part of such gaol in which debtors imprisoned in such gaol under civil process from the Supreme Court are usually confined and be subject to any regulations made in respect of such debtors for the time being in force.

Imprisonment under civil process to be in public gaol of Province.

77. Any person imprisoned under this Act who shall have paid or satisfied the debt or demand or the instalments thereof payable and costs remaining due at the time of the order of imprisonment being made together with the costs of obtaining such order and all subsequent costs shall be discharged out of custody upon the certificate of such payment or satisfaction signed by the clerk of the Court by leave of the Court Resident Magistrate or Justices of the Peace by which or whom the order of imprisonment was made.

Debtor to be discharged from custody on payment of debt and costs.

78. Process issued under the authority of the Court or of any Resident Magistrate or Justices of the Peace in their civil jurisdiction may be executed in any part of the Colony and constables and other peace officers within their several jurisdictions shall aid in the execution of any warrant if called upon so to do and any constable or other peace officer unlawfully refusing or neglecting to obey the provisions of this section when called upon to do so shall be liable on conviction thereof before any two Justices of the Peace to a penalty not exceeding ten pounds or to be imprisoned for a period not exceeding one month.

Warrants to run in any part of the Colony.

79. No order judgment warrant or other proceeding concerning any of the matters aforesaid shall be quashed or vacated for want of form.

Judgment not to be void for want of form.

80. The Resident Magistrate may at all times amend all defects and errors in any civil proceeding in his Court whether there is anything in writing to amend by or not and whether the defect or error be that of the party applying to amend or not and all such amendments may be made with or without costs and upon such terms as to the Resident Magistrate may seem fit and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made if duly applied for.

Resident Magistrate may amend defects and errors in civil proceeding.

81. When any summons is required to be served or warrant executed beyond the district of the Court out of which the same is issued the Resident Magistrate shall except under special circumstances cause the same to be transmitted to the clerk of the Resident Magistrate's Court or clerk of Petty Sessions Court of the district within which the same is to be served or executed and such clerk shall endorse thereupon the time when the same shall have been received by him and shall forthwith deliver the same to the bailiff of the Court of his district or if there be no such bailiff then to such peace officer as such clerk may appoint for that purpose and such bailiff and peace officer are respectively hereby authorized and required to serve or execute the same and such bailiff or peace officer if required as last aforesaid to serve a summons shall return to the clerk of the Court from whom he received such summons a copy thereof accompanied by

How process to be served beyond district

Resident Magistrates.

an affidavit setting forth the fact and mode of such service or a note that he has been unable to effect such service as the case may be and if he have been required to execute a warrant he shall certify to the clerk from whom he received such warrant what he has done thereunder and if he have received any money or fees by virtue thereof shall pay over the same to such clerk and out of such fees may be repaid any money actually expended by him or his assistants in like manner as if such warrant had issued out of the Court of which he is bailiff and such clerk shall forthwith transmit the copy of the summons or the certificate so received by him together with any moneys which may have been received by him in manner aforesaid after deducting therefrom the fees allowed for execution to the clerk of the Court from whom he has received the same and the clerk of the Court transmitting any summons or warrant shall pay or account with the clerk of the Court to whom the same is transmitted for all fees allowed to be taken for service or execution.

RECOVERY OF POSSESSION OF TENEMENTS.

Landlord of tenements may recover possession thereof on determination of lease.

82. When the term and interest of the tenant of any house land or other tenement held by him at will or for any term of years where neither the value of the premises nor the rent payable in respect thereof shall have exceeded fifty pounds by the year and upon which no fine or premium shall have been paid shall have expired or shall have been determined either by the landlord or tenant by a legal notice to quit and such tenant or any person holding or claiming by through or under him shall neglect or refuse to deliver up possession accordingly the landlord may enter a plaint at his option either against such tenant or against the person so neglecting or refusing to deliver up possession in the Resident Magistrate's Court of the district in which the premises lie for the recovery of the same and thereupon a summons (12) shall issue to such tenant or such person so refusing and if the defendant shall not at the time named in the summons show good cause to the contrary then on proof of his still neglecting or refusing to deliver up possession of the premises and of the yearly value and rent of the premises and of the holding and of the expiration or other determination of the tenancy with the time and manner thereof and of the title of the plaintiff if such title has accrued since the letting of the premises and of the service of the summons if the defendant shall not appear thereto the Court may make an order (14) that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff either forthwith or on or before such day as the Court shall think fit to name and if such order be not obeyed the Resident Magistrate of the district or any other Justice of the Peace may at the instance of the plaintiff issue a warrant (16) to the bailiff of the Court or to any constable to give possession of such premises to the plaintiff.

Landlord suing for possession may add claim for rent or mesne profits.

83. In any such plaint against a tenant as in the last preceding section is specified the plaintiff may add a claim for rent or mesne profits or both down to the day appointed for the hearing or to any preceding day named in the plaint so as the amount of such claim shall not exceed twenty pounds and any misdescription in the nature of the claim may be amended at the trial.

Landlord having power of re-entry for arrears of rent may sue for possession, without first making entry.

84. When the rent of any tenement where neither the value of the tenement nor the rent payable in respect thereof exceeds fifty pounds by the year shall be in arrear for three months and the landlord shall have a right by law to enter for the non-payment thereof he may without any formal demand or re-entry enter a plaint in the Resident Magistrate's Court of the district in which the premises lie for the recovery thereof and thereupon a summons (13) shall issue to the

Resident Magistrates.

tenant the service whereof shall stand in lieu of a demand or re-entry and if the tenant shall at any time before the day appointed for the hearing of the case pay into Court all the rent in arrear and the costs the said action shall cease but if he shall not make such payment and shall not at the time named in the summons show good cause why the premises should not be recovered then on proof of the yearly value and rent of the premises and of the fact that three months rent was in arrear before the plaint was entered and that no sufficient distress was then to be found on the premises to countervail such arrear and of the landlord's power to re-enter and of rent being still in arrear and of the title of the plaintiff if such title has accrued since the letting of the premises and of the service of the summons if the defendant shall not appear thereto the Court may make an order (15) that possession of the premises mentioned in the plaint may be given by the defendant to the plaintiff on or before such day not being less than four weeks from the day of hearing as the Court shall think fit to name unless within that period all the rent in arrear and the costs be paid into Court and if such order be not obeyed and such rent and costs be not so paid the Resident Magistrate of the district or any Justice of the Peace shall at the instance of the plaintiff whether such order can be proved to have been served or not issue a warrant (16) authorizing and requiring the bailiff of the Court or some constable to give possession of such premises to the plaintiff and the plaintiff shall from the time of the execution of the warrant hold the premises discharged of the tenancy and the defendant and all persons claiming by through or under him shall so long as the order of the Court remains unreversed be barred from all relief in equity or otherwise.

Upon payment of rent and arrears action to cease.

Upon non-payment of arrears possession may be given discharged of tenancy.

85. A summons for the recovery of a tenement may be served like other summonses to appear to plaints in Resident Magistrates' Courts and if the defendant cannot be found and his place of dwelling shall either not be known or admission thereto cannot be obtained for serving any such summons a copy of the summons may be posted on some conspicuous part of the premises sought to be recovered and such posting shall be deemed good service on the defendant.

Summons in action for possession of tenement how to be served.

86. When any such summons for the recovery of a tenement as is hereinbefore specified shall be served on or come to the knowledge of any sub-tenant of the plaintiff's immediate tenant such sub-tenant being an occupier of the whole or of a part of the premises sought to be recovered shall forthwith give notice thereof to his immediate landlord under penalty of forfeiting not exceeding three years rack rent of the premises held by such sub-tenant to such landlord to be recovered by the landlord by action in the Court from which such summons shall be issued and such landlord on the receipt of such notice if not originally a defendant may be added or substituted as a defendant to defend possession of the premises in question.

Sub-tenant to give notice of action to his immediate landlord and the latter may be let in to defend possession.

87. If any tenant holding any lands or tenements under any demise or agreement written or verbal at a rack rent or where the rent reserved shall be full three-fourths of the yearly value of the demised premises who shall be in arrear for one half-year's rent shall desert the demised premises leaving the same uncultivated or unoccupied so as no sufficient distress can be had to countervail the arrears of rent it shall be lawful for the Court of the district in which the premises lie although no right of entry be reserved or given to the landlord in case of non-payment of rent on the information and at the request of the landlord or his attorney solicitor or agent made in open Court (17) and upon proof given to the satisfaction of the Court of the arrears of rent and desertion of the premises by the tenant as aforesaid

When rent is in arrear and land lies deserted and without distress landlord may recover possession.

Resident Magistrates.

to issue a warrant (18) to the bailiff of the Court or some constable to go upon and view the premises and to affix upon the most conspicuous part of the premises notice in writing (19) notifying on what day (at the distance of fourteen days at least) he will return to take a second view thereof and if upon such second view the tenant or some person on his behalf shall not appear and pay the rent in arrear or there shall not be sufficient distress upon the premises then upon the return of the warrant and upon proof being given to the satisfaction of the Court before which the warrant shall be returned that it has been duly executed and that neither the tenant nor any person on his behalf has appeared and paid the rent in arrear and that there is no sufficient distress upon the premises it shall be lawful for the Court to issue a warrant (20) to the bailiff of the Court or some constable requiring him to put the landlord or lessor into possession of the premises and the lease thereof to such tenant as to any demise contained therein only shall upon the execution of such lastly mentioned warrant and upon the registration of such warrant in the Registry of Deeds for the district in which the premises are situate thenceforth become void which warrants the Registrars of Deeds are hereby authorized and required to register subject to the same rules and regulations as for the time being apply to the Registration of Deeds of Lease provided that no such warrant shall be registered until after the expiration of the time herein allowed for giving security on appeals.

When land is occupied by any one without right title or license true owner on proof of title may bring action to recover same.

88. If any person shall without right title or license be in possession of any tenement the annual value of which shall not exceed twenty pounds it shall be lawful for the owner upon proof to the satisfaction of the Court of such ownership and leave obtained from him to enter a plaint in the Resident Magistrate's Court of the district in which the premises lie to recover possession thereof and if he shall have given to the person in occupation notice in writing to quit the land it shall be lawful for him in the same plaint to insert a claim to an amount not exceeding twenty pounds for damages for the occupation of the land subsequently to the service of such notice.

If defendant give proof of title or give security for payment of costs in case action for possession of the land be brought against him Magistrate is to dismiss the case.

89. If upon the hearing of such plaint as last aforesaid the defendant shall appear and dispute the plaintiff's right to possession and shall show to the Court a *prima facie* right or title in himself to the possession of the land in question or if he will become bound in a bond (21) with two sureties to be approved of by the Court in such sum as to the Court shall seem reasonable (regard being had to the nature of the property and the probable costs of an action) to abide the result of any action for possession of such tenement which the plaintiff may commence against him in any Court of competent jurisdiction within three months of the date of such bond and in case the plaintiff shall recover judgment in such action to pay to the plaintiff the costs which the plaintiff shall be therein adjudged to recover and also the cost of the proceedings in the Resident Magistrate's Court and damages for the illegal occupation of the land up to the time of such judgment then the Court shall dismiss the case. Such bond shall be made to and be at the costs and charges of the plaintiff and shall be approved and signed by the Resident Magistrate or a Justice of the Peace.

