

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
12th August, 1873.*

*(Hon. Mr. Vogel.)*

## Provincial Councils Powers.

### ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Provincial Legislatures empowered to make laws constituting tribunals for hearing and determining matters prescribed, and regulating practice of such tribunals, and to add to jurisdiction of Resident Magistrates and Justices. 3. Provincial Legislatures, in the exercise of such powers, limited to certain purposes. 4. Provincial Legislature not to alter practice or procedure of Courts or Justices with regard to certain matters.</p>	<p>5. Provincial Legislatures empowered to attach penalties not exceeding five hundred pounds to offences against Provincial laws. 6. Provincial Legislatures may provide for making by-laws. Penalties may be imposed thereby. Penalties, how recoverable. 7. Provisions of Provincial laws made under authority of this Act, when to come into operation. 8. Act not to deprive Provincial Councils of former powers. Schedule.</p>
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### A BILL INTITULED

AN ACT to enable Superintendents and Provincial Councils of Provinces to make Laws for certain Purposes as to which they are at present unable to make Laws. Title.

WHEREAS by the nineteenth section of the Constitution Act it is enacted that it shall not be lawful for the Superintendent and Provincial Council of any Province to make or ordain any law for the following purposes, that is to say :— Preamble.

- 5 For the establishment or abolition of any Court of Judicature of civil or criminal jurisdiction, except Courts for trying and punishing such offences as by the law of New Zealand are or may be made punishable in a summary way ; or,
- 10 For altering the constitution jurisdiction or practice of any such Court except as aforesaid :

And whereas by the said Act it is also enacted that it shall not be lawful for any such Superintendent and Provincial Council to make

any law for altering in any way the criminal laws of New Zealand, except so far as relates to the trial and punishment of such offences as at the time of the passing of the said Act were or might by the law of New Zealand be punishable in a summary way :

And whereas by the said Act it is also enacted that any Law or Ordinance made or ordained by any Provincial Council 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 the Constitution Amendment Act it is provided that no Act of the General Assembly, which shall alter or repeal any of the provisions contained in the said nineteenth section of the Constitution Act, shall have any force or effect unless the same shall have been reserved for the signification of Her Majesty's pleasure thereon, and until the Governor of New Zealand shall have signified, as provided by the Constitution Act, that Her Majesty has been pleased to assent to the same :

And whereas, in order to enable Provincial Legislatures more effectually to provide for the purposes and objects in respect whereof Provincial Legislatures are empowered to make laws, it is expedient to enable Superintendents and Provincial Councils of Provinces to make laws constituting Courts and adding to the jurisdiction of existing Courts, and, with respect to such increased jurisdiction, altering the constitution and practice of such existing Courts :

And whereas by "The Provincial Councils Powers Act, 1856," it is provided amongst other things that the Superintendent and Provincial Council of any Province in New Zealand shall have power, by any Act or Ordinance, to enact that certain acts or omissions contrary to the provisions of such Acts or Ordinances shall be offences within the Province to which such Acts or Ordinances shall relate, punishable summarily or otherwise as may thereby be directed: Provided that no felony shall be thereby created, nor any punishment or penalty attached to any such act or omission which shall exceed six months' imprisonment with hard labour or one hundred pounds sterling in amount for any one offence :

And whereas it is expedient that Provincial Legislatures should be empowered to attach, in and by any such Acts or Ordinances as aforesaid, a pecuniary penalty to any such act or omission as aforesaid of an amount not exceeding five hundred pounds for any one offence :

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 Powers Act, 1873."

2. The Superintendent and Provincial Council of every Province may from time to time make laws for the purposes following :—

For constituting and establishing within the Province, Courts or other tribunals for the purpose of hearing and determining such questions matters and things as the Superintendent and Provincial Council by such laws shall prescribe; and for regulating the practice and procedure of such Courts and tribunals so constituted or established.

For adding to the jurisdiction of Resident Magistrates and Justices of the Peace sitting and acting within such Province, and the jurisdiction of Resident Magistrates' Courts, Courts of Petty Sessions, and of Courts holden by Resident Magistrates and Justices of the Peace sitting and acting as aforesaid.

For imposing on any Resident Magistrate, or any one or more Justices of the Peace sitting within the Province, or on

Short Title.

Provincial Legislatures empowered to make laws constituting tribunals for hearing and determining matters prescribed, and regulating practice of such tribunals, and to add to jurisdiction of Resident Magistrates and Justices.

any Resident Magistrate's Court, or Court of Petty Sessions, or any Court held by any one or more Justices of the Peace sitting or held within the Province, the power and jurisdiction of hearing and determining such questions matters or things, and the duty of doing such ministerial or other acts, as the Superintendent and Provincial Council by any such laws shall prescribe.

