

Mr. Pirani.

CONTEMPT OF COURT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Repeal of section 159 of "The District Court Act, 1858," and sections 191 and 192 of "The Magistrates' Court Act, 1893."</p> <p>4. Definition of contempt.</p> <p>5. Punishment for contempt.</p> <p>6. Appeal.</p>	<p>7. Hearing of appeal.</p> <p>8. Stay of proceedings.</p> <p>9. Dismissal of appeal.</p> <p>10. Technical defects in warrants.</p> <p>11. Commencement of term of imprisonment.</p> <p>12. Power to release from custody.</p> <p>13. Disciplinary jurisdiction of Courts.</p> <p>14. Incorporation of Acts.</p> <p>Schedule.</p>
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A BILL INTITULED

AN ACT to define the Power of the Court of Appeal of New Zealand, the Supreme Court, District Court, and Magistrates' Courts; to fine and imprison for Contempt of Court; and to make Better Provision relating thereto. Title.

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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 Contempt of Court Act, 1896." Short Title.

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2. In the interpretation of this Act the following expressions and words shall have the meanings hereinafter assigned to them:— Interpretation.

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The word "Court" shall mean and include the Court of Appeal, the Supreme Court, and the District Court, or a Judge thereof respectively sitting in open Court or in Chambers; and shall include a Magistrate's Court, and a Stipendiary Magistrate sitting in open Court or in Chambers, under "The Magistrates' Courts Act, 1893," or "The Justices of the Peace Act, 1882," and the amendments thereof.

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The word "Judge" shall mean a Judge of the Court of Appeal, Supreme Court, or District Court, and shall include a Stipendiary Magistrate sitting as aforesaid.

The word "prescribed" shall mean, prescribed by this Act.

Repeal of section 159 of "The District Court Act, 1858," and sections 191 and 192 of "The Magistrates' Court Act, 1893."

Definition of contempt.

3. Section one hundred and fifty-nine of "The District Court Act, 1858," and sections one hundred and ninety-one and one hundred and ninety-two of "The Magistrates' Court Act, 1893," are repealed, but otherwise this Act shall not in any way restrict or otherwise affect the power conferred upon any Court by any other Act or Acts to fine or imprison for contempt of Court, as mentioned in such Act or Acts. 5

4. If any person shall,—

(1.) Assault, threaten, intimidate, or insult—

(a.) Any Judge; or

(b.) Any Registrar, Clerk, Bailiff, or officer of the Court; or 10

(c.) Any juror, suitor, or witness during his attendance at or in Court, or in going to or returning from Court: or

(2.) Having been summoned, or while being examined, as a witness in any suit or proceeding in any such Court, shall, without lawful excuse, refuse or fail to attend or be sworn, or to answer any lawful question, or shall, in the opinion of the Judge, be guilty of wilful prevarication: or 15

(3.) Wilfully interrupt or obstruct the proceedings of the Court, or otherwise misbehave in Court or in Chambers: or 20

(4.) Write, print, or publish, or cause or procure to be written, printed, or published, any letter, statement, report, or thing, or do, or cause or procure to be done, any other act or thing calculated to obstruct or in any way interfere with, or interrupt, or improperly prejudice or affect the ordinary course and due and proper administration of justice: or 25

(5.) Wilfully disobey any lawful command or order of the Court, or a Judge thereof: or 30

(6.) Wilfully do or neglect to do any act the doing or neglect to do which is by any Act of the General Assembly of New Zealand declared to be a contempt of Court: or

(7.) Wilfully obstruct or interfere with any Registrar, Clerk, bailiff, or other officer of the Court while executing or carrying into effect any process or order of the Court, or while performing any of his official duties,— 35

he shall be deemed guilty of a contempt of Court; and it shall be lawful for any constable or for any bailiff or officer of the Court, where the offence is committed in the Court or within the precincts thereof, by order of the Judge, to take such offender into custody and detain him until the rising of the Court; or it shall be lawful for the Judge of the Court in any such case, and in all other cases where the offence is not committed in the Court, by summons in the prescribed form under his hand, and sealed with the seal of the Court, and issued out of the Court, to call upon the offender to appear before the Court or a Judge thereof in Chambers, at such time and place as shall therein be fixed, to show cause why he should not be fined or imprisoned for such offence, neglect, or default. 40 45 50

5. The Court, or a Judge thereof, shall, after hearing evidence, and being satisfied that a contempt of Court as hereinbefore defined has been committed, be empowered,—

Punishment for contempt.