Resident Magistrate may order delivery of possession of premises and award damages but unless defendant has admitted plaintiff's right to possession plaintiff

90. If at the time appointed for the hearing of any such plaint as last aforesaid the defendant having been duly summoned shall not appear or shall appear but shall neither give any such proof of his own right to possession nor enter into such bond as aforesaid the Court may proceed to hear and determine the case and may order that possession of the premises mentioned in the plaint be given by the

Resident Magistrates.

defendant to the plaintiff either forthwith or on or before such day as the Court shall think fit to name and that the defendant do pay costs and such part of the sum if any claimed for damages as to the Court shall seem reasonable. And if delivery of the premises be not made in pursuance of such order the Court or the Resident Magistrate of the district or any Justice of the Peace may issue his warrant (23) authorizing and requiring the bailiff of the Court or any constable to give possession of such premises to the plaintiff. Provided that if the defendant shall not at the hearing have admitted the plaintiff's right to possession of the land it shall not be lawful for the plaintiff to sue out or obtain any warrant for delivery of possession of the land or to enforce payment of damages or costs unless he shall first have become bound to the defendant in a bond (22) with two sureties to be approved by the Court or the Resident Magistrate of the district and in such sum as to the Court or Resident Magistrate shall seem reasonable to pay to the defendant any damages and costs which the defendant may recover against him in a Court of competent jurisdiction in respect of the obtaining of any such judgment or the grant or execution of any such warrant when the plaintiff had not at the time when such judgment was obtained lawful right to the possession of the premises. Such bond (22) shall be made at the cost of the plaintiff and shall be approved of and signed by the Resident Magistrate of the district or a Justice of the Peace and delivered to the clerk of the Court to be by him handed over upon demand to the defendant.

must before issue of warrant give security to meet any action of damages which may be brought against him.

91. Any warrant under the hand of a Resident Magistrate or Justice of the Peace to a bailiff or constable to give possession of a tenement shall justify him in entering upon the premises named therein with such assistants as he shall deem necessary and in giving possession accordingly but no entry under any such warrant shall be made except between the hours of nine in the morning and four in the afternoon.

Warrant sufficient authority to bailiff for entering premises within certain hours.

92. Every such warrant shall on whatever day it may be issued bear date on the day next after the last day named by Court for delivery of possession of the premises in question and shall continue in force for three months from such date and no longer but no order for delivery of possession need be drawn up and served.

Warrant to be in force for three months.

93. It shall not be lawful to bring any action or prosecution against any Resident Magistrate or Justice of the Peace by whom any such warrant as aforesaid shall have been issued for issuing the same or against any bailiff or constable or other person by whom such warrant may be executed or summons affixed for executing the same or affixing such summons by reason that the person by whom the same shall have been sued out had not lawful right to the possession of the premises.

Protection to Magistrate issuing warrant and bailiff executing same.

94. If any person by whom a warrant for the recovery of possession of any tenement shall be sued out in a Resident Magistrate's Court had not at the time of suing out the same lawful right to the possession of the premises the suing out of such warrant shall be deemed a trespass by him against the tenant or occupier of the premises although no entry shall be made by virtue of the warrant.

Suing out warrant without right deemed a trespass.

95. Where a person by whom a warrant for the recovery of possession of any tenement shall be sued out had at the time of suing out the same lawful right to the possession of the premises neither he nor his agent nor any other person acting in his behalf shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act but the party aggrieved may if he think fit bring an action in any Court of competent jurisdiction and recover for special damage

Owner of property not a trespasser on account of irregularity in execution of warrant but may be sued for special damage.

Resident Magistrates.

Provided always if the special damage be not proved the defendant shall be entitled to a verdict and if proved but assessed by the jury at any sum not exceeding five shillings the plaintiff shall recover no more costs and damages unless the Judge before whom the trial shall have been holden shall certify that in his opinion full costs ought to be allowed.

REMOVAL OF CAUSES INTO SUPREME COURT.

Judgment to be final.

96. Save as hereinafter provided the judgment of the Court shall be final on all questions and no proceeding shall be quashed or set aside or adjudged void or insufficient for want of form nor shall any case in which the debt or damage claimed shall not exceed twenty pounds be removed into the Supreme Court at any stage of the proceedings.

Rule or order may be granted in certain cases at discretion of Supreme Court.

97. Any action commenced in a Resident Magistrate's Court where the debt or damage claimed exceeds twenty pounds may be removed by rule or order into the Supreme Court if the Supreme Court or a Judge thereof shall deem it desirable that the cause shall be tried in the Supreme Court and if the party applying for such writ shall give security to be approved of by the Registrar of the Supreme Court for the amount of the claim and the costs (not exceeding fifty pounds) of the trial and shall further assent to such terms if any as the Supreme Court or Judge shall think fit to impose.

Rule or summons to show cause why a rule or order or writ of prohibition should not issue to be a stay of proceedings.

98. The granting by the Supreme Court or by a Judge thereof of a rule or summons to show cause why a rule or order removing any action should not issue to a Resident Magistrate's Court shall if the Supreme Court or a Judge thereof so direct operate as a stay of proceedings in the cause to which the same shall relate until the determination of such rule or summons or until such Supreme Court or Judge shall otherwise order and the Resident Magistrate's Court shall from time to time adjourn the hearing of such cause to such day as it shall think fit until such determination or until such rule or order be made but if a copy of such rule or summons shall not be served by the party who obtained it on the opposite party and on the clerk of the Resident Magistrate's Court three days before the day fixed for the hearing of the cause the Resident Magistrate's Court may in its discretion order the party who obtained the rule or summons to pay all the costs of the day or so much thereof as he shall think fit unless the Supreme Court or a Judge thereof shall have made some order respecting such costs.

RE-HEARING AND APPEALS.

Re-hearing.

99. It shall be lawful for any Resident Magistrate or the majority of the Justices of the Peace before whom a civil case shall have been heard in his or their discretion to grant a re-hearing of such case upon such terms as to giving security or otherwise as to him or them shall seem fit and in the meantime to stay execution and such re-hearing shall not necessarily take place before the same person or persons by whom the case was originally heard.

Appeals.

100. Whenever the sum claimed exceeds twenty pounds (or by leave of the Court when the sum exceeds five pounds but does not exceed twenty pounds) either party deeming himself aggrieved by the decision of the Court in point of law may appeal to the Supreme Court on giving security within three days from the date of such decision to the satisfaction of the Resident Magistrate or a Justice of the Peace for the execution of the final order such security may be by bond (24) and such appeal shall be by way of special case and shall be subject to the rules and practice of the Supreme

Resident Magistrates.

Court touching special cases stated in the course of proceedings in that Court. And if the parties do not agree in the statement of the case in writing the Resident Magistrate of the district or if the Resident Magistrate were not present at the hearing any Justices of the Peace present 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 appellant do not appear in person or by counsel the case shall be dismissed. The Registrar of the Supreme Court shall transmit to the Court or to the Resident Magistrate or to the Justices of the Peace from which or whom such an appeal shall have been brought a memorandum of the decision of the Supreme Court and such proceedings shall be had thereupon as if such decision had been given by such Court Resident Magistrate or Justices of the Peace. The costs of the appeal shall be in the discretion of the Supreme Court.

101. In every case in which a Resident Magistrate's Court shall have made an order for the delivery of possession of any tenement it shall be lawful for the person against whom any such order shall have been made if he deem himself aggrieved by the decision in point of law to appeal to the Supreme Court and such Court is hereby empowered if it shall see cause so to do to order re-delivery to be made and the provisions herein contained for regulating appeals in other civil cases so far as the same provide for the giving security the manner and time of appeal the stating and settling the special case and hearing the same and the giving and enforcing the decision thereon and the payment of the costs of the appeal shall apply to appeals against orders for delivery of possession of tenements.

Appeal in all cases of action for recovery of possession of tenements.

Supreme Court may order restitution.

102. No appeal shall lie from the decision under this Act of a Resident Magistrate's Court or a Resident Magistrate or two or more Justices of the Peace in civil cases if before such decision is pronounced both parties shall agree in writing signed by themselves or their solicitors or agents that the judgment of such Court Resident Magistrate or Justices of the Peace shall be final which agreement may be in the form (25).

Parties may agree not to appeal.

JURISDICTION AS TO NATIVES.

103. Except within the chief towns of Provinces no person of the native race shall be apprehended under any warrant or be committed to prison except upon a warrant or committal signed by the Resident Magistrate or Chairman of Petty Sessions of the district within which he shall be so apprehended or committed or having thereupon indorsed a certificate by such Resident Magistrate or Chairman of Petty Sessions that he allows the execution thereof within his district. Provided that nothing herein contained shall apply to writs warrants or other process issued out of the Supreme Court or any District Court. Provided that no person of the native race actually apprehended or imprisoned shall have any right of action against any person by reason merely that the warrant or committal was not signed or indorsed in manner hereby required nor shall he be entitled to be released from custody for such cause only unless the Resident Magistrate or Chairman of Petty Sessions of the district shall deem it expedient to direct such release. Provided that in places beyond the limit of any Resident Magistrate's district or district of a Court of Petty Sessions such warrant or committal may be signed or indorsed by any Resident Magistrate being or residing at or near such place.

Natives not to be apprehended or imprisoned except by authority of Resident Magistrate or Chairman of Petty Sessions

104. When any person of the native race shall be charged with larceny or with receiving stolen goods and shall after hearing the

Native charged with larceny and confessing

Resident Magistrates.

may be summarily convicted.

information and evidence against him voluntarily confess the same it shall be lawful for any Resident Magistrate at his discretion to take such confession and to sentence the offender to be imprisoned for any period not exceeding two years and either with or without hard labour Provided that if the Resident Magistrate before whom any native shall be so charged shall be of opinion that such native ought to be tried before the Supreme Court or District Court it shall be lawful for such magistrate to hear such charge and to take the evidence thereon and to proceed in the manner provided by "The Justices of the Peace Act 1866" so far as the same relates to indictable offences.

Native convicted of theft may be discharged upon paying four times the value of property stolen.

105. In case any person of the native race shall be convicted in a summary way before the Resident Magistrate as aforesaid upon any charge of theft or of receiving stolen goods every such person may after such conviction by permission of the Court and at any time before sentence passed pay into the Court four times the value of the goods so stolen or received as aforesaid Provided that if the goods so stolen or received as aforesaid shall have been restored by the person so convicted such person may by permission of the Court and at any time before sentence passed pay into the Court either four times the value of the goods so stolen or received as aforesaid or such less sum as to the Court shall seem fit If such payment shall be so made as aforesaid or if security for such payment shall be given to the satisfaction of the Court no sentence shall be passed but the person so convicted and making such payment or giving such security as aforesaid shall be discharged from custody and shall be in the same condition in all respects as if he had received sentence and undergone his punishment in the ordinary course of law Provided always that for the purposes of this present provision such Court shall have power to delay passing sentence in any such case for any period not exceeding eight days.

Value in certain cases to be awarded to owner of stolen property.

