

JUSTICES OF THE PEACE AMENDMENT BILL

EXPLANATORY NOTE

Clauses 2 to 14 of this Bill amend the law relating to appeals to the Supreme Court against summary convictions by Magistrates and Justices. The opportunity is taken to redraft the relevant sections so as to include the amendments made by the amending Acts of 1946 and 1948. The effect of the main changes is as follows:—

- (a) An appellant who has been sentenced to imprisonment or detention will be bailable at the discretion of the Magistrate's Court. At present he is entitled to be released from custody as soon as he gives security for the prosecution of the appeal, and does not have to enter into any recognizance for bail:
- (b) No appellant will have to give security for the prosecution of the appeal:
- (c) The time allowed for giving notice of any appeal is altered to ten days (which is the time allowed, under the Criminal Appeal Act 1945, for an appeal to the Court of Appeal against a conviction by the Supreme Court). At present the time is fourteen days for an application for a case stated, and seven days for notice of a general appeal:
- (d) The procedure for stating a case and giving notice of appeal is simplified; and, in order to avoid any delay in hearing the appeal, provision is made for the Registrar of the Court to have the appeal set down for hearing on the first available day at the most convenient sitting of the Supreme Court, whether in the same judicial district or not.

The remaining clauses make miscellaneous amendments to the Justices of the Peace Act 1927.

The following notes indicate the effect of the clauses of the Bill.

Appeals

Clause 2 (1) simplifies the procedure for having a case stated for the opinion of the Supreme Court on a question of law. The appellant will file a notice of appeal within ten days after conviction, and submit a statement of his case to the Justice within twenty-one days after the conviction or within such further time as may be allowed by the Court. The Justice will then settle and sign the case, after hearing the parties if necessary, and the Registrar will send it to the nearest Supreme Court Registry in the same judicial district. The Registrar of the Supreme Court is required to set the appeal down for hearing on the first practicable day at the most convenient sitting of the Supreme Court, whether it is in the same judicial district or not. *Subclause (3)* repeals the provisions requiring security to be given to prosecute the appeal.

Clause 3 provides that a warrant of commitment will be issued in any case where the appellant has been sentenced to imprisonment or detention; and that where the appellant is bailed before the warrant is executed the warrant is suspended until the determination of the appeal. At present no warrant of commitment may be issued when the appellant has given security to prosecute the appeal, and on the giving of that security he is entitled to be released. The existing law authorizing the issue of a distress warrant where this is expressly provided for by any other enactment, or the issue of any warrant where a person has failed to obey an order to enter into a recognizance to be of good behaviour, is re-enacted; and orders under the Destitute Persons Act 1910 are not affected.

Clause 4 provides that an appellant in custody is bailable at the discretion of the Magistrate's Court, which may allow bail in such sum, and with or without surety, as it thinks fit; but the appellant is not to be released if he is serving any other sentence. The appellant may apply to a Judge of the Supreme Court to modify or reverse any decision as to bail. If a Judge is satisfied, on the oath of the respondent or any surety, that an appellant is about to abscond for the purpose of evading justice, he may issue a warrant for his arrest.

Under clause 5 an appellant who is not admitted to bail is to be specially treated as if he were a prisoner on remand before trial, unless the appeal is only against sentence, in which case he continues to serve his sentence in the ordinary way. Any time during which a prisoner is out on bail, or during which a prisoner not released on bail is so specially treated, does not count as part of the term of his imprisonment, unless otherwise directed by the Supreme Court on the hearing of the appeal. This clause puts a prisoner in the same position as if he were an appellant to the Court of Appeal (under the Criminal Appeal Act 1945) against a conviction of the Supreme Court.

Clause 6 re-enacts section 315 (1) and (1A) of the principal Act, conferring a general right of appeal to the Supreme Court against any summary conviction, sentence, or order of a Magistrate's Court. Section 315 (2) is not re-enacted, as it is replaced by later provisions as to the hearing of the appeal.

Clauses 7 to *9* deal with the method of giving notice of a general appeal, bail, the issue of warrants, and the setting down of the appeal for hearing by the Supreme Court. Under *clause 7* the appellant files a notice of appeal in the Magistrate's Court office within ten days after the conviction, sentence, or order, and the Registrar serves a copy on the respondent. The present time limit is seven days. A new and simplified form of notice is set out in the *First Schedule* to the Bill. Under *clause 8* the appellant is in the same position as to bail, the issue of warrants, and custody pending the appeal, as if the appeal were on a question of law, and the provisions of the new sections set out in *clauses 3* to *5* of the Bill apply accordingly. Under *clause 9* the Registrar of the Magistrate's Court sends the notice of appeal and all relevant documents to the nearest Supreme Court Registry in the same judicial district. The Registrar of the Supreme Court is to set the appeal down for hearing on the first practicable day at the most convenient sitting of the Supreme Court, whether it is in the same judicial district or not.

