

New Zealand.

ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

No. 51.

ANALYSIS.

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AN ACT to establish Courts of Petty Sessions of the Peace of Civil and Criminal Jurisdiction in the Colony of New Zealand. Title. **[30th October 1865.]**

WHEREAS it is expedient that further provisions should be made Preamble.
for the administration of justice in civil and criminal cases

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

I. The Short Title of this Act shall be “The Petty Sessions Act Short Title.
1865.”

II. This Act shall come into operation in each of the Provinces of Commencement of Act.
New Zealand respectively on and from a day or days to be fixed in respect of each of such Provinces by the Governor in Council whereof notice shall be published in the *New Zealand Gazette* and in the *Gazette* of the Province to which the same shall relate.

III. There shall be within the Colony Courts to be called Courts of Courts of Petty Sessions.
Petty Sessions which shall be held once in every month in each district.

IV. The Governor from time to time by Order in Council whereof Formation of districts.
notice shall be published in the *New Zealand Gazette* may constitute and define districts within and for which the said Courts respectively shall be held and such districts or any of them may from time to time in manner aforesaid abolish and the boundaries thereof may define or alter.

Petty Sessions.

Petty Sessions Court to be held before Justices of the Peace. V. The Petty Sessions Court shall be held by and before Justices of the Peace for the said Colony and a chairman shall be appointed as hereinafter mentioned.

Justices of Peace to attend Petty Sessions. VI. It shall be the duty of all Justices of the Peace resident within any Petty Sessions District to attend the Petty Sessions Courts for such district respectively.

Governor to call meeting of Justices to elect Chairman of Petty Sessions. VII. As soon as conveniently may be after the establishment of a Petty Sessions District and afterwards from time to time as may be deemed expedient the Governor shall by proclamation in the *New Zealand Gazette* appoint a meeting of the Justices of the Peace resident in such district to be yearly held within such district at some specified time and place for the purpose of choosing a Chairman of Petty Sessions and settling a rota of attendance five Justices at such meeting shall form a quorum and shall by a majority of those then and there present elect one of the Justices resident in such district to be Chairman of Petty Sessions for the ensuing year and the person so elected shall be and act as chairman for such period accordingly and it shall be his duty to preside at all Petty Sessions Courts to be held within such district for such period and to act as chairman thereof.

When Governor may appoint chairman. VIII. In case the Justices so assembled or appointed to assemble for the purpose of electing a chairman shall not agree or for any other reason shall fail to elect or choose such chairman the Governor shall by warrant under his hand appoint one of the Justices resident within the district to be such chairman who shall act as such in manner and for the period aforesaid.

Office of chairman vacant Governor to appoint. IX. In case the office of Chairman of a Petty Sessions Court shall become vacant by reason of the death of the chairman or otherwise the Governor shall by warrant under his hand nominate and appoint some other Justice of the Peace resident within the district to be and act as chairman thereof for the current year.

Justices to settle rota of attendance in default Governor may do so. X. The Justices of the Peace shall at such meeting as aforesaid settle and determine amongst themselves a rota for their respective attendance at such Petty Sessions Courts for the year then next ensuing for the purpose of and so as to apportion as equally and conveniently as may be amongst themselves the duty of attendance at such Courts provided always that such rota shall be so framed as to require the attendance of each Justice four times at least in every year and if the said Justices shall at any time be unable to agree upon or settle such rota of attendance amongst themselves the Governor shall from time to time by warrant under his hand settle the same At each Court the chairman and one Justice or in case of the chairman's absence three Justices shall form a quorum.

Clerk of Petty Sessions Court to furnish copy of rota to Justices. XI. It shall be the duty of the Clerk of the Petty Sessions Court to furnish each Justice of the Peace resident within the Petty Sessions District in which such Court is situated as soon as conveniently may be with a copy of the list or rota so settled.

Justices not attending to be removed from commission of peace. XII. Any Justice of the Peace who shall except from some unavoidable cause or accident fail twice in any current year in attending such Court on the days appointed for his attendance according to such rota or list so settled shall be removed from the commission of the peace by the Governor and shall be disqualified from being replaced in such commission for the space of one year from the date of such removal Provided such Justice of the Peace does not reside further than twenty-five miles from the place of meeting of the Petty Sessions.