106. Where any such payment as last mentioned shall have been made and it shall appear that restitution of the goods charged to have been stolen or received as aforesaid has not been or cannot be made the Court shall have power upon application then made by the owner of such goods or his representatives to award to such owner or representatives such part of the sum so paid into Court as aforesaid as shall be equal to the sworn value of such goods together with such costs as to the Court shall seem reasonable.

Appointment of assessors.

107. It shall be lawful for the Governor from time to time to appoint aboriginal Natives of the greatest authority and best repute in their respective tribes to be assessors of the Resident Magistrate for the purposes of this Act and of "The Native Circuit Courts Act 1858" and "Native Circuit Courts Act Amendment Act 1862" and such assessors from time to time to remove and every such assessor shall have jurisdiction within such portion of the Colony as shall be by such appointment specified or generally throughout the Colony Provided that every person lawfully holding the office of Native assessor immediately before this Act comes into operation shall continue to hold such office and be deemed to have been appointed under this Act.

Jurisdiction in cases between Natives.

108. Subject to the first proviso in section nineteen the Resident Magistrate's Court of any district shall have jurisdiction to hear and determine summarily all claims and demands whatsoever of a civil nature arising between persons of the Native race except cases in which the validity of any devise bequest or limitation under any will or settlement or the title to land whether held under Native custom or otherwise shall be in dispute.

Mode of hearing

109. In any case of a civil nature in which both parties shall be

Resident Magistrates.

persons of the Native race it shall not be lawful for any Justice of the Peace not being a Chairman of Petty Sessions or Resident Magistrate to sit and act either together with or in the absence of a Resident Magistrate anything to the contrary in this Act contained notwithstanding but every such case shall be heard and determined by the Resident Magistrate or the chairman of Petty Sessions of the district assisted by two such assessors as aforesaid or in the absence of such Resident Magistrate by some other Resident Magistrate with the like assistance Each of the parties to the case shall choose one assessor and if either party shall neglect or refuse to choose an assessor one shall be chosen by the Resident Magistrate or chairman on his behalf Provided that any such case may be heard by the Resident Magistrate alone or by the Resident Magistrate or chairman assisted by one assessor only if the parties shall so agree and the Resident Magistrate or chairman shall think proper Nothing in this Act contained shall be deemed to affect the jurisdiction of the Supreme or District Court in any cases in which both or either of the parties are of the Native race.

Native cases.

110. Every such case shall be determined by the Resident Magistrate or Chairman of Petty Sessions in such manner as he shall find to stand with equity and good conscience with the concurrence of one at least of the two assessors If either of the assessors shall dissent from such judgment no act shall be done or proceeding taken to carry such judgment into execution until such assessor shall have signified his concurrence therewith but if such concurrence be not signified within one month from the date of judgment given it shall be lawful for the Resident Magistrate or Chairman if he shall think fit to direct that the case be reheard before himself and two other assessors to be chosen in manner aforesaid.

Judgment in Native cases.

111. Subject to the first proviso in section nineteen the Resident Magistrate's Court of any district shall have jurisdiction to hear and determine in such manner as it shall find to stand with equity and good conscience any case whatever of a civil nature in which either party but not both plaintiff and defendant shall be of the Native race and in which the debt or damage claimed shall not exceed the sum of one hundred pounds except when the validity of any devise bequest or limitation under any will or settlement or the title to land shall be in dispute Provided that if such case would but for the provisions of this section be out of the jurisdiction of the Court such case shall be heard and determined by the Resident Magistrate of the district together with one or more Justices of the Peace.

Jurisdiction in cases between Native and European.

112. Except within the chief towns of provinces it shall not be lawful to make distress of the goods of any person of the native race under any warrant of distress issued under the authority of this Act unless such warrant shall be signed or indorsed by the Resident Magistrate or Chairman of Petty Sessions of the district in which distress is made or if distress is made at any place not comprised within the limits of any such district by some Resident Magistrate being or residing at or near such place.

Distress warrants against Natives to be signed by Resident Magistrate of district where executed.

113. It shall be lawful for any Resident Magistrate or Chairman of Petty Sessions to delay so long as he shall deem it expedient to do so the enforcing of any judgment obtained in such Resident Magistrate's Court against a person of the Native race.

Resident Magistrate may delay execution against Native.

114. In every case in which the judgment of the Court shall have been carried into execution to the satisfaction of the Resident Magistrate or other person aforesaid it shall be lawful for the Governor to pay to each of the assessors any sum not exceeding five pounds.

Payment of assessors.

115. Within any district of a Court of Petty Sessions the Chairman of Petty Sessions shall in cases in which one or both of the parties shall

Chairman of Petty Sessions to exercise power of Resident

Resident Magistrates.

Magistrate in Native cases.

be of the native race have and exercise the powers conferred upon the Resident Magistrates of districts.

Governor may proclaim sections specially relating to Natives to be inoperative in certain districts and may cancel such proclamation.

116. It shall be lawful for the Governor from time to time by proclamation in the *New Zealand Gazette* to declare that from a day to be in such proclamation fixed sections one hundred and five to one hundred and fifteen both inclusive having special reference to persons of the Native race or such of those sections as shall be in such proclamation specified shall come into operation in such districts of the Colony as shall be in such proclamation specified and until so proclaimed and in places not included in any such district such sections shall not be in force and by like proclamation to alter or re-define such districts or cancel any proclamation so declaring such sections or any of them to have come into force.

PROTECTION OF PERSONS ACTING IN PURSUANCE OF ACT.

Protection of persons acting under this Act against vexatious actions.

117. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within three months after the fact committed and not afterwards and notice in writing of any such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action be brought or if after action brought a sufficient sum of money with costs shall have been paid into Court by or on behalf of the defendant and if any such action or proceeding shall be brought against any person for anything done in pursuance of this Act in obedience to any warrant of a Justice of the Peace or Resident Magistrate issued in any civil proceeding under the authority of this Act the warrant under the hand of such Justice of the Peace being produced shall for the purposes of such action or proceeding be deemed sufficient proof of the authority for everything purporting to have been done in pursuance of this Act previous to the issuing of such warrant and in case the plaintiff in any such action shall have a verdict pass against him be nonsuit or discontinue the action the defendant shall in any of the said cases be allowed full costs as between solicitor and client.

No bailiff or party deemed a trespasser for irregularity or informality merely.

118. No bailiff of a Resident Magistrate's Court or other person duly authorized to execute a warrant under the hand of a Resident Magistrate or Justice of the Peace in the execution of such warrant and no person at whose instance any such warrant shall be executed shall be deemed a trespasser by reason of any irregularity or informality in any proceeding on the validity of which such warrant depends or in the form of such warrant or in the mode of executing it but the party aggrieved may bring an action for any special damage which he may have sustained by reason of any irregularity or informality in the mode of executing any warrant against the party guilty thereof and in such action he shall recover no costs unless the damages awarded shall exceed forty shillings.

MISCELLANEOUS PROVISIONS.

Resident Magistrates of district to have powers of Police Magistrates.

119. And whereas by various Acts and Ordinances now in force within the Colony or certain parts thereof certain acts are required to be done by and certain powers are given to Police Magistrates or Resident Magistrates All such acts and powers may hereafter within any Resident Magistrate's district be done and exercised by the Resident Magistrate thereof.

Resident Magistrate may issue execution upon judgments obtained in abolished

120. It shall be lawful for any Resident Magistrate having jurisdiction within any part of the district comprised within the boundaries of any District Court under "The District Courts Act 1858" which or

Resident Magistrates.

the operation of which may have been abolished or suspended on receiving a copy of any judgment of such District Court 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.

District Courts.

121. Every Court of Petty Sessions established under "The Petty Sessions Act 1865" shall have and exercise the same powers and the same jurisdiction in all cases both civil and criminal as a Resident Magistrate's Court has or as may be exercised by a Resident Magistrate of a district appointed under the authority of this Act saving always the extended jurisdiction in civil cases which the Governor is hereby authorized to confer by proclamation upon Resident Magistrates' Courts of districts.

Courts of Petty Sessions to have powers of Resident Magistrates' Courts and Resident Magistrates except in extended jurisdiction.

122. In parts of the Colony not comprised within any Resident Magistrate's district or district of a Court of Petty Sessions any Resident Magistrate or any two or more Justices of the Peace shall have and exercise the powers hereby conferred upon Resident Magistrates of districts, and Resident Magistrates' Courts except the extended jurisdiction aforesaid.

In outlying districts any Resident Magistrate or two Justices may act except in extended jurisdiction.

123. Where any warrant is authorized to be issued under any of the provisions of this Act by the Court the same shall be under the hand of the Resident Magistrate of the district or the Resident Magistrate acting in his behalf or if no Resident Magistrate be present by any two of the Justices of the Peace present if such warrant be issued by a Court of Petty Session established under "The Petty Sessions Act 1865" such warrant shall be under the hand of the Chairman or any two Justices present.

Warrants how to be signed.

124. If any person shall wilfully insult any Resident Magistrate or Justice of the Peace or assessor acting in either civil or criminal proceedings or any clerk or bailiff of any Resident Magistrate's Court or Court of Petty Sessions 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 Court to take such offender into custody and detain him until the rising of the Court and the Court shall be empowered if it shall think fit by warrant (26) under the hand of the Resident Magistrate or any Justice present to commit every such offender to prison for any time not exceeding fourteen days or to impose upon any such offender a fine not exceeding ten pounds for such offence and in default of payment thereof to commit the offender to prison for any time not exceeding fourteen days unless the fine shall be sooner paid.

Contempt of Court.

125. If any person shall assault any officer or bailiff of any Resident Magistrate's Court or Court of Petty Sessions while in the execution of his duty or rescue or attempt to rescue any goods levied under process of any such Court or if any person arrested on any warrant issued against him upon a judgment in any civil case shall escape or attempt to escape from custody the person so offending shall be liable to a fine not exceeding twenty pounds to be recovered before any two Justices of the Peace in a summary way in the manner prescribed by "The Justices of the Peace Act 1866" with respect to summary convictions and it shall be lawful for such officer or bailiff of the Court or for any peace officer in any such case to take the offender into custody with or without warrant and bring him before any two Justices of the Peace accordingly.

Assaulting bailiff in execution of his duty.

Resident Magistrates.

Penalty on officers neglecting or refusing duty.

126. All constables and peace officers shall within their several jurisdictions aid and assist any Resident Magistrate and Justice of the Peace in the execution of all and any of the duties imposed upon such Magistrate or Justice by this Act and if any such constable or peace officer shall neglect or refuse so to do he shall be liable to a penalty not exceeding five pounds to be recovered in a summary way before any two or more Justices of the Peace.

Governor to fix fees.

127. The fees to be taken in respect of this Act shall be fixed varied and abolished as the Governor in Council shall from time to time direct and appoint Provided that the fees fixed in Schedules E. and F. to this Act shall be the fees to be taken until others are fixed by the Governor in Council and none other.

All fees to be prepaid.

128. It shall be lawful for any Resident Magistrate Justice of the Peace clerk of any Resident Magistrate's Court or bailiff thereof to refuse to do any act for which a fee shall be payable until such fee shall be first paid.

