

Native Councils.

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A BILL INTITULED

AN ACT to make provision for the Constitution of Local Councils in Native Districts, and to define the Functions and Duties of such Councils. Title.

WHEREAS reiterated applications have been made by the Native inhabitants of those parts of the Colony wherein the Native title to land has not been extinguished for the establishment within those districts of some simple machinery of local self-government, by means of which such Native inhabitants may be enabled to frame for themselves such rules and regulations on matters of local concernment, or relating to their social economy, as may appear best adapted to their own special wants : And whereas it would conduce to the civilization Preamble.

and contentment of the Natives themselves if they were authorized and encouraged in such laudable desires: And whereas, in furtherance of these objects, it is expedient to make provision for the establishment of local elective bodies of Natives within such districts for the purposes aforesaid, and to invest those bodies with the powers enabling them to frame such rules and regulations, and to give effect to the same: 5

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

Short Title.

1. The Short Title of this Act shall be "The Native Councils Act, 1873," and it is divided into Parts as follows:—

PART I.—Establishment of Districts, and Constitution of Local Councils.

PART II.—Qualification of Voters in Districts, and Election of Members of Council. 15

PART III.—Meetings of Councils—their functions and powers.

Minister to cause copies of Act to be printed in Maori language and distributed.

2. The Minister in whose department this Act shall for the time being be administered shall cause copies thereof to be printed in the Maori language, and distributed among the Native inhabitants of the Colony, in such parts thereof as he may think fit. 20

Interpretation.

3. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless it shall appear from the context that some other meaning should be assigned thereto, that is,—

The term "Native District" or "district" shall mean a district established as a Native District under this Act. 25

"President" shall mean the President elected for a Native Council as hereinafter provided, or any person who may be temporarily acting as Chairman at any meeting of Council or fulfilling the duties of President. 30

"Council" shall mean a Council of Native Aboriginal inhabitants to be elected for each district under this Act.

"Native inhabitants" shall mean and include any persons of the Aboriginal Native race, and any half-caste persons of such race. 35

"Cattle" shall include horses sheep asses mules goats and swine, as well as neat cattle, together with the young of the said several kinds.

PART I.

ESTABLISHMENT OF DISTRICTS AND CONSTITUTION OF LOCAL COUNCILS. 40

Act shall be brought into operation in certain districts where desired.

4. Wherever the major part of the residents in any district or part of the Colony, where the Native title to land has not been extinguished, are Native inhabitants, and a majority in number of such inhabitants shall be desirous that this Act shall be brought into operation within such district, and shall signify such desire by a memorial in writing addressed to the Governor, praying that the Act may be brought into operation therein, it shall be lawful for the Governor, upon being satisfied of the truth of the several matters set forth in any such memorial, by Proclamation to be published in the *New Zealand Gazette*, to constitute and declare the district or part of the Colony mentioned in such memorial or such part thereof as he may think fit to be a Native district for the purposes of this Act, by such name as he shall think fit, within which this Act shall come into operation, and in and by such Proclamation shall fix a day on which the same shall come into operation, and the Governor may at any time revoke such Proclamation. 45 50 55