Governor may excuse Justice from attending. XIII. The Governor may at all times by warrant under his hand excuse any Justice or Justices of the Peace from attendance at any Petty Sessions Court for any period to be defined in such warrant and

Petty Sessions.

the chairman and Justices attending any Court may excuse any Justice (who may make out to their satisfaction a case of urgent necessity) from attending the next sittings appointed for his attendance.

XIV. If it shall happen that at any Petty Sessions Court within half an hour after the time appointed for the commencement of business the chairman of such Court shall not be in attendance it shall be lawful for the Justices of the Peace then present to choose a chairman who shall act for that sitting of the Court and be the chairman thereof. Provided that in every such case the quorum of Justices shall be three including such temporary chairman.

When chairman absent Justices present may appoint a chairman.

XV. The duly appointed Chairman of any Petty Sessions Court established under this Act if not a Resident Magistrate receiving salary shall be entitled as a fee for each attendance at such Petty Sessions Court to a sum of two guineas to be paid to him out of the fees and fines hereinafter mentioned.

Fees for chairman and deputy-chairman.

XVI. Every Justice of the Peace who shall attend at any Petty Sessions Court which shall be held within the Petty Sessions District wherein he shall be resident shall be entitled to receive after the rate of one shilling and sixpence a mile for every mile that his place of residence shall be distant by the nearest road from the place at which such Petty Sessions Court shall be held to be paid out of the fees and fines hereinafter mentioned.

Mileage to Justices.

XVII. The Clerk of every Petty Sessions Court shall keep a list of the Justices attending at such Petty Sessions Court and the chairman or deputy-chairman presiding thereat and shall at the end of each quarter make out prepare and furnish to the Colonial Secretary a return showing such attendances by the chairman deputy-chairman and Justices at such Petty Sessions Courts such return to be verified in such manner as may be directed by the Colonial Secretary.

Clerk to keep list of Justices attending Petty Sessions.

XVIII. The decisions of the Petty Sessions Courts shall be given according to the judgment of a majority of the Justices of the Peace then present and the Chairman shall have an original as well as a casting vote.

Decisions of Petty Sessions Courts to be by majority.

XIX. It shall be lawful for the Governor in Council to remove any Chairman of Petty Sessions for inability or misbehaviour.

Power to Governor to remove chairman.

XX. There shall be for every Petty Sessions Court a clerk who shall be appointed by and hold office during the pleasure of the Justices for the district provided always that the same person may be appointed clerk of any two or more of such Courts respectively and shall be paid out of the fees and fines hereinafter mentioned such remuneration as the said Justices may from time to time appoint.

Clerks of Courts to be appointed.

XXI. Every Clerk of Petty Sessions shall give security for duly accounting for all fees fines and sums of money received by him and such security shall be in such form and to such amount as the Colonial Treasurer shall in each case direct.

Clerk of Petty Sessions to give security.

XXII. The clerk of each Court shall receive take charge of and keep an account 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 a book 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 or which shall be prescribed by any rules to be made in that behalf.

Their duties.

XXIII. There shall be a bailiff for every such Court and such other officers as may be necessary who shall be from time to time appointed by and hold office during the pleasure of the Justices for the district and shall be paid out of the fees and fines hereinafter mentioned such remuneration as the Justices may from time to time appoint.

Bailiffs to be appointed.

Petty Sessions.

Fines and fees.

XXIV. All fees fines 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 and fines 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 Petty Sessions shall keep their accounts and pay over balances and in what bank or other place of deposit the fees fines 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.

Accounts.

XXV. The duly appointed chairman of each Court shall once in every month audit the accounts of the clerk of his Court and all expenditure necessary for the holding of the Court and the conduct of the business in the clerk's office shall be made under the authority in writing of such chairman and no payment shall be incurred or paid until such authority has been given.

Jurisdiction of Courts

XXVI. Every Court of Petty Sessions established under this Act shall have and exercise the same powers and the same jurisdiction in all cases both civil and criminal as may now be exercised by a Resident Magistrate saving always the extended jurisdiction in civil cases conferred on Resident Magistrates by "The Resident Magistrates' Jurisdiction Extension Act 1862."