

New Zealand.



ANALYSIS.

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1900, No. 23.

AN ACT to amend the Law relating to Summary Jurisdiction with respect to Indictable Offences. Title. [13th October, 1900.]

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 is "The Indictable Offences Summary Jurisdiction Amendment Act, 1900"; and it shall form part of and be read together with "The Indictable Offences Summary Jurisdiction Act, 1894" (hereinafter called "the original Act"). Short Title.

EXTENDED SUMMARY JURISDICTION OF STIPENDIARY MAGISTRATES SITTING ALONE.

2. A Magistrate sitting alone may, if he thinks it expedient so to do, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, deal summarily with the following offences, that is to say:—

- (1.) The offence of attempting to commit suicide: Attempted suicide.
- (2.) The offence of mischief in relation to any animal which by paragraph (b) of subsection one of section thirty-one of the original Act is excluded from the operation of that section: Mischief as to animals.

Mischief as to property.

(3.) The offence of mischief in relation to property mentioned in paragraph (f) of subsection four of section thirty-one of the original Act, where the value of the damage is not less than five pounds nor more than twenty pounds :

False pretence.

(4.) Any offence in relation to property mentioned in section forty-eight of the original Act, where the value of the property forming the subject-matter of the offence exceeds forty shillings but does not exceed twenty pounds :

Summary trial, with consent, of adult.

(5.) Any offence in relation to property mentioned in sections fifty-one or fifty-two of the original Act, where the value of the property forming the subject-matter of the offence exceeds five pounds but does not exceed twenty pounds :

and may adjudge the offender (whether an adult or a minor) to be imprisoned with or without hard labour for any term not exceeding twelve months, or to pay a fine not exceeding forty pounds.

When such extended summary jurisdiction not to be exercised.

3. The extended summary jurisdiction conferred on the Magistrate by the last preceding section hereof shall in no case be exercised by him—

(1.) Except with the consent of the person charged, and for the purposes of such consent the provisions of section fifty-one of the original Act shall, *mutatis mutandis*, apply; nor

(2.) Where it appears to the Magistrate that the offence is one which, owing to a previous conviction or indictment, is punishable by law with imprisonment with hard labour for three years or upwards.

#### ATTEMPTS.

Attempts to commit offences may be dealt with summarily.

4. The attempt to commit any specified offence that may be dealt with summarily shall itself be an offence that may be dealt with summarily.

Provisions applied to attempts.

5. All the provisions of the original Act or this Act relating to any such specified offence shall, *mutatis mutandis*, extend and apply to the attempt to commit such offence :

Punishment.

Provided that, except where otherwise prescribed by the original Act, the punishment for the attempt to commit any such specified offence shall not exceed one-half the punishment for actually committing such offence.

#### MISCELLANEOUS.

Right to claim trial by jury in case of offences otherwise triable summarily.

6. (1.) A person when charged before a Magistrate with an offence in respect of the commission of which an offender is liable on summary conviction to be imprisoned for a term exceeding three months, and which is not an assault, may, on appearing before the Court, and before the charge is gone into but not afterwards, claim to be tried by a jury ; and thereupon the Magistrate shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable on summary conviction, and the offence shall, as respects the person so charged, be deemed to be an indictable offence, and, if the person so charged is committed for trial or bailed to appear for trial, shall be prosecuted accordingly.

(2.) A Magistrate, before the charge is gone into in respect of an offence to which this section applies, for the purpose of informing the defendant of his right to be tried by a jury in pursuance of this section, shall address him to the following effect: "You are charged with an offence in respect of the commission of which you are entitled, if you desire it, instead of being dealt with summarily, to be tried by a jury: do you desire to be tried by a jury?" with a statement, if the Court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of being dealt with summarily, and of the sittings of the Supreme Court at which such person will be tried if tried by a jury.

(3.) This section shall not apply to the case of a child unless the parent or guardian of the child is present; but the Magistrate shall ascertain whether the parent or guardian of the child is present, and, if he is, shall address the above question to such parent or guardian, and the claim under this section may be made by such parent or guardian.

7. Section four of the original Act is hereby amended by substituting the words "twelve months" in lieu of the words "six months."

Limit of time for commencing prosecution extended.

8. Sections twenty-two, twenty-seven, and twenty-eight of the original Act, relating to offences against girls, are hereby amended by substituting the word "sixteen" in lieu of the word "fifteen" wherever the latter word occurs therein.

In offences against girls, age raised to sixteen.

9. Subsection one of section fifty-four of the original Act, relating to the summary trial of juvenile offenders with their consent, is hereby amended as follows:—

Amendment as to summary trial of juvenile offenders.

