

VICTORIÆ REGINÆ.

No. 33.

ANALYSIS.

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| <p>Title.<br/>Preamble.<br/>1. Short Title.<br/>2. Interpretation.<br/>3. Formation of Jury Lists.<br/>4. Jurors not to be Summoned beyond a certain distance.<br/>6. Repeal of Jury Ordinance. Order of Summoning Jurors to be by Ballot.<br/>6. Jurors having served to be exempt from attending again except in turn.<br/>7. How Jurors to be Summoned.<br/>8. Provision for Maori Juries in Criminal cases.</p> | <p>9. Provision in Civil cases.<br/>10. Composition of Maori Juries.<br/>11. Provision for Mixed Juries.<br/>12. Composition of Mixed Juries. Power of adjourning Trial till Jurors attend.<br/>18. Procedure in case of demand of a Maori or Mixed Jury.<br/>14. Power to alter mode of Trial by Jury of Maoris<br/>15. Interpreter to be sworn.<br/>16. Special Juries in Criminal cases.<br/>17. Power to make Rules.</p> |
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An Act for amending the law relating to Juries. Title.

[15th September, 1862.]

**W**HEREAS an Ordinance was passed by the Governor and Legislative Council of New Zealand (Session II., No. 3) entitled an Ordinance to regulate the Constitution of Juries and a further Ordinance was passed by the Governor and the said Council Session III. No. 2, entitled "An Ordinance to make temporary provision for the constitution of Juries And whereas it is expedient to amend the said Ordinances respectively. Preamble.

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

I. The Short Title of this Act shall be the "Jury Law Amendment Act, 1862." Short Title.

II. The term "Police Magistrate" in the said Ordinances respectively shall mean and imply the Resident Magistrate for the time being of the Principal City or Town in each Province and also the Resident Magistrate acting in any District or place which may be from time to time specified in any Proclamation to be issued in that behalf by or under the authority of the Governor in Council. Interpretation.

The Term "Police Office" in the said Ordinances respectively shall mean and imply the office or place at which the business of such Resident Magistrate shall be transacted within such District The term Maori in the Act shall include all persons of the Aboriginal New Zealand race all

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*Jury Law Amendment.*

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Aboriginal Polynesian, Melanesian and Australasian Natives and all persons one of whose parents was a Native of such race and which persons are herein designated "half-caste" Provided that no half-caste shall be deemed to be a Maori for the purposes of this Act unless he shall be living as a member of some Native tribe or community.

Formation of Jury Lists.

III. The Governor in Council may from time to time by Proclamation in the *Government Gazette* of the Colony define the limits of Districts for the formation of Jury Lists under the said Ordinances:

Jurors not to be Summoned beyond a certain distance.

IV. No person shall be liable to be summoned to serve on a Jury at any Trial to be held at a distance exceeding twenty miles from his usual place of Residence.

Repeal of Jury Ordinance. Order of Summoning Jurors to be by Ballot.

V. So much of the said Jury Ordinances as requires that Jurors shall be summoned in alphabetical order is hereby repealed and instead thereof it is hereby enacted that the order in which Jurors shall be summoned and Jurors shall be selected to serve on Trials shall be determined by ballot to be taken by the Sheriff.

Jurors having served to be exempt from attending again except in turn.

VI. No person who shall have been summoned as a Juror at any Trial within any Province and shall have duly attended in pursuance of such summons shall be liable to be summoned to serve again at any Court until all other Jurors on the List not exempt and not disabled from attendance shall have been summoned in turn.

How Jurors to be Summoned.

VII. For insuring the attendance of a sufficient number of Jurors upon Trials it shall be the duty of the Registrar Clerk or other officer of the Court at which any Trial by Jury is to be held to issue a precept to the Sheriff of the District within which such Trial is to be held commanding him to summon a sufficient number of Jurors to attend and serve on such Trial. The number of Jurors summoned shall be in all cases not less than twice nor more than three times the number of persons required to form the Jury. And it shall be the duty of such Sheriff to cause such sufficient number of Jurors as aforesaid to be summoned accordingly and to return to the Registrar or Clerk of the Court such number of days as shall be prescribed by Rules of the Supreme Court before such Court is held a list of the Jurors so summoned and the person or persons by whom the Jurors were summoned shall attend at the Court for the purpose in case of need of proving such service.