Table of fees to be suspended in Court and clerk's office.

129. A table of the fees authorized to be taken in respect of this Act shall be hung up in some conspicuous position in all Resident Magistrates' Courts and places where Courts of Petty Sessions are usually held and in the offices of the clerks of Resident Magistrates or clerks of Petty Sessions.

Bailiffs answerable for neglect to levy execution.

130. If any bailiff of a Resident Magistrate's Court who shall be employed to levy any execution against goods and chattels shall by neglect or connivance or omission lose the opportunity of levying any such execution then upon complaint of the party aggrieved by reason of such neglect connivance or omission (and the fact alleged being proved upon oath to the satisfaction of the Court) the Court shall order such bailiff to pay such damages as it shall appear to it that the complainant has sustained thereby not exceeding in any case the sum of money for which the said execution issued and the bailiff shall be liable thereto and upon demand made thereof and upon his refusal so to pay and satisfy the same payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Penalties on officers for extortion.

131. If any clerk bailiff or officer or other person employed in or by a Resident Magistrate's Court acting under colour or pretence of the process of the said Court shall be charged with extortion or misconduct or with not duly paying or accounting for any money received or levied by him under the authority of this Act it shall be lawful for the Court to inquire into such matter in a summary way and for that purpose to summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses in any case may be enforced and to make such order thereupon for the payment of any money extorted or for the due payment of any money so received or levied as aforesaid and for the payment of such damages and costs as it shall think just and also if it shall think fit to impose such fine upon the clerk bailiff or other person employed as aforesaid not exceeding ten pounds for each offence as he shall deem adequate and the payment of any money so ordered to be paid may be enforced by such means as are herein provided for enforcing a judgment recovered in the said Court.

Justices to pay over fees and fines to clerk of district where they reside.

132. Every Justice of the Peace or clerk to a Justice of the Peace who shall receive any fees fines or other moneys by virtue of his office shall once at least in every month deliver a true and exact account thereof and pay over the same to the clerk of the Resident Magistrate's Court or clerk of the Court of Petty Sessions of the district within which such Justice shall have acted and such fees shall have been received and such clerk shall receive pay over and account for such

Resident Magistrates.

fees fines and moneys in like manner as for other moneys received by him by virtue of his office as such clerk.

133. All fees fines poundage and other moneys shall be accounted for at such periods and in such manner as the Colonial Treasurer for the time being shall direct and the balance of such fees fines poundage and other moneys after deducting the duly authorized expenditure shall be paid over to the Colonial Treasurer at such time as he shall direct and it shall be lawful for the Colonial Treasurer to make amend and abolish regulations prescribing the manner in which the clerks of Resident Magistrates' Courts shall keep their accounts and pay over balances and in what bank or other place of deposit the fees fines poundage and other moneys received by such clerks shall be kept until paid over to the Colonial Treasurer and the manner in which such moneys shall be paid in and drawn out of such bank or place of deposit.

Fees and fines to be paid to Colonial Treasurer and accounts kept as he shall direct.

134. The clerk of every Resident Magistrate's Court and the bailiff thereof shall give security to Her Majesty for properly accounting for all fees fines and sums of money received by them respectively and such security shall be in such form and to such amounts as the Colonial Treasurer shall in each case direct.

Clerk and bailiff to give security.

135. The several forms in Schedule C. to this Act contained or forms to the like effect shall be deemed good and valid and sufficient in law and any forms and proceedings hereunder not included in the Schedule C. may be framed in and by the rules of practice to be made by virtue of this Act.

Forms in Schedule C. to be deemed valid.

136. In all cases not herein specially provided for the Governor may from time to time frame and establish general rules and orders regulating the practice and forms of all proceedings in Courts under this Act and may from time to time revoke or alter the same and such rules and orders and all alterations thereof shall be published in the *New Zealand Gazette* and when so published shall have the force of law.

Governor may make rules as to proceedings in cases not provided for in Act.

137. It is hereby declared that "The Justices Protection Act 1866" so far as not repugnant to this Act and as the nature of the case will allow shall extend to Resident Magistrates Justices of the Peace and Native Assessors acting in their civil jurisdiction.

"Justices Protection Act 1866" declared to extend to Justices and Native Assessors in their civil jurisdiction.

138. Receipts for money given to or by any officer of the Court in pursuance of any provision in this Act contained shall not be liable to the stamp duty payable in respect of receipts or discharges for or on payment of money nor shall any agreement or other instrument made entered into executed or issued under any of the provisions of this Act be liable to stamp duty imposed by "The Stamp Act 1866."

Receipts not liable to Stamp Duty.

139. Every solicitor who shall have acted for any plaintiff or defendant in any action in the Resident Magistrate's Court shall within seven days after the trial of the said action deliver to the person for whom he shall have so acted a written bill of costs showing in detail the items of his charges as such solicitor whether the same shall have been paid or not.

Solicitor shall deliver bill of costs within seven days.

140. No action shall be brought by any solicitor for the recovery of any costs against any person for whom he may have acted as a solicitor in any action in the Resident Magistrate's Court unless he shall have delivered to the person from whom he claims the same a bill of costs as aforesaid.

No action to be brought for recovery of the same.

141. It shall be lawful for the Resident Magistrate on the application of any party to any action tried and determined by him to fix and determine the amount of costs to be paid or which ought to have been paid by such party to the solicitor whom he may have employed in the said action such sum to be fixed and ascertained as costs between

Resident Magistrate may fix amount of costs.

Resident Magistrates.

attorney and client and the amount so to be fixed and ascertained shall alone be payable to such solicitor.

Costs taxed after notice.

142. Such taxation shall not take place until the expiration of three days after notice in writing of such intended taxation shall have been given to the solicitor whose bill of costs is intended to be taxed and the giving of such notice shall be proved to the satisfaction of such Resident Magistrate before he proceeds with such taxation.

Original bill of costs to be taxed.

143. For the purposes of such taxation the bill of costs delivered by such solicitor as aforesaid shall be the bill of costs to be taxed.

Commencement of Act.

144. This Act shall come into operation on the first day of January one thousand eight hundred and sixty-eight except so much of the fourth fifth seventh eighth eleventh and thirteenth sections of this Act as empowers the Governor to constitute Resident Magistrates' Districts and to appoint Resident Magistrates and clerks and bailiffs of the Resident Magistrates' Courts and to appoint times and places for the sitting thereof which shall come into operation on the passing hereof.

SCHEDULE A.

CONTAINING DESCRIPTION OF THE ORDINANCES AND ACTS REPEALED IN WHOLE OR IN PART BY THIS ACT.

Session and Number.	By what Legislature passed.	Title.	Extent of Repeal.
Session 3, No. 8	Governor and Legislative Council	" An Ordinance to establish Courts of Request for the more easy and speedy recovery of small debts "	The whole.
Session 7, No. 16	Lieutenant Governor and Legislative Council	" An Ordinance to provide for the establishment of Resident Magistrates' Courts and to make special provision for the administration of Justice in certain cases "	The whole.
Session 1, No. 6	Lieutenant Governor and Legislative Council of New Munster	" An Ordinance to provide a Cheap and Expeditious Mode of Proceedure against Persons occupying Land or Premises within the Province of New Munster without right title or license "	The whole.
1856, No. 20	General Assembly	" Resident Magistrates' Courts Ordinance Amendment Act 1856 "	The whole.
1858, No. 35	Ditto	" The Resident Magistrates' Court Act 1858 "	The whole.
1858, No. 42	Ditto	" The Native Circuit Courts Act 1858 "	Section 31.
1861, No. 5	Ditto	" The Resident Magistrates' Ordinance Amendment Act 1861 "	The whole.
1862, No. 36	Ditto	" The Resident Magistrates' Jurisdiction Extension Act 1862 "	The whole.
1865, No. 73	Ditto	" The Resident Magistrates' Criminal Jurisdiction Extension and Amendment Act 1865 "	The whole.

Resident Magistrates.

SCHEDULE B.

IMPERIAL ACTS OR PARTS OF IMPERIAL ACTS DECLARED NO LONGER OPERATIVE WITHIN THE COLONY OF NEW ZEALAND.

References to Act.	Title of Act.	How much declared inoperative.
11 Geo. II., c. 19	An Act for the more effectual securing the payment of Rents and preventing Frauds by Tenants	Sections 16 and 17.
57 Geo. III., c. 52	An Act to alter an Act passed in the eleventh year of the Reign of King George the Second for the more effectual securing the payment of Rents and preventing Frauds by Tenants	The whole.
1 and 2 Vic. c. 74	An Act to facilitate the recovery of possession of Tenements after due determination of the Tenancy	The whole.

SCHEDULE C.

1.

'AGREEMENT TO GIVE JURISDICTION TO THE RESIDENT MAGISTRATE'S COURT UNDER SECTION 20 OF THIS ACT.

We A. B. of _____ and C. D. of _____ do hereby agree that the Resident Magistrate's Court holden at _____ shall have power to try an action to be brought by A. B. against C. D. for _____ under the provisions of the section twenty of "The Resident Magistrates Act 1867."

Given under our hands this _____ day of _____ 18

A. B.
C. D.

2.

PLAINT.

In the Resident Magistrate's Court of the District of _____ holden at _____ in the Province of _____

BE it remembered that A. B. of [labourer] cometh on the _____ day of _____ 186_____ and seeketh to recover from C. D. of [merchant] the sum of _____ upon a claim the particulars of which are hereunto annexed.

R. T. Clerk of the Court or
L. M. Justice of the Peace.

3.

SUMMONS TO DEFENDANT.

Resident Magistrate's
District of _____
Province of _____
New Zealand to wit.)

To C. D. of [merchant.]

You are hereby summoned to attend at the Resident Magistrate's Court to be holden at _____ on the _____ day of _____ at the hour of _____ o'clock in the _____ noon to answer the demand of A. B. of [labourer] for the sum of _____ pounds _____ shillings and _____ pence particulars whereof are hereunto annexed Herein fail not or the case will be heard and determined in your absence.

Claim - £ s. d.
Costs -
Mileage -

Given under my hand at _____ this
day of _____ 186_____

Total - _____

Note.—No plea of set-off infancy coverture statute of limitations or discharge under any Act relating to bankruptcy or insolvency will be allowed unless notice thereof in writing shall have been left with the clerk of the Court and a copy served upon the plaintiff or left at his place of abode _____ day at least before the day appointed for hearing the cause and if a set-off be claimed a full statement of the particulars of such claim must be annexed to such notice and to the copy thereof.

Resident Magistrates.

3.

Takiwa

Kai Whakawa o
Porowini o
Niu Tireni ara

Kia C. D.

[*Kai hoko taonga.*]

HE Hamene atu tenei kia koe kia haere mai koe ki te Kooti a te Kai Whakawa ka noho ki a te te o nga ra o a te o nga haora i te ki te whakahoki kupu mo te tono a A. B. o [he kai whiu kau] mo nga moni Pauna hereni pene kua oti nei te tapiri ki tenei nga ritenga o aua moni.

Kei turi koe kei rangona noatia tenei mea a whakaoti rawa ia koe e ngaro ana.