- 5 (1.) By warrant in the prescribed form, and signed, sealed, and issued as aforesaid (and that whether the offender shall appear to show cause or not), to commit any such offender to prison for any term not exceeding *six* calendar months, with or without hard labour; or,
- (2.) By order signed, sealed, and issued as aforesaid to impose upon any such offender a fine not exceeding *fifty* pounds for every such offence, either in lieu of or in addition to such imprisonment, and
- 10 (3.) In default of payment of such fine, by warrant in the prescribed form, and signed, sealed, and issued as aforesaid, to commit the offender to prison, with or without hard labour, for any term not exceeding *six* calendar months, unless the said fine be sooner paid.

15 In any or either of the cases aforesaid the summons, order, and warrant in the forms or to the effect contained in the Schedule to this Act shall be good, valid, and sufficient.

6. Any person fined or ordered to be imprisoned as aforesaid by the District Court or a Judge thereof, or by a Stipendiary Magistrate, shall be entitled to appeal to the Supreme Court of the district where the order is made, provided such person shall within twenty-four hours after the making of the order file in the office of the Court where the order was made a written notice of his intention to appeal, and the grounds thereof. Appeal.

7. Upon such notice being filed as aforesaid, the Judge making the order shall, within fourteen days from the filing of the said notice, state, sign, and deliver to the Registrar of the Supreme Court a case setting forth the facts and circumstances under which the order appealed from was made, and the Clerk of the Court shall, immediately on the said case being delivered as aforesaid, give notice of such delivery to the appellant, who shall thereupon proceed to have the said appeal set down for hearing. Hearing of appeal.

8. Such appeal shall operate as a stay of proceedings under the order appealed from until the decision of the Supreme Court thereon is given unless the Court in which the order was made, or a Judge thereof, shall otherwise order. Stay of proceedings.

9. If the appellant shall fail to prosecute the said appeal with due diligence, the Court in which the order was made, or a Judge thereof, shall order the same to be dismissed, with reasonable costs, to be fixed by the said Court or Judge; and on the making of such last-mentioned order the appeal shall be deemed to be dismissed and at an end, and the order appealed from may then be enforced. Dismissal of appeal.

10. In every order and warrant made and issued as aforesaid it shall be sufficient to set forth shortly the substance of the contempt, and in no case shall any such order or warrant be quashed, set aside, or declared void for any technical defect therein, or on account of any omission therefrom; and every such defect or omission may be amended or supplied at any time by the Judge of the Court making and issuing the same, or by the Court appealed to, or the Judge thereof. Technical defects in warrants.

11. The term of imprisonment stated in any such order or warrant shall commence to run and be calculated from the date when the offender is apprehended under the warrant. Commencement of term of imprisonment.

Power to release
from custody.

12. It shall be lawful for the Court or Judge making and issuing any order or warrant as aforesaid to direct that any person in custody under such order or warrant shall be released from custody either temporarily or absolutely, and upon such terms and conditions as such Court or Judge shall, in his absolute discretion, think fit to impose. 5

Disciplinary juris-
diction of Court.

13. Every barrister or solicitor of the Supreme Court who is entitled to appear and practise in the District Court or Magistrate's Court shall be an officer of such Court, and subject to the disciplinary jurisdiction of such Court. 10

Incorporation of
Acts.

14. This Act shall be incorporated with and read as part of each of the following Acts: viz., (1) "The Court of Appeal Act, 1882"; (2) "The Supreme Court Act, 1882," and the amendments thereof; (3) "The District Court Act, 1858," and the amendments thereof; (4) "The Magistrates' Courts Act, 1893"; and (5) "The Justices of the Peace Act, 1882," and the amendments thereof. 15

Schedule.

