

FURTHER PAPERS

RELATIVE TO THE

DISALLOWANCE OF PROVINCIAL BILLS.

(In continuation of Papers presented on the 4th June, 1861.)

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY BY HIS EXCELLENCY'S COMMAND.

FURTHER PAPERS RELATIVE TO DISALLOWANCE OF PROVINCIAL BILLS.

AUCKLAND.

No. 1.

THE SUPERINTENDENT, AUCKLAND, TO THE COLONIAL SECRETARY. (No. 44.)

Superintendent's Office,
Auckland, 15th April, 1862.

Manukau Harbour En-
dowment Act, 1862.

SIR,—

I have the honor to transmit herewith, for the purpose of being laid before the Governor, the Act, noted in the margin, which has been passed by the Auckland Provincial Council, and which I have reserved for the signification of His Excellency's assent.

In compliance with the request contained in your letter (circular) of date July 27th, 1857, with reference to Bills reserved, this Act is transmitted in duplicate, and is authenticated by the signature of the Speaker of the Provincial Council and by my own.

I have, &c.,

The Honorable the Colonial Secretary,
Auckland.

J. WILLIAMSON,
Superintendent.

No. 2.

MR. FOX TO THE SUPERINTENDENT, AUCKLAND. (No. 428)

Colonial Secretary's Office,
Auckland, 17th April, 1862.

SIR—

I have to acknowledge the receipt of your Honor's letter No. 44, dated the 15th inst., transmitting a Bill entitled the "Manukau Harbour Endowments Act, 1862," reserved by your Honor for the signification of the Governor's pleasure thereon.

The "Public Reserves Act, 1854" (passed by the General Assembly) under which the Reserves affected by this Bill have been granted, provides that all proceeds of such Reserves shall be appropriated by Act of the Superintendent and Provincial Council.

The proposed Bill purports to divest the Superintendent and Provincial Council of this power of appropriation and to vest it in a Board constituted in the manner provided in that Bill.

As such an enactment is in contravention of the provisions of the "Public Reserves Act," the Governor's responsible Ministers regret that they have been unable to advise His Excellency to assent to this Bill. They however propose to introduce in the next session of the General Assembly a general measure for regulating Harbours and for enabling improvements therein to be effected under local management.

His Honor the Superintendent,
Auckland.

I have, &c.,

WILLIAM FOX.

TARANAKI.

No. 3.

THE SUPERINTENDENT, TARANAKI, TO THE COLONIAL SECRETARY. (No. 25.)

Superintendent's Office,
New Plymouth, 24th April, 1862.

SIR,—

I have the honor to enclose authenticated copies of the undermentioned Ordinances passed by the Provincial Council and assented to by me on behalf of his Excellency the Governor.

No. 8. Public Reserves Ordinance.....1861.

No. 9. Cattle Ownership Ordinance.....1862.

No. 10. Scotch Thistle Ordinance.....1862.

No. 12. Weights and Measures Ordinance.....1862.

—I have to express my regret at the delay that has taken place in transmitting some of the above Ordinances; the excuse I have to offer is, that all the officers of the Provincial Government with the exception of the Harbor Master, have been changed in the past twelve months, that most of the changes took place in December and January, and that the new officers have consequently not been used to their duties.

I have, &c.,

The Honorable the Colonial Secretary,
Auckland.

CHARLES BROWN,
Superintendent.

(No. 475.)

MR. FOX TO THE SUPERINTENDENT, TARANAKI.

Colonial Secretary's Office,
Auckland, 9th May, 1863.

SIR,—

Public Reserves Ordinance, No. 61, 1862.
Cattle Ownership Ordinance, 1862.
Scotch Thistle Ordinance, 1862.
Weights and Measures Ordinance, 1862.

I have the honor to acknowledge the receipt of your Honor's letter, No. 25, of the 24th ult., transmitting the four Ordinances named in the margin, passed by the Provincial Council of Taranaki and assented to by your honor.

With reference to the "Public Reserves Ordinance, 1861," I have to request your honor to inform me whether all the reserves referred to therein have been granted to the Superintendent of Taranaki under the "Public Reserves Act, 1854," as, otherwise it would not be competent to the Provincial Legislature to pass such an Ordinance.

His Excellency the Governor will be advised to leave the "Cattle Ownership Ordinance, 1862," and the "Scotch Thistle Ordinance, 1862," to their operation.

The "Weights and Measures Ordinance, 1862," is however, in direct contravention of the 4th sub-section of the 19th section of the Constitution Act, which forbids a Provincial Legislature to make any law for regulating the Weights and Measures to be used in a Province or in any part thereof; His Excellency has, therefore, necessarily been advised to disallow that Ordinance, and Proclamation to that effect will be issued accordingly.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent
Taranaki.

No. 5.

HAWKE'S BAY.

THE SUPERINTENDENT, HAWKE'S BAY TO THE COLONIAL SECRETARY.

Superintendent's Office,
Napier, Feb. 8th, 1862.

SIR,—

Athenæum Trustees Act,
Provincial Auditor's Salary Act.

I have the honour to transmit two Acts, as noted in the margin, passed by the Provincial Council of Hawkes Bay, during the present Session, and which Acts have been reserved by me for the signification of his Excellency's pleasure thereon.

I have &c.,

J. C. LAMBTON CARTER,
Superintendent.The Honourable the Colonial Secretary,
Auckland.

No. 6.

(No. 235.)

MR SEWELL TO THE SUPERINTENDENT, HAWKE'S BAY.

Colonial Secretary's Office,
Auckland, 6th March, 1862.

SIR,—

Referring to the Athenæum Trustees Act, enclosed in your Honor's letter, of the 8th ultimo, and reserved for the signification of the Governor's pleasure thereon, I regret to inform your Honor that this Bill is open to the following, legal objections which have compelled me reluctantly to advise his Excellency to withhold his assent to it.

Under the "Public Reserves Act, 1854," land set apart as Reserves for specific purposes, is to be vested in the *Superintendent* and *his successors* in trust, to manage the same subject to the provisions of the Act.

The Reserve may be *sold, mortgaged or leased* by authority of a Provincial Ordinance, or its purpose may be *changed* by a like authority.

But the Superintendent cannot (and the Provincial Council cannot authorise him to) transfer the Reserve Trust to other persons;—that would be to frustrate the provisions of the Public Reserves' Act. A Trustee cannot constitute other persons to be Trustees in his place except under special provision for that purpose.

The Trust in this case is besides defective in other respects.

The Superintendent is to convey the Reserve to three Trustees, but to whom? and how to be appointed? They are to hold to themselves and their successors, but they cannot hold in succession and there is no provision for appointing new Trustees upon death or other change.

I have, &c.,

HENRY SEWELL,
For the Colonial Secretary.His Honor the Superintendent,
Napier.

MARLBOROUGH.

No. 7.

THE SUPERINTENDENT, MARLBOROUGH, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Marlborough, August 24th, 1860.

SIR,—

I have the honor to send you "Auctioneer's Licensing Bill" passed the Provincial Council of this Province on the 25th July, 1860, and the "Alteration of Roads Bill" passed the 1st day of August instant.

I have the honor to send these Bills for the signification of his Excellency's pleasure therein.

I have &c,

WILLIAM ADAMS,
Superintendent.The Honorable the Colonial Secretary,
Auckland.

No. 8.

MR. STAFFORD TO THE SUPERINTENDENT, MARLBOROUGH. (No. 414.)

Colonial Secretary's Office,
Auckland, November 23rd, 1860.

SIR,—

I have the honor to inform you that the Bills (forwarded in your Honor's letter of the 24th, August last) passed by the Provincial Council of Marlborough, intituled "The Alteration of Roads Act, 1860," and "Auctioneers' Licensing Act, 1860," and reserved by you for the signification of the Governor's pleasure thereon, have been laid before his Excellency, who has been pleased to assent to the same.

Your Honor's attention is directed to the second section of the "Provincial Reserved Bills Act," which provides that no Bills reserved for the signification of the Governor's pleasure shall have any force within the Province until the Superintendent shall signify as therein specified, that it has been laid before the Governor and that His Excellency has assented to the same.

As only one copy of the Bill in question was received with your letter under reply, I have to request your Honor to forward to me a second copy of each, in order that it may be submitted for the Governor's signature and returned to you in the usual manner, and for the future you will be good enough to transmit all Bills in duplicate, one being required for record in this office and one to be returned to you.

I have &c.,

E. W. STAFFORD.

His Honor the Superintendent,
Marlborough.

No. 9.

MR. STAFFORD TO THE SUPERINTENDENT, MARLBOROUGH. (No. 477.)

Colonial Secretary's Office,
Auckland, 11th December, 1860.

SIR,—

With reference to my letter, No. 414, of the 23rd ultimo, notifying to your Honor the assent of his Excellency the Governor to a Bill passed by the Provincial Council intituled "The Alteration of Roads Act, 1860," I have to inform you that since that date my attention has been drawn to the circumstance that the Ordinance of the Legislative Council, Session II, No. 5, was repealed by an Act of the last session of the General Assembly. "The Justices of the Peace Act, 1858." The 21st clause of the Marlborough Act is consequently void, and it is accordingly, expedient in order to avoid confusion and doubt, that your Honor should submit to the Council an amended Bill omitting the clause in question. There are also some other objectionable provisions in the Act which I will point out to your Honor with a view to their reconsideration in reference to the proposed amending Bill; for example, clause 10 empowers incapacitated parties to sell, &c., lands for certain purposes. This is an interference with the jurisdiction of the Supreme Court. Clause 15 is also liable to the latter objection; clause 17 affects land covered with tidal water, which land is in the Crown, and cannot be legislated upon by Provincial Legislatures.

The Act also generally confers in certain cases a power of compulsorily taking lands, a power which is one which is considered should only be exercised by the supreme Legislature of the Colony.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent,
Marlborough.

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No. 10.

THE SUPERINTENDENT, MARLBOROUGH, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Marlborough, November 24th, 1860.

SIR,—

I have the honor to draw your attention to the "Auctioneers Licensing Bill" and the "Alteration of Roads Bill," which Bills passed the Provincial Council and were forwarded to you on the 24th August last for the Governor's assent.

I cannot proceed with some necessary public works for the want of powers conferred by the "Alteration of Roads Bill," and as these Bills are very similar to ones passed by the Provincial Council at Nelson and assented to, and being purely local, I have the honor to request that you will have the goodness to obtain His Excellency's assent and forward them to me.

I have &c.,

The Honorable the Colonial Secretary,
Auckland.

WILLIAM ADAMS.

No. 11.

(No. 502).

MR. STAFFORD TO THE SUPERINTENDENT, MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 20th December, 1860.

SIR,—

I have the honor to acknowledge the receipt of your Honor's letter of the 24th ultimo, requesting that the Bills passed by the Provincial Council of Marlborough intituled the "Alteration of Roads Act, 1860," and the "Auctioneers Licensing Act, 1860," might be submitted to the Governor for His Excellency's assent; I have already addressed your Honor, on the 23rd November and 11th instant, on the subject of these Bills.

I have &c.,

His Honor the Superintendent,
Marlborough.

E. W. STAFFORD.

No. 12.

(No. 99).

THE SUPERINTENDENT, MARLBOROUGH, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Marlborough, Dec. 27th, 1860.

SI,—

I do myself the honor to acknowledge the receipt of your letter of the 23rd ultimo, informing me that the Bills passed by the Provincial Council of this Province, intituled:—

"The Alteration of Roads Act, 1860," and

"The Auctioneers' Licensing Act, 1860,"

had received the Governor's assent; and informing me that only one copy of the Bills in question were received with my letter.

I beg to apologize for the omission, and do myself the honor to forward you another copy of the two Bills, and to request you to have the goodness to obtain His Excellency's signature to them, and return them to me.

