



ANALYSIS

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1951, No. 67

AN ACT to amend the Police Offences Act 1927.

[5 December 1951

Title.

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

1. This Act may be cited as the Police Offences Amendment Act 1951, and shall be read together with and deemed part of the Police Offences Act 1927 (hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. II, p. 500

PART I

SEDITION

Interpretation.

2. (1) In this Part of this Act, unless the context otherwise requires,—

“ To publish ” means to communicate to the public or to any person or persons, whether in writing, or orally, or by any representation, or by any means of reproduction whatsoever:

“ Seditious intention ” means an intention—

(a) To bring into hatred or contempt, or to excite disaffection against, His Majesty, or the Government of New Zealand, or the administration of justice; or

(b) To incite the public or any persons or any class of persons to attempt to procure otherwise than by lawful means the alteration of any matter affecting the Constitution, laws, or Government of New Zealand; or

(c) To incite, procure, or encourage violence, lawlessness, or disorder; or

(d) To incite, procure, or encourage the commission of any offence that is prejudicial to the public safety or to the maintenance of public order; or

(e) To excite such hostility or ill will between different classes of persons as may endanger the public safety:

“ Statement ” includes words, writing, pictures, or any significant expression or representation whatsoever; and also includes any reproduction, by any means whatsoever, of any statement.

(2) Without limiting any other legal justification, excuse, or defence available to any person charged with an offence against this Part of this Act, it is hereby declared that, for the purposes of this Part, no one shall be deemed to have a seditious intention only because he intends in good faith—

(a) To show that His Majesty has been misled or mistaken in his measures; or

- (b) To point out errors or defects in the Government or Constitution of New Zealand, or in the administration of justice; or to incite the public or any persons or any class of persons to attempt to procure by lawful means the alteration of any matter affecting the Constitution, laws, or Government of New Zealand; or
- (c) To point out, with a view to their removal, matters producing or having a tendency to produce feelings of hostility or ill will between different classes of persons.

3. Every person commits an offence against this Part of this Act who makes or publishes, or causes or permits to be made or published, any statement—

Seditious statements.

- (a) That incites, encourages, advises, or advocates violence, lawlessness, or disorder; or
- (b) That expresses any seditious intention.

4. (1) Every person commits an offence against this Part of this Act who is a party to any seditious conspiracy.

Seditious conspiracy.

(2) For the purposes of this section, the expression “seditious conspiracy” means an agreement between two or more persons to carry into execution any seditious intention.

5. (1) Every person commits an offence against this Part of this Act who, with a seditious intention,—

Publication of seditious documents.

- (a) Prints, publishes, or sells; or
- (b) Distributes or delivers to the public or to any person or persons; or
- (c) Causes or permits to be printed, published, or sold, or to be distributed or delivered as aforesaid; or
- (d) Has in his possession for sale, or for distribution or delivery as aforesaid; or
- (e) Brings or causes to be brought or sent into New Zealand,—

any document, statement, advertisement, or other matter that incites, encourages, advises, or advocates violence, lawlessness, or disorder, or that expresses any seditious intention.

(2) On a prosecution in respect of an offence under paragraph (d) of subsection one of this section, proof that the defendant had in his possession any document,

statement, advertisement, or matter to which that subsection applies shall be deemed to be proof that he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid, unless he establishes—

- (a) That his having possession of it was contrary to his desire; or
- (b) That he had possession of it for the purpose of delivering it to a constable or to some other proper authority or for any other lawful purpose; or
- (c) That the circumstances in which he had it in his possession were such as to raise a reasonable doubt whether he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid.

(3) A prosecution for an offence against this section shall not be commenced except with the consent of the Attorney-General:

Provided that this subsection shall not be construed to prevent the arrest of any person pursuant to this Act, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the commencement of a prosecution has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(4) Any constable may seize any document, statement, or advertisement, or any other written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

6. (1) Every person commits an offence against this Part of this Act who, having in his possession or under his control any printing press, or any mechanical, photographic, or electrical apparatus, or any other apparatus whatsoever,—

- (a) Uses it; or
- (b) Causes or permits it to be used,—

for printing, making, or publishing, or for facilitating the printing, making, or publishing of, any document, statement, advertisement, or other matter that expresses or will express a seditious intention.

Use of
apparatus
for making
seditious
documents or
statements.

- (2) On a prosecution under this section, proof—
- (a) That the defendant was in actual occupation or in charge of any place or any premises or any part thereof; and
 - (b) That any printing press, or any mechanical, photographic, or electrical apparatus, or any other apparatus whatsoever, in respect of which the offence is alleged to have been committed was at that place or, as the case may be, on those premises or in that part—

shall be evidence from which the Court may infer that the press or apparatus was in the possession or under the control of the defendant, in the absence of satisfactory evidence to the contrary.

