

ANNO DUODECIMUS
 VICTORIÆ REGINÆ.

SESSION IX. No. I.

PROVINCIAL
 COUNCILS.

AN ORDINANCE to provide for the establishment of Provincial Legislative Councils in the Colony of New Zealand. [18th November, 1848.]

Preamble reciting the
 division of the Colony
 into Provinces.

And 11 Vict.

WHEREAS in pursuance of the provisions of an Act made and enacted in the Parliament holden in the ninth and tenth years of the reign of Her Majesty Queen Victoria, intituled "*An Act to make further provision for the Government of the New Zealand Islands,*" Her Majesty by certain Letters Patent under the Great Seal of the United Kingdom, bearing date on the twenty-third day of December, one thousand eight hundred and forty-six, did ordain and appoint that the said Islands of New Zealand should be divided into two separate Provinces, to be called respectively the Province of New Ulster and the Province of New Munster: And whereas by an Act made and enacted in the Parliament holden in the eleventh year of the reign of Her Majesty, intituled "*An Act to suspend for Five Years the operation of certain parts of an Act of the tenth year of Her present Majesty, for making further provision for the Government of the New Zealand Islands, and to make other provision in lieu thereof,*" it is amongst other things enacted that it shall be lawful for the Governor-in-Chief of New Zealand, by and with the advice and consent of the Legislative Council thereof, by Ordinance to constitute within and for any of the Provinces into which the Islands of New Zealand were then or might thereafter be divided, a Provincial Legislative Council to be appointed or elected, or appointed and elected in such manner and by such person or persons as by such Ordinance shall be provided in that behalf, and that the Provincial Legislative Council or Councils so constituted shall have all such rights powers jurisdiction and authority as shall be granted in that behalf to the said Provincial Legislative Council or Councils or either of them by such Ordinance and none other:

NOW BE IT ENACTED by the Governor-in-Chief of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

I.—CONSTITUTION OF THE COUNCIL.

Number of Members.

1. For each of the said Provinces into which the Islands of New Zealand now are or may hereafter be divided there shall be a Legislative Council, to consist of not less than nine Members, with such powers and authorities and subject to such limitations and restrictions as are hereinafter provided.

2. The

Provincial Councils.

2. The Members of the Executive Council of the Province for the time being shall be Members *ex officio* of the said Provincial Council.

Executive Council to be Members *ex officio*.

3. It shall be lawful for the Governor or Lieutenant-Governor of the Province, by Letters Patent under the Great Seal of the Province, from time to time to summon and appoint such other person or persons as he may think proper to be personally or by virtue of his or their office a Member or Members of the said Legislative Council: Provided that the number of Members of the said Council who shall not hold any office either under the Crown or under the Colonial Government shall always exceed the number of the Members who shall hold any such office.

Other Members to be appointed by Governor &c.

4. All appointments to be made by such Letters Patent as aforesaid without the previous warrant of Her Majesty shall be provisional only and subject to Her Majesty's confirmation or disallowance, but shall be valid to all intents and purposes and irrevocable until Her Majesty's pleasure shall have been signified thereupon.

Appointments to be provisional.

5. Any Member of the said Council who shall become bankrupt or insolvent according to any law in force in the Colony, or who shall be convicted of any felony or other infamous crime, shall thereupon forfeit his place in the said Council and cease to be a Member thereof.

Members becoming bankrupt &c. to forfeit their seat.

6. Every Member of the said Council who shall be summoned to attend any meeting thereof whose ordinary place of abode shall be more than twenty-five miles from the place where the meetings of the Council shall be holden, shall be entitled to receive, and there shall be paid over to him on the first day of each Session by the Clerk of the Council, the sum of fifty pounds for and towards defraying the travelling and other expenses incurred by such Member in attending the meeting of the Council; and all sums so paid shall be chargeable upon and payable out of the general revenue of the Province.

Payment of expenses of Members.

II.—JURISDICTION, ETC., OF THE COUNCIL.