I have, &c.,

The Hon. the Colonial Secretary,
Auckland.WILLIAM ADAMS,
Superintendent.

No. 13.

(No. 49.)

MR. TANCRED TO THE SUPERINTENDENT, MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 2nd February, 1861.

SIR,—

With reference to your Honor's letter, No. 99, of the 27th December ultimo, I have the honor to return you herewith the duplicate copies of the Acts forwarded therein, assented to by His Excellency the Governor.

I have, &c.,

His Honor the Superintendent,
Marlborough.HENRY JOHN TANCRED,
In the absence of Mr. Stafford.

No. 14.

THE SUPERINTENDENT, MARLBOROUGH, TO THE COLONIAL SECRETARY. (No. 157.)

Superintendent's Office,
Picton, May 22nd, 1861.

SIR,—

I have the honor to send you three copies of the "Alteration of Roads Amendment Bill," for the Governor's assent. I have had this Bill amended in accordance with your request.

I have also the honor to send you three copies of the "Dog Nuisance Abatement Bill," for the assent of His Excellency. This Bill is, with a very slight alteration, similar to the Bill I had the honor to forward to you last year, and His Excellency declined to assent to the same because it made the Natives amenable to its enactments: that objection is removed in the present Bill.

I have also the honor to send you for the assent of His Excellency, three copies of the Appropriation Bill for this Province for the Year ending the 30th June, 1862.

I trust these Bills will meet with His Excellency's approval, and that you will have the goodness to return them to me as soon as possible.

I have, &c.,
WILLIAM ADAMS,
Superintendent.

The Honorable the Colonial Secretary,
Auckland.

No. 15.

MR. FOX, TO THE SUPERINTENDENT, MARLBOROUGH. (No. 423.)

Colonial Secretary's Office,
Auckland, 6th August, 1861.

SIR,—

With reference to the "Alteration of Roads Amendment Act, 1861," (enclosed among other Bills in your predecessor's letter the 22nd May last), passed by the Provincial Council of Marlborough, and reserved for the signification of the Governor's pleasure thereon. I have the honor to state, that that Bill takes power to interfere with lands of the Crown. By virtue of its prerogative, Waste Lands of the Crown, and private lands of individuals, and the powers of compulsory taking, extend over these lands without any definition or specification. "The Highways and Water-courses Diversion Act, 1858," empowers Provincial Legislatures to direct or stop-up Highways; but the intention of that is clear, that such diversion or stopping-up must be the subject of a Provincial Act in which the proposed alterations are defined. The powers proposed to be taken by the Bill under consideration are more extensive, and comprehend, in fact, all the lands of the Province.

Under these circumstances it has appeared to the Government that the Bill is *ultra vires*, and His Excellency has been advised to withhold his assent to it.

I have, however, to request your Honor to be good enough to submit to the Provincial Council the propriety of repealing the "Alteration of Roads Act, 1860," which (as was explained in the Colonial Secretary's letter No. 477, of the 11th December, 1860), is full of objections, and was assented to by mistake.

I will address you in separate letters on the subject of the "Dog Nuisance Abatement Act, 1861," and the "Appropriation Act," respectively, which were also enclosed in your letter.

I have, &c.,
WILLIAM FOX.

His Honor the Superintendent,
Marlborough.

No. 16.

MR. GOULTER TO THE COLONIAL SECRETARY. (No. 197.)

Superintendent's Office,
Picton, 21st August, 1861.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 6th instant, informing me that His Excellency the Governor has been advised to withhold his assent to the "Alteration of Roads Amendment Act, 1861."

In accordance with your request, I will submit to the Provincial Council the propriety of repealing the "Alteration of Roads Act, 1860," but must draw your attention to the absolute necessity of some such Act as the one you advise should be repealed. The roads of this Province having been originally laid out without the slightest regard to their being either available or convenient are now where in use; and the trespass tracks long established by the general traffic are now being fenced across

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in all directions; so that unless the Provincial Government can be in possession of a simple mode of keeping open the communications of the Province, the greatest confusion must ensue.

In Nelson, an Act of slightly modified powers is in use, working well, and contributing to the convenience of the community.

I have, &c.,

CYRUS GOULTER,
Speaker, P. C., M.,
Acting Superintendent.

The Honourable the Colonial Secretary,
Auckland.

No. 17.

(No. 617.) MR. FOX, TO THE SUPERINTENDENT OF MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 19th Sept., 1861.

SIR,—

With reference to the letter of His Honor the Acting Superintendent, dated 21st August last, representing the necessity for some such Act being in force in the Province of Marlborough as that passed by the Provincial Council, intituled, "Alteration of Roads Amendment Bill, 1860," I have the honor to inform you that it is considered that the powers of the "Highways and Water-courses Diversion Act, 1858," are sufficient for all reasonable purposes; and that the General Assembly having prescribed the law as generally applicable to the Colony, no Provincial Legislation ought to take place inconsistent therewith. The Act requires that the Provincial Council shall legislate in each particular case, a course which seems free from difficulty or objection.

I have, &c.,

His Honor the Superintendent,
Marlborough.

WILLIAM FOX.

No. 18.

(No. 154.) THE SUPERINTENDENT, MARLBOROUGH, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Picton, May 22, 1861.

SIR,—

I have the honor to forward you three copies of the "Picton and Wairau Loan Bill," for His Excellency's assent. I trust you will be able, upon reading over the statement of the evidence taken before the Provincial Council of Marlborough (a copy of which I have forwarded to you), and looking at the great benefit the Railway will be to this Province, to advise His Excellency to grant us his assent to this Bill.

I have, &c.,

The Honourable the Colonial Secretary,
Auckland.

WILLIAM ADAMS,
Superintendent.

No. 19.

(No. 324.) MR. STAFFORD TO THE SUPERINTENDENT, MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 6th June, 1861.

SIR,—

I have to acknowledge the receipt of your Honor's letter of the 22nd ultimo, purporting to cover three copies of the "Picton and Wairau Loan Bill," and of the evidence taken on the subject before the Provincial Council, and to inform you that the enclosure specified has not been received.

I have, &c.,

His Honor the Superintendent,
Marlborough.

E. W. STAFFORD.

No. 20.

(No. 571.) MR. FOX TO THE SUPERINTENDENT, MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 5th September, 1861.

SIR,—

I regret to be under the necessity of informing you that His Excellency has been advised to refuse his assent to the Picton and Wairau Railway Loan Ordinance.

I have to call your attention to the following extract from a Despatch of the Secretary of State of the 15th September, 1857, published in the *Government Gazette* of the 15th December, 1857:—

"I have therefore to instruct you, in exercise of the powers vested in you by the Constitution Act, to require that all Bills of Provincial Legislatures for the purpose of raising monies by loan shall be reserved for your assent, not to give such assent in any case, unless either the amount is inconsiderable and the purpose temporary, or the exigency appears to you so great as to render departure from this rule essential for the public convenience; and if ever loans to any serious amount should appear to be required by a Province, to require that the Legislature should present to you resolutions to that effect, in order that you may confer with Her Majesty's Government, previously to the introduction of any Bill for the purpose."

The conditions imposed by the Home Government not having been complied with in the present case, you will perceive that His Excellency cannot assent to the proposed measure.

But apart from this, I am anxious to convey to you the views of the Government on the subject of the proposed undertaking.

The Government sympathize with the object in view, namely the opening of a communication between Queen Charlotte's Sound and the valley of the Wairau. They are alive to the importance of this work as affecting the interests of the Province of Marlborough, and will promote it to the extent of their power, and so far as they properly and prudently can. But it is impossible for them to regard an undertaking of this kind, involving the necessity of a large loan, as matter of mere local concern. Every Provincial loan, though primarily chargeable on the Revenues of the Province, must necessarily affect and practically limit the credit of the Colony as a whole.

For these reasons (if for no other) it would be the duty of the Government to examine the proposed undertaking with reference to its financial results, and I must observe that neither in the evidence taken before the Committee of the Provincial Council, nor in the Select Committee of the General Assembly, does it appear that any reliable data are furnished for such examination. I nowhere find a calculation, other than purely conjectural, of the estimated cost of maintaining the proposed railway, nor of its expected returns. Without such data it would be impossible for the Government to form an opinion themselves, or to offer a suggestion to the Home Government as to the policy or impolicy of acceding to the proposed loan.

I venture to point out to you, for your future guidance, the importance of your supplying the Government with these requisite data.

Setting aside any expected returns from the undertaking itself, the Government are under the necessity of looking to the proposed loan, with reference to the resources of the Province and its ability to bear so heavy a charge.

The population of your Province does not at present exceed, according to the best estimate that can be obtained by the Government, 2,000, and its estimated ordinary Revenue from all sources, according to the estimate of the Auditor, does not exceed £1,707 4s. 11d. per annum. The ordinary current expenditure of the Province, exclusive of immigration, public works, &c., for the year, appears to be about £4,939 5s., and the Land Revenue for the same period is £27,985 1s. 2d.

It does not appear to the Government, under these circumstances, that the ordinary revenue of your Province is equal to so large a loan as £60,000. It is probable that the proposed work when finished would bring with it an increase of Revenue and population, but it ought not to be based on merely conjectural estimates of this kind.

Your Land Revenue no doubt is at present considerable, but the land fund is precarious. The Government have reason to suppose that the bulk of the agricultural land of the Province has been already sold, and as the rest of the land will probably be sold within a limited period, you cannot count on this as a permanent source of Revenue. Besides this, the districts from which Land Revenue accrues, are assumed to have claims on that fund, which are in general so great as to leave little, if any, surplus available for works of this description. Will the remote districts of the Province, from which alone the Land Revenue will come, be satisfied with the application of a large portion to a work from which they will derive but a remote benefit? The lands to which immediate value will be given by the work lie in the lower part of the valley of the Wairau, to which it will open access from the sea. These lands are in the possession of private proprietors, some of whom hold a very large extent of country, purchased at a rate varying from 5s. to 18s. per acre. I venture to submit for Your Honor's consideration, whether under these circumstances it will not be proper, in any plan for establishing the proposed Railroad, to provide that a fair portion of the burthen shall, by direct taxation, be made to fall on those who will be mainly and directly benefitted by it.

Begging to assure Your Honor of the earnest desire of the General Government to co-operate with and assist the Provincial Government of Marlborough in any undertaking calculated to advance the interests of the Province,

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Marlborough.

CANTERBURY.

No. 21.

THE SUPERINTENDENT, CANTERBURY, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Canterbury, New Zealand,
August 2nd, 1861.

SIR,—

I have the honor to forward you herewith, copies of an Ordinance passed by the Provincial Council at its last Session, intituled "The Pleuro-Pneumonia Prevention Ordinance, 1861," Session 16.

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No. 1, to which I have assented on behalf of His Excellency the Governor. There are also other enclosures relative to the same subject, which I have the honor to forward.

I have, &c.,

W. S. MOOREHOUSE,
Superintendent.

The Honourable the Colonial Secretary,
Auckland.

No. 22.

(No. 564.)

MR. FOX TO THE SUPERINTENDENT, CANTERBURY.

Colonial Secretary's Office,
Auckland, 7th September, 1861.

SIR,—

I have to acknowledge the receipt of your Honor's letter No. 223 of the 2nd ultimo, transmitting copies of an Ordinance intituled "The Pleuro-Pneumonia Prevention Ordinance, 1861," Session 16, No. 1, to which you had assented.

As the Provincial Council of the Province of Canterbury had been dissolved by the Governor before the passing of this Ordinance, it has been necessary to disallow it, and His Excellency has accordingly issued a Proclamation to that effect in the *New Zealand Gazette* of this day's date.

My letter (No. 548) of yesterday's date will place your Honor in full possession of the measures which have been taken by the General Assembly and the General Government, with respect to the importation of diseased cattle.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Canterbury.

No. 23.