(3) On a prosecution in respect of an offence under paragraph (b) of subsection one of this section, proof—

- (a) That any such press or apparatus as aforesaid was in the possession or under the control of the defendant at any place or on any premises or any part thereof; and
- (b) That any document, statement, advertisement, or matter in respect of which the offence is alleged to have been committed was at that place or, as the case may be, on those premises or in that part, or was in the possession of the defendant, or was in the possession of any person at that place or on those premises; and
- (c) That the document, statement, advertisement, or matter could have been printed or made on or by means of that press or apparatus,—

shall be deemed to be proof that the defendant did the act alleged to have been done, unless he establishes—

- (d) That the document, statement, advertisement, or matter was not printed or made on or by means of that press or apparatus; or
- (e) That the document, statement, advertisement, or matter was printed or made without his knowledge or consent,—

or unless the evidence is such as to raise a reasonable doubt whether he did that act.

Enforcement and Legal Proceedings

Power to
arrest.

7. Any constable may arrest without warrant any person who is found committing an offence against this Part of this Act, or who is reasonably suspected by the constable of having committed or of having attempted to commit or of being about to commit such an offence.

Search
warrants.

8. (1) If a Justice of the Peace is satisfied on oath that there is reasonable ground for suspecting that there is on any premises or place any document or matter, or any printing press or apparatus, in respect of or in connection with which an offence against this Part of this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein to enter, with such assistants as may be necessary, any premises or place specified in the warrant, by force if necessary, and to search the premises or place and every person found therein, and to seize any document, matter, printing press, or apparatus, or anything which is evidence of an offence against this Part of this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and in respect of or in connection with which he has reasonable ground for suspecting that an offence against this Part of this Act has been or is about to be committed.

(2) The warrant shall authorize the constable to enter such premises or place as aforesaid in the daytime:

Provided that if the Justice granting the warrant is satisfied that the ends of justice require search to be made by night, he may by the warrant expressly authorize the entry and search to be made either by night or in the daytime.

Penalty for
offences.

9. (1) Every person who commits an offence against this Part of this Act shall be liable on summary conviction before a Magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

(2) Any information in respect of an offence against this Part of this Act may be laid at any time within one year from the time when the matter of the information arose.

10. (1) Notwithstanding anything to the contrary in any other Act, but subject to the provisions of subsection two of this section, no person convicted of an offence against this Part of this Act and sentenced to a term of imprisonment shall be admitted to bail by reason of and during the pendency of an appeal under Part IX or Part X of the Justices of the Peace Act 1927, unless the Magistrate so directs.

Admission of appellant to bail, and custody during appeal.

See Reprint of Statutes, Vol. II, pp. 442, 446

(2) Where on any such appeal the appellant is not admitted to bail by the Magistrate, a warrant in execution of the conviction shall be issued, notwithstanding anything in the said Act, and—

(a) The provisions of section fourteen of the Criminal Appeal Act 1945 shall, as far as they are applicable and with the necessary modifications, apply as if references therein to the Court of Appeal were references to the Supreme Court, and as if references to the Supreme Court were references to the Magistrate:

1945, No. 23

(b) The appellant shall, pending the determination of his appeal, be treated in the same manner as a prisoner before trial, and the provisions of the regulations for the time being in force under the Prisons Act 1908 relating to the matters specified in the said section fourteen shall, as far as they are applicable and with the necessary modifications, apply accordingly.

See Reprint of Statutes, Vol. VI, p. 966

11. (1) Nothing in this Part of this Act shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this Part, but no person shall be punished twice for the same offence.

Penal provisions of other Acts not affected.

(2) Where any person—

(a) Is acquitted or convicted on a prosecution under this Part of this Act, and is subsequently prosecuted under section one hundred and nineteen of the Crimes Act 1908; or

Ibid., Vol. II, p. 217

(b) Is acquitted or convicted on a prosecution under section one hundred and nineteen of the Crimes Act 1908, and is subsequently prosecuted under this Part of this Act,—

See Reprint
of Statutes,
Vol. II, p. 182

Disposal of
things seized
under this
Part.

the plea of previous acquittal or, as the case may be, previous conviction shall be available to that person to the same extent and in the same manner as if both prosecutions were under the Crimes Act 1908, and the provisions of sections four hundred and two to four hundred and four of that Act shall, with the necessary modifications, apply accordingly.