	£	s.	d.	He mea tuku atu i raro i toku ringa
Nga moni	-			i i tenei o nga
Utū ki te Kooti	-			ra a 186
Utū Maero	-			

Huihui katoa £

Kahore he ritenga whakakore he ritenga ranei kia kaua e utu no te mea kahore ano i tae noa nga tau ki o te Kaumatuatanga tauarai ranei i runga i nga ritenga o nga ture e tau nei nga tikanga ki te Marena ritenga ranei kia kaua e utu no te mea kua poka atu i te whitu nga tau o taua mea e haere ana ritenga ranei kia kaua e utu i runga i te tiaki o tetahi Ture e tau ana ona tikanga ki runga ki te tangata kua rawakoretia e whakaroaroa ki te mea ekore e waiho ki te Karaka o te Kooti tetahi whakaatu he mea tuhituhi tuku tauira hoki tetahi ki te Kai-tohe he mea waiho ranei ki tona whare kia tino ra ki mua mai o te wa i whakaritea mo te whakawa. A mehemea hoki he ritenga whakakore no te mea he taonga ta tetahi i tetahi penei me tuhituhi marire nga ritenga katoa aha aha o taua mea me whakapiri marire ki taua whakaatu ki te tauira hoki.

4.

SUMMONS TO A WITNESS.

Resident Magistrate's
District of
New Zealand to wit.

Between A. B. plaintiff and C. D. defendant.

To L. M. of [merchant]

You are hereby commanded to attend at the Resident Magistrate's Court at on the day of at the hour of o'clock in the to give evidence on behalf of and then and there to have and produce [state any particular documents required] and all other books papers writings and other documents relating to the said action which may be in your custody possession or power. Herein fail not at your peril.

Given under my hand at this day of
J. S. Resident Magistrate or
Justice of the Peace.

4.

HAMENE KI TE KAI WHAKI KOBERO.

Takiwa

Kai Whakawa o
Porowini
Niu Tireni ara
Kia T. M. o

I te mea a A.B. kai tono raua ko C. D. kai whakaoraora.

[*Kai hoko taonga.*]

HE kupu atu tenei kia koe kia haere mai koe ki te Kooti a te Kai Whakawa a te te o nga ra o a te o nga haora i te ki te whakaatu korero mai mo te taha kia a hei reira koe whakakite mai ai i me era atu pukapuka tuhituhinga aha ranei e whai tikanga ana ano mo taua whakawa nei kei a koe e tiaki ana e puritia ana ranei e koe.

Kei turi koe i runga i tenei kupu kei he koe.

He mea tuku atu i raro i toku ringa	i	i tenei	o nga
ra o	186		

5.

AFFIDAVIT OF SERVICE OF SUMMONS TO BE INDORSED ON A COPY OF SUMMONS.

I W. T. bailiff of do swear that I duly served the within-named C. D. with a summons a true copy of which is within written together with particulars thereunto annexed by delivering the same to him personally [or by leaving the same for the said C. D. at the said C. D.'s usual place of abode] at on the day of 186 W. T.

Sworn at this day of 186 before

J. S. Resident Magistrate or
Justice of the Peace for the Colony of New Zealand.
(Signed) W. S.

Resident Magistrates.

5.

KUPU WHAKAOATI MO TE TANGATA NANA I HOATU TE HAMENE KI TE TANGATA ME TUHI TENEI KI WAHO O TE HAMENE.

Ko ahau ko karere o e oati pono ana i hoatu e ahau he Hamene kia B. D. e mau nei tana ingoa ki roto nei ko te ahua tonu o taua Hamene koia tonu tenei e mau ki tua nei me nga ritenga katoa hoki o te moni he mea tapiri ki te Hamene he mea tuku tinana e ahau ki tona ringa [he mea waiho e au mona mo C. D. i te whare o C. D.] i i te o nga ra o 186

He mea whakaoati ki i tenei te o nga ra o W. T.
186 ki te aroaro o J. S. Kai whakawa Tuturu.

6.

ORDER FOR CHANGING THE VENUE UNDER SECTION 41.

(To be indorsed on *Plaint.*)

It is ordered that the venue in the within cause be changed and that the cause be sent for hearing to the Resident Magistrate's Court of holden at

Dated this day of

J. S. Resident Magistrate.

7.

CONFESSION OF CLAIM OR PART OF CLAIM UNDER SECTION 42.

In the Resident Magistrate's Court of holden at

Between A. B. plaintiff and C. D. defendant.

I the defendant do hereby confess that the sum of £ the amount claimed [or the sum of £ being part of the amount claimed] by the plaintiff in this suit is due to him from me and I will pay the same by instalments of

Dated this day of 186

Signed in the presence of M. N.

C. D. defendant.

(Resident Magistrate or clerk of the Court or a solicitor of the Supreme Court.)

7.

WHAKAAE ATU A TE TANGATA KI TE TONO A TETAHI KI TETAHI WAHI RANEI O TANA TONO I RUNGA I NGA RITENGA KUA TOHUTOHUNGIA I TE 42 O NGA BARANGI O TE TURE.

I te Kooti a te Kai-whakawa o i noho ki

I te mea a A. B. kai tohe raua ko C. D. kai whakaoraora.

Ko ahau ko te kai whakaoraora e whakaae atu nei he tika kia utua atu e ahau nga moni £ nga moni e tohea nei [Nga moni £ he wahi no nga moni e tohea nei] e te kai tohe nana tenei whakawa a maku e utu atu kia ia ko te ritenga o te utu e

He mea tuhi i tenei o nga ra o 186
I te aroaro o M. N. C. D.

(Kai Whakawa,)

7A.

AFFIDAVIT OF SIGNATURE TO ADMISSION SECTION 42 OF ACT.

No. of *Plaint*

In the Court of holden at between A.B. plaintiff and C.D. defendant.

I of make oath and say that I was present on the day of one thousand eight hundred and and did see the above-named defendant sign the statement hereunto annexed marked with the letter A. and that the name set to the said statement is in the handwriting of the defendant and that the name set to the said statement as the witness attesting the same is in my handwriting.

Sworn at in the county of
this day of one thousand eight }
hundred and before me }

7A.

KUPU WHAKAOATI A TE TANGATA I KITE I TETAHI E TUHI ANA I TONA INGOA HEI TOHU MO TE WHAKAOTINGA O TETAHI MEA 42 O NGA BARANGI O TE TURE.

No. of *Plaint*

I te Kooti o i noho ki I te mea i a A. B. Kai-tohe raua ko C. D.
Kai-whakaoraora.

Ko ahau ko o e whakaoati ana e ki ana i reira ahau i te o nga ra o a i kite ahau i te Kai-whakaoraora kei runga ake nei tona ingoa kei te pukapuka e tapiri nei ki tenei kua oti nei te tuhi ki te A. ko tana ingoa e pirī ana

Resident Magistrates.

ki taua pukapuka na taua kai whakaoraora tonu i tuhituhi ko tana tuhituhi tonu tena a naku hoki i tuhi toku ingoa ki taua pukapuka hei kai-titiro ko taku tuhituhi tonu hoki tena

He mea whakaoti ki i te takiwa o }
i tenei o nga ra o i te tau kotahi }
mano e waru rau e ki te aroaro o }

8.

AGREEMENT UNDER SECTION 43 OF ACT.

In the Resident Magistrate's Court of holden at
Between A. B. plaintiff and C. D. defendant.

WE the plaintiff and defendant do hereby agree that the amount of the debt or demand due from the defendant to the plaintiff is £ and that the sum of £ for the plaintiff's costs and £ the Court fees shall be paid to the clerk of the Court at his office in manner following viz.—

Dated this day of 186

A. B.
C. D.

Signed by the abovementioned A. B. and C. D. in the presence of M. N.
(Resident Magistrate or clerk of the Court or a solicitor of the Supreme Court.)

8.

WHAKAAETANGA I RUNGA I NGĀ RITENGA O TE HARANGI 43 O TE TURE.

I te Kooti Whakawa o i noho ki
I te mea a A. B. kai tohe raua ko C. D. kai whakaoraora.

E whakaae ana maua tahi te kai tohe me te kai whakaoraora ko nga moni e tika ana kia utua e te kai whakaoraora ki te kai tohe ko ia tenei £ ko te moni hoki a te kai tohe i pau i te mahinga o tenei mea me nga utu ki te Kooti £ me utu i runga i enei ritenga ka tuhia ki raro nei.

He mea tuhi i tenei o nga ra o 186

A. B.
C. D.

He mea tuhi e nga tangata nei e A. B. raua ko C. D. i te aroaro o M. N.

9.

NOTICE OF PAYMENT INTO COURT.

In the Resident Magistrate's Court of holden at
Between A. B. plaintiff and C. D. defendant.

TAKE notice that the defendant has paid into Court the sum of in full satisfaction of your demand in this suit together with your costs herein.

To the plaintiff

C. D. defendant.

9.

WHAKAATU MO TE UTUNGA O TE MONI KI TE KOOTI.

I te Kooti Whakawa o i noho ki
I te mea a A. B. kai tohe raua ko C. D. kai whakaoraora.

KIA mahara koe kua utua ki te Kooti e te kai whakaoraora nga moni £ hei tino whakaotinga mo tau e tohe nei apiti rawa ki au moni ki te Kooti mo taua mea nei.

Ki te kai-tohe

C. D. kai whakaoraora.

10.

DISTRESS WARRANT.

In the Resident Magistrate's Court of
Between A. B. plaintiff and C. D. defendant
To R. T. bailiff of the said Court.

WHEREAS C. D. of in the Province of was on the day of 186 duly adjudged by me Esquire Resident Magistrate sitting at to pay the sum of pounds shillings and pence claimed by one A. B. of for [debt or damages] together with the sum of for costs and expenses allowed by me the said Resident Magistrate making together the sum of to the clerk of this Court on the day of [or by instalments of for every days] And whereas default has been made in payment according to the said order This is therefore to command you forthwith to levy the sum of £ and the further expenses incurred herein by distress and sale of the goods and chattels of and belonging to the said C. D. except the wearing apparel and bedding of him or his family and the tools and implements of his trade (if any) to the value of five pounds

Resident Magistrates.

and also to seize and take any money or bank notes and any cheques bills of exchange promissory notes bonds specialties or securities for money of the said C. D. or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same And you are hereby commanded to pay what you shall have so levied forthwith to the clerk of this Court and to certify to me the said Resident Magistrate on or before the day of next ensuing what you shall have done by virtue of this warrant.

Given under my hand at this day of 186
J. S. Resident Magistrate.

	£	s.	d.
Amount adjudged to be paid -			
Warrant - - - -			
Executing same - - -			

The bailiff is entitled to demand and levy one shilling per mile reckoned one way only for every mile beyond two from the Court House to the place where seizure is made and poundage at the rate of one shilling in the pound upon the value of the goods seized up to the above amount.

Notice.—If the amount to be levied be paid to the bailiff within one hour after entry he is not to receive any further sum than the amount directed to be levied as stated above with mileage and poundage on the levy. The goods and chattels are not to be sold until after the end of five days next following the day on which they were taken unless they be of a perishable nature or at the request of the defendant. The cost of keeping possession of goods seized is not to exceed eight shillings per day.