(No. 548.)

MR. FOX TO THE SUPERINTENDENT, CANTERBURY.

Colonial Secretary's Office,
Auckland, 7th September, 1861.

SIR,—

I have the honor to transmit the accompanying Warrant under the hand of the Governor in Council, delegating to your Honor certain powers under "The Diseased Cattle Act, 1861," a copy of which I enclose, subject to regulations contained in the Order in Council published in the *New Zealand Gazette* of this date, also enclosed.

In deference to the stormy feeling on this question, manifested particularly in the southern portion of this Colony, the Government has thought it right to obtain from the Legislature, powers as large as could be reasonably conceded for preventing the spread of the pleuro-pneumonia and other infectious diseases amongst cattle.

The view taken by the Legislature in which the Government concur, is, that in a matter of this nature peculiarly affecting the trade and commerce of the Colony, it is expedient, as far as possible, to observe uniformity of system throughout New Zealand, and with that object the Act vests all the powers created by it in the Governor, but with a power to delegate them to the Superintendents of Provinces.

The Government are aware that difference of circumstances in different Provinces may require the application of different rules, and with this view, His Excellency the Governor confides the execution of the law to the judgment of each Superintendent, to be exercised according to his own view of the emergency of the case; but the Government are anxious, as far as possible, to assimilate the regulations in each part of the Colony, and for that purpose I have to request that your Honor will be good enough, in accordance with the Order in Council, to transmit at the earliest possible period, copies of any regulations issued by you.

I have also to draw your attention to the necessity of your apprising the Governments of the neighbouring Colonies, of all regulations, and of causing the same to be published without delay in England. Copies of the Act have been forwarded to the Governments of the Australian Colonies, and they have been informed of the delegation of powers to Superintendents of Provinces.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Canterbury.

No. 24.

(49)

THE SUPERINTENDENT, CANTERBURY, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Canterbury, 21st February, 1862.

SIR,—

I have the honor to transmit to His Excellency's Government the following Ordinances, to which I have assented on His Excellency's behalf:—

The Housekeepers' Ordinance -	-	-	-	Sess. XVII, No.	2.
Dog Nuisance -	-	-	-	" " "	3.
Superintendent's Salary -	-	-	-	" " "	5.
Volunteer Service -	-	-	-	" " "	7.
Provincial Auditor and Deputy Auditor's Salary Ordinance -	-	-	-	" " "	8.
Lyttelton and Christchurch Railway Loan Appropriation -	-	-	-	" " "	9.
Lyttelton Municipal Council Revenues -	-	-	-	" " "	10.
Railway Severance Ordinance, 1861 -	-	-	-	" " "	11.
Canterbury Police Amendment Ordinance, 1862 -	-	-	-	" " "	12.
Trespass of Cattle Ordinance, No. 2 -	-	-	-	" " "	13.
Appropriation Ordinance -	-	-	-	" " "	14.

I have, &c.,
W. S. MOOHOUSE.

The Honourable the Colonial Secretary,
&c. &c. &c.

No. 25.

MR. SEWELL TO THE SUPERINTENDENT, CANTERBURY.

Colonial Secretary's Office,
Auckland, March 7th, 1862.

SIR,—

I have been compelled to defer advising His Excellency to allow the Ordinance specified in the margin on the following ground.

The Railway Severance Ordinance, Sess. 17, No. 11.

The Ordinance professes to enable the Superintendent to dispose of certain lands acquired for the purposes of the Lyttelton and Christchurch Railway—the lands in question not being wanted for the purposes of the Railway.

But the 7th section of the Lyttelton and Christchurch Railway Act, 1860, passed by the General Assembly enacts that all property real and personal of what description soever belonging to or appertaining to the Railway shall be vested in the Superintendent for the time being and shall be held by him in *Trust* for the *Public Service of the Province*.

The object of the proposed Ordinance appears to be reasonable and one to which the General Assembly would no doubt give effect but I entertain doubts whether the General Assembly having declared that the lands *shall be held* in trust for the Public Service of the Province it is competent to the Superintendent and Provincial Council by Ordinance to authorise a sale thereof.

The case of lands not required for the purposes of the Railway appears not to have been provided for by the Act of the General Assembly.

If section 127 of the "Land Clauses Consolidation Act, 1845," were considered as applicable to the case, the present Ordinance, so far as it agrees with the Imperial Act, would be superfluous, and, so far as it conflicts therewith, would be inoperative.

I submit these questions for the consideration of your Honor's legal advisers and shall be glad to be informed of their views thereon before tendering to His Excellency my final advice in reference to the disallowance of the Ordinance.

I have, &c.,
HENRY SEWELL,
for the Colonial Secretary.

His Honor the Superintendent,
Canterbury.

No. 26.

MR. SEWELL TO THE SUPERINTENDENT, CANTERBURY. (No. 260.)

Colonial Secretary's Office,
Auckland, 7th March, 1862.

SIR,—

I have been obliged to defer recommending His Excellency to assent to the Ordinance specified in the margin forwarded in your Honor's letter, No. 49 of the 21st ultimo, on the following grounds:—

The Lyttelton Municipal Reserves Ordinance, 17, No. 10.

1st. That it does not appear that the Reserves in question have been granted under the "Public Reserves Act."

2nd. If such were the case, the proposed Ordinance, which transfers the management of them to the Municipal Council of Lyttelton, would, in my opinion, be at variance with the "Public Reserves Act," which prescribes the mode in which they are to be managed, viz., by the Superintendent acting in certain cases with the authority of the Provincial Council.

It appears to me that further legislation is required to enable Reserves of this nature to be handed over to new Boards of Management. There seems no objection in point of policy to such a provision being made, and it may be expedient to introduce a measure to that effect in the next Session of the General Assembly.

FURTHER PAPERS RELATIVE TO

I wait, however, your Honor's reply to this letter, before finally tendering my advice to His Excellency to disallow the Ordinance.

His Honor the Superintendent,
Canterbury.

I have, &c.,

HENRY SEWELL,
For the Colonial Secretary

 No. 27.

(No. 503.)

MR. FOX TO THE SUPERINTENDENT, CANTERBURY.

Colonial Secretary's Office,
Auckland, 23rd May, 1862.

SIR,—

With reference to your Honor's letter, No. 80, of the 30th ultimo, on the subject of the Lyttleton Municipal Reserves Ordinance, Session 17 No. 10, I have to inform your Honor that for the reasons stated in Mr. Sewell's letter of the 7th March last, Ministers are compelled to advise His Excellency to disallow that Ordinance.

If your Honor will be good enough to specify the objects for which the reserves in question were made, the Government will be disposed to give favourable consideration to the issue of grants of such lands under the "Public Reserves Act, 1854."

I have, &c.,

His Honor the Superintendent,
Canterbury.

WILLIAM FOX.

 No. 28.

(No. 504.)

MR. FOX TO THE SUPERINTENDENT, CANTERBURY.

Colonial Secretary's Office,
Auckland, 23rd May, 1862.

SIR,—

With reference to your Honor's letter of the 30th ultimo, No. 79, relative to the "Railway Severance Ordinance," Session 17 No. 11, I have to inform you that for the reasons stated in Mr. Sewell's letter of the 7th of the preceding month, Ministers have been compelled to advise His Excellency the Governor to disallow that Ordinance.

I have, &c.,

His Honor the Superintendent,
Canterbury.

WILLIAM FOX.

 OTAGO.

No. 29.

(No. 110)

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 27th January, 1859.

SIR,—

I have the honor to acknowledge receipt of your Despatch of 14th January, intimating that His Excellency the Governor has withheld his assent to the "Loan Ordinance, 1858," passed by the Provincial Council of this Province, and also intimating, as the Ministry considers the security of the Provincial Revenue quite sufficient, it will be willing to give every facility to the raising of the proposed loan by transmitting the Bill and letter accompanying it from the Provincial Government with a recommendation that the proposed loan should be approved of by the Imperial Government.

In expressing my deep regret that His Excellency's Ministers have seen cause to advise the withdrawing of the assent, I beg to tender my thanks for the considerate proposal to forward a recommendation of the measure to the Imperial Government, and which I have the honor to request may be done as early as convenient.

I have, &c.,

The Honourable
The Colonial Secretary of New Zealand,
Auckland.

W. CARGILL,
Superintendent.

 No. 30.

MR. TANCRED TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 10th February, 1859.

SIR,—

Referring to your Honor's letter of the 29th ultimo, respecting the disallowance of the Otago Loan Ordinance, 1858," I have the honor to inform you that the Ordinance, with the

promised recommendation by the Government in its favour, were transmitted to Her Majesty's Secretary of State for the Colonies by last month's mail.

His Honor the Superintendent,
Otago.

I have, &c.,

HENRY JOHN TANCRED,
For the Colonial Secretary.

COPY OF A DESPATCH FROM GOVERNOR GORE BROWNE, C. B., TO THE RIGHT HONORABLE SIR
E. BULWER LYTTON, BART. (No. 13, Financial.)

Government House,
Auckland, New Zealand,
28th January, 1859.

SIR,—

I have the honor to forward certain documents (noted in the margin) having reference to a loan of £25,000, which the Provincial Government of Otago are desirous to raise in addition to a loan of £35,000, for obtaining which an Act was passed in 1856.

Superintendent of Otago,
22nd Nov., 1858.
Otago Loan Ordinance,
1858.
Memorandum, E. W.
Stafford, 27th Jan., 1859.

2. The Superintendent of Otago submitted to me a Bill (copy of which is enclosed) empowering him to raise this Loan of £25,000, which, acting on Mr. Labouchere's instructions, I (with the advice of my Responsible Advisers) disallowed. My Advisers now, however, desire to obtain the sanction of Her Majesty's Government to a similar Ordinance proposed to be introduced in the next Session of the Otago Provincial Council, observing that "the expenditure of the money for the purposes for which it is to be raised will have a most beneficial effect on the progress of the Province," and that "the financial position of the Province, with a view to its paying interest and repaying the principal, will proportionately not be diminished but increased." They also recommend that interest on the Loan should not exceed 8 per cent., and that provision shall be made for repayment of the principal in ten years by an annual sinking fund.

3. There can be no doubt that the progress of a young settlement depends very much on the command of money and its judicious expenditure, and I have little fear that the Province of Otago will be able to repay the total £60,000 without impairing its solvency as relates to the share of the Imperial guaranteed loan of £500,000 for which that Province is also liable.

4. Should Her Majesty's Government be pleased to direct me to assent to an Ordinance giving power to the Superintendent to negotiate an additional loan of £25,000, I submit that in addition to the proper restrictions suggested by my Advisers, the purposes for which the loan is to be raised should be specified in the Ordinance, and that provision should also be made in it for the liquidation of the whole £60,000 by annual instalments. Hitherto there has been no security that a loan raised by one Superintendent and his Advisers for a special purpose may not be diverted from its legitimate object by their successors in office, or even against the use of public funds for political or party purposes.

I am also of opinion that no Provincial Ordinance empowering a Superintendent to raise money on loan should be assented to unless it contains satisfactory arrangements for the liquidation of the total debt of the Province not previously provided for.

5. With these conditions, I beg to recommend to your favourable consideration the request of my Responsible Advisers, that the Provincial Government of Otago may be permitted to raise a Loan of Twenty-five Thousand Pounds, in addition to the Thirty-five Thousand Pounds already borrowed by that Province.

I have, &c.,

T. GORE BROWNE.

The Right Honorable
Sir E. Bulwer Lytton, Bart.,
&c., &c.

COPY OF A MEMORANDUM BY MR. SECRETARY STAFFORD, RELATIVE TO THE OTAGO LOAN BILL.

Auckland, 27th January, 1859.

