

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, 24th October, 1878.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Sheehan.

Native Licensing.

ANALYSIS.

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A BILL INTITULED

AN ACT to control the Sale of Intoxicating Liquors within Native Districts. Title.

BE IT 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 Licensing Act, 1878." Short Title.

2. In the interpretation of this Act— Interpretation.

"Native" means an aboriginal native of any of the islands of the Pacific Ocean, and includes half-castes and all persons of mixed race living as members of any Native tribe;

"European" includes all persons other than Natives as herein defined;

"Native Police" means any Native heretofore or hereafter to be appointed to perform the duties of a constable within Native districts, or within any locality;

"Locality" means any part of the colony defined, or to be defined, wherein this Act is to take effect;

"Intoxicating liquors" or "liquor" means any spirits, wine, ale, beer, porter, cider, perry, or other fermented, distilled, or spirituous liquor of an intoxicating nature.

3. The Governor may proclaim any part of the colony to be a locality wherein this Act shall come into operation, subject to the following conditions:— On petition, Act may be brought into force.

(1.) That a petition is presented to the Governor from not less than 100 persons resident in the locality, and that the petition is signed by not less than 10 of them.

than *one-third* of the adult male or female Native residents of the locality, praying that this Act may take effect therein ; or

That a petition of the like tenor is presented to the Governor from not less than *ten* of the chiefs and principal Natives of the different settlements within a district proposed to be declared a locality ;

(2.) That the Native residents in the locality number not less than in the proportion of two Natives to one European resident therein ;

(3.) That no town or borough is included within the limits of any locality when proclaimed.

Genuineness of petition to be ascertained.

4. The Governor shall ascertain in such manner as he shall think fit as to the genuineness of any petition presented to him as first aforesaid, and whether such petition meets with the general assent of not less than *one-third* of the Native residents in the locality ; and in respect of petitions presented to him as last aforesaid, as to the expediency of acceding to the petition. Nothing herein shall preclude the Governor from refusing to act in accordance with the prayer of any petition.

Localities proclaimed.

5. The Governor may thereafter, by Proclamation, declare the district referred to in any petition as aforesaid to be a locality under this Act, wherein, from and after a day to be stated in the Proclamation, this Act shall come into operation.

From and after the day last named, and until the revocation of the aforesaid Proclamation, the locality described in such Proclamation shall be a "proclaimed locality" under this Act.

Boundaries of localities.

6. Every Proclamation declaring a locality shall define the boundaries thereof, which shall not extend beyond the limits of the district wherein the petitioners reside ; but within such limits the Governor from time to time may vary or alter the boundaries of any locality.

Governor may bring Act into force.

7. The Governor may, in any case where he shall think it necessary and of his own proper motion, proclaim any part of the colony to be a locality under this Act, and fix the boundaries of such locality as he shall think right and expedient.

Sale of liquor to Natives prohibited.

8. It shall not be lawful for any person, whether or not holding a license under any licensing law, or the agent or servant of any person, to sell or supply, by purchase or otherwise, any intoxicating liquors within a proclaimed locality to any Native, or to any person for the purpose of being consumed by Natives, nor to bring any such liquor into such locality for any such purpose, nor to bring any such liquor into the neighbourhood of any proclaimed locality, knowing the same is intended to be consumed by Natives in such locality.

Native publichouses to be closed.

9. All premises kept by Natives, in respect of which a license authorizing the sale of any intoxicating liquors has been issued and is in force within a locality on the day when such locality becomes a proclaimed locality under this Act, shall be closed, as far as regards the sale of intoxicating liquors therein, on and after the day herein last named.

Penalty for illicit sale of liquor.

10. Any person who, within a proclaimed locality, sells or supplies in any manner, or allows to be supplied in or from his house or premises, by purchase or otherwise, any intoxicating liquor to a Native, or to any person for consumption by Natives, shall be liable to forfeit and pay a penalty of not less than *twenty* nor more than *one hundred* pounds for every such offence, to be recovered in a summary way before a Resident Magistrate or any two Justices of the Peace ; and if such first-mentioned person is a licensed person, he shall forfeit his license forthwith on conviction for a first or any subsequent such offence.

11. The person who actually gives or supplies any intoxicating liquor within any proclaimed district to a Native, or to any person for consumption by Natives, shall be liable to the same penalty as the owner of such liquor would be if he there sold the same to a Native.

Agents and servants liable as principals.

5 12. It shall not be lawful for any Licensing Commissioners to authorize the granting of any new license for the sale of intoxicating liquors which is intended to take effect within any proclaimed locality; but such Commissioners may authorize the removal to any place outside of a proclaimed locality of any license as aforesaid
10 which is in force within the locality at the time it becomes proclaimed under this Act.

No licenses to be granted to Natives

13. The Governor, by Order in Council, may from time to time make regulations—

Governor in Council may make regulations.

