

Hon. Mr. Seddon.

## IMPRISONMENT FOR DEBT ABOLITION.

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### A BILL INTITULED

AN ACT for the Abolition of Imprisonment for Debt, and for other Purposes. Title.

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 Imprisonment for Debt Abolition Act, 1894." It shall come into operation on the first day of October, one thousand eight hundred and ninety-four, which day is herein referred to as "the commencement of this Act." Short Title. Commencement.
2. With the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be arrested or imprisoned for making default in payment of a sum of money. Abolition of imprisonment for debt, with exceptions.
- There shall be exempted from the operation of the above enactment—
- (1.) Default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract;
- (2.) Default in payment of any sum recoverable summarily before a Stipendiary Magistrate or a Justice or Justices of the Peace under "The Justices of the Peace Act, 1882," or any Act amending the same or passed for like purposes, or otherwise than under "The Magistrates' Courts Act, 1893";
- (3.) Default by a trustee or person acting in a fiduciary capacity, and ordered to pay by a Court having jurisdiction in the matter any sum in his possession or control;

- (4.) Default by a solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the Court making the order ;
- (5.) Default in payment for the benefit of creditors of any portion of a salary or other income in respect of the payment of which any Court having jurisdiction in bankruptcy or insolvency is authorised to make an order :

Provided first that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than one year ; and, secondly, that nothing in this section shall alter the effect of any judgment or order of any Court for payment of money, except as regards the arrest and imprisonment of the person making default in paying such money.

3. No person shall be arrested upon mesne process in any action in the Supreme Court.

Power under certain circumstances to arrest defendant about to quit New Zealand.

Where the plaintiff in any action in the Supreme Court proves at any time before final judgment, by evidence on oath to the satisfaction of a Judge of the said Court, that he has good cause of action against the defendant to the amount of fifty pounds or upwards, and that there is probable cause for believing that the defendant is about to quit New Zealand unless he be apprehended, and that the absence of the defendant from New Zealand will materially prejudice the plaintiff in the prosecution of his action, such Judge may, in such manner as may be prescribed by rules of Court, order such defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he has sooner given security to such amount as may be prescribed by rules of Court, not exceeding the amount claimed in the action, that he will not go out of New Zealand without the leave of the Supreme Court.

Where the action is for a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from New Zealand will materially prejudice the plaintiff in the prosecution of his action ; and the security given (instead of being that the defendant will not go out of New Zealand) shall be to the effect that any sum recovered against the defendant in the action shall be paid, or that the defendant shall be rendered to prison.

Registrar or Deputy to have same power in absence of Judge.

4. All the powers conferred upon a Judge of the Supreme Court by the *last-preceding* section of this Act shall be, and the same are, hereby conferred upon, and may be exercised by, the Registrar or Deputy Registrar of the said Court : Provided that such powers shall only be exercised by the said Registrar or Deputy Registrar in the absence of such Judge from the place where the office of the Supreme Court is situated at which the application for the order mentioned in such section is made.

District Court Judges and Stipendiary Magistrates to have like powers.

5. The reference to section fifteen of "The Imprisonment for Debt Abolition Act, 1874," made respectively in section eighteen of "The District Courts Acts Amendment Act, 1888," and in subsection two of section thirty-one of "The Magistrates' Courts Act, 1893," shall be construed and take effect respectively as referring to section *three* of this Act.

6. Nothing in this Act contained shall be construed to affect, annul, or repeal any provisions of "The Bankruptcy Act, 1892," or of any other Act wherein express powers of imprisonment for debt are granted. Saving of special powers under Bankruptcy Act and other Acts.

5 7. "The Imprisonment for Debt Abolition Act, 1874," and "The Imprisonment for Debt Abolition Act Amendment Act, 1875," are hereby repealed; but this repeal shall not affect anything lawfully done thereunder, or the validity of any writ, judgment, attachment, or other process lawfully issued thereunder respectively. Repeal.