During the last Session of the Provincial Council of Otago, a Loan Bill was passed to authorize the raising of a Loan of £25,000 in addition to the £35,000, for raising which, an Act was passed in the year 1856. In pursuance of instructions which have been issued to all Superintendents to reserve for the signification of the Governor's pleasure, all Bills passed by Provincial Councils for raising Loans, the Bill for the additional £25,000 was transmitted for the Governor's assent, accompanied by an explanatory letter. Having regard, however, to the tenor of the Secretary of State's despatch* of the 15th September, 1857, the Responsible Advisers of the Crown in New Zealand recommended His Excellency the Governor to withhold his assent, which has been done accordingly.

Published in "Gazette,"
of 14th Dec., 1857.

In tendering this advice, Ministers were actuated by a desire to act in accordance with the understanding that no Act or Ordinance for raising Loans shall be passed by Provincial Legislatures in New Zealand, except under special circumstances without the cognizance of Her Majesty's Imperial Government, which has become specially interested in the financial operations of the Provinces, in consequence of the guarantee of the Loan of £500,000 for the Colony. At the same time, Ministers are of opinion that no substantial objection exists to permitting the Province of Otago to raise the additional £25,000 which is desired, and they, therefore, in communicating the Governor's decision to the Superintendent, informed him that they would recommend to Her Majesty's Imperial Government to sanction the passing by the Provincial Legislature of an Ordinance for that purpose.

In accordance with that promise, Ministers now recommend to His Excellency that a copy of the Bill from which his assent has been withheld together with a copy of the Superintendent's explanatory letter, and a copy of this minute, should be transmitted to the Secretary of State, with a request that the sanction of the Imperial Government may be granted for the raising of a Loan by the Province of Otago not exceeding £25,000.

In tendering this advice, Ministers are led by the following considerations:—

1. The present public debt of the Province of Otago, viz., £35,000, is very small compared with its resources.

2. That the expenditure of the money for the purposes for which it is to be raised will have a most beneficial effect in the progress of the Province.

3. That, looking at its resources, and the result that may be expected from the proposed expenditure, the financial position of the Province with a view to its paying interest and repaying the principal, will, proportionately, not be diminished but increased.

Ministers are, however, of opinion that the permission to borrow should be accompanied by at least the following conditions:—

1. That the interest on the money received under the Loan shall not exceed 8 per cent.

2. That provision shall be made for its repayment in ten years by an annual sinking fund.

E. W. STAFFORD.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR GORE
(No. 6.) BROWNE, C. B.

Downing-Street,
July 30th, 1859.

SIR,—

Your despatch No. 13, of the 28th January last, respecting an application which had been made to you by the Provincial Government of Otago to be allowed to raise for certain public purposes an additional Loan of £25,000 within that Province, was referred by my predecessor to the Lords Commissioners of the Treasury.

I have to acquaint you that their Lordships have informed me that they will not object to your being authorized to assent to an Ordinance to be passed by the Provincial Legislature of Otago for raising by Debentures the further sum of £25,000 which they require with the restrictions laid down by your Responsible Advisers and on the conditions specified in the fourth paragraph of your despatch.

Their Lordships also regard it as necessary that the Provincial enactment should provide that the charge on the revenue for the new Loan of £25,000 must be secondary to the charge for the share of the Province in respect to the guaranteed loan of £500,000.

You will be at liberty to act in conformity with their Lordships views upon the subject.

I have, &c.,

Governor Gore Browne, C. B.,
&c., &c., &c.

NEWCASTLE.

No. 31.

(No. 505.)

MR. TANCRED TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 4th November, 1859,

SIR,—

Referring to the correspondence which has taken place on the subject of the raising of an additional Loan of Twenty Five Thousand pounds on the security of the Provincial Revenue of the Province of Otago, I have the honor to inform you that by the last English mail His Excellency the Governor has been authorised by the Imperial Government to assent to an Ordinance of the Provincial Legislature of Otago for raising the above mentioned sum upon Debentures subject to certain conditions, which will, if necessary, be communicated to your Honor.

Looking, however, to the very large amount of the funds now at the disposal of the Provincial Government of Otago, I apprehend that it cannot, at present, be requisite to increase the burthens of the Province.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY JOHN TANCRED,
For the Colonial Secretary.

No. 32.

THE SUPERINTENDENT, OTAGO. TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 29th November, 1859.

SIR,—

With reference to your letter of 4th November current, No. 505, informing me that His Excellency the Governor has been authorised to assent to an Ordinance of the Provincial Legislature

of Otago for raising £25,000 upon debentures, subject to certain conditions which you would communicate if necessary, I have the honor to request that you will have the goodness to inform me what the above referred to conditions are.

I have, &c.,

W. CARGILL,
Superintendent.

The Honourable the Colonial Secretary,
Auckland.

No. 33

No. 48. MR. STAFFORD TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 24th January, 1860.

SIR,—

In reply to Your Honor's letter of the 29th November last, requesting that you might be informed upon what conditions His Excellency the Governor has been authorised to assent to an Ordinance of the Provincial Legislature of Otago for raising twenty-five thousand pounds upon Debentures, I have to enclose for Your Honor's information a copy of the conditions in question. £25,000.

In order to obviate possible future delay, I would suggest that the draft of any Bill, embodying these conditions, be, before it is introduced to the Provincial Council, submitted for the consideration of the General Government, so that any objection may be pointed out before the Bill be passed.

I have, &c.,

E. W. STAFFORD.

His Honor

The Superintendent of Otago.

Conditions on which the Governor's assent will be given to an Ordinance to be passed by the Provincial Council of Otago for raising a loan of £25,000 for the service of that Province.

1. That the interest on the new loan shall not exceed eight per cent., and that it be repayable within a period not exceeding ten years.

2. That an adequate sinking fund be provided for the extinction of the debt within the same period.

3. That the purposes for which the loan is to be raised be specified in the Ordinance under which it is raised.

4. That provision be made by the same Ordinance for the liquidation of the aggregate amount of the Provincial debt (£60,000) by annual instalments.

5. That the charge of the new loan be expressly declared by the Ordinance for raising the same to be subject, and without prejudice, to the payment of the sum of £500,000, raised or to be raised under the New Zealand Loan Act, 1856, and of the interest thereon, and to the charge of the sinking fund for the liquidation thereof.

Of the foregoing conditions the 1st and 2nd were suggested to the Imperial Government by His Excellency's Responsible Advisers, the 3rd and 4th by His Excellency, and the 5th was superadded by the Secretary of State.

Of these conditions 1, 2, and 4 will be considered complied with by the provision in the proposed loan of an annual sinking fund of three per cent. on the aggregate amount of the debt of £60,000. Provision also to be made for the due investment of the sinking fund by the Trustees, one of whom to be, *ex officio*, the Auditor of the Public Accounts for the Colony, the other to be appointed by the Superintendent.

No. 34.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 12th July, 1860.

SIR,—

I have the honor to transmit herewith an Ordinance passed by the late Session of the Provincial Council of Otago for the purpose of raising a loan to be expended on Immigration, which Ordinance I have reserved for the signification of His Excellency's assent, an assent which I trust there will be no hesitation in conceding.

You will perceive that the amount to be raised is not to exceed £50,000, a sum which, if judiciously distributed, will suffice to bring in a supply of immigrants, so continuously, and only to such an extent, as the Province can easily absorb.

I may state that we grant no free passages, and that the object of the proposed loan is simply to assist well selected immigrants, the whole being repaid by them.

Our past experience proves that by keeping £50,000 moving in a circle, we can secure a regular stream of immigrants, say 250 adults a month, during the whole period of the loan; of course there will be a considerable amount of immigration paying its own way incidental to this. I feel, however, that the object sought to be attained by this loan is one so legitimate and so vitally affecting the interests of this Province, that it is unnecessary to commend it to the assent of His Excellency's Government. The present year will exhaust all our available funds for immigration, by adding upwards of 2000 souls to the present population.

I may state that the existing Debentures Ordinance has not been operated upon to the full extent, there being still £13,000 to dispose of. If, however, the present Ordinance should be assented

FURTHER PAPERS RELATIVE TO

to, it is not proposed to issue any more under the former Ordinance, the rate of interest borne by them, ten per cent., being altogether out of the question.

The Honorable the Colonial Secretary,
Auckland.

I have, &c.,

JAMES MACANDREW,
Superintendent.

No. 35.

No. 352.

MR. STAFFORD TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 7th September, 1860.

SIR,—

I have the honour to acknowledge the receipt of your Honor's letter of the 12th ultimo., transmitting a Bill, entitled the "Otago Loan Ordinance, 1860," passed by the Provincial Council of Otago, and reserved by you for the Governor's assent.

This Bill omits to observe both as to the amount, and in other respects the conditions prescribed by the Secretary of State for the colonies, as those upon which alone the assent of the Governor could be given to such a Bill, and which were communicated to your Honor in my letter No. 48, of the 24th January, 1860.

His Excellency has consequently been unable to assent to this Bill.

I have, &c.,

His Honor the Superintendent,
Otago.

E. W. STAFFORD,

No. 36.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 17th July, 1861.

SIR,—

I have the honor to forward the following Bills passed by the Provincial Council of this Province and reserved by me for the signification of the Governor's pleasure thereon.

1. Otago Loan Ordinance, 1861.

2. Provincial Council Enlargement Ordinance Amendment Ordinance, 1861.

Respecting the first mentioned Bill, as the conditions referred to in your letter of 7th September last have been complied with, I presume there will be no objection to the Bill. The second Bill, above referred to, merely provides for an additional member to the Tokomairiro District in consequence of the increase of population in that locality.

I have, &c.,

The Honorable The Colonial Secretary,
Auckland.

J. RICHARDSON,
Superintendent.

No. 37.

No. 441.

MR. FOX TO THE SUPERINTENDENT OTAGO.

Colonial Secretary's Office,
Auckland, 7th August, 1861.

SIR,—

I have to acknowledge the receipt of the "Otago Loan Ordinance, 1861", (transmitted in Your Honor's letter dated the 17th ultimo) which has been passed by the Provincial Council and reserved for the signification of the Governor's pleasure thereon, and with reference to that part of the 10th clause which leaves the investment of moneys paid into the sinking fund to the Superintendent (as well as to the Governor) I have to observe that his Excellency considers it objectionable and thinks that his instructions require that the trustees should be entirely independent of the Provincial Government.

I would, accordingly, suggest an alteration in this particular, as the Governor has no other objection to the Bill.

I have intimated to Your Honor in another letter of this date the assent of the Governor to the Provincial Council Enlargement Ordinance Amendment Ordinance, 1861, also transmitted in your letter.

His Honor the Superintendent,
Dunedin.

I have &c.,

WILLIAM FOX.

No. 38.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, September 17th, 1861.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 7th ultimo intimating the disallowance of His Excellency the Governor of the "Otago Loan Ordinance, 1861," on the

grounds that the 10th clause provides that the Trustees of the sinking fund should be entirely independent of the Provincial Government.

By the enclosed copy of certain conditions necessary to the obtaining the Governor's assent to a Loan Ordinance, and which were transmitted for my guidance on the 24th January, 1860, you will observe there the clause in question was in strict accordance with the instructions of His Excellency's Responsible Advisers.

To insure the certainty of the Ordinance I am about to introduce obtaining His Excellency's sanction I forward a copy amended both as regards the object and extent of the Loan to meet the urgent demands of our altered state of society which requires the greatest of exertion to meet the requirements of the times. I hope to be favoured with a reply to enable me to introduce the Bill in the session of Council I have called for the 23rd of October next.

I have &c.,

The Honorable the Colonial Secretary,
Auckland.

J. RICHARDSON.

No. 39.

No. 682.

MR. FOX, TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 8th October, 1861.

SIR,—

I have to acknowledge the receipt of Your Honor's letter referring to previous correspondence on the subject of the proposed "Otago Loan Bill," and transmitting a copy of a Bill amended, both as regards the object and the amount of the sum which you propose to introduce into the Provincial Council next session.