Clause 10 empowers a Judge of the Supreme Court to grant extensions of time, and to review any decision of a Justice or Magistrate refusing an extension under *clause 2*.

Clause 11 provides that where after the determination of an appeal the appellant is liable to imprisonment or detention, or where the appeal has not been duly prosecuted, the appellant may be arrested forthwith, and any warrant previously issued is to have effect subject to any modification of the sentence by the Supreme Court.

Clause 12 provides that where an appellant has been sentenced to imprisonment or detention under the conviction to which the appeal relates no Court fees are payable by him on his appeal.

Clause 13 consequentially amends the principal Act, the Justices of the Peace Amendment Act 1946, and the Justices of the Peace Amendment Act 1948.

Clause 14 (1) provides that the foregoing amendments are to apply, as from the commencement of this Bill, to appeals already commenced. *Subclause (2)* provides that they are to apply to appeals hereafter brought against convictions or orders made before the commencement of the Bill.

Miscellaneous

Clause 15: Under section 9 of the principal Act the Registrar of every Magistrate's Court keeps an alphabetical list of Justices residing within three miles of the courthouse. When Justices are required for sittings of the Court he is to summon them in rotation. This clause extends the area from three miles to ten, and makes it unnecessary for Justices to be summoned in rotation.

Clause 16 substitutes new provisions for the sections of the principal Act relating to the appointment and powers of special constables. Under the existing law (sections 33 to 46) any two Justices may appoint special constables whenever it appears to them, on the oath of any credible witness, that any tumult or riot, or any crime formerly classed as a felony, has taken place or may be reasonably apprehended. Before making any appointment the Justices must be of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace, the protection of the inhabitants, and the security of property. The Justices may order payment to special constables of such allowances as they think proper (section 36), and may make regulations for rendering them more efficient, and may dismiss them for misconduct or neglect of duty (section 37). These provisions are copied from the Special Constables Act 1831 (U.K.), which has been largely superseded by the Special Constables Act 1914 (U.K.) and the Special Constables Act 1923 (U.K.) together with regulations made under the 1914 Act. This clause brings the New Zealand provisions into line with the United Kingdom provisions. Under *subclauses (1)* and *(2)*, Justices may appoint special constables only on the application of a member of the Police Force acting on a direction from the Commissioner of Police, and only when the Commissioner is of opinion that the members of the Police Force in any place are not sufficient in number for the preservation of the public peace, the protection of the inhabitants, and the security of property. Under *subclauses (3), (4), and (6)* persons so appointed are under the control of the senior member of the Police Force in the locality, and may be discharged or suspended by the Commissioner or a commissioned officer of the Force, and are subject to any general instructions issued by the Commissioner. Subject to those new limitations, special constables will have, under *subclause (3)*, the same powers and immunities as they now have under section 38 of the principal Act—namely, those of a member of the Police Force. *Subclause (5)* provides for their remuneration to be approved by the Minister of Finance. Under *subclause (7)* regulations may be made fixing conditions of appointment and discharge, and for securing that only fit and proper persons are appointed.

Clause 17 makes it clear that any Justice may issue any necessary summons on an information, even when the case may eventually be heard only by a Magistrate.

The effect of *clause 18* is that where Justices amend an information by substituting a summary offence for another summary offence, or a summary offence for an indictable one, either party may re-examine or cross-examine any witness who has already given evidence. Where, on the other hand, an indictable

offence is substituted for a summary one, the case may be dealt with either in a summary way, if it is an offence triable summarily (subject to the right of the accused to claim trial by jury where the penalty exceeds three months' imprisonment), or, if it is not an offence triable summarily, by the taking of depositions and a subsequent indictment in the usual way.

The effect of *clause 19 (1)* is that where on an adjournment in a summary trial the defendant is admitted to bail, and a Justice is satisfied on the oath of the informant or any surety that the defendant is about to abscond for the purpose of evading justice, the Justice may issue a warrant for his arrest. The clause is based on the similar provisions of section 179 of the principal Act, which gives this power in indictable cases. *Subclause (2)* amends section 179 by omitting the requirement of an information in writing where the Justice is satisfied on oath.