7. It shall be lawful for the said Legislative Council to make and ordain all such Laws and Ordinances, except as hereinafter mentioned, as may be required for the peace order and good government of the Province.

Legislative powers.

8. In the making of such Laws and Ordinances the said Council shall conform to and observe all such instructions as Her Majesty shall from time to time make for their guidance therein.

Council to conform to Royal instructions.

9. No such Law or Ordinance shall be repugnant to the Law of England, or to any Ordinance to be made and enacted by the Governor-in-Chief, with the advice and consent of the Legislative Council of New Zealand.

Ordinances not to be repugnant to law of England &c.

10. All Laws and Ordinances to be made by the said Provincial Council shall be subject to the confirmation or disallowance of Her Majesty in such manner and according to such regulations as Her Majesty shall from time to time prescribe.

Ordinances to be subject to Royal confirmation &c.

11. No Ordinance of the said Council shall be assented to by the Governor or Lieutenant-Governor without the previous sanction of the Governor-in-Chief.

Ordinances not to be assented to by Governor &c. without sanction of Governor-in-Chief. Subjects on which Provincial Council shall not have power to legislate.

12. It shall not be competent for the said Council to make or enact any Law or Ordinance for any of the purposes hereinafter mentioned, that is to say—

(1.) For the regulation of duties of Customs to be imposed on the importation or exportation of any goods at any port or place in the said New Zealand Islands.

(2.) For the establishment of a general Supreme Court to be

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a Court of original jurisdiction or of appeal from any of the Superior Courts of any such separate Province as aforesaid.

- (3.) For determining the extent of the jurisdiction or the course or manner of proceeding of such General Supreme Court or of the said Superior Courts.
- (4.) For regulating the current coin of the said Islands, or any part thereof, or the issue therein of any bills notes or other paper currency.
- (5.) For determining the weights and measures to be used in the said Islands or in any part thereof.
- (6.) For regulating the post offices within and the carriage of letters between different parts of the said Islands.
- (7.) For establishing laws relating to bankruptcy and insolvency.
- (8.) For the erection and maintenance of beacons and light-houses on the coasts of the said Islands.
- (9.) For the imposition of any dues or other charges on shipping at any port or harbour within the same.
- (10.) For regulating marriages within the same or any part thereof.
- (11.) For affecting Crown lands or lands belonging to the aboriginal native owners, or for imposing any disabilities or restrictions on persons of the Native race to which persons of European birth or descent would not also be subjected.

And any Ordinance or pretended Ordinance which may be made by the said Council for any of the purposes hereinbefore set forth shall be absolutely null and void to all intents and purposes.

III.—PROCEEDINGS ETC. OF THE COUNCIL.

Governor &c. to
preside.

13. The Governor for the time being, or in his absence from the Province the Lieutenant-Governor thereof, shall be present at and shall preside over all meetings of the said Legislative Council: Provided always that so long as the office of Governor-in-Chief of New Zealand and Governor of the said Provinces thereof respectively shall be vested in the same person it shall not be necessary for the Governor-in-Chief to preside over such Council although he may be within the limits of the Province in which such Council may be holden unless he shall think fit so to do.

Minutes to be kept.

14. Minutes shall be kept of all the proceedings of the said Council by the Clerk of the Council, and the said Council shall not proceed to the despatch of business until the minutes of the last meeting have been first read over and confirmed or corrected as may be necessary.

All questions to be
proposed by
Governor &c.

15. The said Council shall not be competent to proceed to the despatch of any business unless a majority of the whole number of the Members thereof shall be present.

Majority must be
present.

16. No Law or Ordinance shall be enacted and no question shall be debated by the said Council unless the same shall have been previously proposed for that purpose by the Governor or Lieutenant-Governor: Provided nevertheless that if any Member of the Council shall deem it expedient that any law be enacted or that any question be debated by the said Council, and of such his opinion shall transmit a written statement to the Governor or Lieutenant-Governor, it shall be lawful for any such Member to enter upon the minutes of the said Council a copy of any such statement, together with the reasons upon which such his opinions may be founded.

