

Mr. Pirani.

CONTEMPT OF COURT.

ANALYSIS.

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A BILL INTITULED

AN ACT to confer upon the Court of Appeal of New Zealand, the Supreme Court, the District Courts, and the Magistrates' Courts, Power to fine and imprison for Contempt of Court. Title.

5 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, 1900." Short Title.

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

The word "Court" means—

15 (a.) The Court of Appeal of New Zealand, the Supreme Court, the District Courts, and the Native Land Court, or a Judge thereof respectively sitting in open Court or in Chambers;

(b.) The Magistrates' Courts, or a Stipendiary Magistrate sitting in open Court or in Chambers; and

20 (c.) The Warden's Court, or a Warden sitting in open Court or in Chambers:

The word "Judge" means any Judge of the Court of Appeal of New Zealand, the Supreme Court, the District Court, and the Native Land Court, sitting as aforesaid, and includes any Stipendiary Magistrate, and any Warden, sitting as aforesaid:

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The word "prescribed" means prescribed and set forth in the Schedule to this Act, or in any rules or regulations made under this Act.

Definition of
"contempt."

3. Every person is guilty of a contempt of Court—

- (1.) If he assaults, intimidates, or insults, or threatens to assault, 5
intimidate, or insult,—
(a.) Any Judge during his attendance at or in Court, or in going to or returning from Court;
(b.) Any Registrar, Clerk, bailiff, or officer of the Court during his attendance at or in Court, or in going to 10
or returning from Court; or
(c.) Any juror, suitor, or witness during his attendance at or in Court, or in going to or returning from Court:
- (2.) If, having been duly summoned to attend as a witness in 15
any suit or proceeding of any kind in any such Court, he, without lawful excuse,—
(a.) Fails to appear or attend at the Court as required by the summons served upon him; or
(b.) Being present, or in attendance in or at the 20
Court, refuses to be sworn; or
(c.) While being examined as a witness in Court, refuses to answer any lawful question asked of him; or
(d.) Refuses to produce any book, deed, document, writing, or any other thing specified in the subpoena 25
served on him; or
(e.) Is, in the opinion of the Judge, guilty of wilful prevarication when giving evidence: or
- (3.) If he wilfully interrupts or obstructs the proceedings of the Court, or otherwise misbehaves in Court, or within its 30
precincts: or
- (4.) If he writes, prints, or publishes, or causes or procures to be written, printed, or published, anything, or does or causes or procures to be done any act or thing, calculated to obstruct or in any way interfere with or prejudicially 35
affect the ordinary course and the due and proper administration of justice: or
- (5.) If he wilfully disobeys any decree, injunction, order, direction, or command of the Court or a Judge thereof: or
- (6.) If he wilfully obstructs or interferes with any Registrar, 40
Clerk, bailiff, or other officer of the Court while executing or carrying into effect any decree, injunction, order, process, direction, or command of the Court, or while performing any of his official duties: or
- (7.) If he wilfully does or neglects to do any act or thing the 45
doing or neglect to do which is by any Act declared to be a contempt of Court.

Offender may be detained till rising of Court, or summoned.

4. (1.) Where the contempt is committed in Court, or within its precincts during the sitting of the Court, the Judge may, by verbal or written order, direct any constable, or any bailiff or officer 50
of the Court, to take the offender into custody and detain him until the rising of the Court; and it shall be the duty of such constable, bailiff, or officer to obey such order; or

(2.) In any such case, and in all other cases where the contempt is not committed in the Court or within its precincts during the sitting of the Court, a Judge of the Court may, by summons, in the prescribed form (No. 1 in the Schedule hereto), under his hand, call upon the offender to appear in person before such Court, and, at such convenient time and place as are therein named, to show cause why he should not be punished for such contempt.

5. The Court, or a Judge thereof, after calling upon the offender to show cause, and after, if necessary, hearing evidence *viva voce* upon oath or otherwise, and on being satisfied that a contempt of Court has been committed, may, whether the offender has or has not appeared to show cause,—

Punishment for contempt.

(1.) By warrant under his hand in the prescribed form (Nos. 2 and 3 in the Schedule hereto), commit the offender to prison for any term not exceeding three calendar months, with or without hard labour, or until such time as the offender shall clear or purge his contempt to the satisfaction of the Court or a Judge thereof; or

(2.) By order under his hand in the prescribed form (Nos. 4 and 5 in the Schedule hereto), impose upon the offender a fine not exceeding *one hundred* pounds in lieu of imprisonment;

(3.) Order the offender to pay the costs, to be fixed by the Court or a Judge thereof, of and incidental to such warrant or order, and consequent thereon; and

(4.) On default in payment of such fine or costs, by warrant under his hand in the prescribed form (No. 6 in the Schedule hereto), commit the offender to prison, with or without hard labour, for any term not exceeding three calendar months, or until the fine and costs be fully paid.

6. Such summons, warrant, and order may be in the form or to the effect set forth in the Schedule hereto, and shall be good, valid, and sufficient.

Forms of summons, warrant, and order.