The Government is of opinion that under the present circumstances of the Province of Otago the following words should be added in the Preamble and the first clause of the Bill to the objects of the Loan, "or to the maintenance of the peace, order, and good government of the Province."

Sir George Grey considers himself bound by express instructions from the Imperial Government, as a general rule, not to assent to Provincial Loans without first obtaining the assent of Her Majesty's Government except in case of emergency. He considers the present circumstances of Otago justify a departure from the general rule, and he will be prepared to assent to a Loan for public works and purposes of Police to the extent of Fifty Thousand pounds, to be expended subject to the sanction of the General Government. He desires it to be understood that he proposes to fetter the Provincial Government as little as possible in the expenditure of the Loan to be raised, and in this desire his Excellency's Advisers fully concur.

I have, &c.,

His Honor the Superintendent
of Otago.

WILLIAM FOX.

No. 40.

No. 802.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office
Dunedin, 6th November, 1861.

SIR,—

Referring to your Despatch as per margin, I have the honor to forward herewith "The Otago Loan Ordinance 1861, in duplicate, for the assent of His Excellency the Governor.

8th Oct., 1861.

I have, &c.,

The Honorable the Colonial Secretary,
Auckland.

J. RICHARDSON.

No. 41.

No. 862.

MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 30th November, 1861.

SIR,—

I have the honor to inform you that the Bill forwarded in Your Honor's letter of the 6th instant passed in the Provincial Council of Otago, intituled "An Ordinance for raising a Loan of £50,000 for the public service of the Province of Otago and for providing a sinking fund for the liquidation of the public debt of the said Province," and reserved by you for the signification of the Governor's pleasure thereon, has been laid before His Excellency, who has been pleased to assent to the same.

Your Honor's attention is directed to the 2nd section of the Provincial Reserved Bills Act," which provides that no Bill reserved for the signification of the Governor's pleasure shall have any force within the Province until the Superintendent shall signify, as therein specified, that it has been laid before the Governor and that His Excellency has assented to the same.

I have, &c.,

His Honor the Superintendent,
Otago.

WILLIAM FOX.

FURTHER PAPERS RELATIVE TO

No. 42.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, December 20th, 1861.

SIR,—

I have the honor to acknowledge the receipt of your letter of No. 862, of the 30th of November last, giving cover to an Ordinance for raising the sum of £50,000 for the public service of the Province of Otago, &c., assented to by his Excellency the Governor.

To the Honorable the Colonial Secretary,
Auckland.

I have, &c.,
J. RICHARDSON,
Superintendent.

No. 43.

THE SUPERINTENDENT, OTAGO, TO COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 20th January, 1862.

SIR,—

In acknowledging the receipt of your letter on the "Loan Ordinance," and the assent of the latter by His Excellency the Governor, I have to observe that the first Bill was disallowed, although the Provincial Council had acted in accordance with the wishes conveyed by the General Government as to Trustees for the sinking fund, no objection was otherwise urged to the Bill; and now I regret to notice there is a further objection, though the Bill was submitted for the information of the General Government.

I append a note by the Provincial Solicitor, to which I beg to draw your attention.

I have, &c.,
J. RICHARDSON,
Superintendent.

The Hon. the Colonial Secretary,
Auckland.

Opinion of the Provincial Solicitor of the Province of Otago, on the "Loan Ordinance, 1861."

This Ordinance contains but twelve sections, none of which relate to the "issue of moneys" by the Superintendent, but clause 1 empowers him to issue debentures; and although the Ordinance does not expressly provide that the debentures shall be sold, and the proceeds paid to the Treasurer of the Province, it is presumed that it would be so paid. The responsibility of issuing and selling debentures must be entrusted to some one, and there can be no reason why the Superintendent, acting under the advice of his Executive Council, should not be entrusted with the management of the business.

J. H.

No. 44.

MR. FOX TO SUPERINTENDENT, OTAGO.

SIR,—

With reference to your Honor's letter, No. 245, of the 20th ultimo, relative to the Loan Ordinance of the Province of Otago, I have to annex, for your Honor's information, a copy of a Minute of the Honorable the Attorney-General thereon.

I have, &c.,
W. Fox.

His Honor the Superintendent,
Otago.

MINUTE BY MR. SEWELL.

Feb. 6th, 1862.

In the letter of the 8th January last, there seems to have been a clerical error in writing 18th, instead of 10th section, referring to the "Otago Loan Ordinance."

The 18th section of that Ordinance directs that the Superintendent shall "pay yearly out of the Revenue of the Province, a sum equal to 3 per cent."

This appears to me clearly a direction to the Superintendent to issue the money. The Ordinance has been allowed; but my attention having been called to the fact, it appeared to me desirable that the Ordinance should be amended in this particular, and also that the attention of the Superintendent should be drawn to the fact.

HENRY SEWELL.

No. 45.

No. 157. THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 4th October, 1861.

SIR,—

I have the honor to forward the following Ordinances, passed by the Provincial Council of the Province of Otago, in its twelfth Session, and assented to by me on behalf of the Governor.

I regret that I have been unable to forward them earlier, but shall take measures to prevent such delay in future.

“Appropriation Ordinance, 1861, (No. 2)”
 “The Executive Council Ordinance, 1861.”
 “Trigonometrical Station Ordinance, 1861.”
 “Sheep Ordinance Amendment Ordinance, 1861.”
 “American Blight Prevention Ordinance, 1861.”
 “The Education Ordinance.”
 “The Roads Ordinance, 1861.”
 “Diseased Cattle Ordinance, 1861.”

I have, &c.,

J. RICHARDSON.

The Hon. the Colonial Secretary.

No. 46.

No. 884. MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 5th Dec., 1861.

SIR,—

Referring to the “Diseased Cattle Ordinance, 1861,” (transmitted in your Honor's letter, dated the 4th October last), which had been passed by the Provincial Council of Otago, and to which your Honor had assented, I have to inform you that as the objects of this Ordinance have been provided for by an Act of the General Assembly, it is necessary that the Provincial Ordinance should be disallowed, and accordingly a Proclamation by His Excellency the Governor, of such disallowance, will be issued forthwith.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Otago.

No. 47.

No. 901. MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 6th December, 1861.

SIR,—

The Government has had under its consideration, “The Roads Ordinance, 1861,” (enclosed in your Honor's letter of the 4th October last, No. 157) which had been passed by the Otago Provincial Council, and to which your Honor had assented, and I regret, for the following reasons, Ministers have been compelled to advise His Excellency to disallow this Ordinance.

Section 2 is in contravention of the 10th Section of the “Constitution Act,” as affecting lands of the Crown. The effect of it being to divest the title to the soil of all roads from the Crown, and to vest the same in the Superintendent.

Section 3 is in excess of the power of the Provincial Council, and is at variance with regulation 16 of the Waste Lands Regulations. This section is also at variance with the “Highways and Watercourses Act, 1858.”

Section 11 gives the Superintendent power, without limit or qualification, to open and make new roads (making compensation to owners) but without their consent. This is an extension of the power of taking land from private owners beyond the usual and proper limits of such powers.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Otago.

FURTHER PAPERS RELATIVE TO

No. 48.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, December 19th, 1861.

SIR,—

I have the honor to acknowledge the receipt of your letter, No. 901, of the 6th instant, intimating His Excellency's disallowance of "The Roads Ordinance, 1861."

I am not prepared at the present moment to submit a detailed reply to the reasons which have been urged for the disallowance, but, I hope to do so next mail. In the mean time, I can only regret that so extreme a measure has been recommended and adopted, as it throws this Province into very serious difficulties at a time when very large powers are absolutely necessary to open out roads to the diggings, and which alone, owing to the peculiarity of some of the earlier land sales, could be met by such an Ordinance as that I assented to.

I am exerting myself to meet the inevitable attendant difficulties, but I fear that during the ensuing winter, when the traffic will cut up the roads, the effect of this disallowance will be fruitful of injurious influences.

The Hon. the Colonial Secretary,
Auckland.I have, &c.,
J. RICHARDSON,
Superintendent.

No. 49.

No. 250. THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 18th January, 1862.

SIR,—

19th Dec., 1861, No. 207.

In my letter of date and number as per margin, I informed you that on a future occasion I would address you again on the subject of the Roads Ordinance which was disallowed, and which I now beg to do.

I will not again dilate on the extreme difficulties into which the Province has been cast by the advice given by Ministers, which resulted in the disallowance by His Excellency the Governor of the "Roads Ordinance, 1861." The extent of such difficulty owing to the peculiarity in the purchase of land, can only be fully appreciated by those who have the duty to perform of opening out the communication of the country, and the inevitable consequences of such disallowance can only be understood by those with whom rests the responsible task of making the communication with the mining population easy, and thus materially reducing the price of provisions.

I have now only to regard the disallowance as a fact and to intimate for the information of His Excellency's Government, that it is my intention to re-introduce the Bill in the April Session of the Provincial Council, and, in the meantime to request the consideration of the Government to the following explanations, which I believe will remove the objections which have been urged.

Should such not be the case, I shall waive for the good of the Province, the right which I believe it possesses to legislate for itself, when such legislation does not infringe constitutional law and the rights of private property. To introduce a law for each road would be impracticable, and therefore I have to submit that, should His Excellency's Advisers be still indisposed to accept my views of the case, they will inform me precisely what they will sanction, in order that no time may be lost in extricating the Province from the serious derangement resulting from the action already taken.

With respect to the objection on which the assent of the Government has been withheld to the Ordinance, it may be observed:—

That the object of vesting the roads of the Province in the Superintendent, was suggested by the fact that in several instances land has been already purchased and conveyed to the Superintendent for roads, and as the now existing law and the Ordinance disallowed gave power to shut up useless roads and dispose of them to the owners of the adjoining lands or otherwise, it did not appear how this power could be exercised unless the roads generally were made to vest in the Superintendent, and it does not clearly appear that such a provision would divert the title to the soil of all roads from the Crown.

By the law of England, although all the lands are supposed to be held immediately or mediately from the Crown, the soil of all public highways, either roads or rivers, belongs (*ad mediam filam viæ*) to the owners of the adjoining lands, and it is the way through and over the same only which is held to belong to the Crown, and constitutes the Queen's highway, and there is no reason to suppose that in New Zealand anything than the right of way over a road vests in the Crown. In all Crown Grants of land the reservation of the Crown is merely the right to make a road in, through, and over the same.

It does not clearly appear to what part of clause 3, the objection, that it is in excess of the powers of the Superintendent and Provincial Council, applies, but if it be to the formation of new main lines of road, it may be observed that the Otago block having been originally surveyed in rectangular sections, and the roads laid off in accordance therewith without reference even to their practicability, it has been found necessary to form new main lines of road throughout nearly the whole of the block, and this has been already done to a very large extent by arrangements with the owners of

the land, and it is absolutely necessary that the Government, upon whom the duty of opening up the public roads devolves, should be enabled to exercise the functions given to it by this section, and great delay and inconvenience would ensue if the Superintendent and Provincial Council could not confer on the General Road Board, by a general Act, authority to do anything which the "Highways and Watercourses Act, 1858," empowers them to do by particular Acts.

With respect to the objection to clause 11, it may be observed that the existing Ordinances, although in a very confused and perplexed manner, give power to do all which this section authorises the new Board to do, without giving to the owners such notice and right to object to any such proceeding as is contained in this clause, and when it is considered that a right to make a road in, through, and over all land in the Province, has been expressly reserved and an allowance of land made for the same, it is difficult to discover how the power of making a road could be exercised in a fairer manner than is provided by this clause; nor could the owners of land have any better protection if the Provincial Council were called upon to pass a particular Act in every instance in which it was necessary to make or alter any particular line of road.