SCHEDULE.

No. 1.

WARRANT OF COMMITMENT FOR CONTEMPT.

"The Contempt of Court Act, 1896."

In the [Name of Court], holden at
To the bailiff of the said Court [or A.B., police constable] and to the Gaoler of the prison at [Place].

WHEREAS at a sitting of [Name of Court] held this day [or on the] day of [Month], 18 [Year], before me, [Name of accused] did wilfully commit a contempt of the said Court in Court [or within the precincts of the said Court]—viz., [Here state shortly the nature of the contempt]: And whereas after hearing the said [Name of accused] and [If witnesses are examined state so] I did adjudge the said [Name of accused] guilty of the said contempt. This is therefore to require you, the said bailiff [or constable], to take the said [Name of accused] and deliver him to the said Gaoler of the public prison at [Name of place]. And I do hereby command you, the said Gaoler, to receive the said [Name of accused] into your custody, and there to imprison him with [or without] hard labour for the space of [State term], 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 the hand of [Name of Judge or Stipendiary Magistrate], Judge of the said Court [or Stipendiary Magistrate]. Sealed with the seal of the said Court, and issued this [Day] day of [Month], 18 [Year].
(L.S.) [Signature], Judge [or Stipendiary Magistrate].

No. 2.

SUMMONS TO SHOW CAUSE.

"The Contempt of Court Act, 1896."

In the [Name of Court], holden at
You are hereby summoned and required to appear in your own proper person before this Court [or before me, at my Chambers] at [Place], on [day of week], the [day of month], 18 [Year], at the hour of [Time] o'clock in the [Time] noon, to show cause why you should not be committed to prison or fined for a contempt of this honourable Court, wilfully committed by you on the [day of month] day of [month], 18 [Year]—viz., [Here state shortly the nature of the alleged contempt, &c.].

Given under the hand, &c. [as in Form No. 1].

To [Name of accused], of

Contempt of Court.

No. 3.

ORDER IMPOSING FINE FOR CONTEMPT OF COURT, AND, IN DEFAULT OF PAYMENT, IMPRISONMENT.

“The Contempt of Court Act, 1896.”

In the [Name of Court], holden at

WHEREAS [Same recital as in Form No. 1] : Now, this Court, after hearing the said [Name of accused], doth adjudge him guilty of the said contempt, and doth order him to pay to the Registrar [or Clerk] of this Court forthwith [or on or before the day of next] the fine or sum of £ . And this Court doth further order that in default of such payment the said [Name of accused] be imprisoned in the public prison at [Name of place] for the space of [Term of imprisonment], unless the said fine be sooner paid.

Given under the hand, &c. [as in Form No. 1].

No. 4.

WARRANT OF COMMITMENT IN DEFAULT OF PAYMENT OF FINE.

“The Contempt of Court Act, 1896.”

In the [Name of Court], holden at

To [As in Form No. 1].

WHEREAS by order of this Court made on the day of , 18 , [Name of person] was adjudged guilty of a contempt of Court as therein mentioned, and he was ordered to pay a fine of £ forthwith [or on or before the day of , 18], and it was also ordered that in default of such payment he should be imprisoned as hereinafter mentioned : And whereas a duplicate of the said order was served on the said [Name of person] personally [or in such other manner as Judge may order] on the day of , 18 , but he has not obeyed the said order : This is therefore to require you [As in Form No. 1].

No. 5.

ORDER FOR RELEASE.

“The Contempt of Court Act, 1896.”

In the [Name of Court], holden at

To the Gaoler of the Prison at

I HEREBY order and authorise you to release [Name of person], now in your custody under warrant issued out of this Court, and dated on the day of , 18 ; and for so doing this shall be your authority.

Given under my hand and the seal of the Court at , this day of , 18 .

(L.S.) , Judge [or Stipendiary Magistrate].