Clause 20 makes it clear that where, in a case triable summarily, the defendant has elected to be tried by a jury, he may, at any time before he is committed to the Supreme Court, abandon that claim and elect to be dealt with summarily.

Clause 21 provides that where on a charge of an indictable offence the Justices dismiss the charge, they may order the prosecutor to pay costs if they are of opinion that the charge was not made in good faith, or was made without reasonable grounds. The power to award costs to a defendant already exists in summary cases, under section 91 of the principal Act.

Clause 22 repeals the provisions relating to the method of payment of witnesses' expenses in indictable cases. Those provisions have been superseded by regulations.

Clause 23 substitutes a new section for section 265 of the principal Act, which requires every document served on a Maori to be in the Maori language or accompanied by a translation. The new section provides that the rules relating to civil proceedings in a Magistrate's Court shall apply. Under those rules, where any document is served on a Maori, he may request a translation, and thereafter every document subsequently served on him in the proceedings is to be accompanied by a translation unless the Court otherwise orders or the Maori is at the time represented by a solicitor. The Court has power in any case to order a translation where it is not asked for.

The *First* Schedule contains the new form of notice of a general appeal.

The *Second* Schedule contains the consequential amendments referred to in *clause 13*.

Words struck out by Statutes Revision Committee are shown in italics within bold brackets; words inserted are shown in black.

Hon. Mr. Webb

JUSTICES OF THE PEACE AMENDMENT

ANALYSIS

Title.	14. Application of foregoing provisions to pending appeals, and to convictions before commencement of this Act.
1. Short Title and commencement.	
<i>Appeals</i>	<i>Miscellaneous</i>
2. Appeal on question of law only, by way of case stated. Repeal.	15. Section 9 of principal Act (as to rota of Justices) amended.
3. Provisions as to issue of warrant pending appeal.	16. Appointment and powers of special constables. Consequential repeals.
4. Admission to bail of appellant in custody.	17. Section 55 of principal Act (as to issue of summons, &c.) amended.
5. Custody of appellant pending appeal.	18. Section 72 of principal Act (as to amendment of information) amended.
6. General right of appeal to Supreme Court.	19. Provision for arrest of accused if about to abscond while on bail.
7. Notice of appeal.	20. Section 124 of principal Act (as to right to claim trial by jury) amended.
8. Application of provisions of Part IX as to issue of warrant, bail, and custody pending appeal.	21. Power to award costs to accused in certain cases where charge of indictable offence dismissed.
9. Transmission of notice of appeal to Supreme Court, and setting down for hearing.	22. Repeal of provisions as to method of payment of witnesses' expenses in indictable cases.
10. Powers of Judge of Supreme Court as to extension of time.	23. Translations of documents into Maori language.
11. Custody of appellant liable to imprisonment after determination of appeal.	Schedules.
12. No Court fees payable on appeal by person sentenced to imprisonment.	
13. Consequential amendments.	

A BILL INTITULED

Title. AN ACT to amend the Justices of the Peace Act 1927.
 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 5

Short Title and commencement. 1. (1) This Act may be cited as the Justices of the Peace Amendment Act 1952, and shall be read together with and deemed part of the Justices of the Peace Act 1927 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. II, p. 351

(2) This Act shall come into force on the *first* day of 10
December, nineteen hundred and fifty-two.

Appeals

Appeal on question of law only, by way of case stated.

2. (1) The principal Act is hereby amended by repealing section three hundred and three, and substituting the following section:— 15

“303. (1) At any time within ten days after the determination by a Justice of any information or complaint that he has power to determine in a summary way, either party to the proceeding before the Justice may, if dissatisfied with the determination as being erroneous in point of law, file in the office of the Magistrate’s Court where the proceeding was heard a notice in writing of his intention to appeal to the Supreme Court by way of case stated for the opinion of that Court on a question of law only. [The appellant shall, within the said period of ten days, send a copy of the notice to the respondent.] 20
The notice shall be filed in duplicate, and the Registrar shall forthwith deliver or post one copy thereof to the respondent.

“(2) The appellant shall, within twenty-one days 30
 after the determination to which the appeal relates, or within such further time as the Justice, or, if he is not available, a Magistrate, may in his discretion allow, state in writing a case setting out the facts and the grounds of the determination and specifying the question 35
 of law on which the appeal is made, and submit it to the Justice whose determination is appealed against. The case may be in the form No. 51 in the First Schedule to this Act, or to the like effect.