The Ordinance of 1861 having been in operation for some time before its disallowance was notified, was found to work well and satisfactorily, and the Government has been urged to call the Council together for the purpose of re-enacting it, but, as in the case of the Education Ordinance, has declined to do so without first ascertaining what specific alterations the General Government considers absolutely necessary to be made in its provisions.

The Honorable the Colonial Secretary,
Auckland.

I have, &c.,

J. RICHARDSON,
Superintendent.

No. 50.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 7th February, 1862.

SIR,—

Your Honor's letter, No. 250, of the 18th ultimo, on the subject of the disallowed Road Ordinance of the Province of Otago, having been submitted to the Hon. the Attorney-General, I have the honor to annex for your information a copy of a Memorandum, from that Officer, relative thereto.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
For the Colonial Secretary.

MEMORANDUM BY MR. SEWELL.

February 5, 1862.

I regret extremely that the Superintendent of Otago should have suffered inconvenience from the disallowance of the "Roads Ordinance," referred to in his letter of the 18th ulto.

The rule applied in this case has been applied in all similar cases. Indeed, it would be impossible for Ministers to adopt any other course than that which is prescribed by the Constitution Act and the Laws of the Colony. If, unfortunately, the Acts of a Provincial Legislature are so framed as to conflict with the General Law, the responsibility for the consequences of disallowance rests with the Provincial, not with the General Government.

As regards the right of the Legislature of the Province to legislate for itself, independently of the Imperial or Colonial Legislature (a right which I understand his Honor asserts), I regret that I am obliged to differ from his Honor in opinion.

Where the soil of a public road, as in general is the case, has not been granted by the Crown, it remains vested in the Crown, and cannot be divested by an Act of the Provincial Legislature, which is expressly debarred from legislating on that subject.

His Honor will observe that the 2nd section of the disallowed Ordinance is expressly in contravention of this principle. It purports to vest all public roads in the Superintendent of the Province.

The 16th Land Regulation (confirmed by the "Waste Lands Act, 1858,") provides that it shall be lawful for the Superintendent, with the advice and consent of the Provincial Council, to reserve from sale and set aside for public uses any land within the Province of Otago; and such reserves shall be dealt with by Ordinance of the Superintendent and Provincial Council.

The roads in the Province are at present reserved under this power and the mode of dealing with lands so reserved is expressly pointed out in the Regulation, viz., that it must be by Ordinance of the Superintendent and Provincial Council.

This power is by the Ordinance taken from the Council and vested in the Superintendent alone.

The Highways and Watercourses Diversion Act prescribes the conditions under which highways may be diverted, and the mode in which roads stopped up may be disposed of, viz., by Crown Grant.

His Honor will see that the 7th section of the proposed Ordinance is altogether at variance with the law as settled by the Act of Assembly.

If it should be thought desirable to extend the powers of that Act, it will be proper to introduce a measure for that purpose to the General Assembly.

I observe His Honor's remark as to the reservation in Crown Grants of land required for roads. The question under what conditions that power should be exercised was under the consideration of the Assembly in the last session. Great objections were made to an unlimited exercise of that power as interfering too much with private rights.

The power of taking lands for roads as defined by the English Highways Act would seem to suggest the proper conditions for the exercise of such powers.

The other objections are not noticed by His Honor.

HENRY SEWELL.

No. 51.

No. 896.

MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 4th December, 1861.

SIR,—

I have the honor to acknowledge the receipt of the "Education Ordinance, 1861," transmitted in your Honor's letter dated 4th October, 1861, No. 157, which had been passed by the Provincial Council of Otago, and which had been assented to by your Honor.

After a careful consideration of this Ordinance, His Excellency's Advisers regret to find that there are several objections in its provisions, which oblige them to advise the Governor to disallow it.

Independently of some objections of a technical nature, to which I need not advert, the general scope of the Bill appears open to objection. It constitutes the Executive Government, for the time being, an Educational Board, giving them the direction of the Education of the Province. The Board, that is, the Government, is to have the power of dividing the country into Educational Districts. In each District the occupying householders convened by the Board are to have the power of forming Select Committees, which Committees are to have an absolute power of levying assessments without limit upon the owners of all the property of the district, assessing all cultivated land at the annual value of 20s. per acre, and all uncultivated land at the annual value of 4s. per acre, an excessive rate, looking at the bulk of the wild land of the Province.

The owners upon whom the rate will be levied, will not, as such, have any voice in the making of it, unless, in fact, they happen to be occupying householders.

Owners of land will have reasonable ground to complain of a law obliging them to pay an unlimited assessment imposed without their having a voice in the making of it.

A Proclamation, therefore, disallowing this Ordinance, will be published in the *New Zealand Gazette*.

I have, &c.,

His Honor the Superintendent,
Otago.

WILLIAM FOX.

No. 52.

No. 205.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, December 19th, 1861.

SIR,—

I have the honor to acknowledge the receipt of your letter, No. 896, of the 4th instant, intimating the Governor's disallowance of the "Education Ordinance, 1861."

On this subject, I shall probably have an opportunity of addressing you by the ensuing mail, and as a new Ordinance is imperative from the circumstance of the one which we now have to fall back on having been quite unworkable, it will be necessary that I should explain my views more in detail before introducing a new Ordinance next Session.

I have, &c.,

The Hon. the Colonial Secretary,
Auckland.

J. RICHARDSON,
Superintendent.

No. 53.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 18th January, 1862.

SIR,—

In furtherance of my intention as expressed in my letter of date and number as per margin, I have the honor to forward you a few remarks on the subject of the disallowed Education Ordinance, which I trust will have the effect of enabling me to re-introduce it in the April Session of the Provincial Council, with a certainty of success. The technical objections I shall feel obliged by your indicating in your reply.

I need not animadvert on the state of the Province as regards Education. We have no existing Education Boards, and the Government have temporarily assumed charge of the Department, and are expending the Revenue of the Province appropriated for the purpose. The tax, of course, cannot be raised, and the Ordinance simply creates the machinery required to be put in use, should circumstances at any future time make it necessary. The fees, voluntary subscriptions and Government aid, at present meet the requirements of Education.

With respect to the disallowance of the Ordinance, I have to observe that it had met with general approval throughout the country, and appears calculated to settle a question which had long agitated the Province respecting the aid to be afforded to Education out of the Revenue.

The Ordinance passed in the year 1856, enacted that the funds for Educational purposes should be raised by a poll-tax; but a poll-tax was found to be so unpopular, that the Government did not venture to levy it, and funds for the purpose were thereafter voted by the Provincial Council and expended by a Board consisting of the Executive Council and elective members; a body in no way responsible to the Provincial Council.

The object of the Ordinance passed in 1861, was not to place the Education of the Province entirely in the hands of the Government, but chiefly in that of the local Committees; and to entrust the expenditure of the monies voted out of the Provincial Revenue for Educational purposes to a Board responsible to the Provincial Council, and this Board, the Council decided, should consist of the Superintendent and Executive Council and the Speaker of the Provincial Council.

The Law of 1856 places the formation of Educational Districts in the hands of the Superintendent, with the consent of the inhabitants of the district, and there is no other authority in the Province by which such a power could be exercised.

There is some force in the objection, that the Ordinance makes the owners of land liable for the rate, without giving them a voice in the making of it, but in every Educational District the land belongs almost exclusively to persons resident in the District. Four shillings an acre may be too high a value for unimproved land, as compared with twenty shillings per acre for improved land; but this has very little to do with the great bulk of the wild land of the Province, as no Educational District has been, or can be formed in any part of the Province, until the District has become settled and the land for the most part improved.

It is true there are a few instances in which speculators have purchased land which they do not intend to improve or occupy, and which might be taxed for Educational purposes, and it is believed that no one has objected to the Ordinance in question, except one or two individuals of this class, but the very small sums which would be required of them as an Education tax would interfere very little with the large profit which they expect to make and do make by the sale of their land which they so hold on speculation.

The disappointment which the public have manifested at the disallowance of this Ordinance is almost universal, and the Government has been urged to call the Council together immediately, for the purpose of re-enacting it. I have declined to do so without conferring with the General Government on the subject, but will be obliged to submit a similar Ordinance to the Council at its next meeting, in which Ordinance it is proposed to include the owners of land in the rating clause, and to lower the annual value of unimproved land to two shillings an acre, being ten per cent. on the minimum cost price, and the Government will submit to the consideration of the Council, any other alterations which may be suggested by the General Government.

As the provisions of the Ordinance have been already carried out, the Council is not likely to agree to any material change.

The Hon. the Colonial Secretary,
Auckland.

I have, &c.,

J. RICHARDSON,
Superintendent.

No. 54.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 12th February, 1862.

SIR,—

With reference to your Honor's letter of the 18th ultimo, on the subject of an Education Ordinance for your Province, I do not trouble your Honor with any remarks upon the policy of the proposed measures, which is properly matter for the consideration of your Honor and the Provincial Council.

Your Honor's proposal to include owners as well as occupiers in the rating power, removes the principal objection stated in my former letter, and with such an alteration, Ministers will be prepared to recommend His Excellency to leave such a measure to its operation.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
For the Colonial Secretary.

No. 55.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 21st December, 1861.

SIR,—

I have the honor to forward herewith the following Ordinances, viz.,—
"Prevention of Cruelty to Animals Ordinance, 1861,"

FURTHER PAPERS RELATIVE TO

“The Port Chalmers Municipal Estate Ordinance, 1861,”
passed by the Provincial Council of the Province of Otago, Session XIV., and assented to by me on behalf of the Governor. These are in duplicate, you will be good enough, therefore, to return one of the copies.

I have, &c.,

J. RICHARDSON,
Superintendent.

The Honorable the Colonial Secretary.

 No. 56.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, January 7th, 1862.

SIR,—

With the view of enabling the Government finally to advise His Excellency with reference to the proposed “Port Chalmers Estate Ordinance,” I draw Your Honor's attention to the following points:—

The object of the Ordinance appears to be to set apart as an endowment for the town of Port Chalmers, an estate to be composed of various Public Reserves in that town, of which grants have not yet been issued under the “Public Reserves Act.”

I do not enter on the question of the general policy of such a measure, which is a proper one for the consideration of Your Honor's and the Provincial Council, but the Ordinance now submitted for His Excellency's approval does not appear to be well adapted for the purpose.

So far as it purports to enable the Superintendent to obtain grants of Public Reserves it is superfluous, because that power exists under the Public Reserves Act, beyond which the Provincial Ordinance would be inoperative. The Public Reserves Act enables the Governor to make, and the Superintendent to receive, such grants, and His Excellency will be advised to exercise that power in accordance with the provisions of that Act upon the request of Your Honor, though, I may add, it will be an additional fact in favor of such transfer that the Provincial Council approve of it, but the grant must be made for the specific objects of the Reserve for which it was originally made, and it will be necessary that His Excellency should be provided with the proper particulars to enable this to be done. If, after the grant so made, the Provincial Council, with Your Honor's concurrence, should desire to change the object of the reserve, the Public Reserves Act enables that to be done by Provincial Ordinance. The clause in the present Ordinance purporting to give to the Superintendent and Provincial Council that power, so far as it agrees with the Act of the General Assembly, is nugatory, and so far as it may be in excess of it, is inoperative.

It is, no doubt, the intention of Your Honor and the Council to vest in the Superintendent the power of granting leases of the land for twenty-one years, but it seems doubtful whether the 3rd section of the Ordinance will have that effect. The Public Reserves Act enables the Superintendent and Provincial Council to vest such power in the Superintendent, but the proposed Ordinance does not contain any enactment to that effect except by way of inference. It would seem to be at all events desirable to declare the intention of the Provincial Legislature in express terms.

