

Suppression of Unprofessional Practices.

A BILL INTITULED

AN ACT to declare certain improper and unprofessional Proceedings in the practice of the Law illegal and to make provision for the Suppression and Punishment thereof. Title.

WHEREAS for some time past divers persons not being admitted or enrolled or qualified to practise as Barristers or Solicitors of the Supreme Court of New Zealand have appeared and practised and been allowed to appear and practise in the Inferior Courts of Judicature in the said Colony as agents or advocates for persons having causes or suits depending therein and for such services as well as for other services rendered in connection with such causes or suits as such agents or advocates as aforesaid have claimed and compelled the payment of fees and charges not sanctioned or warranted by law: And whereas divers other persons not being admitted or enrolled or qualified to practise as Barristers or Solicitors of the Supreme Court of New Zealand have for a considerable time past (by means of the improper and colourable use of the names of persons admitted enrolled and qualified to practise as aforesaid and through and by means of secret agreements and understandings with persons so admitted enrolled and qualified as aforesaid) been engaged in the virtual practice of the profession or calling of Solicitors of the said Supreme Court for their sole and exclusive or substantial benefit and not for the sole and exclusive benefit or advantage of the Solicitors whose names have been used or made use of to cover and sanction the practice of such persons as aforesaid not being persons admitted or enrolled or qualified to practise as aforesaid: And whereas the practices hereinbefore recited are contrary to law and should and ought to be effectually suppressed Preamble.

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 Suppression of Unprofessional Practices Act 1869."

No persons except the parties and qualified practitioners to appear in Courts of Judicature.

2. No person is by law now or shall hereafter be permitted or allowed to appear in any Court of Judicature in the Colony of New Zealand to conduct or assist in the management of any civil criminal or summary proceeding depending in such Court unless such person shall be one of the parties to the proceeding or a duly qualified Barrister or Solicitor of the Supreme Court of the said Colony enrolled and practising and entitled to practise as such and as such instructed and authorized to appear on behalf of any of the parties to the proceeding aforesaid Provided that in any action or other civil proceeding in which the parties or either of them at the time of the hearing or trial thereof shall be out of the jurisdiction of the Court wherein such action or other civil proceeding shall be depending it shall be lawful for such Court to permit and allow any persons or person authorized by deed or in writing to appear for and conduct and manage the case of the parties or party so absent from the jurisdiction of such Court as aforesaid Provided also that such permission shall not be given by the said Court except to some person or persons in the actual service and employment of the party or parties so absent from the jurisdiction of the Court as aforesaid.

Persons not to practise for their own benefit in names of admitted practitioners.

3. No person is by law now or shall hereafter be allowed in the name of any Solicitor enrolled and qualified to practise as such in the Colony of New Zealand to conduct or carry on or be engaged in otherwise than for the *bonâ fide* and sole and exclusive benefit and advantage of such Solicitor the practice calling or profession of a Solicitor of the Supreme Court of New Zealand.

Affidavit to be made where business carried on in more than one place.

4. No person shall continue or commence to conduct or carry on or be engaged in the practice calling or profession of a Solicitor as aforesaid in the name of any Solicitor at any place other than at the usual and ordinary place of business and residence of such Solicitor unless and until the person so continuing or commencing to conduct or carry on the practice aforesaid at any place other than the usual and ordinary place of business and residence of such Solicitor as aforesaid and unless and until such Solicitor as aforesaid shall have respectively made and filed in the Office of the Supreme Court at the principal town in the Province wherein they shall reside (or if there shall be no Office of the Supreme Court within such Province then in the nearest Office of the Supreme Court) an affidavit duly sworn declaring that the practice calling or profession to be continued or commenced as aforesaid is so to be continued or commenced and carried on for the *bonâ fide* and sole and exclusive benefit and advantage of such Solicitor.

Provisions hereinbefore contained to apply to unqualified persons only.

5. The provisions contained in the third and fourth sections of this Act shall extend to or be applicable to all cases where any person not being admitted enrolled or qualified to practise or being disqualified from practising as a Barrister or Solicitor of the Supreme Court shall be employed by any Barrister or Solicitor of the said Court to conduct and manage any office or branch office for conducting and carrying on the calling or profession of a Barrister or Solicitor at any place other than the usual and ordinary place of business and residence of the Barrister or Solicitor so employing such person as aforesaid but the provisions in the said third and fourth sections shall not extend or be applicable to cases where the person or persons employed is himself or are themselves duly admitted and qualified and entitled to practise as Barristers or Solicitors of the said Supreme Court.

Penalties.

6. Any person committing any breach or offence against any of the provisions hereinbefore contained shall on conviction thereof before any two Justices of the Peace forfeit and pay a sum not exceeding two hundred and fifty pounds to be recovered in a summary way upon the information of any person or persons whomsoever And any Barrister or Solicitor of the said Supreme Court who shall knowingly

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or wilfully commit any breach or offence against any of the provisions hereinbefore contained or be concerned or implicated in the commission of any such breach or offence shall be liable in addition to any penalty which may be recovered or recoverable against him to be struck off the Rolls of the said Supreme Court or suspended from practice for misconduct for such time as the said Supreme Court shall direct and appoint Provided always that nothing hereinbefore contained shall be deemed to take away or shall take away the remedy by indictment as for a misdemeanour in any case where a breach of any of the provisions hereinbefore contained shall have been committed and in respect whereof an indictment may lie.

7. In all actions suits prosecutions and other proceedings in the said Supreme Court or any Inferior Court of Judicature and in all applications to the summary jurisdiction of the Supreme Court when any breach of any of the provisions hereinbefore contained shall be charged or alleged and shall form a subject of inquiry or investigation it shall be sufficient for the person charging or alleging the commission of any offence against any of the provisions hereinbefore contained to prove and establish a *prima facie* case merely and it shall rest and lie with the person or persons against whom any such offence shall be charged or alleged to give substantial proof of his or their innocence.

Onus probandi.

8. Nothing herein contained shall extend or be held to apply to the practice or procedure of any Native Lands Court Warden's Court or Resident Magistrate's Court in its civil jurisdiction in the Colony of New Zealand where the provisions of any Act already or hereafter to be made affecting the said Native Lands Court Warden's Court or Resident Magistrate's Court or where any Rules or Regulations affecting or controlling the procedure of any such Courts already or hereafter to be made shall conflict with any of the provisions hereinbefore contained.

Act not to apply to Native Lands Court where it conflicts with procedure of such Court.