5. Every such memorial shall set forth the proposed boundaries of such district, and shall state the total number of persons inclusive of Europeans resident therein, as nearly as can be ascertained. Upon any such application it shall be lawful for the Governor to reduce the proposed boundaries or to extend the same to greater extent, and to exclude particular sections of country within those boundaries from the operation of this Act; and any district constituted under this Act may be reconstituted from time to time, or may be altered varied or totally abolished, as the Governor shall think fit.
6. It shall be lawful for the Governor in Council from time to time to define the several parts of each district constituted under this Act, wherein any regulations made in pursuance of this Act may take effect and be put in force, and he may likewise declare that such regulations may take effect and be put in force within the whole of any such district: Provided always that except as hereinafter mentioned, no such regulations shall take effect or be put in force within any part of a district which shall be occupied by a mixed population whereof the majority are Europeans.
7. In any such district as aforesaid, or in any part thereof which is inhabited by a mixed population, the majority of the Europeans assembled at a public meeting to be convened at such time and place and in such manner as the Governor shall appoint, may pass a resolution signifying their desire to be brought under the operation of this Act.
8. On the receipt of any such resolution it shall be lawful for the Governor in Council by order to suspend the operation of or alter such parts of this Act as exclude from the operation thereof lands inhabited by such mixed population as aforesaid, over which the Native title is not for the time being extinguished, and inhabitants not of the aboriginal race of all lands within the district, and any such Order from time to time to alter or revoke.
9. On the notification in the *New Zealand Gazette* of the extinction of Native title over lands within any such district, such lands shall cease to be part of such district, and all regulations made under this Act shall thereupon cease to be in force within the boundaries of such lands; nevertheless without prejudice to the enforcement of any penalty incurred, or to the completion of any proceeding commenced prior to such notification.
10. Provided that lands granted by the Crown to any person of the Native race, or to any person or body politic in trust for religious, charitable, or educational purposes, or in respect of any purchase made prior to the proclamation of the Queen's sovereignty, or specially granted as homesteads to persons of European race domiciled in Native districts, shall, where the same respectively abut upon lands over which the Native title has not been extinguished, be deemed for the purposes of this Act to be lands over which the Native title has not been extinguished, and may accordingly be included within any such district as aforesaid.
- Constitution of Local Councils.*
11. For every Native district established under this Act there shall be a Council consisting of not less than six members nor more than twelve members, exclusive of the President and of the official member, to be elected from among the inhabitants of such such district as hereinafter provided, and the number of members shall be fixed by the Governor on the establishment of the district. And it shall be lawful for the Governor by Proclamation to subdivide any such district into convenient sections, and to appoint and declare the number of such members to be elected for each such section.
12. Every such Council shall continue in office for the period of three years from the date of the first election, and at the expiration of
- Governor may alter or extend boundaries of district.
- Governor in Council may define the district affected by regulations.
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- What lands to be deemed subject to Native title.
- Constitution of Council.
- Duration of Council.

that period all the Councillors then in office shall go out of office, and a new election shall be held: Provided that the Governor may, at his pleasure, prorogue or dissolve any such Council.

Qualification of members of Council.

13. Any person qualified as hereinafter provided to vote at elections of members of the Council shall be qualified to be a member thereof, provided that the voters in any district may, if they see fit, elect not more than three persons of the European race who may be resident therein to be members of such Council; and in respect of such last-mentioned person, no qualification shall be requisite except that they be of the full age of twenty-one years: Provided always that this qualification shall not entitle any European to vote at any election of members of such Councils, except as is hereinafter specially mentioned.

Appointment of official member.

14. In every Native district established under this Act, the Resident Magistrate at the chief town within such district, or such other person as the Governor may from time to time appoint, shall be *ex officio* a member of such Council, and is hereinafter called "the Official Member."

Appointment of additional members for mixed districts.

15. Where any section of a district established under this Act shall have been excluded from the operation of this Act, and such section shall at any time thereafter be brought under its operation, then and in every such case it shall be lawful for the Governor to declare the number of Councillors to be elected to the Council of the district for each such section; and in case such section is inhabited by a mixed population, to appoint the relative number of the Native and European persons to be elected as Councillors for each such section. Such persons shall be elected in the same manner as ordinary Councillors, as hereinafter provided, and shall retire from office in the same manner, and such members shall be in addition to the Councillors elected for the whole district.

PART II.

QUALIFICATION OF VOTERS, AND CONDUCT OF ELECTIONS.

Qualification of voters in districts.

16. Every male person of the Native race who may have his usual place of residence within any district established under this Act, and who shall be of the full age of twenty-one years, shall be qualified to vote at elections of members of the Council: Provided always that no such person shall be qualified to vote at any such election, who shall have his usual place of residence within any section of a district excluded from the operation of this Act.

Resident Magistrate to prepare list of voters.

17. The Resident Magistrate in every district shall, within thirty days after the same shall have been constituted, and thereafter in every year on the first Thursday in the month of January, prepare a list of the names of all male persons of the full age of twenty-one years, having their usual place of residence therein, who shall be eligible as voters for the election of Councillors under this Act.

Separate list for excluded sections.

18. The Resident Magistrate shall set down in a separate list the names of all such eligible voters as aforesaid, who shall have their usual place of residence within any section of a district that shall be excluded from the operation of this Act, and in such separate list shall include the names of all male persons of the European race, who have their usual place of residence within such excluded sections, and shall be of the full age of twenty-one years.

Copy of list to be posted up.

19. On the preparation thereof, the Resident Magistrate shall post a copy of such lists in a conspicuous place on the outside of the Court House, and like copies thereof at such other places in the district as he may think necessary for the purpose of making known the contents thereof to the inhabitants.

