

New Zealand.

AN ACT for establishing Courts of Session of the Peace. Title.

FOR the purpose of providing for the Establishment of Courts of Sessions of the Peace be it enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same : Preamble.

I. The Short Title of this Act shall be "The Sessions of the Peace Act." Short Title.

I.—CONSTITUTION OF COURTS.

II. For the purposes hereinafter mentioned it shall be lawful for the Governor in Council by Proclamation from time to time to constitute and define certain Districts and the limits of such Districts from time to time to alter as occasion may require and also if he shall see fit to revoke the Proclamation by which such District shall have been constituted. Districts to be defined

III. Within any such District as aforesaid there shall be holden Courts of Sessions of the Peace at such times and places as the Governor in Council shall by Proclamation from time to time appoint. Within which Courts of Sessions of the Peace shall be holden

IV. The said Courts shall be Courts of Record and shall be holden before any three or more Justices of the Peace of the territory whereof the Chairman or Deputy-Chairman hereinafter mentioned shall be one Provided always that every Judge of the Supreme Court of the Colony shall be and be deemed *ex officio* a Justice of the Peace for the territory and may act as such without taking any other oaths than such as he shall have taken as Judge. Which shall be Courts of Record.

V. It shall be lawful for the Governor in Council from time to time to nominate and appoint during pleasure any Justice of the Peace possessing competent knowledge of the law to be Chairman of any such or of any two or more of such Courts And in case of the illness temporary incapacity or absence from the Colony of the Chairman of any such Court to appoint any Justice to be Deputy-Chairman of such Court who Chairman to be appointed.

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during such illness temporary incapacity or absence and no longer shall be deemed and taken to be the Chairman of such Court for the time being to all intents and purposes Provided always that in case of illness or unavoidable absence it shall be lawful for the Chairman under his hand and seal to appoint a Deputy-Chairman being a Justice of the Peace to act for him at the Court then next ensuing and no longer or otherwise And every such Chairman or Deputy-Chairman shall have and exercise such and the same power and authority as a Chairman of General and Quarter Sessions in England Provided always that no Resident Magistrate or Police Magistrate shall in any case be appointed to act as such Chairman of any such Court.

Clerks and other officers.

VI. It shall also be lawful for the Governor from time to time to appoint Clerks and such other Ministerial Officers as may be necessary for executing the business of the said Courts and such Clerks and other Officers from time to time to displace and remove and to appoint others in their place as to him shall seem meet. Provided always, that in case of the absence of any such Officer from any sitting of such Court, it shall be lawful for the Chairman thereof to appoint some other fit person to act at such sitting in the place of the Officer so absent.

II.—JURISDICTION AND POWERS OF THE COURTS.

Powers of Courts to inquire of and to hear, &c., felonies, &c.

VII. The said Courts shall have the same power and authority to inquire of and to hear and determine all Felonies and Indictable Misdemeanors committed within their respective districts except Treason Murder or other Capital Felony or any Felony which when committed by a person not previously convicted of Felony is punishable by penal servitude for life or any of the following offences that is to say—

1. Misprision of Treason
2. Offences against the Queen's Title Prerogative Person or Government
3. Offences subject to the Penalties of Præmunire
4. Blasphemy and offences against Religion
5. Administering or taking unlawful oaths
6. Perjury and Subornation of Perjury
7. Making or Suborning any other person to make a False Oath Affirmative or Declaration punishable as Perjury or Misdemeanor
8. Forgery
9. Unlawfully and Maliciously Setting Fire to Crops of Corn Grain Pulse or to any part of a Wood Coppice or Plantation of Trees or to any Heath Gorse Furze or Fern
10. Bigamy and offences against the Laws relating to Marriage
11. Abduction of Women and Girls
12. Endeavoring to conceal the Birth of a Child
13. Offences against any provision of the Laws relating to Bankrupts and Insolvents
14. Composing Printing or Publishing Blasphemous Seditious or Defamatory Libels
15. Bribery
16. Unlawful Combinations and Conspiracies except Conspiracies or Combinations to commit any offence which such Justices have jurisdiction to try when committed by one person
17. Stealing or fraudulently taking injuring or destroying Records

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or Documents belonging to any Court of Law or Equity or relating to any proceeding therein

18. Stealing or Fraudulently destroying or concealing Wills or Testamentary Papers or any Document or written Testament being or containing evidence of the Title to any real Estate or any interest in Lands Tenements or Hereditaments

VIII. Provided always that it shall appear to any such Court that any Felony or Indictable Misdemeanor of which it may have cognizance ought from its nature or magnitude or any legal difficulty which it may present to be tried before the Supreme Court it shall be lawful for such Court to leave the case for trial before the Supreme Court and to take Recognizances for the appearance of the Parties and Witnesses there at which Recognizances shall as soon as may be returned to the Supreme Court.