12. (1) Where any thing is seized by any constable under this Part of this Act, it may be retained under the custody of a commissioned officer of the Police Force until it is disposed of pursuant to this section.

(2) In any prosecution relating to any thing so seized, the Magistrate shall, on application being made in that behalf, whether the defendant is convicted or not, order—

- (a) That the thing be forfeited to the Crown; or
- (b) That it be returned to a person appearing to the Magistrate to be entitled thereto; or
- (c) That it be disposed of in such manner as the Magistrate directs.

(3) If a prosecution relating to the thing is not commenced within a period of two months after the date of its being so seized, any person claiming to be entitled to it may, after the expiration of that period, apply to a Magistrate for an order that it be returned to him; and on any such application the Magistrate may make any order that might have been made under subsection two of this section:

Provided that if any such prosecution as aforesaid is commenced before the application is disposed of, no order shall be made until the conclusion of the prosecution.

(4) If no such prosecution as aforesaid is commenced, the Attorney-General may at any time cause application to be made on his behalf to a Magistrate for an order as to the disposal of the thing in the same manner as if a prosecution had been taken.

(5) Any person aggrieved by any order of a Magistrate under this section and claiming to be entitled to the thing shall have the same right of appeal to the Supreme Court against the order as he would have if it were a final determination of a Magistrate's Court in

its civil jurisdiction in a proceeding to which he was a party, and the provisions of Part V of the Magistrates' Courts Act 1947 shall apply accordingly. 1947, No. 16

(6) Where under this section it is ordered that any thing be forfeited to the Crown, it shall be disposed of in such manner as the Attorney-General directs.

PART II

INTIMIDATION

13. In this Part of this Act, unless the context otherwise requires,— Interpretation.

“ Act ” includes any act of omission as well as any act of commission :

“ Lockout ” means the act of an employer—

(a) In closing his place of business, or suspending or discontinuing his business or any branch thereof ; or

(b) In discontinuing the employment of any workers, whether wholly or partially ; or

(c) In breaking his contracts of service ; or

(d) In refusing or failing to engage workers for any work for which he usually employs workers,—

with intent—

(e) To compel or induce any workers to agree to terms of employment or comply with any demands made upon them by the said or any other employer ; or

(f) To cause loss or inconvenience to the workers employed by him or to any of them ;
or

(g) To incite, aid, abet, instigate, or procure any other lockout ; or

(h) To assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him :

“ To publish ” means to communicate to the public or to any person or persons, whether in writing, or orally, or by any representation, or by any means of reproduction whatsoever :

“ Statement ” includes words, writing, pictures, or any significant expression or representation whatsoever; and also includes any reproduction, by any means whatsoever, of any statement:

“ Strike ” means the act of any number of workers who are or have been in the employment of the same employer or of different employers—

(a) In discontinuing that employment, whether wholly or partially; or

(b) In breaking their contracts of service; or

(c) In refusing or failing after any such discontinuance to resume or return to their employment; or

(d) In refusing or failing to accept engagement for any work in which they are usually employed; or

(e) In reducing their normal output or their normal rate of work,—

the said act being due to any combination, agreement, common understanding, or concerted action, whether express or implied, made or entered into by any workers—

(f) With intent to compel or induce any such employer to agree to terms of employment or comply with any demands made by the said or any other workers; or

(g) With intent to cause loss or inconvenience to any such employer in the conduct of his business; or

(h) With intent to incite, aid, abet, instigate, or procure any other strike; or

(i) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers.

14. (1) Every person commits an offence against this Part of this Act who—

(a) Forcefully hinders or prevents any person from working at or exercising any lawful trade, business, or occupation:

(b) Assaults any person with intent to hinder or prevent him from working at or exercising any lawful trade, business, or occupation.

(2) Paragraph (b) of section two hundred and one of the Justices of the Peace Act 1927 is hereby repealed.

Repeal.

See Reprint
of Statutes,
Vol. II, p. 409

Intimidation.

15. (1) Every person commits an offence against this Part of this Act who, with intent to compel, induce, or influence any other person to do any act to which this section applies, or by reason of that other person refusing or failing to do any such act, or by reason of that other person having refused or failed, whether before or after the passing of this Act, to do any such act,—

- (a) Uses violence to or intimidates that other person or his wife, child, or parent; or
- (b) Uses, either orally or in writing, any threatening, intimidatory, offensive, or insulting words to that other person or to his wife, child, or parent; or
- (c) Destroys or damages any property of that other person or of his wife, child, or parent; or
- (d) Hides any tools, clothes, or other property owned or used by that other person, or deprives him of or hinders him in the use thereof; or
- (e) Watches or besets any premises or place where that other person resides, or works, or carries on any trade, business, or occupation, or where that other person happens to be, or the approach to any such premises or place as aforesaid; or
- (f) Follows that other person about from place to place; or
- (g) Follows that other person with any other person or persons in a disorderly manner in or through any road or street.

