

A BILL INTITULED

AN ACT to amend the Law regulating Legislation by Superintendents and Provincial Councils and to make provision for trying the Legality of Bills passed by such Councils. Title.

**W**HEREAS by the eighteenth section of the Constitution Act it is provided that it shall be lawful for the Superintendent of each Province in New Zealand with the advice and consent of the Provincial Council thereof to make and ordain all such Laws and Ordinances Preamble.  
5 (except and subject as hereinafter mentioned) as may be required for the peace order and good government of such Province provided that the same be not repugnant to the Law of England

And whereas by the nineteenth section of the said Act it is provided that it shall not be lawful for the Superintendent and Provincial Council to make or ordain any Law or Ordinance for any of the Preamble.  
10 purposes hereinafter mentioned

And whereas by the twenty-seventh section of the Constitution Act it is provided that every Bill passed by any Provincial Council shall be presented to the Superintendent for the Governor's assent and Preamble.  
15 the Superintendent shall declare according to his discretion (but subject nevertheless to the provisions therein contained and to such instructions as may from time to time be given to him by the Governor) that he assents to such Bill on behalf of the Governor or that he withholds the assent of the Governor or that he reserves such Bill for the Preamble.  
20 signification of the Governor's pleasure thereon

And by the said Act it is also provided that it shall be lawful for the Governor at any time within three months after any such Bill shall

have been received by him to declare by proclamation his disallowance of such Bill and such disallowance shall make void and annul the same from and after the day of the date of such proclamation or any subsequent day to be named therein

And it is also in and by the said Act provided that no Bill which shall be reserved for the signification of the assent of the Governor shall have any force and authority within the Province until the Superintendent shall signify either by speech or message to the Provincial Council or by proclamation in the *Government Gazette* that such Bill has been laid before the Governor and that the Governor has assented to the same

And whereas by the fifty-third section of the said Act it is provided that it shall be competent to the General Assembly (except and subject as hereinafter mentioned) to make Laws for the peace order and good government of New Zealand provided that no such Laws be repugnant to the Law of England and the Laws so to be made by the said General Assembly shall control and supersede any Laws or Ordinances in any wise repugnant thereto which may have been made or ordained prior thereto by any Provincial Council and any Law or Ordinance made or ordained by any Provincial Council in pursuance of the authority hereby conferred upon it and on any subject whereon under such authority as aforesaid it is entitled to legislate shall so far as the same is repugnant to or inconsistent with any Act passed by the General Assembly be null and void.

And whereas by reason of the restrictions which the said recited provisions of the Constitution Act have put upon the powers of legislation by Provincial Councils doubts are likely to arise as to the validity of particular Acts and Ordinances passed by such Councils

And whereas it is expedient that Bills passed by Provincial Councils should not come into operation until assented to by the Governor and that provision should be made for enabling the Governor to obtain a Decision of the Supreme Court on the validity of any of the provisions contained in such Bills passed by Provincial Councils as he may think fit before declaring his pleasure thereon

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 Provincial Councils Legislation Act 1868."

2. It shall not be lawful for the Superintendent of any Province to assent on behalf of the Governor to any Bill passed by the Provincial Council of such Province but only to declare according to his discretion and subject to such instructions as may from time to time be given him by the Governor either that he withholds the assent of the Governor or that he reserves such Bill for the signification of the Governor's pleasure thereon.

3. It shall be lawful for the Governor at any time within six months next after the day on which any Bill so reserved shall have been received by the Governor for the signification of his pleasure thereon to declare his assent thereto or that he withholds his assent thereto before declaring his pleasure in regard to any such Bill to make such amendments therein as he may think needful or expedient and to return such Bill with the amendments to the Superintendent whose duty it shall be to transmit the Bill and amendments to the Provincial Council and the consideration of such amendments by such Council shall take place in such convenient manner as the Council shall think fit and on the Bill being again presented to the Governor either amended or not it shall be lawful for the Governor at any time within six months after he shall have received the same to signify his pleasure thereon.

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4. It is hereby declared that the legislative authority of Provincial Councils extends to all matters coming within the classes of subjects next hereinafter enumerated that is to say—

Legislative authority of Provincial Councils.