7. Every person committed to prison or fined as aforesaid by the District Court or Native Land Court, or a Judge thereof respectively, or by a Stipendiary Magistrate or a Warden, shall be entitled to appeal to the Supreme Court nearest to the Court issuing the warrant or making the order, if such person shall within three days after the date of the warrant or order file in the office of the Court issuing the warrant or order a written notice in the prescribed form (No. 8 in the Schedule hereto) of his intention to appeal, and the grounds thereof.

Appeal to Supreme Court.

8. Upon such notice being filed as aforesaid, the Judge who signed the warrant or order shall, within fourteen days from the filing of such notice, state, sign, and transmit to the Registrar of the Supreme Court a case setting forth the facts and circumstances upon and under which the warrant or order appealed from was issued or made, together with a copy of the notice of appeal.

Case on appeal to be stated and signed.

9. Upon receipt of such case the Registrar of the Supreme Court shall forthwith fix a date for the hearing of the appeal, and shall cause notice thereof in writing under his hand in the prescribed form (No. 9 in the Schedule hereto) to be served on the appellant or his solicitor.

Registrar to appoint time for hearing of appeal, and give notice to appellant.

Stay of proceedings pending appeal.

10. Such appeal shall not operate as a stay of proceedings under the warrant or order unless the Judge signing the warrant or order shall otherwise direct.

Offender, if apprehended, may be released pending appeal.

11. When the offender has given notice of appeal as aforesaid, after he has been taken into custody under the warrant, the Judge signing the warrant may order (No. 7 in the Schedule hereto) that he be forthwith discharged pending the decision of the Supreme Court, upon such terms and conditions (if any) as such Judge shall think fit to impose. 5

Dismissal of appeal, &c.

12. The Supreme Court may either affirm, rescind, or vary the warrant or order, with or without costs, and may make such other or further order in the premises as such Court shall consider proper. In the event of the warrant or order being affirmed, the same may then be executed and enforced, and if the offender has been released under section *eleven* hereof he may be reapprehended. 10 15

Technical defects and errors in warrants, &c., may be amended.

13. In every order and warrant made and issued under this Act 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 or clerical error or defect therein, or on account of any omission therefrom; and every such defect, error, or omission may be amended or supplied at any time by the Judge who signed the warrant or order. 20

Commencement of term of imprisonment.

14. The term of imprisonment under every such warrant shall commence to run from the date when the offender is apprehended under the warrant: Provided that if the offender was apprehended and afterwards released pending an appeal to the Supreme Court, the remainder of the term of imprisonment stated in the warrant shall commence and continue to run from the time of his reapprehension under the warrant. 25

Power to release offender from custody.

15. The Judge signing the warrant or order may at any time, by order in the prescribed form (No. 7 in the Schedule hereto), direct that any person in custody under any such warrant shall be forthwith released from custody, either temporarily or otherwise, and upon such terms and conditions (if any) as such Judge shall think fit to impose. 30 35

Disciplinary jurisdiction of Courts.

16. Every barrister or solicitor of the Supreme Court, or agent who is entitled or allowed to appear and practise in the District Court, Native Land Court, or Magistrates' Court, shall, for the purposes of this Act, be deemed to be an officer of such Courts, and shall be subject to the disciplinary jurisdiction of such Courts. 40

Service of process.

17. A copy of every summons, order, warrant, or other process issued under or in pursuance of this Act may be served on the offender, either personally or in such other manner as a Judge shall, by writing under his hand, and indorsed thereon or on the original thereof, direct. 45

Newspaper reports not prohibited except in certain cases.

18. Nothing herein contained shall be deemed to prohibit the publication in any registered newspaper of any fair and accurate report of the proceedings of any Court of justice in open Court or in Chambers, unless the Court or a Judge thereof has, in the interests of justice or morality, ordered that such proceedings shall not be published. 50

Rules may be made.

19. The Governor in Council may, from time to time, make, revoke, alter, or amend rules and regulations and forms of procedure

for carrying into effect the objects of this Act; and all such rules, regulations, and forms shall be published in the *New Zealand Gazette*, and shall come into force and take effect from the date of such publication.

5 20. No action, suit, or other proceeding shall be commenced, taken, or prosecuted against any Judge for signing any warrant or order under this Act, or for exercising any of the powers given to or conferred upon him or the Court by this Act. Judges not liable to actions.

10 21. Section one hundred and fifty-nine of "The District Courts Act, 1858," sections one hundred and ninety-one, one hundred and ninety-two, and one hundred and ninety-four of "The Magistrates' Courts Act, 1893," and section two hundred and seventy-six of "The Mining Act, 1898," are hereby repealed. Repeals.

SCHEDULE.

Schedule.

No. 1.

SUMMONS TO SHOW CAUSE.

"The Contempt of Court Act, 1900," Section 4, (2).

In the [Name of Court], holden at .

You are hereby summoned to appear in your own proper person before* this Court [or before me at my chambers], at , on , the day of 19 , at the hour of o'clock in the noon, to show cause,—

1. Why you should not be punished for a contempt of this Court committed by you on the day of , 19 , viz.: [*Here state shortly the nature of the alleged contempt*]; and

2. Why you should not pay the costs of and incidental to this summons and consequent thereon.

Given under the hand of [Name of Judge, Stipendiary Magistrate, or Warden], Judge of the said Court [or Stipendiary Magistrate, or Warden].

