

Committee on the
Bill No 1



NATIVE OFFENDERS BILL.

IN THE TWENTIETH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

SESSION IV., No.

ANALYSIS:

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| Title. | |
| Preamble. | in all the newspapers published at time in Capital Town of Province. |
| 1. Governor may order by proclamation that all or any of the provisions of this Act shall apply to any specified districts. | 10. On claim being made Resident Magistrate to summon party in charge of property seized, and after hearing claim to order property to be condemned or given up. |
| 2. Acts which shall be deemed offences when any district shall be subject to the provisions of this Act. | 11. If no claim made, or, if made, not prosecuted, or if property condemned, same may be sold and proceeds disposed of as Governor shall direct. |
| 3. Governor may declare tribes of aboriginal natives or individual aboriginal natives subject to this Act. | 12. Persons acting under authority of Governor entitled to same protection, &c., as constables acting under warrants granted by Justices of the Peace. |
| 4. Punishment of offences under this Act. | 13. No prosecution, &c., to be commenced except authorised by Governor. |
| 5. Governor may commute punishment for second or third offence, to banishment. | 14. Interpretation of term "Governor" and "vessels." |
| 6. Punishment for returning from banishment without lawful cause. | 15. Short title. |
| 7. Goods and chattles personal, of inhabitants of any district, &c., subject to the provisions of this Act may be seized. | |
| 8. Vessels and vehicles employed, and goods and chattles dealt with contrary to this Act may be seized. | |
| 9. When goods, &c., seized, notice to be given | |

A BILL to enable the Governor to prevent Communication with certain Districts in which Native offenders are received and harboured. Title.

WHEREAS Aboriginal Natives, after committing offences against the law frequently escape to districts of a distance from European Settlements in order to evade the punishment due to their offences; And whereas it would tend to prevent crime, and to secure the due administration of justice if the Preamble.

Governor were enabled to prevent dealings and communication with the aboriginal inhabitants by whom such offenders are received, harboured, or maintained.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Governor may declare by proclamation that all or any of the provisions of this Act shall apply to any specified district.

1. Whenever in the judgment of the Governor of New Zealand it shall be expedient that this Act shall apply to any district to be defined by specified boundaries it shall be lawful for the Governor to declare, by proclamation in the New Zealand Government Gazette, and in such other manner as he shall think fit, that from and after a day to be named in such proclamation, this Act, or any part thereof, shall apply to such district: Provided always, that it shall be lawful for the Governor, by a new proclamation to be published as aforesaid, to revoke the whole or any part of any proclamation issued under this Act as to the whole or any part of the district named therein.

Acts which shall be deemed offences when any district shall be subject to the provision of this Act.

2. Whenever any district shall, by virtue of any such proclamation, be subject to the provisions of this Act, any person who, without the written permission of the Governor first obtained for such purpose, shall do any of the acts next hereinafter, specified shall be deemed to be guilty of an offence against the provisions of this Act, and shall be punishable accordingly, as hereinafter provided, viz.:—

(1.) Any person who shall wilfully visit any part of such district either by water or land, or not being a resident thereof, shall remain therein after having become cognizant that the same is subject to the provisions of this Act. *wilful by permission*

(2.) Any person who shall knowingly purchase or carry by water or land, or receive any goods or chattels whatever, the produce of any such district, or the property of any aboriginal inhabitant thereof

(3.) Any person who shall purchase or otherwise obtain any goods or chattels from or for the use or benefit of any aboriginal inhabitant of any such district.

(4.) Any person who shall knowingly sell any goods or chattels whatever to any aboriginal inhabitant of any such district, or for the use of, or to be sold, given, conveyed, or disposed of, to any such inhabitant.

(5.) Any person who shall knowingly or wilfully hold any communication or correspondence whatever, either directly or indirectly, with any aboriginal inhabitants of any such district.

(6.) Any person who shall refuse or wilfully neglect to leave or depart from any such district within a time to be fixed by the Governor by any writing under his hand after having been personally served with a copy of such writing or otherwise made aware of the contents thereof.

(7.) Any person who shall aid, assist, or abet any person or persons to commit any of the above-named acts, or shall knowingly excite, encourage, solicit, ask, require, or induce any person or persons to commit, or aid, assist, abet, or join in the commission of any of the above-named acts.

Governor may declare tribes of aboriginal natives or individual aboriginal inhabitants subject to this Act.

3. It shall also be lawful for the Governor, whenever he shall deem it expedient, to declare by proclamation which shall be published and which may be revoked as aforesaid, that any tribe or tribes of aboriginal natives to be described in such proclamation, or any aboriginal native or natives to be named therein, shall be subject to the provisions of this Act, and every act which is

hereinbefore declared to be an offence if done in respect of any aboriginal inhabitant of any district, subject to the provisions of this Act, shall be deemed an offence if done in respect of any tribe or tribes or of any aboriginal native or natives to be described or named in such last mentioned proclamation to be issued by virtue or under the authority of this section.