“(3) As soon as may be practicable after receiving 40
 the case stated as aforesaid, the Justice shall, after hearing the parties if he considers it necessary so to do, settle the case, sign it, and deliver or send it to the

Registrar of the Magistrate's Court in which the proceeding to which the appeal relates was heard. The settling and signing of the case shall be deemed for the purposes of this Part of this Act to be the statement of the case by
5 the Justice.

“(4) The Registrar shall then send to the nearest Supreme Court Registry in the judicial district within which the Magistrate's Court is situated the case signed by the Justice, together with any recognizance of bail
10 entered into by the appellant.

“(5) When the Registrar of the Supreme Court receives the case stated, he shall set it down for hearing on the first practicable sitting day in the most convenient place where sittings of the Supreme Court are held,
15 whether or not that place is in the same judicial district, and shall notify the parties to the appeal of the time and place appointed for the hearing.

“(6) If within twenty-one days after the determination to which the appeal relates, or within such further
20 time as may be allowed as aforesaid, the appellant does not submit a case to the Justice pursuant to subsection *two* of this section, the Justice may certify that the appeal has not been prosecuted.”

(2) Form No. 51 in the First Schedule to the
25 principal Act is hereby amended by omitting the third paragraph, and substituting the following paragraph:—

“The defendant [*or complainant*], within ten days after the said determination, filed in the office of the Magistrate's Court at _____ a notice of his intention
30 to appeal by way of case stated for the opinion of this honourable Court on a question of law only; and we therefore state the following case:—”

(3) Section three hundred and five of the principal
35 Act (which relates to the giving of security on an appeal) is hereby repealed. Repeal.

3. The principal Act is hereby further amended by repealing section three hundred and six, and substituting the following section:— Provisions as to issue of warrant pending appeal.

“306. (1) Where under any such determination as
40 aforesaid any person has been sentenced to a term of imprisonment or detention, the warrant of commitment or other order in execution of the sentence shall be issued forthwith, notwithstanding that that person may have given or may intend to give notice of his intention
45 to appeal against the determination.

“(2) Where any warrant of commitment or order to serve a sentence of imprisonment or detention is issued against an appellant pursuant to subsection *one* of this section, and the appellant is admitted to bail before the warrant or order is executed, the warrant or order shall be deemed to be suspended until the appeal has been determined or, as the case may be, until the Justice or the Registrar of the Supreme Court has certified that it has not been duly prosecuted. 5

“(3) Except as provided in subsection *one* of this section, no Justice shall issue any warrant or order in execution of any determination in respect of which a notice of intention to appeal has been filed until the appeal has been determined or, as the case may be, until the Justice or the Registrar of the Supreme Court has certified that it has not been duly prosecuted: 10 15

Provided that a warrant or order may be issued in any proceedings under the Destitute Persons Act 1910, or where any enactment expressly authorizes the levy of any sum to be made notwithstanding the appeal, or where any person ordered to enter into a recognizance of the peace has failed to enter into the required recognizance. 20

“(4) Where any warrant of distress is issued or executed before a notice of intention to appeal is filed, any Justice, on application made to him in that behalf after the filing of such a notice, shall order that the warrant shall not be executed, or, if it has been executed and the goods or chattels distrained have not been sold, that the goods or chattels shall be returned to the owner.” 25 30

4. The principal Act is hereby further amended by inserting, after section three hundred and six, the following section:—

“306A. (1) Subject to the provisions of this section, an appellant who is in custody under the conviction or order to which his appeal relates shall be bailable, at any time before the hearing of the appeal, at the discretion of the Justice whose determination is appealed against, or, if that Justice is not available, at the discretion of some other Justice. 35 40

See Reprint
of Statutes,
Vol. II, p. 896

Admission
to bail of
appellant
in custody.

“(2) Where any such appellant as aforesaid is admitted to bail, he shall, if he is in custody only under the conviction or order to which his appeal relates, be released from custody on entering
5 into a recognizance before a Justice, or before a Registrar of any Magistrate’s Court, in such sum, and with or without a surety or sureties as the Justice admitting him to bail directs, conditioned for his appearance at the Supreme Court on the day on which
10 the appeal is to be heard, and on any day to which the hearing may be from time to time adjourned.

“(3) Any appellant may at any time apply to a Judge of the Supreme Court to review any decision of a Justice granting or refusing bail under this section. On
15 any such application the Judge may, in his discretion, confirm, modify, or reverse the decision.

