

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]

House of Representatives, 21st August, 1923.

Hon. Mr. Parr.

JUSTICES OF THE PEACE AMENDMENT (No. 2).

ANALYSIS.

Title.	
1. Short Title.	13. When depositions may be read in evidence at trial of accused person.
2. Powers of Supreme Court on an appeal from Justices defined.	14. Removal of technical objection as to endorsement of plea on information.
3. Stealing electricity.	15. Extension of jurisdiction of Magistrate sitting alone.
4. Section 19 of principal Act (relating to informations for assault) amended.	16. Defining operation of section 183 of principal Act.
5. Extension of power to order payment in respect of expenses of witnesses.	17. As to service of summons.
6. Provisions as to service of notice of order for payment of costs.	18. Authorized officers in service of the Crown may receive declarations.
7. Warrant of commitment may be altered in respect of prison named therein.	19. Extending time within which informations may be laid for offences punishable on summary conviction.
8. Provision for service of notice of order of commitment, &c.	20. Extending time within which complaints may be made under principal Act.
9. Reference in section 121 of principal Act corrected.	21. Extending time within which summary prosecution may be commenced under principal Act.
10. Section 148 of principal Act (relating to preliminary hearing in cases of indictable offences) amended.	22. Powers of Clerk of Magistrate's Court to take or receive informations, complaints, &c. Repeal.
11. Section 158 of principal Act (applying rules as to bail) amended.	23. Section 2 of Amendment Act, 1910 (relating to partial remission of sentence of imprisonment on payment of fine), amended.
12. On committal of accused person for trial or sentence, Justices to give certificate as to expenses. Consequential repeal.	

A BILL INTITULED

AN ACT to amend the Justices of the Peace Act, 1908.

Title.

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

5 1. This Act may be cited as the Justices of the Peace Amendment Act, 1923, and shall be read together with and deemed part of the Justices of the Peace Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

10 2. The power conferred on the Supreme Court by section three hundred and thirteen of the principal Act to make such order in relation to the subject-matter of an appeal under section three hundred and two of that Act as it thinks fit is hereby declared to include the power to ~~increase or reduce~~, confirm, reverse, or modify, within the limits warranted by law, the term of any sentence of 15 imprisonment or the amount of any fine or other sum of money ordered to be paid.

Powers of Supreme Court on an appeal from Justices defined.

Stealing electricity.
Cf. 45 & 46, Vict.,
c. 56, sec. 23.

3. Electricity is hereby declared to be a thing capable of being stolen within the meaning of the principal Act and of the Crimes Act, 1908, and any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses, any electricity shall be guilty of theft and punishable accordingly. 5

Section 19 of
principal Act
(relating to
information for
assault) amended.

4. Section nineteen of the principal Act is hereby amended by adding the following words: "No fee shall be payable in respect of any such information."

Extension of power
to order payment in
respect of expenses
of witnesses.

5. The power conferred on Justices by section eighty-four of the principal Act to order certain payments to be made by parties in respect of the expenses and loss of time of witnesses summoned to give evidence at the hearing of an information is hereby extended to empower such Justices to make a like order in respect of witnesses required to give evidence at such hearing but not summoned so to do. 10

Provisions as to
service of notice of
order for payment of
costs.

6. Section ninety-four of the principal Act is hereby amended by adding as subsection two thereof the following words:—

"(2.) *Where it appears to any Magistrate that any person is evading service of any notice*, service of such notice may be effected either personally or by leaving it for such party at his usual or last known place of abode with some inmate of the house appearing to be above the age of fourteen years." 15 20

Warrant of
commitment may
be altered in respect
of prison named
therein.

7. Where any warrant of commitment has been issued by a Justice for the apprehension of any person and for his conveyance to and detention in a prison named in such warrant, ~~the same or any other Justice~~ any Magistrate may, if it appears to him to be more convenient that such person should be conveyed to and detained in a prison other than that named in the warrant, endorse the warrant accordingly, and the warrant shall thereupon have effect as if the name of the prison mentioned in the endorsement had been originally inserted in the warrant. 25 30

Provision for service
of notice of order of
commitment, &c.

8. Section one hundred and thirteen of the principal Act is hereby amended by adding as subsection two thereof the following words:—

"(2.) *Where it appears to any Magistrate that any person is evading service of any notice*, service of such notice may be effected either personally or by leaving it for such party at his usual or last known place of abode with some inmate of the house appearing to be above the age of fourteen years." 35

Reference in
section 121
of principal Act
corrected.

9. Section one hundred and twenty-one of the principal Act is hereby amended by omitting from subsection two the word "Fourth," and substituting the word "Third." 40

Section 148 of
principal Act
(relating to
preliminary hearing
in cases of indictable
offences) amended.

10. Notwithstanding anything in section one hundred and forty-eight of the principal Act, the direction therein contained that, when the examination of the witnesses on the part of the prosecution has been completed, the Justices shall read or cause to be read to the accused the depositions taken against him need not be complied with, unless the accused so desires. 45

Section 158 of
principal Act
(applying rules as to
bail) amended.