And with regard to the exercise or performance of such jurisdiction power or duty, for regulating the practice and procedure of such Magistrates Justices and Courts respectively.

3. The legislative powers in the preceding section mentioned shall be exercisable only in relation to the objects and purposes following:—

Provincial Legislatures, in the exercise of such powers, limited to certain purposes.

- (1.) The objects or purposes specified in the Schedule hereto.
- (2.) Such objects or purposes as the General Assembly may have from time to time prescribed to be objects or purposes in relation to which the legislative powers hereinbefore mentioned may be exercised.

4. Nothing herein contained shall be deemed to authorize any Provincial Legislature to alter the jurisdiction practice or procedure of any Resident Magistrate, Resident Magistrate's Court, or Justices of the Peace sitting or acting under "The Resident Magistrate's Court Act, 1867," or any Act amending the same, so far as relates to causes of action claims or demands, or to proceedings which, under the express provisions of the said last-mentioned Acts, are recoverable or may be prosecuted or taken thereunder:

Provincial Legislature not to alter practice or procedure of Courts or Justices with regard to certain matters.

Nor to authorize any Provincial Legislature to alter the practice or procedure of Justices so far as the same is expressly regulated by "The Justices of the Peace Act, 1866," or any Act of the General Assembly passed for the like purpose:

Nor to authorize any Provincial Legislature to alter the jurisdiction practice or procedure of the Supreme Court or Courts constituted under "The District Courts Act, 1858," or any Act amending the same.

5. Notwithstanding anything to the contrary contained in "The Constitution Act" or "The Provincial Councils Powers Act, 1856," the Superintendent and Provincial Council of any Province may attach any penalty not exceeding five hundred pounds to any act or omission which, by any Act or Ordinance made by such Superintendent and Provincial Council, is created an offence within such Province; and the proviso to the second section of "The Provincial Councils Powers Act, 1856," shall hereafter be construed and read as if the words "five hundred pounds" were inserted therein in lieu of the words "one hundred pounds."

Provincial Legislatures empowered to attach penalties not exceeding five hundred pounds to offences against Provincial laws.

6. The Superintendent and Provincial Council of any Province may, in and by any Act or Ordinance made for any of the purposes or objects for which Provincial Legislatures may make laws, empower the Superintendent of such Province, or any person or persons to be appointed as therein prescribed, or any body or authority corporate or unincorporate, as therein prescribed, to make from time to time regulations or by-laws for any such purposes or objects as shall be specified in such Act or Ordinance, and to repeal or vary any such regulations or by-laws.

Provincial Legislatures may provide for making by-laws.

The authority so empowered to make a regulation or by-law may, by any such regulation or by-law impose reasonable penalties, not exceeding ten pounds, for any one offence against or breach of the same; and every such regulation or by-law shall be so framed as to allow the Justices before whom any such penalty may be sought to be recovered to order a part only of such penalty to be paid, if such Justices shall think fit.

Penalties may be imposed thereby.

penalties how  
coverable.

Every offence by any such regulation or by-law made punishable by a penalty shall be prosecuted, and all penalties imposed by any such regulation or by-law shall be recoverable in a summary way before any two or more Justices of the Peace, in the manner provided by "The Justices of the Peace Act, 1866," so far as the same Act relates to summary proceedings, or in the manner provided by any Act for the time being in force and passed for the like purposes. 5

Every such regulation or by-law shall have the same force and effect as if included in an Act or Ordinance of such Provincial Council.

No such regulation or by-law shall have any force or effect which shall be repugnant to the laws in force in such Province nor until it has been approved by the Governor in Council. 10

7. All such provisions of any Act or Ordinance made after the commencement of this Act by the Superintendent and Provincial Council of any Province, as would not have been valid but for the provisions of this Act, shall not come into operation till the time within which such Act or Ordinance may be disallowed by the Governor shall have expired. 15

8. Nothing in this Act contained shall be held to deprive Provincial Councils of any powers they would possess if this Act were not passed. 20

Provisions of Provincial laws made under authority of this Act, when to come into operation.

Act not to deprive Provincial Councils of former powers.

Schedule.

#### SCHEDULE.

THE Prevention or Cure of Scab or other Diseases in Sheep.  
Regulating the Sale of Spirituous or Fermented Liquors, and the application for and the granting Licenses for such Sale.  
Cattle Trespass, and Impounding Cattle for Trespass on Lands.  
Branding Cattle.  
Preventing the Spread or Growth of noxious Thistles.  
The Making and Repairing of Highways.  
The Valuation and Assessing of Properties for Rates, and the Levying and Recovery of Rates and Appeals against such Assessments Valuations or Rates.  
The Construction Maintenance and Repair of Boundary Fences.