Application was made to the Resident Magistrate for this warrant at minute past the hour of in the noon of the day of 186

10.

WARATI TAU TAIMAHA.

I te Kooti Whakawa o

I te mea a A. B. raua ko C. D.

Ki a R.T. karere o taua Kooti nei.

NOTEMEA i kiia e ahau e Kai Whakawa Tuturu i runga i te mana o taku mahi whakawa i te Kooti i noho ki i te o nga ra o me utu e C. D. o nga moni £ pauna hereni pene he moni i kiia e A. B. o nana mo te me tetahi atu moni hoki utu ki te Kooti aha naku na te Kai Whakawa i ki kia utua ki te Karaka o te Kooti a te o nga ra o me utu ranei e ia nga moni i roto i te A no te mea kahore i rite i a ia taku i whakarite nei ara te utu i taua ritenga nei i roto i nga taonga o taua C. D. me hoko. He kupu atu tenei naku ki a koe kia tangohia mai e koe he moni ara me tetahi atu moni hoki hei utu i nga ritenga katoa o tenei Warati Otia ko nga kakahu anake me nga kakahu moenga me ana mea mahi e waiho ki a ia [mehemea e whai mea pera ana] ki a tae ki te rima pauna o anei katoa e whakatoea ki a ia me tango hoki koe i nga moni ahakoa pukapuka moni pehea ranei i nga pukapuka katoa e whai ritenga ana kia puta ake he moni i roto i te pera ki taua C. D. ko etahi anake ranei o ana mea te tango te hoko kia rite ia taua kawenga nei me te whakahaeretanga i nga ritenga o tenei Warati Na he kupu atu hoki tenei ki a koe mau e hoatu nga moni e puta mai ki a koe i runga i tenei Warati ki te Karaka o tenei Kooti mau hoki e whakaatu mai ki au ki te Kai Whakawa a te o nga ra o hei mua mai ranei i taua ra nga mea katoa kua oti i a koe i runga i te mana o taua Warati nei.

H mea tuku atu tenei i raro i toku ringa i tenei o nga ra o 186
J. S. Kai Whakawa Tuturu.

Ko nga moni i kiia i runga i te Whakawa kia utua.

£ s. d.

Utua mo tenei Warati

Whakaputanga i nga

ritenga o tenei -

He tika hoki kia tonoa kia tangohia e te Karere he moni kia kotahi hereni mo te maero o tana haeretanga atu anake me timata te tatau te mamao a te taenga ki te rua maero tana haere te tawhangawhanga atu i te Kooti a tae noa ki te wahi kei reira te tangohanga o nga taonga mana hoki e tono e tango ranei he moni kia kotahi hereni i roto i te pauna kotahi i runga i te utu o nga taonga i tangohia a tae ra ano ki te ritenga o te moni i runga ake nei.

Whakaaturanga.—Mehemea ka utua atu ki te Karere te moni nei i te mea kahore ano i tae noa ki te kotahi haora tana nohoanga ki roto ki te whare kahore he moni ke atu e hoatu ki te Karere heoi ano ko tera moni ra anake me te moni mo te maero o tana haeretanga me te kotahi hereni i roto i te pauna kotahi kua nga taonga o te tangata e hokona kia kapi ra ano nga ra e rima ki muri atu o te ra o te tangohanga otira mehemea he taonga mate noa

Resident Magistrates.

e ahei ano te hoko me ka tonoa e te tangata nana nga taonga ko te utu mo te tiaki taonga kua oti te tango kua e neke ake i nga hereni e waru mo te ra.

I puta mai te tono ki te Kai Whakawa Tuturu mo tenei Warati kia whakaputaina i te o nga miniti ki muri iho o te i te te o nga ra o 186 .

10A.

RETURN TO DISTRESS WARRANT TO BE INDORSED THEREON WHEN NO EFFECTS.

Resident Magistrate's }
District of }
To wit. }

I of do hereby certify unto Esquire Resident Magistrate sitting at that by virtue of this warrant I have made diligent search for the goods and chattels of the within-named and that I can find no sufficient goods and chattels of the said whereon to levy the sums within mentioned.

Witness my hand this day of 186

Signature.

10B.

WARRANT TO BAILLIFF TO SEIZE SPECIFIC GOODS.

In the Resident Magistrate's Court of
Between A. B. plaintiff and C. D. defendant
To R. T. bailiff of the said Court.

WHEREAS C. D. of in the Province of was on the day of 186 duly adjudged by me J. S. Esquire Resident Magistrate sitting at to return to A. B. of [here enumerate the chattels ordered to be returned] wrongfully detained by the said C. D. And whereas the said chattels have not been returned according to the said order This is therefore to command you to demand of the said C. D. and seize the said chattels if they can be found by you and to deliver them to the said A. B. and to certify to me the said Resident Magistrate on or before the day of next ensuing what you shall have done by virtue of this warrant.

Given under my hand at this day of 186

J. S. Resident Magistrate.

10B.

WARATI KI TE KARERE KIA TANGOHIA E IA ETAHI TAONGA HE MEA ATA' TOHUTOHU.

I te Kooti o te Kai Whakawa Tuturu o
I te mea i a A.B. te kai tohe raua ko C. D. to kai whakaoraora
Kia R. T. karere o taua Kooti nei.

NOTEMEA i kiia e ahau e Kai Whakawa Tuturu i runga i te mana o taku mahi whakawa i te Kooti i noho ki i te Porowini o me whakahoki marire e C. D. etahi taonga kia A.B. ara e puritia-hetia ana e taua C. D. nei A no te mea kahore ano aua rawa i whakahokia noatia i runga i te ritenga o taua ki aku Na he kupu atu tenei ki a koe kia tonoa atu e koe aua mea i a C. D. kia tangohia mai e koe aua mea me kitea ana e koe ka hoatu ai ki taua A.B. a kia whakaatu pono mai koe ki au ki te Kai Whakawa Tuturu a te o nga ra o a mua mai ranei i nga mea katoa kua oti i a koe i runga i te mana o tenei Warati.

He mea tuku atu tenei i raro i toku ringa i i tenei o nga ra o

186 .

J. S. Kai Whakawa Tuturu.

11.

WARRANT OF COMMITMENT FOR DEBT.

Colony of } To and to all constables and other police officers in the
New Zealand } Colony of New Zealand and to the gaoler of the common
to wit } gaol at in the Province of

WHEREAS on the day of in the year of our Lord one thousand eight hundred and sixty I the undersigned sitting at in the said Colony issued a warrant to the bailiff of the Resident Magistrate's Court at commanding him to levy by distress and sale of the goods and chattels of of the sum of pounds shillings and pence being the amount due to one of and sundry costs of court and expenses incurred in the proceedings taken for the recovery of that sum in the Resident Magistrate's Court at And whereas it appears to me as well as by the return of the said bailiff to the said warrant of distress as otherwise that he hath made diligent search for the goods and chattels of the said but that no sufficient distress can be found whereon to levy the same These are therefore to command you the said and all constables to take the said and him safely convey to the said common gaol

Resident Magistrates.

at aforesaid and there him deliver to the said gaoler thereof together with this precept And I do command you the said gaoler to receive the said into the said common gaol there to imprison him for the space of calendar months unless the sum of pounds shillings and pence still remaining due shall be sooner paid and for your so doing this shall be your sufficient warrant.

Given under my hand and seal at in the Province aforesaid the day of in the year of our Lord one thousand eight hundred and sixty

J. P.
Resident Magistrate.

	£	s.	d.
Debt - - - - -			
Costs - - - - -			
Warrant of Distress - - - - -			
Mileage - - - - -			
Warrant of Commitment - - - - -			

	£		
Poundage on Warrant of Commitment - - - - -			

	£		

11.

WARATI-TUKU KI TE WHARE-HEREHERE MO TE NAMA.

Koroni o } Ki a ki era atu katoa hoki o nga Katipa me nga Apiha o te marie
 Niu Tireni } i roto i te Koroni o Niu Tireni a ki te Kai-tiaki hoki o te Whare-
 ara } herehere i i roto i te Porowini o
 NOTEMEA i te o nga ra o i te tau o to tatou Ariki kotahi mano e waru
 rau e ono tekau ma Naku e piri nei toku ingoa ki raro iho nei e noho a
 whakawa ana ki i roto i taua Koroni nei i tuku he Warati ki te Karere o
 te Kooti o te Kai Whakawa Tuturu i he whakahau i a ia kia tangohia e ia
 i runga i te tikanga taimaha i te hoko hoki i roto i nga taonga aha ranei a
 o nga moni pauna hereni pene ko te moni hoki tena e
 tika ana kia utua e ia kia o he mea apiti ki nga utu ki te Kooti me nga
 moni i pau i runga i nga ritenga i whakahaerea ki te Kooti o te Kai Whakawa Tuturu
 i kia puta ai taua moni nei A no te mea ki toku titiro i runga hoki i te ahua o
 nga kupu whakahoki mai a taua Karere nei mo te Warati Tau-taimaha me era atu hoki
 kua nui tana rapu mo nga taonga me era atu mea hoki a taua nei otira kahore i
 kitea he taonga e rite tona nui kia ahei te whakataua nga ritenga o taua mea ki runga
 He whakahau atu rapea tenei kia koe ki a ki era atu Katipa hoki kia hopukia
 taua nei kia arahina paitia ia ki taua whare-herehere nei i kua oti nei
 te whakahua hei reira ka tuku i a ia me te pukapuka nei ki te Kai-tiaki o te whare-
 herehere Na he kupu atu tenei naku ki a koe e taua Kai-tiaki o te whare-herehere kia
 tangohia atu e koe a kua oti nei tona ingoa te whakahua ka waiho ai i a ia kia
 noho ki te whare-herehere mo nga tino marama e ki te mea kahore nga moni
 pauna hereni pene kahore nei i utua noatia e ia e ea a mua
 mai o taua ra a mo to penatanga ko ia tenei ko te Warati tohutohu ki a koe.
 He mea tuku atu i raro i toku ringa he mea whakapiri ki taku hiri i
 i roto i te Porowini kua oti nei tona ingoa te whakahua i te o nga
 ra o i te tau o to tatou Ariki kotahi mano e waru rau e ono
 tekau ma

	£	s.	d.
Nama - - - - -			
Utu ki te Kooti - - - - -			
Maerotanga Warati Tau taimaha			
Warati tuku ki te whare-herehere			

	£		
Utu i runga i nga pauna moni kua oti te tohutohu ki roto i te Warati tuku ki te whare- herehere - - - - -			

	£		

12.

SUMMONS TO A TENANT OR OTHER PERSON HOLDING OVER.

In the Resident Magistrate's Court of holden at
 Between A. B. plaintiff and C. D. defendant.

You are hereby summoned to appear at a Resident Magistrate's Court to be holden at

Resident Magistrates.

To the defendant

Take notice that if you do not give such possession a warrant may issue requiring the bailiff of the Court to give possession of the said to the plaintiff and to levy the sum above mentioned together with further costs.

15.

ORDER UNDER SECTION 84 FOR RECOVERY OF POSSESSION OF TENEMENT IF RENT IN ARREAR BE NOT PAID.