- 15 (1.) For the suppression of drunkenness;
(2.) For the sale, removal, and disposal of intoxicating liquors, and for the restriction or prohibition of such sale, removal, or disposal;
20 (3.) For the punishment of Natives guilty of drunkenness, or of violent or indecent conduct by intoxicated Natives; when in a state of intoxication.
(4.) Imposing penalties not exceeding fifty pounds for the breach or non-observance of any such regulation;
25 (5.) For the election by the Native residents of a locality of a Committee of Administration of this Act therein;

And all such regulations shall have the force of law within proclaimed localities, and may be varied and revoked from time to time by the Governor in Council.

14. It shall be lawful, by any regulation made in pursuance of this Act, to order that any intoxicating liquors (whereof the sale, removal, and disposal shall be prohibited), and all casks and vessels containing the same, which shall be sold, removed, or disposed of, or be in progress of being sold, removed, or disposed of, contrary to such regulations, may be seized by any person to be appointed by any Resident Magistrate in that behalf, and, being so seized, the same shall be detained in
35 such manner as such Resident Magistrate shall direct, until the same shall be disposed of by or by direction of the Governor, and the Governor is hereby empowered to dispose thereof at his pleasure accordingly.

Removal of spirits, &c., may be prohibited.

15. It shall be lawful, by any such regulation as aforesaid, to order that any person guilty of any breach of such regulations may be
40 apprehended and brought before any Resident Magistrate, to be dealt with according to law, and such person may be apprehended and dealt with accordingly.

Offenders may be apprehended.

16. All penalties imposed by or by virtue of any such regulation may be sued for and recovered by any constable by virtue of his office, or by any other person specially authorized by the Governor in that
45 behalf, in a summary way, either within or without the limits of the localities within which such penalties may have been incurred, before any Resident Magistrate or two Justices of the Peace, in the mode prescribed by the laws for the time being in force for regulating
50 summary proceedings before Justices of the Peace.

Penalties may be enforced under Summary Proceedings Ordinance.

17. All such regulations shall control and supersede or preclude the operation of all laws or ordinances in any wise repugnant thereto, or inconsistent therewith, which, before the date thereof, may have been or may be made or ordained by the General Assembly, or by
55 any Superintendent and Provincial Council.

Regulations to supersede laws of Provincial Councils.

18. All such regulations shall be made as far as possible with the general assent of not less than one-third of the Native population affected thereby, to be ascertained in such manner as the Governor may deem fitting: Provided that the issue of any Order in Council under this Act shall be conclusive proof of such general assent to any regulation thereby made.

Regulations to be with general assent of population affected.

Copy of Order in Council to be laid before General Assembly.

19. A copy of every Order in Council made under this Act shall be laid before both Houses of the General Assembly immediately upon the issue thereof, if the General Assembly be then in session, otherwise within ten days from the commencement of the session next following the issue thereof.

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Native Committee of Administration.

20. A Committee of not less than *three* nor more than *five* Natives for each proclaimed locality shall be elected by the Native residents thereof, who shall be charged with the administration of this Act to such extent as shall be regulated by Order in Council, with power to frame by-laws, which, when approved by the Governor, shall take effect within the locality. Such election shall be conducted in manner prescribed by general regulations, and in every case of default or error in such election, the Governor may nominate any or all the persons of the Committee in any locality.

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Committee may frame by-laws and recover penalties to £2.

21. Any Committee as aforesaid may by by-law impose penalties not exceeding *forty* shillings for the breach or non-observance of any such by-law by any person intended to be affected thereby; and every such penalty may be sued for and recovered in a summary manner before any Justice of the Peace by any member of such Committee, and such penalty shall be paid to the Committee of Administration, and shall be applied by the said Committee to the discharge of any expenses incident to or about their administration of this Act.

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How offences to be tried.

22. All offences committed within proclaimed localities shall be tried before the ordinary Courts of competent jurisdiction, excepting that, in cases of drunkenness of Natives, or of riotous or indecent conduct by intoxicated Natives, the offenders may be apprehended and taken before the Committee of the locality, who are hereby empowered to hear and adjudicate thereon; and may impose in respect thereof, and recover, by seizure and sale of the goods and chattels of the offender, if necessary, any penalty not exceeding the aforesaid sum of *forty* shillings for every such offence.

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Native police to assist Committee.

23. All Native police are hereby required to assist any Committee of Administration appointed under this Act, and every member of such Committee, in carrying out the provisions of this Act.

Saving in case of illness.

24. No penalty shall be recoverable for supplying intoxicating liquors to any Native, in case it shall be satisfactorily proved that the liquor so supplied was administered medicinally.

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Suspension of Act in localities.

25. The Ordinance of the Legislative Council of New Zealand, and the Acts of the General Assembly, cited in the Schedule hereto, shall have no operation within any proclaimed locality under this Act whilst such locality continues so proclaimed.

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Schedule.

SCHEDULE.

ORDINANCE AND ACTS REPEALED.

Sess. VIII., No. 3.
(1847.)
1870, No. 39.
1874, No. 79.
1874, No. 80.

1. "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."
2. "The Outlying Districts Sale of Spirits Act, 1870."
3. "The Outlying Districts Sale of Spirits Act, 1874."
4. "The Outlying Districts Sale of Spirits Act 1870 Orders in Council Validation Act, 1874."