20. Together with such lists there shall be posted up a notice to the effect that, at any time within ten days from the date thereof, not being a Sunday or a holiday, the Resident Magistrate will hear the claim of any person resident in the district who may desire that his name should be inserted in the lists; and if at any time during such period of ten days any claim shall be so made, the Resident Magistrate shall inquire into the same, and either refuse the claim if it be not established to his satisfaction, or if so established shall insert on the list of names the name of the person so claiming as aforesaid.

Notice to be given that names may be added to list.

21. After the expiration of such period of ten days, the Resident Magistrate shall from such lists and amended lists (if any) prepare a roll of all persons in the district qualified to be voters as aforesaid, and such roll shall be kept in the custody of the Resident Magistrate, and shall be the Roll of Electors for the election of Councillors, within the district in respect of which the same shall have been made, for the period of one year from the making thereof: Provided that where any roll shall have been compiled not less than two months prior to the first Thursday of the month of January in any one year, that it shall not be necessary to compile a fresh roll, but such roll so compiled prior to that date shall for all purposes be deemed to have been made on that day and to be in force accordingly.

Roll to be made up by Resident Magistrate.

22. Where any section of a district theretofore excluded from the operation of this Act shall be brought under its operation, the Resident Magistrate of the district shall, in like manner as is hereinbefore provided with respect to the roll of electors for the whole district, prepare from the separate list hereinbefore mentioned the roll of all persons in such section of a district qualified to be voters at elections of members of Council for such section.

Roll of electors for mixed districts.

23. Every male person, whether of the Native race or of the European race who may have his usual place of residence within any section of a district that may be excluded from the operation of this Act, and who shall be of the full age of twenty-one years, shall be qualified to vote at election of members of the Council for such section of a district, after it shall have been brought under the operation of this Act.

Qualification of voters for mixed districts.

Conduct of Elections.

24. Whenever a district shall have been established under this Act, the Minister in whose department this Act shall for the time being be administered shall fix a day, not less than three clear days prior to the day of election, on which the nomination of persons to act as Councillors shall be delivered to the Returning Officer hereinafter mentioned, and shall also fix a place where such nominations shall be so delivered, and shall cause all necessary forms of nomination papers, and all other forms requisite for carrying into effect this Part of this Act, to be printed in the Maori language, and shall forward the same to the Returning Officer.

Minister to fix day and place for nominations of Councillors to be made.

25. The Resident Magistrate of the district shall act as Returning Officer, or if within such district there be no Resident Magistrate, or if from any cause it is expedient that such Resident Magistrate should not act as Returning Officer, then the Governor may from time to time appoint such person of the European race as he may think fit, to be Returning Officer at any election held under this Act.

Resident Magistrate to act as Returning Officer, but Governor may appoint some other person.

26. Whenever it shall be necessary to hold an election of a Councillor or Councillors under this Act, the Governor shall, by Proclamation in the *New Zealand Gazette*, fix a day for holding such election, and in and by such Proclamation shall appoint such place or places as he shall think most convenient to the voters in the district, where they may record their votes, and on the day so fixed the election shall be held accordingly.

Governor to appoint day of election.

Governor may make regulations for conduct of elections, &c.

27. It shall be lawful for the Governor from time to time to make alter vary or revoke regulations not inconsistent with this Act for the following purposes:—

Prescribing the duties of Returning Officers at any election held under this Act. 5

Providing for the appointment of Deputy Returning Officers in case of need.

Prescribing the conduct of such election, and the mode in which nominations of candidates shall be made; regulating the recording of votes at any election, the maintenance of order thereat, and the mode in which the results of the election shall be ascertained and made known to the voters; and generally for the purpose of giving effect to the provisions of this Part of this Act, and insuring the orderly and impartial conduct of such elections. 10 15

And all such regulations shall have the force of law within the districts in respect of which the same may be in force.

PART III.

MEETINGS OF COUNCIL—THEIR FUNCTIONS AND POWERS.

First meeting of Council.

28. The first meeting of the Council shall be held on such day 20 and at such place within the district as the Governor shall appoint; and at all meetings at which the President shall be present he shall preside, and shall have an original as well as a casting vote.

In case of the absence of the President, any member of the Council present at the meeting may be elected Chairman for that meeting. 25

Election of President.

29. Immediately on their first meeting the Council shall, by the majority of the votes of the members present, elect one of their body, or some person not being one of their body, but qualified as provided in section *thirteen* of this Act to be elected a member of the Council, as President of the Council during the continuance of the said 30 Council, which choice being confirmed by the Governor shall be valid and effectual; and in case of the vacancy of the office by death, resignation, or otherwise, then and so often as the same shall happen, the choice shall be repeated and confirmed as aforesaid.