(2) Every person commits an offence against this Part of this Act who, with any such intent or for any such reason as aforesaid,—

- (a) Prints, publishes, or sells; or
- (b) Distributes or delivers to the public or to any person or persons; or
- (c) Causes or permits to be printed, published, or sold, or to be distributed or delivered as aforesaid; or

(d) Has in his possession for sale, or for distribution or delivery as aforesaid,—

any document, statement, advertisement, or other matter that is intended or likely to expose any other person, or any class of persons to which that other person belongs, to hatred or contempt amongst the public or any class of persons, or that contains in relation to that person, or any class of persons to which he belongs, any threatening, intimidatory, offensive, or insulting words.

(3) The acts to which this section applies are—

(a) To refrain from or to cease working in any employment or doing any work; or

(b) To refrain from going to or attending or leaving any dwellinghouse or residential premises, or any premises or place where any trade, business, or occupation is lawfully carried on; or

(c) To be a party or continue to be a party to a strike or a lockout.

(4) Where in any prosecution under this section it is alleged that the defendant did anything specified in subsection one or subsection two of this section with any intent or for any reason so specified, proof that the defendant did that thing, and that—

(a) He was usually working in any employment, or engaged in any work, in respect of which a strike or a lockout existed; or

(b) He was a party to a strike or a lockout; or

(c) He was a member of any class of persons being parties to or supporting any strike or lockout; or

(d) He was supporting or was a member of any class of persons supporting any party or parties to a strike or a lockout,—

shall be evidence from which the Court may infer that he did that thing with the intent or for the reason so alleged, in the absence of satisfactory evidence to the contrary.

(5) On a prosecution in respect of an offence under paragraph (d) of subsection two of this section, proof that the defendant had in his possession any document, statement, advertisement, or matter to which that subsection applies shall be deemed to be proof that he had

it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid, unless he establishes—

- (a) That his having possession of it was contrary to his desire; or
- (b) That he had possession of it for the purpose of delivering it to a constable or to some other proper authority, or for any other lawful purpose; or
- (c) That the circumstances in which he had it in his possession were such as to raise a reasonable doubt whether he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid.

(6) Any constable may seize any document, statement, or advertisement, or any other written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

16. (1) Every person commits an offence against this Part of this Act who—

- (a) Displays, or drives or causes to be driven any vehicle displaying; or
- (b) Carries or wears so that it may be seen by any other person; or
- (c) Affixes in any place where it may be seen by any other person,—

Unlawful display of posters, badges, &c.

any banner, placard, sign, badge, card, or other thing which contains or bears any words or device to which this section applies.

(2) Every person commits an offence against this Part of this Act who writes or prints or displays, or causes to be written or printed or displayed, on any vehicle, wall, fence, erection, road, street, or footway, or otherwise where it may be seen by any other person, any words or device to which this section applies.

(3) This section applies to—

- (a) Any words or device intended or likely to result in or facilitate the victimization of any person or any class of persons, or to result in any person being prevented from or hindered in doing any act that he has a legal right to do:

- (b) Any words or device intended to result in or facilitate, for the purpose of furthering any strike or lockout, the boycotting of any person or any class of persons in relation to any trade, business, or occupation, or to cause, for such purpose as aforesaid, any substantial interference with the trade or business of any person or any class of persons:
- (c) Any words or device inciting or encouraging, or intended or likely to incite or encourage, any person or any class of persons or persons in general to be or continue to be a party or parties to a strike or a lockout:
- (d) Any words or device intended or likely to influence any person to refrain from or to cease working in any employment or doing any work:
- (e) Any words or device intended or likely to expose any person, or any class of persons, in any trade, business, or occupation, to hatred or contempt amongst the public or amongst any class of persons, whether engaged in the same or any other trade, business, or occupation:
- (f) Any threatening, intimidatory, offensive, or insulting words or device relating to any person or any class of persons.

(4) Any constable may seize any vehicle, banner, placard, sign, badge, card, or other thing, or any written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

Picketing.

17. (1) In this section, the term "sergeant" means any member of the Police Force of or above the rank of sergeant.

