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Taupō man Graham Philip charged with sabotage believed to be first in New Zealand history



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P. In what could be a landmark prosecution, a Taupō man is believed to be the first person ever charged with sabotage in New Zealand - a historic offence which was originally passed into law to prevent foreign interference on our shores during World War II.

But a High Court judge has ordered the details of the alleged offending must be kept secret, barring media from reporting what led to authorities laying the charge.

Graham Philip, an IT professional and anti-vaccination campaigner, was charged with seven counts of wilful damage in December. He has been held in prison on remand since.

P. In May, the charges were upgraded by the Crown to seven of sabotage. Philip has pleaded not guilty to all. The alleged offending relates to New Zealand infrastructure.

Sabotage is legally defined in the Crimes Act as any activity which impairs or impedes the operation of "any ship, vehicle, aircraft, arms, munitions, equipment, machinery, apparatus, or atomic or nuclear plant" on New Zealand shores.

A person can also be charged with sabotage if the person "damages or destroys any property which is necessary to keep intact for the safety or health of the public."

It also requires a proven intent to prejudice the health or safety of the public.

5th

Each charge carries a maximum sentence of ten years imprisonment.

The Crown successfully sought a non-publication order surrounding the details of the charges.

Open Justice understands the basis of the order is not for the protection of witnesses or fear of trial prejudice, but rather a concern from authorities that details of the charges could lead to "copy-cat" offending.

Speaking to Open Justice, University of Waikato law professor Alexander Gillespie, who specialises in international and conflict law, says he is not aware of any instance where the charge has been laid in New Zealand, largely due to the offence being subsumed by the country's modern terrorism legislation.

"It's a historical offence. A lot of the rules around sabotage came out in the Second World War when we were scared about foreign interference," Gillespie said.

The legislation was kept after societal unrest led to concerns of homegrown offending.

"Then there was a concern about sabotage at the 1951 Waterfront strike. It was kind of a pre-terrorism charge, it came from a period when there was public disorder, but not terrorism as we know it today.

"It was mainly about the unions if I'm honest - the militant left. There were concerns some would do things like bring down bridges or destroy locomotives."

Gillespie said it was surprising to hear authorities utilising the typically idle section of the Crimes Act.

The most recent example of where the charge was considered was the case of Peter Murnane, Samuel Land and Adrian Leason, who were all arrested on suspicion of breaking into Blenheim's Waihopai spy base and bursting a satellite dome in 2008.

Police openly considered laying sabotage charges, but ultimately decided against the move after seeking legal advice.

Lawyer lays complaint with Prison Inspectorate

Lawyer Matthew Hague, who is representing Philip, also believes this is the first time an individual has been charged with sabotage since the introduction of the Crimes Act in 1961.

His client is currently held on remand at Spring Hill Prison. An unsuccessful bail hearing was heard in the High Court at Hamilton last month.

Initial indications from the court suggest Philip will have his trial heard in late 2023, meaning he would have spent almost two years in prison before having his case heard. That time frame is not unusual in the justice system currently, but Hague has concerns with Philip's ongoing detention in the absence of a conviction.

"It's very concerning, first of all, that he's held in custody for that length of time without receiving a trial, and secondly, the conditions of which he's being held, especially the challenges with communication."

Hague says Philip has not seen his wife since December, either in person or via teleconference, "as is his right". Pre-arranged calls have been stymied on multiple occasions, Philip's wife has claimed.

The lawyer also refers specifically to an affidavit he had sent to Philip to sign in mid-July. He says Corrections still hasn't scanned and emailed the document back, despite assurances they would do so. Without the affidavit, there is little substance for further bail appeals.

"He's received it, he's signed it, and Corrections has not scanned or returned it to me like they normally would for any other prisoner.

"Corrections has also repeatedly failed to facilitate phone calls, even when they're scheduled in advance," Hague says.

Hague has complained to the Office of the Prison Inspectorate and Corrections central regional manager on behalf of his client.

Responding to the claims, Corrections regional commissioner Terry Buffery said a complaint has been received, and Corrections is currently investigating.

"Although in-person visits have been suspended while this person has been in custody, they have been able to have regular phone calls with their wife. After they recently requested an AVL [audio-visual link] visit with their wife, one was scheduled for later this week. We have no record of any earlier requests for an AVL visit."

As for the affidavit, Corrections says the legal document must be signed by a visiting justice before it is provided to Philip's lawyer. "We have already booked an appointment for the affidavit to be signed when a Visiting Justice will next be [at the prison]"

The alleged communication issues aren't a first for Spring Hill, which is currently undertaking an investigation into communication breakdowns which led to a teenage offender being held on remand for months for crimes unlikely to attract an actual prison sentence. A District Court judge penned a complaint to the director of the prison.