Tenure of office.

30. Such President may be a person either of the European race 35 or of the Native race, and shall be paid a salary to be fixed at the time of his confirmation in office by the Governor; and he shall hold office for the period for which the Council shall be elected, subject however to the provisions of this Act.

Resignation or vacancy of office.

31. The President may resign his office by giving notice to the 40 Governor in writing, and in case the President shall resign, or be absent from the district for a period of six calendar months, or shall become bankrupt or be convicted of any felony or infamous offence, he shall thereupon cease to be a member of the Council.

Members may resign.

32. Any Councillor may resign his seat by giving notice in 45 writing to the President; and in case any member of the Council shall refuse to act, or shall be absent from the district for six calendar months, or shall become bankrupt or be convicted of any felony or infamous offence, he shall thereupon cease to be a member of the 50 Council.

New election of members in certain cases.

33. If any Councillor shall be elected President, or shall die, or cease to be a member of the Council from any cause hereinbefore mentioned, then and in every such case, a new election of a member in the place of the member so elected or dying or ceasing to be a member shall be held in the manner hereinbefore provided, and the persons 55 who may then be elected shall hold office only until the date when the members of the Council shall retire from office.

Attendance at Council.

34. No business shall be transacted at any meeting of the Council where such Council shall consist of twelve members, unless five or

more of such members, besides the President or the Official Member, shall be present; but where the Council shall consist of any less number than twelve, then, unless three or more of such members, also besides the President or the Official Member, shall be present.

5 **35.** All questions before the Council shall be decided by the majority of votes, and all resolutions and transactions of the Council, and the names of all the members present at each meeting of the Council, shall be recorded in a book to be kept for that purpose by the President or by some person appointed by him from time to time for
10 that purpose. The entries in such book of each day's proceedings shall be signed by the President or Chairman presiding on that day; and a fair copy of such book shall, after the termination of each session of the Council, be transmitted by the President to the Native Minister.

Majority to decide.

Notes of proceedings.

15 **36.** The Council shall meet at least twice in every year, with no greater interval between such meetings than a period of six months, and the place of meeting shall be at such place as the Council may from time to time determine.

Meeting of Council.

20 **37.** The President and the Official Member conjointly may from time to time call a special meeting of the Council for any of the purposes of this Act, and shall give not less than seven days' notice in writing to each Councillor of such meeting, and the same may be held at any place within the district which shall be deemed by the President and the Official Member most convenient for that purpose.

Special meetings may be called.

25 **38.** Every Councillor shall be entitled to such remuneration, as and by way of reimbursement for his expenses in attending the meetings of the Council, as the Governor may from time to time fix and appoint.

Expenses of Councillors.

30 **39.** The salary of the President and the sums to be paid to Councillors, as lastly hereinbefore provided, and all other expenses incurred in carrying this Act into execution, shall be paid out of the Consolidated Fund of the Colony.

Salary of President &c. to be paid out of Consolidated Fund.

Special Functions of the Council.

40. Whenever the Native claimants of any land within any district constituted under this Act, shall be desirous of bringing the same under the operation of the Native Land Act, and where the title
35 to such land may be in dispute, such claimants may, before they shall submit their claim to the Native Land Court for the investigation of their title, or at any stage of a proceeding before the Native Land Court in respect of such claim, with the consent and direction of the Recorder of such Court, submit their claim and the various matters in
40 dispute relating thereto to the Council at any meeting thereof, by petition presented to the Council by any one of its members; and when the matter shall have been so submitted to it, it shall be the duty of the Council, in so far as may be, to ascertain what the precise facts in dispute are, and to endeavour by all lawful ways to have such
45 dispute settled in an amicable manner between the parties interested.

As to land disputes.

41. In any such case as last aforesaid, and where any conclusive arrangement of the matters in dispute between the parties has been made through the intervention of the Council; the terms of such arrangement shall be written out in full, with the particulars of the
50 adjudication therein made by the Council with the assent of the parties to the dispute; and such adjudication shall be signed by the President of the Council and the Official Member, and shall be transmitted for record in the Native Land Court of the district.

Adjudication.

42. Such adjudication shall be binding and conclusive on all
55 persons whomsoever, and in all cases the Native Land Court shall take judicial notice of the signatures of the President and Official Member without proof thereof; and whenever the matter comprised in any such adjudication by the Council shall come before the Native

Effects of adjudication.