Sealed with the seal of the said Court, and issued this day of ,

19

(L.S.)

, Judge

[or Stipendiary Magistrate, or Warden].

To [Name of offender].

No. 2.

WARRANT OF COMMITMENT (WITHOUT SUMMONS).

"The Contempt of Court Act, 1900," Section 5, (1).

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 .

WHEREAS at a sitting of [Name of Court] held this day [or on the day of , 19], before me, [Name of offender] 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 calling upon the said [Name of accused] to show cause, and after hearing the said [Name of offender] and [*If witnesses are examined, name them*], I did adjudge the said [Name of offender] guilty of the said contempt [or, if other contempt, specify]: I do therefore order you the said Bailiff [or constable] to take the said [Name of offender] and deliver him to the Gaoler of the public prison at : And I do order you the said Gaoler to receive the said [Name of offender] into your custody, and to imprison him in the said prison, with [or

without] hard labour, until such time as he shall clear or purge his said contempt, and until he be discharged by due course of law [or for the term of , or until he shall be discharged by due course of law]. And for your so doing this shall be your sufficient warrant.

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

No. 3.

WARRANT OF COMMITMENT (AFTER SUMMONS).

“The Contempt of Court Act, 1900,” Section 5, (1).

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

WHEREAS at a sitting [&c., same as in Form No. 2] : And whereas the said [Name of offender] was duly summoned under section of the said Act to appear before this Court [or before me at my chambers], at , on , the day of , 19 , to show cause why he should not be punished for such contempt: And whereas a copy of the said summons was duly served on the said [Name of offender] : And whereas, after calling upon the said [Name of offender] [&c., same as in Form No. 2], I did adjudge [&c., as in Form No. 2] : I do therefore order [&c., as in Form No. 2], and I do order you the said Gaoler [&c., as in Form No. 2].

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

No. 4.

ORDER IMPOSING FINE (WITHOUT SUMMONS).

“The Contempt of Court Act, 1900,” Section 5, (2) and (3).

In the [Name of Court], holden at

WHEREAS [Same recitals as in Form No. 2] : I do therefore order the said [Name of offender] to pay to the Registrar [or Clerk] of this Court at forthwith [or on or before the day of next] the fine or sum of £ , together with the sum of £ for costs.

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

No. 5.

ORDER IMPOSING FINE (AFTER SUMMONS).

“The Contempt of Court Act, 1900,” Section 5, (2) and (3).

In the [Name of Court], holden at

WHEREAS [Same recitals as in Form No. 2] : And whereas [Recite summons and service as in Form No. 3] : And whereas, after calling upon [&c., as in Form No. 2], I did adjudge [&c., as in Form No. 2] : I do therefore order [&c., as in Form No. 4].

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

No. 6.

WARRANT OF COMMITMENT IN DEFAULT OF PAYMENT OF FINE AND COSTS.

“The Contempt of Court Act, 1900,” Section 5, (4).

In the [Name of Court], holden at

To [As in Form No. 2].

WHEREAS by order of this Court under my hand, and dated the day of , 19 , [Name of offender] was adjudged guilty of a contempt of Court as therein mentioned, and I ordered him to pay a fine of £ , and £ for costs, forthwith [or on or before the day of] : And whereas the said [Name of offender] has not paid the fine and cost [or the said fine or the said cost, as the case may be] : I do therefore order you [As in Form No. 2, altered as the circumstances require].

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

No. 7.

ORDER FOR RELEASE.

"The Contempt of Court Act, 1900," Sections 11 and 15.

In the [*Name of Court*], holden at .
 To the Gaoler of the prison at .

I do hereby order you to release [*Name of offender*], now in your custody under warrant issued out of this Court, and dated the day of , 19 .
 [*State conditions, if any*].

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

No. 8.

NOTICE OF APPEAL.

"The Contempt of Court Act, 1900," Section 7.

In the [*Name of Court*], holden at .

TAKE notice that I desire to appeal to the Supreme Court of New Zealand, holden at , against the warrant [*or order*] issued [*or made*] under "The Contempt of Court Act, 1899," and dated the day of , 19 , upon the following grounds: [*State grounds*].

Dated this day of , 19 .

A.B.,
 Appellant.

To the Clerk of the [*Name of Court*], holden at .

No. 9.

NOTICE BY REGISTRAR.

"The Contempt of Court Act, 1900," Section 9.

In the Supreme Court of New Zealand, District.

TAKE notice that a case stated and signed by the Judge of the [*Name of Court*], holden at , under section 8 of "The Contempt of Court Act, 1899," was received by me on the day of , 19 , together with a copy of your notice of appeal, dated the day of , 19 : And, further, take notice that I have appointed , the day of , 19 , at the Supreme Court holden at , at the hour of o'clock in the noon, for the hearing of the said appeal.

Dated at , this day of , 19 .

(L.S.)

, Registrar.

To [*Name of appellant*].