

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives
17th August, 1870.*

(Hon. D. McLean.)

Native Districts Sale of Spirits.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Governor in Council to proclaim districts. 3. Towns not to be included. 4. District to contain majority of Native inhabitants. 5. Native Assessors may be appointed. 6. No license to be issued without assent of Native Assessor. 7. Licenses may be revoked.</p>	<p>8. Particular classes of liquors may be prohibited. 9. Penalty for selling without license prohibited liquors. 10. Power to enter and search for liquors. 11. Penalty for keeping spirits, &c., for sale. 12. Spirits, &c. seized to be forfeited unless claimed. 13. Burden of proof. 14. Actions against persons seizing. 15. Disposal of forfeited spirits, &c. 16. Governor to make regulations. 17. Ordinance repealed.</p>
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A BILL INTITULED

AN ACT to regulate the Sale of Spirituous and Fermented Liquors within Districts inhabited by Aboriginal Natives. Title.

WHEREAS it is expedient to make provisions for regulating the sale of spirituous and fermented liquors within districts inhabited chiefly by Aboriginal Natives : Preamble.

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

1. The Short Title of this Act shall be “The Native Districts Sale of Spirits Act, 1870.” Short Title.

10 2. The Governor in Council may, by Proclamation in that behalf, from time to time define districts and bring the same under the operation of this Act, and may at any time and from time to time thereafter, alter the boundaries of such districts, or withdraw any district, or any part of any district, from the operation of this Act. Governor in Council to proclaim districts.

15 3. No part of any town or city shall be brought under the operation of this Act. Towns not to be included.

4. No district shall be defined or brought under the operation of this Act unless the majority of the inhabitants of such district are persons of the Native race. District to contain majority of Native inhabitants.

20 5. The Governor may from time to time, by Warrant under his hand, appoint any Aboriginal Native or Natives within any such district to be an Assessor or Assessors under this Act, and may from time to time revoke any such appointment. Native Assessors may be appointed.

No license to be issued without assent of Native Assessor.

6. No license authorizing the sale of any spirituous or fermented liquors within the limits of any such district shall be issued to any person under the provisions of any law for the time being in force within such district relating to licenses for the sale of spirituous or fermented liquors without the assent of the Native Assessor or Assessors appointed under the provisions of this Act, if there be any Assessor or Assessors so appointed; such assent to be evidenced only by the signature of the Assessor, or if more than one, of all the Assessors appointed in and for such district to such license; and any license issued without such signature shall be *ipso facto* null and void, and the holder thereof shall be deemed to be an unlicensed person within the provisions of this Act.

Licenses may be revoked.

7. The Governor in Council may, at any time during the currency of any license duly granted and in force within any such district, and whether granted before or after the passing of this Act, annul the same by a notification in that behalf, delivered to the holder of the license, and published in the *New Zealand Gazette*; and from and after the delivery and publication of such notification respectively, such license shall become absolutely null and void, and the holder thereof shall be deemed to be an unlicensed person within the provisions of this Act. And no license authorizing the sale of spirituous or fermented liquors within any such district shall thereafter be granted to any person whose license has been cancelled under this section, except with the consent of the Governor first obtained, and if nevertheless any such license be granted to such person it shall be absolutely void and of no effect.

Particular classes of liquors may be prohibited.

8. The Governor in Council may, by Proclamation in that behalf, from time to time declare that, notwithstanding the issue of any license to sell the same, any particular class or description of spirituous or fermented liquors, to be named in such Proclamation, shall from thenceforth cease to be sold within such district; and from and after any such Proclamation, every license then in force within such district shall, so far as relates to the particular class or description of spirituous or fermented liquor named in such Proclamation, be deemed to be null and void, and the holder thereof shall, so far as regards the sale or any other dealing with any such spirituous or fermented liquor within such district, be deemed to be an unlicensed person within the provisions of this Act.

Penalty for selling without license prohibited liquors.

9. Any person who shall, without a license in that behalf, sell or give, or knowingly permit to be sold or given, to any person of the Native race, within any district proclaimed under the provisions of this Act, any spirituous or fermented liquor, or who, being the holder of a license, shall sell or give, or knowingly permit to be sold or given, to any person of the Native race, any spirituous or fermented liquor mentioned in any Proclamation issued under section eight of this Act, shall be guilty of an offence, and shall, on conviction thereof, before any one or more Justices of the Peace, under the provisions of "The Justices of the Peace Act, 1866," relating to summary proceedings, be liable to a penalty of not less than ten pounds nor more than fifty pounds for each offence, to be paid immediately upon conviction, and in default of immediate payment shall be imprisoned and kept to hard labour for any period not being less than one month nor more than six months, to be mentioned by the convicting Justice or Justices in the conviction.

Power to enter and search for liquors.