“(4) Where an appellant is released on bail, any Justice, if satisfied on the oath of the respondent or of any surety, or on the oath of some person on behalf of
20 the respondent or any surety, that the appellant is about to abscond for the purpose of evading justice, may issue his warrant for the apprehension of the appellant. When the appellant is apprehended pursuant to the
25 warrant, any Justice, on being satisfied that the ends of justice would otherwise be defeated, may commit the appellant to prison until the hearing.”

5. The principal Act is hereby further amended by inserting, after section three hundred and six^A (as inserted by section *four* of this Act), the following
30 section:—

Custody of
appellant
pending appeal.

“306b. (1) A prisoner or person undergoing detention who, to the knowledge of the controlling officer of the prison or institution to which he has been committed, has appealed under this Act against a conviction or
35 order, and who is in custody only under the conviction or order appealed against and is not released on bail, shall, pending the determination of his appeal, be treated in the same manner as a prisoner before trial.

“(2) Any such prisoner or person as aforesaid who
40 has appealed only against the sentence imposed on him shall, pending the determination of his appeal, be treated in the manner required by the sentence.

“(3) The time during which an appellant, pending the determination of his appeal, is released on bail and, subject to any directions that the Supreme Court may give to the contrary on any appeal, the time during which the appellant, if in custody, is specially treated as an appellant under subsection *one* of this section, shall not count as part of any term of imprisonment or detention under his sentence; and any imprisonment or detention under his sentence, whether it is the sentence passed by the Magistrate’s Court or the sentence passed or modified by the Supreme Court, shall, subject to any directions that may be given by the Supreme Court as aforesaid, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined, and, if he is not in custody, as from the day on which he is received into custody following the determination of the appeal.

“(4) An appellant who is in custody may, without further authority than this subsection, be taken by the Gaoler or other officer for the time being in charge of the prison or institution in which he is detained, or by any other officer acting under the express authority of the Gaoler or officer in charge, to the Supreme Court for the hearing of the appeal, and shall, unless his release is ordered by the Supreme Court and except while in the custody of the Court, remain in the custody of the escorting officer until returned to the prison or institution in which he is to be detained.”

General right
of appeal to
Supreme Court.

6. The principal Act is hereby further amended by repealing section three hundred and fifteen, and substituting the following section:—

“315. (1) Except as expressly provided by this Act or by any other enactment, where, on the determination by a Justice of any information or complaint that he has power to determine in a summary way, any defendant is convicted, or any sum of money is ordered to be paid otherwise than as costs on the dismissal of any information or complaint, or where any order for the estreat of a recognizance is made by Justices, the person convicted or against whom any such order is made may appeal to the Supreme Court.

“(2) In the case of a conviction, the appeal may be against the conviction and the sentence passed on the conviction, or against the conviction only, or against the sentence only; and in the case of an order for the payment of money the appeal may be against the order or only against the amount of the sum ordered to be paid.”

7. (1) The principal Act is hereby further amended by repealing section three hundred and sixteen, and substituting the following section:—

Notice of appeal.

“316. (1) The appellant under section three hundred and fifteen of this Act shall, within ten days after the conviction or sentence, or the making of the order, file in the office of the Magistrate’s Court whose determination is appealed against a notice in writing of the appeal and of the matter and grounds thereof [and serve a copy of the notice on the respondent]. **The notice shall be filed in duplicate.**”

“(2) The Registrar receiving the notice shall forthwith deliver or post one copy to the respondent, and notify the Justice whose decision is appealed against of the appeal and of the matter and grounds thereof.

“(3) A notice of appeal may be in the form No. 52 in the First Schedule to this Act, or to the like effect.”

(2) The First Schedule to the principal Act is hereby amended by repealing form No. 52, and substituting the new form No. 52 set out in the First Schedule to this Act.

8. The principal Act is hereby further amended by repealing section three hundred and seventeen, and substituting the following section:—

Application of provisions of Part IX as to issue of warrant, bail, and custody pending appeal.

“317. The provisions of sections three hundred and six to three hundred and six B of this Act (which relate to the issue of warrants or orders in execution, the admission of the appellant to bail, and the custody of an appellant pending the appeal) shall apply with respect to every appellant under this Part of this Act.”

9. The principal Act is hereby further amended by repealing section three hundred and eighteen, and substituting the following section:—

Transmission of notice of appeal to Supreme Court, and setting down for hearing.

“318. (1) The Registrar of the Magistrate’s Court shall forthwith send the notice of appeal to the nearest Supreme Court Registry in the judicial district within which that Magistrate’s Court is situated.