Provision for Maori Juries in Criminal cases.

VIII. Upon any Trial in a Criminal Case in which an Indictment shall be found or information filed against a Maori for an offence committed against a Maori such Maori may at the time of his commitment or within two days thereafter or at any other time not less than seven days before the Trial give notice to the Committing Magistrate Registrar or Clerk of the Court that he claims to be tried by a Maori Jury and the case shall be tried by a Maori Jury accordingly and in case he shall give such notice at the time of his commitment it shall be the duty of the Committing Magistrate to transmit such notice to such Registrar or Clerk.

*Jury Law Amendment.*

IX. In every civil case in which both parties shall be of the Maori Race if they shall concur they may at any time not less than seven days before the Trial give notice to the Registrar or Clerk that they claim to have the case tried by a Maori Jury and such case shall be tried by a Maori Jury accordingly.

Provision in Civil cases.

X. Maori Juries shall be composed wholly of Maori Jurors if so many shall attend at the Trial. If not the proper number shall be made up of ordinary Jurymen or bystanders in the discretion of the Court.

Composition of Maorie Juries.

XI. In every civil case in which both parties shall be Maoris and one of them only shall desire that the case may be tried by a Maori Jury and in every civil case in which one party shall be of the European race and the other shall be Maori and such Maori shall desire that the case may be tried by a mixed Jury he may give notice of such desire to the Registrar or Clerk of the Court at any time within seven days before the Trial and the same shall in such cases be tried by a mixed Jury.

Provision for Mixed Juries.

XII. Mixed Juries shall be composed half of ordinary Jurors and half of Maori Jurors if so many Maori Jurors shall attend at the Trial or if not then the Jury shall be completed from ordinary Jurymen or bystanders in the discretion of the Court. Provided that in any case either of a Maori or mixed Jury if it shall appear to the Court expedient to adjourn the Trial in order to obtain the attendance of Maori Jurors the same may be adjourned accordingly.

Composition of Mixed Juries.  
Power of adjourning Trial till Maori Jurors attend.

XIII. Upon receiving any notice as aforesaid of the demand for a Maori or mixed Jury it shall be the duty of the Registrar or Clerk to issue a precept to the Sheriff of the District requiring him to summon a sufficient number of Maori Jurors to serve on such Maori or mixed Jury such number not being less than twice nor more than three times the number of Maori Jurors required to form the Jury.

Procedure in case of demand of a Maori or Mixed Jury

XIV. The Governor may by Order in Council declare that in Trials in Criminal Cases in any Court other than the Supreme Court (or in the Supreme Court with the approval of the Judges of the Supreme Court) in which a Maori shall be charged with any offence and also in any civil case in which both of the parties shall be Maoris the Trial shall be by a less number of Jurymen than twelve. Provided that the number of the Jury shall in no case be less than four.

Power to alter mode of Trial by Jury of Maories

XV. Every Court at which there shall be a Trial by a Maori or mixed Jury shall have power to appoint an Interpreter who shall be sworn faithfully to interpret between the Court and the Jury and between the Jurors. And such Interpreter may be present with the Jury throughout the Trial until a verdict be given and shall faithfully interpret accordingly.

Interpreter to be sworn.

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*Jury Law Amendment.*

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Special Juries in Criminal Cases.

XVI. In all cases of Trial by Jury as well Criminal as Civil before the Supreme Court the Court may on application on behalf of Her Majesty or of any Defendant or person against whom any indictment shall be found or without any such application if it shall be so ordered by any Rule to be made on that behalf and subject to such terms as the Court shall impose and to such Rules as shall be made in that behalf order that the Trial shall be by Special Jury.

Power to make Rules.

XVII. Subject to the Provisions in this Act contained the Governor in Council may from time to time frame and establish Rules for the following purposes that is to say—

For forming revising keeping and transmitting Jury Lists for Maori cases designating the persons therein arranging the Lists and summoning Jurors and for regulating the order in which Maori Jurors shall be summoned and serve and he may from time to time rescind and alter any such Rules and make and establish other Rules in lieu thereof And all such Rules so made and altered shall be published in the *Government Gazette* of the Colony and being so published shall have the force of law.