Majority to decide

17. All questions proposed for debate in the said Council shall be decided by the majority of votes, and the Governor or Lieutenant-Governor

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Governor shall have an original vote in common with the other Members of the said Council, and also a casting vote if upon any question the votes shall be equally divided.

18. All Laws to be enacted by the said Council shall be styled "Ordinances enacted by the Governor (or Lieutenant-Governor, as the case may be) of the Province of _____, with the advice and consent of the Legislative Council thereof." Title of Ordinances.

19. Every such Ordinance shall take effect from a time to be therein for that purpose appointed. Ordinances when to come into operation.

20. All Ordinances made for levying money or for imposing fines penalties or forfeitures shall grant or reserve the same to Her Majesty, her heirs and successors, for the public uses of the Province and the support of the Government thereof, in such manner as by the said Ordinances may be directed; and no such money shall by any such Ordinance be made issuable save only by warrants to be granted in pursuance thereof by the Governor or Lieutenant-Governor of the Province. All fines &c. to be reserved to Her Majesty.

21. In the construction of all such Ordinances as aforesaid the word "Governor" shall be taken to include the Lieutenant-Governor, and any word or words importing the singular number or the masculine gender only shall respectively be understood to include several persons matters and things as well as one person matter or thing, and females as well as males, unless there be something in the subject or context repugnant to such construction. Construction of Ordinances.

22. For the purpose of securing punctuality of attendance by the Members of the said Council, and the prevention of meetings of the said Council being holden without convenient notice to the several Members thereof, and for maintaining order and method in the despatch of business and in the conduct of all debates in the said Council, it shall be lawful for the Governor or Lieutenant-Governor and he is hereby required to frame and propose to the said Council for their adoption such Standing Rules and Orders (not being repugnant hereto) as may be necessary in that behalf. Rules and Standing Orders.

IV.—APPROPRIATION OF REVENUE.

23. There shall be appropriated and set apart from and out of the revenues of each of the said Provinces as aforesaid, by way of Civil List for the public use of the Colony or Province, the sum of six thousand pounds by the year. Civil List to be reserved.

24. Such Civil List shall be applied and appropriated to such specific purposes as the Lords Commissioners of Her Majesty's Treasury for the time being, or any three of them, shall from time to time direct and appoint. How appropriated.

25. All duties taxes rates tolls and assessments imposed and made payable by virtue of any Ordinance now in force, or which may hereinafter be imposed or made payable by virtue of any Ordinance to be made by the Governor-in-Chief, with the advice and consent of the Legislative Council of New Zealand, shall be appropriated to such specific purposes as by any such Ordinance shall be prescribed in that behalf and to no other, save as hereinafter is excepted. General appropriation of revenue.

26. The first application of any such duties taxes rates tolls and assessments shall be towards defraying all the expenses of collecting receiving managing and auditing the same. Cost of collection.

27. Subject to such deduction as aforesaid, the surplus which may remain of the proceeds of any such duties taxes rates tolls and assessments shall be applied to the specific purpose prescribed by the Ordinance imposing the same. Application of surplus.

28. Subject

Postage.

Surplus to be divided
between the two
Provinces.

28. Subject to such deductions, to such Civil List as aforesaid, and to any charge which by any Law or Ordinance now in force may have been made on the general revenue of New Zealand or of the Provinces into which the Colony may be divided, the proceeds of all such duties taxes rates tolls and assessments shall be paid over to the respective treasuries of the said Provinces for the public uses thereof, and subject to the appropriation of the respective Legislative Councils of the said Provinces respectively.

Principal of appor-
tionment.

29. In the apportionment of any such ultimate surplus between the said Provinces, the part of the surplus to be assigned to each shall bear to the whole of such surplus the same proportion which the part of the gross proceeds raised and collected within such Province may have borne to the total amount of the gross proceeds of any such duty tax rate toll or assessment.