11. Section one hundred and fifty-eight of the principal Act is hereby amended by adding as subsection two thereof the following words:— 50

"(2.) The recognizances to be taken when an accused person is admitted to bail may be entered into by the principal or any of

the sureties thereto before any Justice, and it shall not be necessary for all the parties to the recognizance to be present at the same time."

5 12. (1.) Where an accused person charged with an indictable offence is committed to the Supreme Court for trial or sentence, the Justices by whom he is so committed shall issue a certificate in the Form No. 39 in the Second Schedule to the principal Act, setting forth the sum payable as allowances to the prosecutor and witnesses at the hearing before the Justices in accordance with the scale of such allowances for the time being in force.

On committal of accused person for trial or sentence, Justices to give certificate as to expenses.

10 (2.) The foregoing provisions of this section are in substitution for subsection one of section one hundred and sixty-two of the principal Act, and that subsection and section three of the Justices of the Peace Amendment Act, 1910, are hereby repealed.

Consequential repeal.

15 13. Section one hundred and sixty-six of the principal Act is hereby repealed, and the following section substituted therefor:—

When depositions may be read in evidence at trial of accused person.

"166. On the trial of any person accused of any indictable offence as to which an investigation has been previously held before Justices in manner aforesaid,—

20 "(a.) If it is proved that any person whose deposition has been taken as aforesaid is out of New Zealand, or dead, or so ill as not to be able to travel; or

25 "(b.) If any person whose deposition has been taken as aforesaid refuses to give evidence in respect of any matter deposed to in such deposition,—

and if the deposition purports to have been taken on oath in the presence of the person so accused and with full opportunity afforded to him, or his counsel or solicitor, to cross-examine the witness, and to have been read over to and signed by the witness, and signed by the Justices before whom the same purports to have been taken, then such deposition may be read as evidence for the prosecution without further proof thereof, unless it is proved that such deposition was not in fact signed by the Justices purporting to sign the same or was not taken in manner hereby required."

35 14. Section one hundred and seventy-six of the principal Act is hereby amended by omitting from subsection three the words "indorsed on the information," and substituting the words "written, printed, or typed on the front or back of the information."

Removal of technical objection as to endorsement of plea on information.

40 15. Section one hundred and seventy-nine of the principal Act is hereby amended by omitting the words "twenty pounds" wherever they occur, and substituting the words "fifty pounds" in every case.

Extension of jurisdiction of Magistrate sitting alone.

Struck out.

45 16. Section one hundred and eighty-three of the principal Act is hereby amended by adding the following subsection:—
 "(5.) This section has no application save in proceedings under this Part of this Act."

Defining operation of section 183 of principal Act.

50 17. Section two hundred and fifty of the principal Act is hereby amended by omitting the words "not being the informant or complainant."

As to service of summons.

18. Section two hundred and eighty-eight of the principal Act is hereby amended by inserting, after the word "Postmaster," the words "or other officer in the service of the Crown."

Authorized officers in service of the Crown may receive declarations.

Struck out.

Extending time within which informations may be laid for offences punishable on summary conviction.

19. (1.) Section forty-nine of the principal Act is hereby amended by omitting the words "six months," and substituting the words "twelve months."

(2.) Section forty-nine of the principal Act as amended by this section shall apply in respect of offences committed before the passing of this Act in the same manner as in respect of offences committed after that date, save in cases where proceedings have been barred by lapse of time before the passing of this Act.

Extending time within which complaints may be made under principal Act.

20. (1.) Section one hundred and eight of the principal Act is hereby amended by omitting the words "six months," and substituting the words "twelve months."

(2.) Section one hundred and eight of the principal Act as amended by this section shall apply to complaints the matter of which has arisen before the passing of this Act in the same manner as to complaints the matter of which may hereafter arise, save in cases where proceedings have been barred by lapse of time before the passing of this Act.

Extending time within which summary prosecution may be commenced under principal Act.

21. Section one hundred and eighty-one of the principal Act is hereby amended by omitting from subsection one the words "twelve months," and substituting the words "two years."

Powers of Clerk of Magistrate's Court to take or receive informations, complaints, &c.

22. (1.) Any information, complaint, summons, recognizance to prosecute, recognizance to prosecute and give evidence, recognizance to give evidence, or affidavit of the service of any summons authorized by or required for the purposes of the principal Act may be sworn, issued, taken, or received by the Clerk of any Court constituted under the Magistrates' Courts Act, 1908, or the deputy of such Clerk if such Clerk or deputy is not also an officer of police.

Repeal.

(2.) This section is in substitution for section two of the Justices of the Peace Amendment Act, 1908, and that section is hereby accordingly repealed.

Section 2 of Amendment Act, 1910 (relating to partial remission of sentence of imprisonment on payment of fine) amended.

23. Section two of the Justices of the Peace Amendment Act, 1910, is hereby amended by omitting the words "pays under conditions prescribed by prison rules," and substituting the words "has paid to any person authorized or entitled to receive the same."