(2) Where in the opinion of a sergeant the presence of any person on or in any public place within the meaning of section forty of the principal Act is intended or likely to influence any other person—

- (a) To refrain from or to cease working in any employment or doing any work; or
- (b) To be a party or continue to be a party to a strike or a lockout,—

that sergeant may give to the first-mentioned person such oral directions as the sergeant considers necessary in the circumstances, including a direction to remove himself forthwith from the public place where he then is to such reasonable distance as the sergeant considers necessary, or both a direction so to remove himself and a direction to remain at such reasonable distance from the public place as may be specified by the sergeant.

(3) Where an opinion under subsection two of this section is formed by a sergeant in respect of two or more persons present on or in any such public place as aforesaid, any direction authorized by that subsection may be given to those persons collectively.

(4) Any sergeant, acting under subsection two of this section, may direct any person not to enter or remain on or in any specified public place, whether or not that person is on or in the vicinity of the public place when the direction is given.

(5) Every person commits an offence against this Part of this Act who fails to comply in any respect with the requirements of a direction given to him under this section.

18. (1) If a member of the Police Force of or above the rank of sergeant is satisfied that the holding or continuance of any procession or demonstration in or in view of a public place within the meaning of section forty of the principal Act is likely to incite or influence any person to be or to continue to be a party to a strike or a lockout, he may prohibit the holding or continuance of the procession or demonstration.

Processions and demonstrations.

(2) Where the holding or continuance of any procession or demonstration is prohibited under this section, every person commits an offence against this Part of this Act who, knowing of such prohibition, advises, encourages, organizes, conducts, leads, or takes part in the procession or demonstration, or who, being present at the procession or demonstration, continues to be present thereat after being requested by a constable to leave.

Enforcement and Legal Proceedings

19. Any constable may arrest without warrant any person who is found committing an offence against this Part of this Act, or who is reasonably suspected by the constable of having committed or of having attempted to commit or of being about to commit such an offence.

Power to arrest.

Search
warrants.

20. (1) If a Justice of the Peace is satisfied on oath that there is reasonable ground for suspecting that there is on any premises or place any document or matter, or any printing press or apparatus, in respect of or in connection with which an offence against this Part of this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein to enter, with such assistants as may be necessary, any premises or place specified in the warrant, by force if necessary, and to search the premises or place and every person found therein, and to seize any document, matter, printing press, or apparatus, or anything which is evidence of an offence against this Part of this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and in respect of or in connection with which he has reasonable ground for suspecting that an offence against this Part of this Act has been or is about to be committed.

(2) The warrant shall authorize the constable to enter such premises or place as aforesaid in the daytime:

Provided that if the Justice granting the warrant is satisfied that the ends of justice require search to be made by night, he may by the warrant expressly authorize the entry and search to be made either by night or in the daytime.

Penalty for
offences.

21. (1) Every person who commits an offence against this Part of this Act shall be liable on summary conviction before a Magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

(2) Any information in respect of an offence against this Part of this Act may be laid at any time within one year from the time when the matter of the information arose.

Penal
provisions
of other Acts
not affected.

22. Nothing in this Part of this Act shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this Part, but no person shall be punished twice for the same offence.

Disposal of
things seized
under this
Part.

23. (1) Where anything is seized by any constable under this Part of this Act, it may be retained under the custody of a commissioned officer of the Police Force until it is disposed of pursuant to this section.

(2) In any prosecution relating to any thing so seized, the Magistrate shall, on application being made in that behalf, whether the defendant is convicted or not, order—

- (a) That the thing be forfeited to the Crown; or
- (b) That it be returned to a person appearing to the Magistrate to be entitled thereto; or
- (c) That it be disposed of in such manner as the Magistrate directs.

(3) If a prosecution relating to the thing is not commenced within a period of two months after the date of its being so seized, any person claiming to be entitled to it may, after the expiration of that period, apply to a Magistrate for an order that it be returned to him; and on any such application the Magistrate may make any order that might have been made under subsection two of this section:

Provided that if any such prosecution as aforesaid is commenced before the application is disposed of, no order shall be made until the conclusion of the prosecution.

(4) If no such prosecution as aforesaid is commenced, the Attorney-General may at any time cause application to be made on his behalf to a Magistrate for an order as to the disposal of the thing in the same manner as if a prosecution had been taken.

(5) Any person aggrieved by any order of a Magistrate under this section and claiming to be entitled to the thing shall have the same right of appeal to the Supreme Court against the order as he would have if it were a final determination of a Magistrate's Court in its civil jurisdiction in a proceeding to which he was a party, and the provisions of Part V of the Magistrates' Courts Act 1947 shall apply accordingly. 1947, No. 16

(6) Where under this section it is ordered that any thing be forfeited to the Crown, it shall be disposed of in such manner as the Attorney-General directs.