4. Every person who shall be convicted in a summary way before a Justice of the Peace of any offence under this Act shall for the first offence forfeit and pay any sum not exceeding the sum of £100 as to the said justice shall seem meet, and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in a summary way before any two Justices of the Peace, every such offender shall for such second offence be committed to the common gaol or house of correction there to be kept to hard labour for such term not exceeding twelve calendar months or less than six calendar months, as the convicting Justices shall think fit; and if any person so twice convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony and being convicted thereof before a Court of competent jurisdiction, shall be liable to be punished by penal servitude for any term not less than four years and not exceeding six years as such Court shall think fit.

Punishment of offences under this Act.

5. Provided always, that it shall be lawful for the Governor to commute the punishment to be awarded on a second or third conviction for any of the said offences to banishment from the Colony of New Zealand for such term as he shall think fit, and to order and cause such person to be removed from the said Colony accordingly to such other place as the person so to be banished shall choose, and in default of his or her making such choice on being called upon or required by the Governor so to do, then to such place in Her Majesty's dominions as the Governor shall direct or appoint.

Governor may commute punishment for second or third offence to banishment.

6. If any person who shall have been so banished and removed as aforesaid, shall be at large in any part of the said Colony of New Zealand without some lawful cause before the expiration of the term for which such person shall have been banished, every such person being thereof lawfully convicted, shall be sentenced to penal servitude for any term not less than six years and not exceeding ten years.

Punishment for returning from banishment without lawful cause.

7. Any goods and chattels personal of whatsoever kind or wheresoever found of any aboriginal inhabitant of any district, or of any tribe or tribes of aboriginal inhabitants, or of any aboriginal native or natives, subject to the provisions of this Act, may be seized, and when seized shall be delivered into the care of some person to be appointed by the Governor to receive and take charge of the same.

Goods and chattels personal of inhabitants of any district, &c., subject to the provisions of this Act may be seized.

out of the district

8. All vessels and vehicles employed or used, and all goods and chattels personal, dealt with in any manner to be deemed an offence under the provisions of this Act, to whomsoever the said vessels, vehicles, goods, or chattels may belong may be seized, and when seized shall be delivered into such care as aforesaid.

Vessels and vehicles employed and goods and chattels dealt with contrary to this Act may be seized.

9. Whenever any goods or chattels personal, vessels, or vehicles shall have been so seized and delivered as aforesaid, the person into whose care the same shall have been delivered shall forthwith cause a notice, giving full particulars of such seizure, to be published in all the newspapers published in the Capital Town of the Province in which seizure shall be made, and if there be no such newspapers, then in such other way as may be calculated to give full publicity for the same, and shall by such notice warn all persons having any claim in respect of such seizure to prefer the same to the Resident Magistrate of such Capital Town within twenty-eight days after the day of the first publication of such notice.

When goods, &c., seized, notice to be given in all the newspapers published at time in Capital Town of Province.

On claim being made Resident Magistrate to summon party in charge of property seized, and after hearing claim to order property to be condemned or given up.

10. On such claim being made the said Resident Magistrate shall fix a day for the purpose of hearing the same, and shall, at the request of the claimant issue a summons calling upon the person in charge of the property seized to appear. On proof of the due service of such summons it shall be the duty of the Resident Magistrate to examine the claim, whether the person so summoned be present or not, and either to condemn the said property as liable to seizure under this Act, or order the same to be given up to the said claimant, as to such Resident Magistrate may seem just.

If no claim made, or, if made, not prosecuted, or if property condemned, same may be sold, and proceeds disposed of as Governor shall direct.

11. If no claim shall be made in respect of any seizure within the time fixed for claiming the same, or, if made, shall not be duly prosecuted, or if the property seized shall have been condemned in any such case, the property seized may be sold in such manner as the person in charge of the same shall think fit, and the proceeds arising from such sale shall be disposed of in such manner as the Governor shall direct.

Persons acting under authority of Governor entitled to same protection, &c., as constables acting under warrants granted by Justices of the Peace.

12. Every person acting under the authority of the Governor, given in pursuance of the provisions of this Act, shall be entitled in all respects to the like notices, privileges, and protection, as are afforded and given by law to a constable acting under the authority of a warrant duly granted by a Justice of the Peace.

No prosecution, &c., to be commenced or goods seized except authorized by Governor.

13. No information nor complaint, prosecution, nor indictment shall be commenced, preferred, or carried on for any of the said offences created by this Act, nor shall any seizure be made under the authority thereof, unless the Governor shall have duly authorized the same to be commenced, preferred, carried on, or made, and the prosecution of any written authority, either general or special, for any such purpose, purporting to be signed by the Governor, shall be deemed to be *prima facie* evidence of such authority having been given.

Interpretation of terms "Governor" and "vessels."

14. The term "Governor" shall be deemed to mean the Officer for the time being lawfully administering the Government of the Colony of New Zealand, and the word "vessels" shall be deemed to include every description of vessel employed on the high seas or on the coasts, and also boats, barges, punts, and canoes.

Short title.

15. This Act may be cited for all purposes as "The Native Offenders Act, 1856."

That any aboriginal native of New Zealand or any other tribe as shall be so proclaimed shall on being found within the precincts of any town or village of the capital of the province within which such tribe does dwell shall be liable to be arrested and fined for the first offence or 4 shillings imprisonment and so on for every subsequent offence

all cases by the Governor and the word "vessels" shall be deemed to include every description of vessel employed on the high seas or on the coasts, and also boats, barges, punts, and canoes.