

PAPERS RELATIVE TO AMENDMENT OF COURT OF APPEAL ACT, 1862.

No. 1.

Mr. J. MACASSEY to the Hon. W. GISBORNE.

SIR,—

Dunedin, Otago, N. Z., 22nd April, 1872.

I have the honor to forward you herewith a copy of a draft Bill to amend "The Court of Appeal Act, 1862." The Bill will probably be introduced into the Colonial Legislature by a private Member, unless the Government should intimate to me before the commencement of the Session their intention of adopting the Bill as their own.

Whether the Bill eventually receives the support of the Government or not, it is most desirable that the opinion of the Judges should be taken on it.

The strongest objections to the proposed measure are, I conceive, these: namely, that (1.) It dispenses with argument; (2) consultation among the Judges. Admitting that these are fairly arguable objections, my answer to them are: (1) That the Bill will be merely permissive in its operation; (2) that it will obviate the enormous delays which at present attend the hearing of appeals; and (3) the expense of an appeal will be reduced to about one-tenth of its present cost.

An Act of the Imperial Legislature, the 22 and 23 Vict. cap. 63, will be found to be somewhat similar in principle.

I may be permitted to say, as a member of the legal profession, and as one who possesses some knowledge of the operation of the Court of Appeal Act, that the proposed Bill will confer a signal boon on the public, although that will doubtless be at the expense of the profession.

I have, &c.,

J. S. MACASSEY.

The Hon. the Colonial Secretary, Wellington.

Enclosure in No. 1.

COURT OF APPEAL AMENDMENT.

Preamble.

WHEREAS it is desirable to diminish the delay and expense attendant upon the hearing and determination of causes and appeals which the Court of Appeal of New Zealand is or shall be empowered by law to hear and determine:

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "The Court of Appeal Act Amendment Act, 1872."

Appeals or proceedings in error may be prosecuted in manner hereinafter provided.

2. In all judicial proceedings wherein there now is, or shall hereafter be, a right of appeal (in error or otherwise) to the Court of Appeal of New Zealand, or wherein the said Court of Appeal now is or shall hereafter be invested with an original jurisdiction to hear and determine the questions in controversy in such proceedings, such right of appeal may be exercised and such original jurisdiction may be invoked in manner hereinafter provided.

Option given to appellant to proceed under the Act or in any other mode provided by law.

3. The right of appeal created by "The Court of Appeal Act, 1862," or "The Court of Appeal Act Amendment Act, 1870," may, at the option of the party appellant, be prosecuted in the manner provided by the said Acts, or either of them, or in pursuance of the provisions herein contained.

Preliminary conditions of appeal not dispensed with.

4. Nothing contained in this Act shall be deemed to dispense with the conditions of appeal provided by "The Court of Appeal Act, 1862," or "The Court of Appeal Act Amendment Act, 1870," in regard to notice of appeal, the delivery of a memorandum in error, the leave of the Court, or security by the party appellant.

Appellant to give notice of his intention to proceed under this Act.

5. Whenever it shall be intended to prosecute an appeal under the provisions of this Act, the party appellant shall, within the time now or to be hereafter limited for giving notice of appeal, serve notice in writing, signed by himself, his solicitor or agent, upon the opposite party, and upon the Registrar or Deputy Registrar of the Supreme Court, or upon the Clerk of the District Court within the district where the appeal shall arise, of the intention of the party appellant to conduct and prosecute his appeal under "The Court of Appeal Act Amendment Act, 1872."

Case on appeal to be stated in writing.

6. Within one calendar month after the service of such notice, the party appellant, his solicitor or agent shall prepare, state, and deliver to the opposite party, his solicitor or agent, a case in writing, wherein shall be set forth a true copy of the record or pleadings (if any), and whenever necessary the evidence taken in the Supreme Court or District Court, whether given *vivâ voce* upon oath or by