In the Resident Magistrate's Court of holden at

Between A. B. plaintiff and C. D. defendant.

UPON the hearing of this cause at a Court holden this day before me J. S. Resident Magistrate it being proved that the said A. B. is the landlord of a certain tenement to wit [here describe the tenement as in summons] situate at of which the said C. D. is tenant and that neither the value nor rent of the said premises exceeds twenty pounds by the year and that three months rent was in arrear before the plaint was entered and that no sufficient distress was then to be found on the premises and that A. B. had then a right by law to re-enter for the non-payment of such rent and that the sum of £ for rent of the said premises is still in arrear and unpaid It is ordered that the said C. D. do deliver up possession of the above-mentioned tenements to the said A. B. on or before the day of next or else do on or before such day of next pay to the said A. B. all the rent of the said premises which shall at the time of such payment be in arrear and £ for costs.

J. S. Resident Magistrate.

16.

WARRANT FOR GIVING POSSESSION OF THE TENEMENT UNDER SECTION 84.

In the Resident Magistrate's Court of holden at

Between plaintiff and defendant.

WHEREAS at a Resident Magistrate's Court holden at on the day of 186 it was ordered by the Court that the defendant should give the plaintiff possession of a certain [house &c as in summons] situate at *[and that the plaintiff should recover against the defendant] the sum of £ for costs or the sum of £ for rent or mesne profits [or rent and mesne profits and £ for costs] making together the sum of £ *And whereas the defendant has not obeyed the said order This is therefore to authorize and require you to forthwith give possession of the said hereinbefore mentioned premises to the plaintiff And this is further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant wheresoever they may be found (except the wearing apparel and bedding of the defendant or his family and the tools and implements of his trade if any to the value of five pounds) the said sum and the costs of this warrant and execution and also to seize and take any money or bank notes and any cheques bills of exchange promissory notes bonds specialities or securities for money of the defendant which may be there found or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same and to pay the amount so levied to the Clerk of this Court and to make return to me of what you have done under this warrant on or before the day of next ensuing.

Given under my hand this day of 186 :

J. S. Resident Magistrate.

To the bailiff of the said Court

£ s. d.

Amount adjudged to be paid -
Warrant - - - -
Executing same - - - -
Poundage - - - -

Amount to be levied - £

Notice.—The bailiff is entitled to levy in addition to the above one shilling per mile reckoned one way only for every mile beyond two from the Court House to the tenement of which possession is to be given and mileage at the same rate to the place where any seizure of goods is made if sufficient distress be not found on such tenement and poundage at the rate of one shilling in the pound upon the value of the goods seized up to the amount to be levied as stated above.

The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized unless they be of a perishable nature or at the request of the defendant.

If the amount to be levied be paid to the bailiff within one hour after seizing he is not to receive any further sum than the amount directed to be levied as stated above with mileage and poundage on the levy.

The cost of keeping possession of goods seized is not to exceed eight shillings per day.

Resident Magistrates.

Application was made to the Resident Magistrate for this warrant at minutes past the hour of _____ in the _____ noon of the _____ day of _____ 186 .
 Insert here *if possession is to be given on account of non-payment of rent in arrear instead of the words between asterisks say* "or else should on or before the _____ day of _____ pay to the said A. B. the rent in arrear and the sum of _____ for costs."

17.

INFORMATION OR REQUEST OF LANDLORD FOR POSSESSION WHERE TENANT HAS DESERTED PREMISES LEAVING RENT DUE.

Resident Magistrate's District of _____ }
 in the Province of _____ to wit. }

THE information and request of E. S. of _____ taken and made before me Esquire Resident Magistrate for the said district sitting in open Court at _____ this day of _____ 186 who said that he the said E. S. did demise at rack rent the house [lands or tenement now or late called] situate at _____ in the said district and that W. M. of _____ is the tenant holding the same at such rack rent and that on the _____ day of _____ last past there was in arrear and due unto him the said E. S. from him the said W. M. one half [or whole] year's rent thereof amounting to the sum of _____ and that he the said W. M. hath deserted the said demised premises and left the same uncultivated and unoccupied so that no sufficient distress can be had to countervail the arrears of rent Whereupon he the said E. S. doth request me the said Resident Magistrate to command the bailiff of the Court or some constable to go upon and view the premises and affix on the most notorious part thereof notice in writing on what day he will return to take a second view in order that he the said E. S. as such landlord and lessor may be put into possession of the said premises according to the Act in that case made and provided.

_____ E. S.
 Taken before me the day and year first above mentioned at _____ in the
 J. S. Resident Magistrate.

18.

WARRANT TO BAILIFF TO GO AND VIEW DESERTED TENEMENT AND AFFIX NOTICE THEREUPON.

To W. T. bailiff of the Resident Magistrate's District of _____
 WHEREAS an information and request hath this day been made before me _____ Esquire Resident Magistrate for the district of _____ in the Province of _____ sitting in open Court by E. S. of _____ who saith that [as in the information] and the matter of such information hath now been proved to my satisfaction upon oath This is to authorize and command you the said W. T. to go upon and view the premises and if upon such view you shall find the said premises to be deserted and without sufficient distress thereupon you are hereby authorized and commanded to affix upon the most notorious part thereof notice in writing that on a day to be in such notice mentioned and not being less than fourteen days from such first view you will return to take a second view thereof and that if upon such second view the tenant or some person on his behalf shall not appear and pay the rent in arrear and there be no sufficient distress on the premises the said E. S. may be put in possession of the said demised premises pursuant to the statute in such case made and provided And you are hereby further authorized and commanded to return to such premises and take a second view thereof upon the day to be in such notice mentioned and to certify to me the said Resident Magistrate on or before the _____ day of _____ next what you shall have done hereunder and whether upon such second view as aforesaid any person shall have appeared and paid the rent in arrear or whether there be then sufficient distress on the premises to countervail the arrears of rent.

Given under my hand this _____ day of _____ 186 at _____
 J. S. Resident Magistrate.

19.

NOTICE TO BE AFFIXED ON DESERTED PREMISES.

To M. M. [the tenant]
 TAKE notice that on _____ the _____ day of _____ last information and request was made to J. S. Resident Magistrate of the district of _____ sitting at _____ by E. S. of _____ for that [setting forth the matter as in the information] And the said J. S. thereupon issued his warrant authorizing and commanding me W. T. to come upon and view the said demised premises and I do find the said premises to be deserted and without sufficient distress thereupon and on the _____ day of the present month of _____

I will return in obedience to the said warrant to take a second view thereof and if upon such second view you or some person on your behalf shall not appear and pay the said rent in arrear or there shall not be sufficient distress on the premises the said E. S. may be put in possession of the said demised premises pursuant to the statute in that case made and provided.

Witness my hand this _____ day of _____ 186

W. T. Bailiff.

Resident Magistrates.

20.

WARRANT TO THE BAILIFF OR A CONSTABLE TO DELIVER POSSESSION OF DESERTED PREMISES TO LANDLORD.

To W. T. bailiff of the Resident Magistrate's District of
 WHEREAS on the day of last information and request was made to me
 J. S. Resident Magistrate of the district of sitting at by E. S. of
 for that [*setting forth the matter as in the information*] And whereas I did thereupon
 issue my warrant authorizing and commanding W. T. bailiff of the district aforesaid to
 enter upon and view the premises in the said information mentioned and to affix upon
 the most conspicuous part thereof a notice stating upon what day he would return to
 take a second view thereof pursuant to the statute in such case made and provided And
 whereas it appears to me by the return of the said W. T. to the said warrant that the
 said W. T. went upon and viewed the said premises and affixed thereupon such notice
 as aforesaid and that the said W. T. upon the day in such notice mentioned returned to
 the said premises and took a second view thereof and that neither the tenant nor any
 person on his behalf appeared and paid the rent in arrear nor was there sufficient
 distress on the premises to countervail the arrears of rent This is therefore to
 authorize and command you forthwith to enter upon the said demised premises with
 such assistants as you shall deem necessary between the hours of nine in the morning
 and four in the afternoon and to deliver possession thereof to the said E. S. and for
 your so doing this shall be your sufficient warrant.

Given under my hand this day of

186

J. S. Resident Magistrate.

21.

BOND TO BE GIVEN BY DEFENDANT UNDER SECTION 89.

Know all men by these presents that we M. N. of and N. S. of of
 R. T. of are jointly and severally held and firmly bound to E. S.
 of in the sum of £ to be paid to the said E. S. or his certain
 attorney executors administrators and assigns for which payment to be made
 we bind ourselves and each and every of us in the whole our and each of our
 heirs executors and administrators jointly and severally firmly by these
 presents

Sealed with our seals and dated this

day of

one thousand eight

hundred and

M. N.

N. S.

R. T.

WHEREAS on the day of last past the above-named E. S. entered
 a plaint against the above bounden M. N. in the Resident Magistrate's Court of the
 district of to recover possession of [*here describe the tenements sought to be
 recovered*] And whereas the above bounden M. N. disputes the right of the said E. S. to
 the possession of the said tenements and is ready to abide the result of any action for
 the possession of the said tenements which the said E. S. may commence against him
 within three calendar months of the date hereof in any Court of competent jurisdiction
 and in case the plaintiff shall recover judgment in such action to pay to the plaintiff the
 costs which the plaintiff shall be therein adjudged to recover and also the costs of the
 proceedings in the Resident Magistrate's Court and damages for the illegal occupation
 of the land up to the time of such judgment And whereas the security intended to be
 hereby given has been approved of by Resident Magistrate of the said district
 as appears by his allowance in the margin hereof* Now the condition of this obligation

is such that if the above bounden M. N. shall abide the result of any action for the
 possession of the said tenements which the said E. S. may commence against him within
 three calendar months from the date hereof in any Court of competent jurisdiction and if
 in case the plaintiff shall recover judgment in such action the above bounden M. N.
 N. S. or R. T. or any of them shall pay to the said E. S. his executors administrators
 or assigns the costs which the plaintiff shall therein be adjudged to recover and also the
 costs of the proceedings in the Resident Magistrate's Court and damages for the illegal
 occupation of the land up to the time of such judgment then this obligation shall be void
 otherwise shall remain in full force.

* I approve of this
 bond—J. S. Resident
 Magistrate.

Signed sealed and delivered by the above bounden in the presence of

22.

BOND TO BE GIVEN BY PLAINTIFF UNDER SECTION 90.