But the greatest difficulty which I have felt in advising His Excellency on the question of this Ordinance is with reference to the 4th section, which is clearly in conflict with the Public Reserves Act. That Act expressly directs that all funds arising from Public Reserves should be paid to the Provincial Treasurer, and be appropriated by the Provincial Ordinance. Instead of this, it is proposed to lodge the funds with the Treasurer of the Town Board.

According to my present view, it would be impossible for me to advise His Excellency to allow an Ordinance so plainly at variance with the general law of the Colony; but before coming to a final decision, I shall be able to receive Your Honor's reply to this letter.

I have, &c.,

HENRY SEWELL,
In the absence of Mr. Fox.

His Honor the Superintendent,
Otago.

 No. 57.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, January 20th, 1862.

SIR,—

In reply to your letter as per margin, I have the honor to state that on a consideration of the whole of the circumstances of the case, it would appear to be desirable that the “Port Chalmers Estate Ordinance” should be disallowed.

I have, &c.,

J. RICHARDSON,
Superintendent.

The Honourable the Colonial Secretary,
Auckland.

Jan. 7, 1862.

No. 58.

MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 5th February, 1862.

SIR,—

I have to acknowledge Your Honor's letter of the 20th ultimo, in which you state that on consideration of the circumstances of the case, it appears to Your Honor desirable that the "Port Chalmers Estate Ordinance" should be disallowed.

Ministers have recommended His Excellency the Governor to disallow the Ordinance accordingly.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Otago.

No. 59.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, 21st December, 1861.

SIR,—

I have the honor to forward herewith the following Ordinances, viz. :—

- The Licensing Ordinance, 1861,
- Harbour Endowment Ordinance, 1861,
- Water Police Ordinance, 1861,
- The Criminals' Ordinance, 1861,
- Vagrants' Ordinance, 1861,
- Dunedin Roads and Streets Ordinance, 1861,
- Appropriation Ordinance, 1861-2,

passed by the Provincial Council of the Province of Otago, Session XIV., and assented to by me on behalf of the Governor. All these are in duplicate. You will be good enough, therefore, to return one of the copies.

I have, &c.,

J. RICHARDSON,
Superintendent.

The Honorable the Colonial Secretary.

No. 60.

No. 63.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, January 7th, 1862.

SIR,—

Before deciding on the course which the Government will advise His Excellency to pursue with reference to the Ordinance named in the margin, I draw your Honor's attention to the following points.

Harbour Endowment Ordinance, 1861.

2nd. The object of the Harbour Endowment Ordinance appears to be to provide for the embankment from the sea of about 400 acres of land, lately granted under the Public Reserves Act, in front of the Port Town of Dunedin. This important work is estimated roughly to cost about £400,000, and the value of the property when reclaimed is at a like rough estimate stated at about £700,000. No plan of the work seems as yet to have been made, nor is it stated by your Honor whether it has been considered by any competent Engineer. The intention, no doubt, is to place in your Honor's hands the power of doing the work and leaving the manner of it to your Honor's judgment. The magnitude of the undertaking and the important interests affected, oblige the Government to regard it with more than ordinary anxiety.

3rd. The plan, if carried into execution, will have the effect of interposing between the sea and the present Town a large space of land which, if properly laid out will no doubt greatly improve the town. But the Ordinance vests in the Superintendent the absolute and uncontrolled disposal of the reclaimed land, without even those provisions for drainage and sewerage which are essential for the health of the present town residents no less than for those who will reside on the newly enclosed flat. The absence of provisions of this nature led to litigation in the case of a similar embankment on a smaller scale at Auckland.

4th. The "Public Reserves Act" reserves the right of persons having water frontages. It is probable (though it does not appear) that rights or claims of this kind may exist within the limits of the present Town of Dunedin. In a recent application of a similar kind from the Provincial Government of Napier, it appeared that questions of this kind had arisen, upon which the Government thought it expedient to recommend to the Provincial Government of that Province to

obtain the sanction of the General Assembly to their undertaking, a suggestion in which that Government has acquiesced. I venture to make a similar suggestion to your Honor in the present instance.

5th. In the formation of a new town, particularly one so important as Dunedin is likely to become, it is also essentially requisite that provision should be made for securing to the public all necessary conveniences, such as, roads, quays, public reserves, &c. These are, no doubt, contemplated by your Honor, but the power of withholding them from the public is too large to be properly entrusted to the direction of any individual. The Government would not be justified in placing even in your Honor's hands, the power of shutting out from the sea, and thus practically destroying the present town of Dunedin.

6th. Or granting that a just reliance might be placed in your Honor's judgment, if the property were sold or mortgaged under the power for that purpose proposed to be vested in your Honor, the purchaser or mortgagor would be governed by no considerations of public convenience or expediency.

7th. I would also draw your Honor's attention to the circumstance that, although the "Public Reserves Act" enables the Governor to grant the soil and freehold of the land below high-water mark, there are public rights of navigation, commerce, and traffic in ports and harbours of which the Crown or the Governor cannot deprive the public by such a grant. An encroachment on these rights frequently leads to resistance (sometimes unreasonably) on the part of the public. The proper mode of disposing of such questions is by obtaining the sanction of the General Legislature, a course which the Government has recommended to the Provincial Government of Napier, and which they recommend to your Honor.

8th. Apart from these considerations the present Ordinance appears open to grave objection. Its evident intention is to place in the hands of the Superintendent the receipt and disposal of all the funds arising from this large undertaking without control. This appears to me to conflict both with the letter and spirit of the "Public Reserves Act," which directs that all funds accruing from Public Reserves shall be paid to the Provincial Treasurer, and shall be disposed of by appropriations of the Provincial Council and Superintendent, intending thereby that the same shall be specifically appropriated from time to time as they accrue. Without having entered into minute discussion as to the precise effect of the "Public Reserves Act," your Honor will, I think, perceive that the power proposed to be created by the Ordinance is not consistent with its reasonable intention.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
In the absence of Mr. Fox.

No. 61.

MR. SEWELL TO THE SUPERINTENDENT OF OTAGO.

Colonial Secretary's Office,
Auckland, 13th February, 1862.

SIR,—

In my letter, No. 63, dated the 7th ultimo, I addressed you on the subject of the "Harbour Endowments Otago Ordinance, 1861," and directed your attention to certain points connected therewith.

I have not received any reply to that letter, and the Governor's proposed departure from Auckland precludes the Government from any further delay in the action to be taken by them with respect to this Ordinance. I have accordingly been compelled, for the reasons specified in the letter to which I have referred, to advise His Excellency to disallow the Ordinance in question.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
For the Colonial Secretary.

No. 62.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, March 20th, 1862.

SIR,—

I have the honor to acknowledge the receipt of your letters, numbers and dates as per margin, on the subject of the Harbour Endowment Ordinance, which I forwarded for submission to His Excellency the Governor.

While I regret that my letter of the 24th January did not reach Auckland in sufficient time to admit of a consideration of the reasons I adduced in favor of the Bill being allowed to take its course, at the same time, I fully appreciate the anxiety evinced by the General Government in their endeavour to avoid embarrassment to the Province by the proposal you make which will meet the more urgent requirements of the present moment.

In accordance with these proposals, it is the intention of Government to introduce during the ensuing Session a Loan and a Harbour Endowments Bill; and I have now only to thank you for the promptitude with which the difficulties which would have attended the disallowance have been obviated.

The Honble. the Colonial Secretary,
Auckland.

I have, &c.,

J. RICHARDSON,
Superintendent.

No. 63.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

No. 210.

Colonial Secretary's Office,
Auckland, 25th February, 1862.

SIR,—

I have to inform Your Honor that before your letter, No. 21, of the 24th ult., was received, the Otago Endowments Ordinance had been disallowed by the Governor.

It will be a source of much regret if the Government of the Province should be inconvenienced by this step; but, on full consideration, I am unable to come to any other conclusion than that stated in my former letter on this subject.

I understand, however, that Your Honor is anxious on two points—1st, that you should be enabled to grant leases of special allotments of land for 99 years; 2nd, that you should be enabled to borrow money for carrying on Harbour improvements.

As regards the 1st, I suggest, as a course which will probably meet your wishes, that you should obtain the sanction of the Provincial Council to the proposed leases specifically by an Ordinance to be passed for that purpose, to which Ordinance His Excellency will be advised to give his assent. It will be desirable to particularize in such an Ordinance the lands intended to be leased. This plan will, no doubt, satisfy lessees, and enable Your Honor to proceed at once with the letting of the land.

As regards the 2nd point, if Your Honor will obtain the sanction of the Provincial Council to a Loan Ordinance of the usual kind for the purpose of Harbour improvements to be charged on the Provincial Revenues, His Excellency will assent to such a Loan, say to the extent of Fifty thousand pounds, a clause being introduced into the Ordinance for reimbursing the Provincial Treasury from the sale or letting of the land.

£50,000.

This will be found a more convenient course than borrowing on mortgage of the specific lands reclaimed, a course which would involve the necessity of making the mortgagee a party to every transaction.

Anticipating that Your Honor will adopt this suggestion, I have seen the Manager of the New South Wales Bank and informed him that the General Government are prepared to sanction such a loan, and I have arranged with him to place at your disposal the requisite funds without delay, subject to the approval of the Inspector, who is at Dunedin.

Earnestly trusting that the plan thus proposed will meet Your Honor's difficulties,

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
For the Colonial Secretary.

No. 64.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, January 7th, 1862.

SIR,—

With reference to the "Criminal Ordinance, 1861," submitted for His Excellency's approval, Your Honor will, I think, on consideration, admit the force of reason which appears to me imperatively to require that His Excellency should disallow it.

I fully enter into the objects for such a measure. The discovery of gold has doubtless attracted to your Province great numbers of bad characters, many of whom have undergone punishment for the crime, and some, no doubt, are escaped convicts. That is an unavoidable incident to the present state of things in Otago. It is a set-off against the many benefits which accrue to the Province in other ways; but the ordinary means of the law can alone be used to repress such an evil. A vigilant and effective Police is the true and only remedy, and this your Province has, by the care of Your Honor's Government, been well supplied with. The General Government have gladly assisted Your Honor by sending troops, and assenting to a loan for Police purposes. If further aid of the latter kind is needed, the Government will gladly concur in measures which Your Honor may propose for that purpose.

But a law which extends the punishment of crime beyond the assigned period of sentence, and which treats as actual criminals persons who may have received Her Majesty's pardon, or who may have undergone their full term of punishment, is at variance with all established principles of criminal jurisdiction.

FURTHER PAPERS RELATIVE TO

So far as it destroys the effect of Her Majesty's pardon, it appears to me to interfere with Her Majesty's prerogative.

If each place within Her Majesty's dominions were in turn to exercise such a power, the practical effect would be to add to the punishment appointed by law that of perpetual exile.

I call Your Honor's attention also to the 9th section, which interferes with the jurisdiction of the Supreme Court, and is at variance with the Constitution Act; and to the 11th section, which is at variance with the fundamental principle of the English Law of Evidence.

I shall be glad to receive Your Honor's reply before finally advising His Excellency on the above subject.

His Honor the Superintendent,
Otago.

I have, &c.,

HENRY SEWELL,
For the Colonial Secretary.

No. 65.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, January 7th, 1862.

SIR,—

With reference to the "Water Police Ordinance" submitted for His Excellency's approval, I desire to draw your Honor's attention to the 3rd section, which purports to authorize the Superintendent to declare a certain hulk a prison. I am aware that the power of declaring prisons has been assumed under Provincial Ordinances by Superintendents of Provinces, though in derogation of the Governor's authority established by the Law of the Colony. It has always appeared to me at least doubtful whether such a power could have been so transferred; at all events, the present Government are not prepared to advise His Excellency to recognize such a principle. The power has, as you are aware, been misused in the Province of Otago.

