

JUSTICES OF THE PEACE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Justices of the Peace Act 1927 in relation to the procedure on the hearing of charges laid under that Act.

Clause 2 provides that in any case that is being dealt with summarily a Magistrate before the hearing or the Magistrate's Court at the hearing will have a discretion to order the taking of the evidence of the defendant or of any witness for the defence before another Magistrate's Court or a Registrar. The power may be exercised if the Magistrate or the Court thinks it desirable or expedient to do so, whether by reason of the distance from the Court of the residence of the defendant or witness or for any other reason. Provision is made for regulations to give effect to any such order, but the power of the Court to compel the attendance of the defendant or witness at the hearing is expressly preserved. Similar provisions already exist for proceedings under the Destitute Persons Act 1910, and for civil proceedings in Magistrates' Courts.

Clause 3 makes similar provision for the taking of the evidence of a witness for the defence on the preliminary hearing of a charge of an indictable offence; but this will not apply to the evidence of the accused himself.

Clause 4: At present the service of a summons under the principal Act is required to be proved either by affidavit or on oath at the hearing. The effect of this clause is that the service of any summons or document may be proved by an endorsement on a copy. It will be an offence to make a false endorsement.

Hon. Mr Marshall

JUSTICES OF THE PEACE AMENDMENT

Title.	ANALYSIS
1. Short Title.	3. Order for taking evidence of witness for defence (in indictable case) at a distance.
2. Order for taking evidence of witness for defence (in summary prosecution) at a distance.	4. Proof of service of documents.

A BILL INTITULED

AN ACT to amend the Justices of the Peace Act 1927. Title.

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

1. This Act may be cited as the Justices of the Peace Amendment Act 1955, and shall be read together with and deemed part of the Justices of the Peace Act 1927 (hereinafter referred to as the principal Act). Short Title.

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

10 2. The principal Act is hereby amended by inserting, after section seventy-one, the following section:
“71A. (1) Notwithstanding anything in this Act, any Magistrate on the application of the defendant before the hearing, or the Court on the application of the defendant
15 at the hearing, may make an order for the taking, before any other Magistrate’s Court or a Registrar thereof, of the evidence of the defendant or of any witness for the defence if in the opinion of the Magistrate, or, as the case

Order for taking evidence of witness for defence (in summary prosecution) at a distance.

may be, the Court, it is desirable or expedient, whether by reason of the distance from the Court of the place where the defendant or the witness resides or for any other reason, that the evidence of the defendant or the witness should be so taken. 5

“(2) Evidence given in accordance with this section and with any regulations made thereunder may be tendered at the hearing as if it were given in the course thereof; and judicial notice shall be taken of the signature of any examining Magistrate or Justice or Registrar to any deposition made pursuant to an order under this section. 10

“(3) Where it is proved to the satisfaction of the Court of hearing that an application for the taking of the evidence of any defendant or witness under this section has been made for the purpose of delay or for any other improper purpose, or that there is undue delay in the taking of any such evidence, the Court may hear and determine the information without waiting for the evidence to be so taken. 15 20

“(4) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion are necessary or expedient for giving full effect to this section and for the due administration thereof; and any such regulations may contain such incidental provisions as the Governor-General thinks fit, including provisions for requiring the attendance of witnesses, the answering of questions, and the production of documents. 25

“(5) Nothing in this section or in any regulations made under this section shall limit or affect the power of the Court to compel the attendance of the defendant or of any witness at the hearing.” 30

Order for taking evidence of witness for defence (in indictable case) at a distance.

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

“155A. (1) Notwithstanding anything in this Act, any Magistrate on the application of the accused before the hearing, or the Court on the application of the accused at the hearing, may make an order for the taking, before any other Magistrate’s Court or a Registrar thereof, of the evidence of any witness for the defence if in the opinion of the Magistrate, or, as the case may be, 40

the Court, it is desirable or expedient, whether by reason of the distance from the Court of the place where the witness resides or for any other reason, that the evidence of the witness should be so taken.

5 “(2) Evidence given in accordance with this section and with any regulations made thereunder may be tendered at the hearing as if it were given in the course thereof; and judicial notice shall be taken of the signature of any examining Magistrate or Justice or Registrar to any deposition made pursuant to an order under
10 this section.

“ (3) Where it is proved to the satisfaction of the Court of hearing that an application for the taking of the evidence of any witness under this section has been made for
15 the purpose of delay or for any other improper purpose, or that there is undue delay in the taking of any such evidence, the Court may proceed with the hearing without waiting for the evidence to be so taken.

“ (4) The Governor-General may from time to time,
20 by Order in Council, make all such regulations as in his opinion are necessary or expedient for giving full effect to this section and for the due administration thereof; and any such regulations may contain such incidental provisions as the Governor-General thinks fit, including
25 provisions for requiring the attendance of witnesses, the answering of questions, and the production of documents.

“ (5) Nothing in this section or in any regulations made under this section shall limit or affect the power of the Court to compel the attendance of any witness at the
30 hearing.”

4. (1) The principal Act is hereby further amended by repealing section two hundred and sixty-three, and substituting the following section:

Proof of service of documents.

“263. (1) The service of any summons or of any other
35 document may be proved by affidavit made by the person who served the summons or document showing the fact and the time and mode of service, or by that person on oath at the hearing, or by an endorsement on a copy of the summons or document showing the fact and the time
40 and mode of service. Any such endorsement shall be signed by the person who served the summons or document or, if the service was effected by registered letter, by an officer of the Court who knows of the service.

4 *Justices of the Peace Amendment*

“(3) Every person who wilfully endorses any false statement on a copy of any summons or document commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds, or to both. 5

1952, No. 41

“(4) Every offence under this section is hereby declared to be an offence that may be dealt with by a Magistrate’s Court presided over by a Magistrate under and subject to the provisions of the Summary Jurisdiction Act 1952, and the provisions of that Act shall apply accordingly.” 10

(2) Section three hundred and sixty-nine of the principal Act is hereby amended by inserting, after the word “received”, the words “by any Justice or”.