

## SUMMARY PROCEEDINGS AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Summary Proceedings Act 1957 in relation to misconduct during preliminary hearings, and to contempt of Court.

*Clause 1* relates to the Short Title and commencement.

*Clause 2* substitutes a new provision for section 158 of the principal Act. That provision requires the defendant to be present throughout the preliminary hearing of a charge laid indictably. Thus, if he misconducts himself to such an extent that the proceedings are interrupted and is removed from the Court, the proceedings cannot continue in his absence. This contrasts with the position where the trial on indictment is in progress, and where the defendant is dealt with summarily. In those cases, section 376 (1) of the Crimes Act 1961 provides that the accused is entitled to be present "unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable".

The proposed *subsection (1)* follows this provision. In future, therefore, where the Judge orders the defendant out of the courtroom because of his unruly behaviour, the preliminary hearing may continue in his absence.

The proposed *subsection (2)* follows section 376 (2) of the Crimes Act 1976. It empowers the Judge to allow the defendant to be absent from the whole or any part of a preliminary hearing.

*Clause 3* increases from 10 days to 3 months the maximum term of imprisonment that may be imposed for contempt of Court under section 206 of the principal Act, and increases from \$150 to \$1,000 the maximum fine that may be imposed in such cases. It also makes clear that the Judge has the same powers of sentencing under the Criminal Justice Act 1954 as he would have if the offender were convicted of an offence punishable by imprisonment for a term of not less than 3 months.

*Hon. Mr McLay*

## SUMMARY PROCEEDINGS AMENDMENT

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### ANALYSIS

Title	2. Preliminary hearing to take place in presence of defendant
1. Short Title and commencement	3. Penalty for contempt of Court

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### A BILL INTITULED

#### **An Act to amend the Summary Proceedings Act 1957 in relation to misconduct during preliminary hearings, and to contempt of Court**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Summary Proceedings Amendment Act 1982, and shall be read together with and deemed part of the Summary Proceedings Act 1957\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

\*R.S. Vol. 9, p. 583

**2. Preliminary hearing to take place in presence of defendant**—The principal Act is hereby amended by repealing section 158, and substituting the following section:

“158. (1) Except as provided in sections 173A, 174, and 175 of this Act, the defendant shall be entitled to be present in Court during the whole of the preliminary hearing, unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

“(2) The Court may permit the defendant to be out of Court during the whole or any part of the preliminary hearing on such terms as it thinks fit.”

**3. Penalty for contempt of Court**—(1) Section 206 of the principal Act is hereby amended—

- (a) By omitting the expression “10 days”, and substituting the expression “3 months”;
- (b) By omitting the expression “\$150” (as substituted by section 24 of the Summary Proceedings Amendment Act 1980), and substituting the expression “\$1,000”.

(2) Section 206 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

“(2) In any case to which subsection (1) of this section applies, the Judge shall have the same powers under the Criminal Justice Act 1954 to impose any sentence instead of imprisonment, or to make any order, as he would have had if the offender had been convicted of an offence punishable by a term of at least 3 months’ imprisonment.”