- 5 (1.) All matters which by any Act of the General Assembly passed or to be passed it is expressly provided shall or may be done by an Act or Ordinance of a Provincial Council.
- 10 (2.) The alteration of the extent of the several Electoral Districts for the election of Members of the Council of such Province and the alteration of the number of the Members of such Council to be chosen by such districts respectively and the alteration of the number of Members of such Council.
- 15 (3.) Appropriating Provincial Revenue to the Public Service of such Province.
- (4.) Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
- (5.) The establishment and tenure of Provincial Offices and the appointment and payment of Provincial Officers.
- 20 (6.) Establishment and maintenance of Hospitals Asylums Charities and Eleemosynary Institutions in and for the Province and for the management of such Hospitals Asylums Charities and Institutions but not for management of Lunatic Asylums.
- 25 (7.) For regulation of Buildings Party-walls and Chimneys within any City Town or other District in the Province and for prevention of Fire.
- (8.) Regulating and licensing Auctioneers Carriers Theatres Hawkers Public-houses Taverns Billiard-rooms Saloons and Sale of Spirits Wine and Fermented or Spirituous Liquors and imposition of Fees for such Licenses.
- 30 (9.) The branding and marking Cattle within the Province.
- (10.) Registration of Dogs within the Province.
- (11.) Promotion of Education.
- (12.) The Fencing Land in the Province.
- 35 (13.) Impounding of Cattle.
- (14.) Prevention of Scab from spreading amongst Sheep.
- (15.) Slaughtering Cattle.
- (16.) Regulation of Ferries and Bridges vested in the Superintendent or established or maintained by the Superintendent or by expenditure of Provincial Revenue.
- 40 (17.) The compelling Occupiers and Owners of Land to keep Lands Ditches and Watercourses within or adjoining such Land clear of Thistles Furze or other Weeds.

It is hereby expressly provided that nothing in this section contained shall be deemed to restrict or enlarge the legislative authority of Provincial Councils as defined by the Constitution Act.

5. It shall be lawful for the Governor at any time within three months after any Bill passed by any Provincial Council of any Province shall have been received by him if he shall think fit and if he shall be requested by the Superintendent of such Province so to do to direct the Attorney-General to state or cause to be stated a case in writing for the opinion of the Supreme Court at Wellington annexed to which shall be a true copy of the said Bill and in such case the question for the opinion of such Court shall be—Is the Bill annexed hereto or are any and what provisions thereof valid or invalid Such case shall be transmitted to the Registrar of such Court together with a copy for each Judge of the judicial district and such Registrar shall thereupon with the assent of the Court fix a day for the argument of such case not being later than seven days from the receipt of such case by the Registrar and on the day so appointed

Governor may on request of Superintendent take opinion of Supreme Court as to validity of any Bill passed by Provincial Council.

the argument of such case shall have precedence of all other business and shall be heard and conducted in like manner as other special cases and counsel shall be heard on the part of the Superintendent in support of the validity of the Bill but the Attorney-General or counsel representing him shall commence and have the right of reply and the opinion of each Judge of the Court present at the argument shall be given in writing under his hand and shall with the copy of the case supplied to him identified by the signature of such Judge be delivered to the Attorney-General or some person on his behalf and shall by him be transmitted to the Colonial Secretary who shall lay the same before the Governor for his information Provided however that it shall be lawful for the Governor notwithstanding any such opinion so given by the Supreme Court to disallow such Bill if he shall think fit.

6. No costs shall be payable by or to the Superintendent of any Province in respect of any such special case or argument thereof nor shall any fees be payable in respect thereof to the Supreme Court or any officer thereof.

7. A copy of every case so stated together with the opinion of the Judge or Judges thereon shall be laid before both Houses of the General Assembly within fourteen days after the delivery of such opinion if the Parliament be then in session if not within fourteen days after the commencement of the session of Parliament next ensuing the delivery of such opinion.

Costs &c. not to be paid in respect of argument.

Copy of case and opinion of Judges to be laid before both Houses of Assembly.