“(2) The Registrar shall send to the Supreme Court Registry with the notice of appeal any recognizance of bail entered into by the appellant, the information, charge sheet, or complaint, and a certified copy of the entries in the Criminal Record Book relating to the charge. 5

“(3) When the Registrar of the Supreme Court receives the documents referred to in subsection *two* of this section, he shall set the appeal down for hearing on the first practicable sitting day in the most convenient place where sittings of the Supreme Court are held, 10 whether or not that place is in the same judicial district, and shall notify the parties to the appeal of the time and place appointed for the hearing.”

Powers of
Judge of
Supreme Court
as to extension
of time.

10. The principal Act is hereby further amended by repealing section three hundred and thirty-two, and 15 substituting the following section:—

“332. (1) Any Judge of the Supreme Court may, on the application of the appellant, extend any time prescribed or allowed under this Division of this Act for the filing of any notice or the stating of any case or the 20 doing of any other thing in respect of any appeal or proposed appeal.

“(2) Any appellant or intending appellant may at any time apply to a Judge of the Supreme Court to review any decision of a Justice **or Magistrate** refusing 25 an extension of time for the stating of a case under Part IX of this Act. On any such application the Judge may, in his discretion, confirm the decision [*of the Justice*], or reverse it and allow such extension of time as he thinks fit.” 30

Custody of
appellant liable
to imprisonment
after
determination
of appeal.

11. The principal Act is hereby further amended by inserting, after section three hundred and thirty-four, the following section:—

“334A. (1) Notwithstanding anything in section three hundred and thirty-four of this Act, where any 35 warrant of commitment or order to serve a sentence of imprisonment or detention has been issued pursuant to subsection *one* of section three hundred and six of this Act, the provisions of this section shall apply.

“(2) If when the appeal has been determined, or has not been duly prosecuted, there is a term of imprisonment or detention or any part thereof to be served by the appellant,—

5 “(a) The appellant may forthwith be arrested by any constable, or by any officer of any prison, and detained in custody for the purposes of being dealt with in accordance with any such warrant or order as aforesaid:

10 “(b) Any such warrant or order as aforesaid shall have effect subject to any amendment or variation by the Supreme Court of the conviction, order, or sentence to which the appeal related:

15 “(c) The Registrar of the Supreme Court shall send to the Gaoler or other officer for the time being in charge of the prison or institution in which the appellant is or is to be detained a certificate setting out the result of the appeal or, as the case may require, a certificate to the effect that the appeal has not been duly prosecuted: or, where under section three hundred and three of this Act the Justice has certified that the appeal has not been prosecuted, the Registrar of the Magistrate’s Court shall send that certificate to such Gaoler or other officer as aforesaid.”

20 12. The principal Act is hereby further amended by inserting, after section three hundred and forty-two, the following section:—

No Court fees payable on appeal by person sentenced to imprisonment.

25 “342A. Where an appellant has been sentenced to imprisonment or detention under the conviction or order to which his appeal relates, no Court fees shall be payable in respect of the appeal, either in a Magistrate’s Court or in the Supreme Court.”

30 13. The enactments specified in the *Second* Schedule to this Act are hereby amended in the manner indicated in that Schedule.

Consequential amendments.

35 14. (1) Where before the commencement of this Act any appellant has duly applied for a case to be stated under Part IX of the principal Act, or has duly given notice of appeal under Part X thereof, the provisions of

Application of foregoing provisions to pending appeals, and to convictions before commencement of this Act.

the principal Act as amended by this Act shall, as far as they are applicable and with all necessary modifications, apply to the appellant and to the appeal as from the commencement of this Act.

(2) The provisions of the principal Act as amended by this Act shall, subject to the provisions of subsection *one* of this section, apply, as from the commencement of this Act, to any conviction, sentence, or order made or given before the commencement of this Act. 5

Miscellaneous

10

Section 9 of principal Act (as to rota of Justices) amended.

15. Section nine of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “three miles”, and substituting the words “ten miles”;

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(b) By omitting from subsection three the words “in rotation”.

Appointment and powers of special constables.