Land Court for investigation, or at any stage of a proceeding before such Court in respect of such matter, the Court shall be guided by such adjudication, and give effect thereto as in the case of voluntary arrangements between parties.

- 43.** It shall be the duty of the Council to ascertain, as far as possible, from the general body of the Native inhabitants of the district and from time to time to report to the Governor upon a general plan that would be the most likely to receive the assent of the Natives generally, and would, in the opinion of such Council, be the best means to be adopted in the matters following, that is to say—
- As to Native rights and customs. (1.) For ascertaining prescribing and providing for the observance and enforcement of the rights duties and liabilities, amongst themselves, of tribes communities or individuals of the Native race, in relation to the use occupation and receipt of the profits of lands and hereditaments. 5
- Observance of Native rights. (2.) For the suppression of injurious Native customs, and for the substitution of remedies and punishments for injuries in cases in which compensation is now sought by means of such customs. 10
- Native customs. 15

General Powers of the Council.

- 44.** It shall be lawful for the Council of any Native district constituted under this Act to make, and from time to time to vary or revoke, regulations respecting all or any of the matters following, that is to say—
- Council may make general regulations. 20
- Health. (1.) For providing for the health and personal convenience of the inhabitants of any Native village pa or assemblage of houses. 25
- Cleansing houses. (2.) For enforcing the cleansing of houses and other buildings in a dirty and unwholesome state. 30
- Nuisances. (3.) For the suppression of common nuisances. 30
- Drunkenness. (4.) For the prevention of drunkenness. 30
- Public property. (5.) For the protection of public property and the common property of tribes or communities. 30
- Prevention of fires. (6.) For the prevention of bush and other fires, and the restraint of persons firing bush scrub grass rubbish or other material, to the danger of life or property. 35
- Dogs. (7.) For the suppression of the nuisance of dogs wandering at large, and for defining and prescribing the rights duties and liabilities of the owners of dogs, and of all other persons in relation to dogs wandering at large. 40
- Cattle branding. (8.) For the branding or marking of cattle in order to the proof of the ownership thereof, and for the prevention of fraud in relation to the branding or marking of cattle, and for the prevention of larceny of cattle, or of the flesh hides or skins thereof. 45
- Cattle trespass. (9.) For the prevention of cattle trespass and of the wandering of cattle at large, and for defining and describing the rights duties and liabilities in relation to damage done by cattle trespass, and otherwise in relation thereto, of all owners and occupiers of land, persons owning or having charge of cattle, and other persons. 50
- Boundary fences. (10.) For the erection and maintenance of party and other boundary fences (including fences between lands over which the Native title has and adjacent lands over which it has not been extinguished), and for defining and prescribing the rights duties and liabilities of all owners and occupiers of land and other persons, in relation to such erection and maintenance, and to the cost thereof, and otherwise in relation thereto. 55

45. All regulations so made by any Council shall be transmitted to the Governor for his assent, and, when assented to by him, shall be published in the *New Zealand Gazette* and in the *Kahiti o Niu Tirenī* in the English and Maori languages, and shall have the force of law within such districts, or within such portions thereof as the Governor may define in each case by any such Proclamation; and shall take effect from and after such a day being a day not less than thirty days subsequent to the first publication thereof as shall be named in such Proclamation; and as respects the erection and maintenance of fences between lands over which the Native title has and adjacent lands over which it has not been extinguished, all such regulations shall be binding upon all owners and occupiers of such adjoining land.

When regulations to take effect.

46. Penalties not exceeding twenty pounds may be imposed by any such regulations for the breach or non-observance of any of such regulations, and payment of any penalties imposed thereby may be recovered in a summary way before any Resident Magistrate or two Justices of the Peace. And every such regulation shall be so framed as to allow the Justices of the Peace before whom such penalty may be sought to be recovered, to order a part only of such penalty to be paid if such Justices shall think fit. All penalties recovered hereunder shall be paid into the Colonial Treasury.

Regulations may impose penalties.

47. Upon this Act being brought into operation within any district declared to be a district under this Act in the manner aforesaid, and after any such regulations shall have come into operation as aforesaid, all Provincial Ordinances or Acts then in force or capable of being put into force within such district in anywise repugnant to, or inconsistent with any such regulations, shall in respect of any such district wholly cease to have any force or effect therein, and shall not be capable of being brought into force therein unless and until the Proclamation constituting the district be revoked.

Provincial Ordinances to cease to be in operation in Native districts.