10. And for the more effectual prevention of the sale or disposal by unlicensed persons of spirituous or fermented liquors, or the sale of prohibited spirituous or fermented liquors within any district proclaimed under the provisions of this Act: Be it further enacted that, in case any constable or other person whomsoever shall have cause to suspect that any spirituous or fermented liquors is or are kept for

purposes of sale in any house building premises or place within any such district as aforesaid, not being a house building premises or place belonging to or in the occupation of some person duly licensed to sell the same, then, upon information exhibited by any such constable

5 or other person before any Justice of the Peace, setting forth the ground of his suspicion, it shall be lawful for such Justice, if he shall think it reasonable, by warrant under his hand, to direct and authorize any one or more constable or constables, or other peace officer or officers, by day or by night, to break open the doors of, and enter upon, 10 any such house building premises or place, and to search for any spirituous or fermented liquors, and to seize any spirituous or fermented liquors there found, and either to detain the same in such house building premises or place, or to remove the same to the nearest or most accessible police office, or to any other place of security.

15 **11.** Any unlicensed person who shall keep for purposes of sale, in or upon his house buildings premises or place within any such district, any spirituous or fermented liquors, and any licensed person who shall keep in or upon his house buildings premises or place within any such district any spirituous or fermented liquors mentioned in any 20 Proclamation issued under section eight of this Act, shall be guilty of an offence, and shall on conviction thereof before any one or more Justice or Justices of the Peace under the provisions of "The Justices of the Peace Act, 1866," relating to summary proceedings, be liable to a penalty of not less than ten pounds nor more than fifty 25 pounds for such offence, to be paid immediately upon conviction, and in default of immediate payment shall be imprisoned and kept to hard labour for any period not being less than one month nor more than six months, to be mentioned by the convicting Justice or Justices in the conviction.

Penalty for keeping spirits, &c., for sale.

30 **12.** All spirituous or fermented liquors seized under the provisions of this Act shall be considered as forfeited and condemned, unless within ten days after the same shall have been so seized the owner thereof shall give notice in writing to the person seizing the same that the liability to forfeiture of the said spirituous or fermented liquors is 35 disputed, and unless an action shall, within six weeks from the day of seizure, be brought by such owner against the person who seized the same, in some Court of competent jurisdiction, for the purpose of determining the liability of the same to forfeiture.

Spirits &c. seized to be forfeited unless claimed.

40 **13.** In any action in respect of any spirituous or fermented liquors seized under the provisions of this Act, the burden of proving that the same were wrongfully seized shall in all cases and in all respects lie on the person claiming the same.

Burden of proof.

45 **14.** The provisions of the several sections from two hundred and seventeen to two hundred and twenty-two, both inclusive, of "The Customs Regulation Act, 1858," shall, so far as the same may be applicable, extend and apply to any actions which may be brought against persons who shall have seized any spirituous or fermented liquors under the provisions of this Act.

Actions against persons seizing.

50 **15.** All spirituous and fermented liquors forfeited, and all penalties recovered under the provisions of this Act, shall be dealt with and applied in such manner as shall be prescribed in that behalf by regulations to be issued by the Governor in Council, as hereinafter mentioned; but so nevertheless that a portion of any such penalty, not exceeding one-half, may, in the discretion of the Court imposing the 55 same, be appropriated to the informer, and the remainder thereof towards the construction and maintenance of roads or other public works in the district within which the same shall have accrued; and the money so appropriated to the construction and maintenance of roads shall be dealt with in the manner provided by any such regulations.

Disposal of forfeited spirits, &c.

Governor to make
regulations.

16. The Governor in Council may make any regulations which may be necessary or expedient for insuring the more effectual operation of this Act, and may from time to time alter vary amend and repeal all or any of such regulations; and all such regulations, when published in the *New Zealand Gazette*, shall have the force of law.

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Ordinance repealed.

17. The Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, intituled "An Ordinance to prohibit the Sale &c. of Spirits and to regulate the Sale &c. of other Intoxicating Liquors to persons of the Native Race," Session VIII., Number 3, is hereby repealed.

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**Amendments of the Legislative Council in the Native Districts
Sale of Spirits Bill.**

In clause 1, omit "Native" and insert "outlying."

In clause 4, omit "the majority" and insert "at least two-thirds.

In clause 7, line 1, omit "in Council."

In clause 9, line 11, omit "less than ten pounds nor."

In clause 17, lines 4 and 5, omit "is hereby repealed," and insert in lieu thereof "shall, except in any such Town District or Province as may be included in any such Order in Council as hereinafter provided, be repealed on and from the thirty-first day of December, one thousand eight hundred and seventy."

New Clause.

18. It shall be lawful for the Governor in Council at any time before the said thirty-first day of December to suspend the operation of the last preceding section of this Act within any Town Province or District within the Colony, and at any time thereafter to revoke any such Order in Council; and upon any such revocation the said Ordinances shall be repealed within the Town District or Province to which the said last-named Order relates.

Governor may suspend operation of clause 17.