16. (1) The principal Act is hereby further amended by repealing sections thirty-three to forty-three, and substituting the following section:—

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“33. (1) If at any time the Commissioner of Police is of opinion that the members of the Police Force serving in any place are not sufficient in number for the preservation of the public peace and for the protection of the inhabitants and the security of the property in that place, the Commissioner may direct any member of the Police Force to apply to any Justice to appoint such number of suitable persons as the Commissioner considers necessary to be special constables for the preservation of the public peace and for the protection of the inhabitants and the security of the property in that place. 25

“(2) On application being made as aforesaid, the Justice may appoint such persons as aforesaid, being persons willing to act, and shall administer to every person so appointed the oath in the form No. 3 in the First Schedule to this Act. 30

“(3) Every special constable shall be under the control and direction of the senior member of the Police Force for the time being acting in the locality in which is situated the place for which he was so appointed, and subject thereto shall, for the purpose of exercising the 40

functions for which he was appointed, have such powers, authorities, immunities, duties, and responsibilities as he would have if he were a member of the Police Force appointed under the Police Force Act 1947.

1947, No. 13

5 “(4) The Commissioner of Police, or any commissioned officer of the Police Force for the time being acting in the locality for which special constables are appointed under this section, may at any time determine the services of or suspend or dismiss all or any of those
10 special constables.

“(5) There may be paid to special constables such remuneration by way of fees, salary, allowances, or expenses as may from time to time be approved by the Minister of Finance.

15 “(6) The following provisions of the Police Force Act 1947 shall, with the necessary modifications, apply to special constables as if they were members of the Police Force, namely:—

20 “(a) Section fifteen (which authorizes the Commissioner of Police to issue general instructions for the guidance of members of the Force):

“ (b) Section twenty-seven (which requires members of the Force, on ceasing to hold office, to return all Government property in their
25 possession).

“ (7) Regulations may be made under section fourteen of the Police Force Act 1947 fixing the conditions of appointment, resignation, and discharge of special constables, for securing that only fit and proper persons
30 shall be appointed as special constables, and for rendering special constables efficient in the discharge of their duties.

“ (8) Every person commits an offence and is liable on summary conviction before a Magistrate or any two
35 or more Justices to a fine not exceeding *ten* pounds who, being a special constable, refuses or neglects to obey such orders, directions, or instructions as are lawfully given for the performance of his duties.”

40 (2) The principal Act is hereby consequentially amended as follows:—

Consequential
repeals.

(a) By repealing sections forty-five and forty-six:

(b) By repealing form No. 2 in the First Schedule.

17. Section fifty-five of the principal Act is hereby amended by adding to subsection one the words " or by a Magistrate ";

18. (1) Section seventy-two of the principal Act, as amended by section five of the Justices of the Peace Amendment Act 1948, is hereby further amended by repealing subsection nine, and substituting the following subsections:—

“(9) Where under subsection eight of this section any information is amended by substituting **offence for another summary offence or by substituting a summary offence for another summary offence**, either party, or his solicitor or counsel, shall have the right to examine or cross-examine any witness whose evidence has already been given in respect of the [*indictable offence*] **offence originally charged**. Subject to the provisions of this subsection, any evidence already given shall be deemed to have been given in and for the purposes of the trial of the [*summary*] **substituted** offence.

“(10) Where under subsection eight of this section any information is amended by substituting an indictable offence for a summary offence, then—
“(a) If the indictable offence is one which may be dealt with in a summary way under *Part V of this Act*, the hearing of the case may be continued under and subject to the provisions of that *Part*;
“(b) If the indictable offence is not one which may be so dealt with, the Justices shall deal with the case under *Part IV* of this Act in all respects as if the defendant had been charged under that *Part* with the indictable offence.

“(11) The Justices may, at the request of the person charged, if they are of opinion that he would be embarrassed in his defence by reason of an amendment proposed to be made under this section, adjourn the hearing of the case to some future day.”
(2) The said section seventy-two is hereby further amended by omitting from subsection seven (as added by section five of the Justices of the Peace Amendment Act 1948) the word “two”, and substituting the word “four”.

Section 55 of principal Act (as to issue of summons, &c.) amended.
Section 72 of principal Act (as to amendment of information) amended.
1948, No. 20

19. (1) The principal Act is hereby further amended by inserting, after section eighty-nine, the following section:—

Provision for arrest of accused if about to abscond while on bail.

5 “89A. (1) Where a defendant is discharged on recognizance as aforesaid, any Justice, if satisfied on the oath of the informant or of any surety, or on the oath of some person on behalf of the informant or any surety, that the defendant is about to abscond for the purpose of evading justice, may issue his warrant for
10 the apprehension of the defendant.

“(2) When the defendant is apprehended pursuant to the warrant, any Justice, on being satisfied that the ends of justice would otherwise be defeated, may commit the defendant to prison until the hearing.”