WHEREAS on the day of last past the above bounden E. S. entered a
 plaint against the above-named M. N. in the Resident Magistrate's Court of the district
 of to recover possession of [*here describe the tenements sought to be recovered*]
 And whereas upon the hearing of the said plaint on the day of last
 J. S. Resident Magistrate of the said district did adjudge and order that the said M. N.
 should give to the said E. S. possession of the said premises on or before the
 day of and that the said M. N. should pay to the said E. S. the sum of
 for his costs and the sum of for damages for the illegal occupation of the said

Resident Magistrates.

premises by the said M. N. after notice to quit the said tenements had been given to the said M. N. by the said E. S. And whereas the time limited for the said M. N. to give possession of the said premises to the said E. S. and for the payment of the sums of money so ordered to be paid as aforesaid hath elapsed but the said M. N. hath not given possession of the premises to the said E. S. nor paid the said sums of money nor any part thereof And whereas the said E. S. hath applied to the said Resident Magistrate to issue his warrants to cause delivery of possession of the said tenements to be made to the said E. S. and for enforcing payment of the sums so ordered to be paid as aforesaid pursuant to the Act in such case made and provided And whereas the said M. N. did not at the hearing of the said plaint admit the right of the above bounden E. S. to the possession of the said premises but the above bounden E. S. and N. S. and R. T. at the request of the said E. S. have agreed in pursuance of the said Act to enter into the above-written obligation to secure the payment by the said E. S. to the said M. N. of any damages and costs which the said M. N. may recover against the above bounden E. S. in a Court of competent jurisdiction in respect of the obtaining such judgment or the grant or execution of any such warrant by reason of the said E. S. not having had at the time when such judgment was obtained legal right to the possession of the said premises And whereas the security intended to be hereby given has been approved of by J. S. Resident Magistrate as appears by his allowance in the margin hereof* Now the condition of this obligation is such that if the above bounden E. S. N. S. R. T. or any of them shall pay unto the said M. N. his executors administrators or assigns any damages and costs which the said M. N. may recover against the said E. S. in any such action in such respect as aforesaid then this obligation shall be void otherwise shall remain in full force.

* I approve of this bond—J. S. Resident Magistrate.

Signed sealed and delivered by the above bounden in the presence of

23.

WARRANT FOR GIVING POSSESSION OF A TENEMENT UNDER SECTION 90.

In the Resident Magistrate's Court of
Between E. S. plaintiff and M. N. defendant.

To W. T. bailiff of the Resident Magistrate's District of

WHEREAS on the day of last past at a Resident Magistrate's Court holden at it was ordered that the defendant should give to the plaintiff possession of a certain [here describe the tenements ordered to be delivered up] situate at in the district aforesaid and that the plaintiff should recover against the defendant the sum of £ for damages for the occupation of the said tenement and also the sum of £ for costs making together the sum of £ And whereas the defendant has not obeyed the said order And whereas the plaintiff has this day become bound to the defendant in a bond with two sureties to pay to the defendant any damages and costs which the defendant may recover against him in a Court of competent jurisdiction in respect of the obtaining of such order or the grant or execution of any warrant thereupon in case it should be found that the plaintiff had not at the time when such order was obtained lawful right to the possession of the said premises And whereas the said bond has been approved of by me This is therefore to authorize and require you forthwith to enter upon the hereinbefore-mentioned premises with such assistants as you shall deem necessary between the hours of nine in the morning and four in the afternoon and to deliver possession thereof to the plaintiff E. S. And this is further to authorize and command you forthwith to make and levy the said sum of £ and the costs of this warrant and execution by distress and sale of the goods and chattels of the defendant wheresoever they may be found (excepting the wearing apparel and bedding of the defendant or his family and the tools and implements of his trade if any to the value of five pounds) and also to seize and take any money or bank notes and any cheques bills of exchange promissory notes bonds specialities or securities for money of the defendant which may be there found or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same and to pay the amount so levied to the Clerk of this Court and make return to me of what you have done under this warrant on or before the day of next ensuing.

Given under my hand this day of 186

J. S. Resident Magistrate.

£ s. d.

Amount adjudged to be paid -
Warrant - - -
Executing the same - - -
Poundage - - -

Total - - - £

The bailiff entitled to levy in addition to the above one shilling per mile reckoned one way for every mile beyond two from the Court House to the tenements of which possession is to be given and if the goods be not seized upon such tenements the same mileage to the place where a seizure shall be made and poundage at the rate of one shilling in the pound upon the value of the goods seized up to the amount to be levied as stated above.

Resident Magistrates.

Notice.—If the amount to be levied be paid to the bailiff within one hour after entry he is not to receive any further sum than the amount directed to be levied as stated above and poundage on the levy. The goods and chattels are not to be sold till after the end of five days next following the day on which they shall be taken unless they be of a perishable nature or at the request of the defendant. The cost of keeping possession of goods seized is not to exceed eight shillings per day.

24.

BOND WHICH MAY BE TAKEN AS SECURITY FROM AN APPELLANT UNDER SECTION 100.

Know all men by these presents that we A. B. of _____ and R. S. of _____ and S. T. of _____ are jointly and severally held and firmly bound to C. D. of _____ in £ _____ to be paid to the said C. D. or his certain attorney executors administrators and assigns for which payment to be made we bind ourselves and each and every of us in the whole our and each of our heirs executors and administrators jointly and severally firmly by these presents.

Scaled with our seal and dated this }
day of _____ one thousand }
eight hundred and _____ }

WHEREAS a cause is now depending in the Resident Magistrate's Court of _____ holden at _____ wherein the above-bounden A. B. is plaintiff and the above-named C. D. is defendant. And whereas the said cause came on for trial in the said Court on the _____ day of _____ when a judgment was given for the said C. D. and whereas the said A. B. is dissatisfied with such judgment and intends to appeal to the Supreme Court of New Zealand at _____ according to "The Resident Magistrates' Act 1867" And whereas it is thereby provided that the party who shall appeal as aforesaid shall give security to the satisfaction of the Resident Magistrate hearing the case for the execution of the final order and whereas the above-bounden R. S. and S. T. at the request of the said _____ have agreed to enter into the above-written obligation for the purposes aforesaid and the security intended to be hereby given has been approved of by J. S. the Resident Magistrate hearing the case as appears by his allowance in the margin hereof* Now the condition of this obligation is such that if the above-bounden A. B. shall perform the final order of the Supreme Court to be made upon such appeal then this obligation shall be void otherwise shall remain in full force.

* I approve of this bond—J. S. Resident Magistrate.

Signed sealed and delivered by the above-bounden in the presence of
J. S. Resident Magistrate.

25.

AGREEMENT NOT TO APPEAL UNDER SECTION 102.

In the Resident Magistrate's Court of _____ holden at _____
Between A. B. plaintiff and C. D. defendant.

WE [or we the respective solicitors or agents of] the above-named plaintiff and defendant do hereby agree that the decision of the Resident Magistrate in this cause shall be final.

Witness our hands this _____ day of _____ 18 _____
A. B. plaintiff (or plaintiff's solicitor.)
C. D. defendant (or defendant's solicitor.)

25.

HE WHAKAAETANGA KIA KAUA E KARANGA KI TETAHI KOOTI KE I RUNGA I NGA RITENGA KUA TAKOTO KI TE 102 O NGA BARANGI O TE TURE.

I roto i te Kooti o te Kai-whakawa Tuturu o _____ i noho ki.
I te mea ia A. B. kai tohe raua ko C. D. kaiwhakaoraora.

Ko maua ko _____ te kai-tohe me te kai-whakaoraora kei runga ake nei o maua ingoa e whakaae ngatahi ana ko te kupu whakaoti a Te Kai-whakawa Tuturu mo runga mo tenei te mutunga rawatanga.

Ina hoki ko o maua ringa i tenei te _____ o nga ra o _____ 18 _____
A. B.
C. D.

26.

WARRANT OF COMMITMENT FOR CONTEMPT.

In the Resident Magistrate's Court of _____ holden at _____
To W. T. bailiff and to the keeper of the gaol at _____

WHEREAS at a sitting of a Resident Magistrate's Court at _____ held this day before me J. S. a Resident Magistrate A. B. of _____ did wilfully insult me the said Resident Magistrate whilst I was acting in civil [or criminal] proceedings by then and there [here describe the insult] or did wilfully insult L. M. clerk of the Resident Magistrate's Court during his attendance in Court by &c., or wilfully interrupted the proceedings of the said Court by then and there [here describe the interruption] or was guilty of a wilful contempt in the face of the Court by then and there [here describe

Resident Magistrates.

the contempt] This is therefore to require you the said bailiff to take the said A. B. and deliver him to the said keeper of the public gaol at _____ and I do hereby command you the said keeper to receive the said A. B. into your custody and there to imprison him for the space of _____ days or until he shall be sooner discharged by due course of law and for your so doing this shall be your sufficient warrant.

Given under my hand this _____ day of _____ 186

J. S. Resident Magistrate.

SCHEDULE D.

ALLOWANCES TO WITNESSES.

	£	s.	d.
Professional men esquires and merchants not exceeding per diem - - -	1	1	0
Tradesmen mechanics labourers &c. not exceeding per diem - - -	0	10	0
For travelling expenses to any witness living more than one mile from the Court house in addition to such sum as above provided for loss of time for every mile beyond one mile from the Court house one way only per mile	0	1	0

SCHEDULE E.

TABLE OF FEES TO BE TAKEN IN RESPECT OF PROCEEDINGS UNDER THIS ACT BY BAILIFFS.

	s.	d.
Service of summons or subpoena or order or copy of notice of set-off if within two miles of the Court house	2	0
For every extra mile one way	1	0
Bailiff's fee upon execution of any warrant or going to view tenement upon each view	3	0
Executing any warrant or going to view tenement beyond two miles from Court house for every extra mile one way	1	0
Poundage on sum levied or received under distress	1	0
For keeping possession per diem any sum not exceeding	8	0
Auctioneers' commission on sale of goods taken in execution five per cent.		
Advertising sale, the actual cost.		

SCHEDULE F.

TABLE OF FEES TO BE TAKEN IN RESPECT OF PROCEEDINGS UNDER THIS ACT BY RESIDENT MAGISTRATES JUSTICES OF THE PEACE OR THEIR CLERKS.

	Not exceeding £5.	Above £5 and not exceeding £10.	Above £10 and not exceeding £20.	Above £20 and not exceeding £50.	Above £50 and up to £100.
Filing plaint (including plaint note if any) ...	3	4	6	8	12
Filing notice of set-off according to the amount claimed to be set-off	3	4	6	8	12
Hearing	3	4	6	8	12
Payment of money into Court before judgment according to amount paid in	1	1	1	2	
Judgment	1	1	1	2	

	s.	d.
Summons to party or witness	2	0
Order not being in the nature of a final judgment	2	0
Adjournment of hearing on application of plaintiff or defendant	1	0
Swearing witnesses exceeding three on either side for each	1	0
Warrant of distress or for seizure of specific goods	4	0
Warrant for delivery of possession of a tenement	4	0
Warrant for apprehension or committal	4	0
Filing agreement between parties to give jurisdiction to Court or not to appeal or as to the amount of debt to be recovered with conditions of payment ...	2	0

Resident Magistrates.

	s.	d.
Filing memorandum of claim by landlord for rent arrear upon goods taken in execution	2	0
Order for re-hearing	2	0
Order giving leave to appeal	2	0
Settling case for appeal where the case does not exceed five folios of ninety words each	10	0
Where the case exceeds five folios then for every additional folio	1	0
Swearing affidavit	1	0
For every search	1	0
For every document required in proceedings and not enumerated in this Schedule not exceeding two folios of ninety words each	2	0
For every folio of ninety words above two	0	8

WELLINGTON, NEW ZEALAND:

Printed under the authority of the New Zealand Government by GEORGE DIDSBUKY, Government Printer.