Courts may remand certain cases for Supreme Court.

IX. In all other respects not herein before provided for every such Court shall have and exercise such and the same jurisdiction power and authority as any Court of General or Quarter Sessions of the Peace in any County in England has and exercises.

Powers of Courts, &c., not provided for, &c.

X. The said Courts shall also have power and authority to take cognizance of all such Appeals, and other matters and things as may have been or which may hereafter be assigned to Courts of Sessions of the Peace by any Act of the General Assembly or by any Act or Ordinance of any Provincial Council.

Power to hear Appeals.

XI. A Writ of Error may be sued out for the purpose of having any Judgment of any such Court upon any Indictment brought before it reversed by the Supreme Court in every case and under the same circumstances in which such Writ may be sued out in England for the purpose of reversing any Judgment of any Court of General or Quarter Sessions of the Peace in any County in England upon any Indictment brought before it.

Writ of Error may be sued out.

XII. All Indictments Orders and Judicial Proceedings whatever may be removed by Certiorari from any such Court to the Supreme Court in every case and under the same circumstances in which Indictments Orders and Judicial Proceedings in any Court of General or Quarter Sessions of the Peace in any County of England may be removed by Certiorari to the Court of Queen's Bench.

Indictments, &c., may be removed by Certiorari.

XIII. For any case in which the Justices at Sessions are Judges of fact as well as of Law if they shall feel a difficulty in the application of the Law to facts it shall be lawful for them at their discretion to put those facts into a Special Case for the opinion of the Supreme Court or any Judge thereof and to confirm or quash the Order or Conviction before them subject to such opinion.

Justices may refer special cases to Judges of Supreme Court.

XIV. The said Courts shall also have power to administer to any of Her Majesty's Justices of the Peace the usual Oaths and Affirmations required by Law to be taken by Magistrates on their appointment and every person now or hereafter to be appointed a Justice of the Peace for the Territory and who shall not have taken the Oath of Allegiance and the Oath of Office as heretofore taken before a Judge of the Supreme Court shall before acting as a Justice of the Peace take such Oaths or if a Quaker or other person authorised by Law to make an Affirmation instead of an Oath shall affirm to the effect of such Oaths before any such Court of Sessions of the Peace or before any Judge of the Supreme Court and no person shall be deemed qualified to act as

Courts to administer Oaths of Office to Justices.

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such Justice until he shall have taken such Oaths or made such Affirmation as aforesaid.

Clerk to issue Precept to Sheriff to summon Jurors.

XV. It shall be lawful for the Clerk of each of such Courts and he is hereby required fourteen days at least before the sitting of any such Court to issue a Precept to the Sheriff of the District requiring him to summon Jurors to attend at the next following Court at such time and place as shall therein be mentioned. Such precept shall not require more than twenty-four nor less than fifteen persons fit to serve as Grand Jurors nor more than thirty-six nor less than twenty-four persons duly qualified to serve as Petit Jurors to attend the said Court at any one Session thereof.

Form of Precept.

XVI. Every such Precept and every Subpœna commanding the attendance of Witnesses at any Sessions of the Peace shall be issued in the name of Her Majesty tested in the name of the Chairman and signed by the Clerk of the Court or other officer appointed for that purpose.

Sheriffs to attend Courts

XVII. The Sheriff in the District in which any Court of Sessions shall be holden shall be attendant upon and execute the same duties in respect of such Courts as Sheriffs in England are required to do in respect of Courts of Quarter Sessions or as near thereto as circumstances may admit and require.

Power of Adjournment.

XVIII. Every such Court shall have power to adjourn its sittings from time to time. And if the required number of Justices shall not be present at the time and place appointed for the holding of any Court of Sessions a single Justice of the Peace (whether he be a Chairman or not) shall be a lawfully constituted Court for the purpose of opening such Court and of adjourning the same and respiting all recognisances until such further day as such Justice then and there shall cause to be proclaimed.

Process

XIX. For the purpose of enforcing the attendance of Jurors Witnesses and others the production of Books and Writings and for the summary punishment of Contempts of Court every such Court shall have the like powers as the Supreme Court may exercise by any law in force for the time being. Provided that the process for the recovery of the amount of Fine or Recognisance forfeited at any Sessions shall be signed by the Chairman or by two Justices attendant thereat.

Court may make Rules.

XX. It shall be lawful for the said Courts from time to time to make Rules for regulating the practice forms of proceedings and the Fees to be taken therein and touching all other matters relating to the business of such Court. And such Rules from time to time to alter or revoke. Provided that the same shall not be repugnant to any of the provisions herein-before contained. And Provided also that all Rules to be made under the authority hereof shall as soon as may be after the making thereof be submitted to the Governor in Council for his confirmation or disallowance and upon the disallowance of such Rules or any of them the same shall thereupon cease to be in force.