15 (2) Section one hundred and seventy-nine of the principal Act is hereby amended by omitting the words “and on information being made in writing and on oath by such prosecutor or by such surety, or by”, and substituting the words “and on being satisfied on the
20 oath of the prosecutor or of the surety, or of”.

20. Section one hundred and twenty-four of the principal Act is hereby amended by adding to subsection one the following proviso:—

Section 124 of principal Act (as to right to claim trial by jury) amended.

25 “Provided that any person who claims under this section to be tried by a jury may, at any time before he is committed to the Supreme Court for trial, or, if at the close of the preliminary hearing he pleads guilty, before he is committed to the Supreme Court for sentence, elect to abandon his rights under this section,
30 and thereupon the Court may, notwithstanding anything in subsection two of section one hundred and eighty-one of this Act, deal summarily with the case in all respects as if no such claim had been made, and the foregoing provisions of this subsection shall not apply.”

35 21. The principal Act is hereby further amended by inserting, after section one hundred and fifty-seven, the following section:—

Power to award costs to accused in certain cases where charge of indictable offence dismissed.

40 “157A. Where the Justices order that any person shall be discharged as to any information, they may, if they are of opinion that the charge was not made in

good faith, or that the charge was made without reasonable grounds, order that the prosecutor shall pay to the accused such sum by way of costs as they think just and reasonable. Any such order shall be enforceable as if it were an order made under Part II of this Act." 5

Repeal of provisions as to method of payment of witnesses' expenses in indictable cases.

22. (1) Section one hundred and sixty-six of the principal Act is hereby repealed.

(2) The First Schedule to the principal Act is hereby consequentially amended by repealing form No. 39. 10

Translations of documents into Maori language.

23. The principal Act is hereby further amended by repealing section two hundred and sixty-five, and substituting the following section:—

" 265. Where in any proceedings to which this Act applies a document is served on a Maori, the provisions of the rules for the time being in force under the Magistrates' Courts Act 1947, relating to translations of documents served on Maoris in civil proceedings, shall apply." 15

1947, No. 16

Schedules.

SCHEDULES

Section 7

FIRST SCHEDULE

"(52) NOTICE OF APPEAL

Name of Appellant: .
 Offence of which convicted: .
 Place of conviction (*or order*): .
 Date of conviction (*or order*): . Date when sentence passed (*or order made*): .
 Sentence (*or order*): .
 Address of Appellant: .

To the Registrar of the Magistrate's Court at .

I, the above-named appellant, hereby give notice that I intend to appeal to the Supreme Court against my conviction (*or my sentence, or my conviction and sentence, or the order made against me, or the amount of the order &c.*) on the grounds set out below, and I give answers as follows to the following questions:—

1. (a) Is any solicitor now acting for you? [*State "Yes" or "No"*]: .
 (b) If so, give his name and address: .
2. Do you desire to be admitted to bail? [*State "Yes" or "No"*]: .
3. What are the grounds of your appeal? .

Dated this day of 19 .
Signature of Appellant: ."

SECOND SCHEDULE

Section 13

AMENDMENTS CONSEQUENTIAL ON PROVISIONS AS TO APPEALS

Title of Act.	Nature of Amendment.
1927, No. 37— The Justices of the Peace Act 1927 (Reprint of Statutes, Vol. II, p. 448)	<p>(a) By repealing sections 319, 320, 329, 331, 339, and 340:</p> <p>(b) By omitting from subsection (1) of section 307 the word “application”, and substituting the word “appeal”:</p> <p>(c) By omitting from subsection (2) of section 308 the words “on the appellant entering into such recognizance as is hereinbefore provided”:</p> <p>(d) By omitting from subsection (2) of section 333 the words “on such recognizance and shall return such recognizance to the Justice by whom the same was transmitted”:</p> <p>(e) By inserting in section 334, at the beginning of that section, the words “Subject to the provisions of section three hundred and thirty-four A of this Act,”:</p> <p>(f) By omitting from section 342 the words “to prosecute an appeal”, and substituting the words “to appear before the Supreme Court on the hearing of an appeal”; by omitting from paragraph (b) of that section the words “a Justice to abide the judgment of”, and also the word “or”; and by repealing paragraph (c) of that section:</p> <p>(g) By repealing paragraph 6 of form No. 1 in the First Schedule.</p>
1946, No. 13— The Justices of the Peace Amendment Act 1946	By repealing sections 2 and 3.
1948, No. 20— The Justices of the Peace Amendment Act 1948	By repealing subsection (2) of section 12; and by repealing so much of the Schedule as relates to sections 305, 318, 331, and 332 of the principal Act and to form No. 52.