(1.) As to paragraph (b) thereof: By including therein offences in relation to railways mentioned in section three hundred and twelve of "The Criminal Code Act, 1893," and in section six of "The Criminal Code Act Amendment Act, 1896"; and also

(2.) As to paragraph (d) thereof: By omitting therefrom all reference to the value of the property forming the subject-matter of the offence.

10. Section sixty-nine of the original Act is hereby amended by substituting the word "hereinafter" in lieu of the word "hereinbefore."

Section 69 of principal Act amended.

11. The provisions of section eighty-six of "The Justices of the Peace Act, 1882," with respect to the ordering of costs in cases of summary conviction, shall apply in all cases of summary convictions under the original Act or this Act.

Costs in cases of summary conviction.

12. The fees prescribed to be taken under "The Justices of the Peace Act, 1882," in proceedings before Justices shall not be taken in respect of any proceedings under the original Act or this Act.

Fees not to be taken in any proceedings.

13. When any Court at the close of the preliminary hearing of any information shall propose to commit any accused person for trial for any indictable offence not punishable by death, an intimation shall be made in open Court, by or on behalf of the Court, to the accused, in the following words:—

Statement to be made to accused person if committed for trial.

“This Court proposes to commit you for trial; but you may, if you so desire, plead guilty to the offence charged. If you now plead guilty, you will not afterwards be allowed to deny your guilt, and you will be committed to the Supreme Court for sentence.”

Proceedings if accused pleads guilty.

14. If on such intimation the accused shall plead guilty to the offence charged, the following consequences shall ensue:—

- (1.) The Court shall thereupon commit the accused to the Supreme Court for sentence.
- (2.) The accused shall, so soon as practicable, be brought before the Supreme Court or some Judge thereof sitting in open Court for sentence.
- (3.) Any Judge of the Supreme Court before whom any accused so committed shall be brought shall have the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as such Judge would have had if the accused on arraignment at any criminal sessions of the Supreme Court had pleaded guilty to the offence charged on an indictment found by a grand jury.
- (4.) If the accused shall be sentenced to imprisonment or to imprisonment with hard labour, the Judge of the Supreme Court by whom the accused has been so sentenced may issue a warrant of commitment under his hand in the form in the Schedule to this Act, directing that the accused shall be conveyed to some convenient prison, to be in such warrant named, and be there detained for such time as the warrant shall direct; and the sentence shall take effect from the date of the signing of such warrant.
- (5.) All proceedings relating to a commitment for trial shall apply, as nearly as may be, to a commitment for sentence, and bail may be similarly granted; but no person shall be bound over to give evidence on any commitment for sentence unless the committing Court shall otherwise order.

Who may commit accused person for sentence.

15. The power created by this Act of committing the accused to the Supreme Court for sentence shall not be exercised by any Court unless such Court consists of a Stipendiary Magistrate, or includes a Stipendiary Magistrate, who shall join in the exercise of such power.

Form of plea of “Guilty.”

16. A plea of “Guilty” for the purposes of this Act shall be indorsed upon the information, and shall be in the following form:—

“I plead guilty to the offence charged in the within information.

“Dated this                      day of                      .”

And the accused shall either sign the same, or shall affix his mark thereto, and such mark shall be certified to by the Stipendiary Magistrate.

Information not to be impugned nor plea withdrawn.

17. No objection on any ground whatever shall be taken to any information to which any accused shall have pleaded guilty, and no accused who shall have pleaded guilty to any such information shall afterwards be allowed to withdraw such plea.

## SCHEDULE.

Schedule.

## WARRANT OF COMMITMENT TO PRISON.

To \_\_\_\_\_, Constable of \_\_\_\_\_, and to the Gaoler of the Prison at \_\_\_\_\_.

WHEREAS \_\_\_\_\_, of \_\_\_\_\_, was this day duly convicted, in accordance with the provisions of "The Indictable Offences Summary Jurisdiction Amendment Act, 1900," before me, \_\_\_\_\_, a Judge of the Supreme Court of New Zealand, for the offence of \_\_\_\_\_, and was thereupon sentenced to imprisonment (with hard labour) for the term of \_\_\_\_\_:

Now, this is to command you, the said \_\_\_\_\_, to take the said \_\_\_\_\_ and him safely convey to the prison at \_\_\_\_\_, and there deliver him to the Gaoler thereof, together with this precept.

And I do hereby command you, the said Gaoler of the said prison, to receive the said \_\_\_\_\_ into your custody in the said prison, there to imprison him (and keep him to hard labour) for the term of \_\_\_\_\_.

Given under my hand, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_, Judge.