As regards the general object of the proposed Ordinance, which is calculated for the better protection of the "Merchant shipping interest," by enforcing contracts between masters of ships and seamen, and the punishment of desertion, I must remark that as to Foreign ships, the "Foreign Seamen's Act, 1860," is the governing Law applicable throughout the Colony. That Act, though passed by the General Legislature of the Colony, was regarded with great jealousy by the Imperial Government. It was the subject of correspondence with the Secretary of State. It would be impossible for His Excellency to assent to a Provincial Ordinance dealing with such a subject, certainly not to an Ordinance conflicting with or extending the provisions of the general law.

The third part of the "Merchant Shipping Act," (adopted by the "Merchant Shipping Act Adoption Act, 1858,") provided for the cases contemplated by the proposed Ordinance as effectually as possible. I refer you to that Act as, I think, supplying all the power which the Provincial Government would desire.

Before finally advising His Excellency on the question of allowing or disallowing the Ordinance, I shall be happy to be favoured with your Honor's reply.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL.

No. 66.

MR. SEWELL TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 7th January, 1862.

SIR,—

I call your Honor's attention to points arising with reference to the "Vagrants Ordinance, 1861," transmitted with your Honor's letter of the 21st ultimo.

Section 2 sub-section 10 appears open to verbal criticism. The use of "felt or other slippers" is no doubt intended to be coupled with the other circumstances mentioned in the clause, namely being found by night with a felonious intent. It is desirable to making the meaning of the clause now clear.

Some of the provisions of the Ordinance are of an excessively stringent nature, and should, I venture to submit, be re-considered by your Honor and the Provincial Council. The over stringency of a law in general tends to defeat itself.

Section 11, so far as it interferes with the jurisdiction of the Supreme Court, is of no force. It ought, however, to be expressly repealed as it may otherwise mislead the public.

I have to request that your Honor will propose to your Council an amendment of the Ordinance in this particular.

On hearing from your Honor to that effect, I shall be prepared to advise His Excellency to leave the Ordinance to its operation.

I have, &c.,

His Honor the Superintendent,
Otago.

H. SEWELL,
For the Colonial Secretary.

No. 67.

No. 240. THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, January 20th, 1862.

SIR,—

In reply to your letter of the 7th January, I have to observe that the Ordinance* is nearly a transcript of a Melbourne Act, which the majority of the Executive, in opposition to the opinion of the Provincial Solicitor, were of opinion was called for by the urgency of the circumstances in which we are placed, and which was found to work well in Melbourne.

Sic in origine.

The ambiguity complained of can be removed.

My observations on the Licensing Ordinance meets the objection to clause 11, but should His Excellency's Government consider it should be expressly repealed, I will submit a measure to that effect, and at the same time consider any other point specifically noticed which may be considered objectionable.

I have, &c.,

J. RICHARDSON,
Superintendent.The Honorable the Colonial Secretary,
Auckland.

No. 68.

MR. FOX TO THE SUPERINTENDENT, OTAGO.

Colonial Secretary's Office,
Auckland, 5th Feb., 1862.

SIR,—

Your Honor will I am sure pardon me for remarking, in reference to your letter of the 20th ultimo, that if, in exercise of their duty Ministers find themselves called on to recommend the disallowance of some Provincial law on the ground of its repugnance to the general law, Imperial or Colonial, the responsibility for the result is not thereby thrown on the General Government.

The makers of Provincial laws are bound to shape them in accordance with the general law of the Colony; if by omitting to do so their proposed laws fail of operation they alone are responsible.

It is, at the same time, the duty of the General Government, especially under present circumstances, to afford the Provincial Governments the utmost assistance and not lightly to interfere with the operation of laws which are considered expedient by those who have local experience, and who are locally chargeable with the administration of affairs.

I can assure your Honor that, in considering the Ordinances recently received from the Province of Otago, the Government have anxiously studied how they could best give effect to the objects intended, and they have relaxed the rules acted on by their predecessors in order not to subject the Province to inconvenience.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Otago.

SOUTHLAND.

No. 69.

THE SUPERINTENDENT, SOUTHLAND, TO THE COLONIAL SECRETARY.

Superintendent's Office, Southland,
29th August, 1861.

SIR,—

I have the honor to enclose to you herewith authenticated copies of the Ordinances passed by the Provincial Council of Southland named in the margin, in order that they may be submitted for the approval of His Excellency the Governor.

The Provincial Government Ordinance embodies the substance of various Ordinances of the Otago Government passed at different times, recast in a more convenient form.

The Loan Ordinance is meant to provide against the possible contingency of the land sales in the next few months falling short of the amount required to prosecute the necessary public works. The attraction of the neighbouring Gold-fields has had a marked effect in diminishing the receipts of Territorial Revenue in the last few weeks. For example :—from 22nd April to 30th June about 3,500 acres were applied for; in August, when the Waste Lands Board held its first meeting, those applica-

1. Provincial Government Ordinance.
2. Immigration & British Agent Ordinance.
3. Loan Ordinance.
4. Diseased Cattle Ordinance.
5. Appropriation Ordinance.

tions were granted, but only 441 acres were taken up. The applicants for most of the land had gone to the Gold fields.

A reflux will no doubt occur shortly, and the Debentures will be issued only in event of the Revenue being inadequate. At this moment about 200,000 acres of good arable land are open for selection in this Province. Since the first day of this month above 3,000 acres have been applied for.

The other Ordinances do not require any comment.

Duplicate copies of the Ordinances are forwarded separately by this mail.

I regret that all these Ordinances are not printed as finally passed, owing to the limited power in the printing office; all, however, are certified, and other copies will be forwarded when all are printed.

A copy of certain Resolutions of the Provincial Council respecting the Eastern boundary are contained in this Enclosure.

I have, &c.,

The Hon. the Colonial Secretary,
Auckland.

JAMES R. MENZIES.

No. 70.

No. 908.

MR. FOX TO THE SUPERINTENDENT OF SOUTHLAND.

Colonial Secretary's Office,
Auckland, 6th December, 1861.

SIR,—

I have the honor to acquaint you with the Governor's decision in reference to the under-mentioned Bills:—

The Loan Ordinance, 1861,
The Provincial Government Ordinance, 1861, and
The Diseased Cattle Ordinance, 1861,

—which Bills were transmitted by your Honor, with others, in your letter dated the 29th August last.

It is matter of regret that Ministers have not been able, for the following reasons, to advise His Excellency the Governor to assent to these Bills.

The object of the "Loan Ordinance" is to raise the sum £10,000, primarily for the purposes of Immigration, though including other objects of public utility. It is obvious that under the present circumstances of the neighbouring Province of Otago, expenditure upon Immigration would be an unprofitable outlay, which would not warrant the creation of a permanent charge on the Revenue; but the Government is aware that the same circumstances may occasion your Honor embarrassment in the conduct of the affairs of the Province unless you have means of providing employment on public works.

If, therefore, your Honor and the Provincial Council should desire to obtain power to contract a loan to the extent of £10,000, for specific objects of that kind, the Governor's Advisers will be prepared to recommend His Excellency to give such a measure a favourable consideration. You should, however, specify distinctly the nature and extent of the proposed works, and any other particulars. I would also request you to be good enough to state, for His Excellency's information, the present amount of Revenue and Expenditure of the Province.

The "Provincial Government Ordinance, 1861," is open to legal objection. By section 13 any Member of the Provincial Council accepting an office of emolument, is made to vacate his seat, thus creating a disqualification not provided for by the Constitution Act, of which the 10th section defines the cases in which seats in Provincial Councils shall become vacant. By the 19th section of the proposed Ordinance, copies of the *Provincial Gazette* are made evidence in all Courts, and this provision, which affects the law of evidence in the Supreme Court, and the practice and procedure of that Court, is beyond the power of a Provincial Legislature. The "Official Documents Evidence Act, 1860," passed by the General Assembly, defines the law of evidence in such matters.

With respect to the "Diseased Cattle Ordinance, 1861," I need only observe that the necessity for it has been superseded by the Act of the General Assembly on the same subject, under which, and His Excellency's delegation of powers, your Honor has all the requisite authority.

I have, &c.,

His Honor the Superintendent,
Southland.

WILLIAM FOX.

No. 71.

No. 71.

THE SUPERINTENDENT, SOUTHLAND, TO THE COLONIAL SECRETARY.

Superintendent's Office, Southland,
22nd November, 1861.

SIR,—

I have the honor to draw your attention to the fact that the Bills passed in the first Session of the Provincial Council of Southland, of which three different sets were forwarded to your office—the first set having been sent 29th August, the second set 15th September, and the third set (two sets) 27th September—have not been noticed in any of your communications; even their receipt

has not been acknowledged. You must be aware that this subjects the Provincial Government to considerable embarrassment, and I have to request that those Bills will be taken into consideration at your earliest convenience with a view to ascertain the ultimate decision of His Excellency the Governor with regard to them.

The Hon. the Colonial Secretary,
Auckland.

I have, &c.,
JAS. R. MENZIES,
Superintendent.

No. 72.

THE SUPERINTENDENT, SOUTHLAND, TO THE COLONIAL SECRETARY.

Superintendent's Office, Southland,
24th December, 1861.

SIR,—

I have the honor to acknowledge your letter of the 6th instant, which informs me that certain Ordinances passed by the Provincial Legislature of Southland have, for reasons which are stated, been disallowed by His Excellency the Governor.

The object of the "Loan Ordinance" was, as stated in your letter, primarily for purposes of Immigration, and secondarily for other purposes of public utility. At the time when the Provincial Council was in Session, the attractions of the rich gold fields in the Province of Otago had introduced an element of uncertainty into all Estimates of Revenue for a limited period, the precise effect of which could not be predicted; the loan was proposed to be raised in order to neutralise any injurious effect upon the Revenue which this disturbing cause might produce; and in the meantime, until its tendencies were ascertained, to place at the disposal of the Government a fund (which would be unaffected by this cause,) sufficient to enable it to carry out measures which it conceived would be beneficial to the Province. It may, perhaps, be conceded, as regards Immigration, that the judicious character, or otherwise, of the measures contemplated may be a matter of opinion; but, it is probable that the local Government was in a sufficiently advantageous position to enable it to judge of their propriety.

I enclose an extract from the report of the Immigration Agent in Dunedin, which will show the result of observations there; and also copies of instructions to Mr. Morrison, of London, the tenor of which will indicate the views of the Province of Southland.

The emergency which appeared to render it advisable to contract a Loan having passed away, it is not now necessary to enter more fully into this subject, inasmuch as the prosperous state of the Revenue of the Province entirely obviates the necessity of borrowing for the present.

A statement of the Revenue and Expenditure up to the end of this year will be forwarded to you as soon as the accounts are made up, in accordance with your request.

His Excellency the Governor has been pleased to disallow the "Provincial Government Ordinance" a decision in which it is my duty to acquiesce, but at the same time I may be permitted to make a few observations on the reasons assigned for advising its disallowance.

Section 13 of the Ordinance is stated to be open to legal objections inasmuch as it creates a disqualification not provided for by Section 10 of the Constitution Act. I must observe, with all deference, that the validity of this objection is not very obvious. Section 19 of the Constitution Act appears to define all the subjects upon which Provincial legislation is prohibited and it does not include the point in question. That the above construction of Section 10 of the Constitution Act has not been invariably held by the legal advisers of the Crown in New Zealand is proved by the following instances. Section 9 of the "Otago Executive Council Ordinance, 1854," expresses, in language which is somewhat involved, substantially the same meaning as Section 13 of the "Southland Provincial Government Ordinance," and that provision (namely Section 9) is at this moment law in Southland. If it is held that subsequent legislation—such as Section 2 of the Imperial Act (17th August, 1857,) amending the Constitution Act has further limited the field of Provincial Legislation—another recent instance can be referred to in which the Legal Advisers of the Crown in New Zealand recommended the Governor to leave to its operation an Ordinance containing a provision of the same nature.

I find in the *Otago Colonist*, June 21st, 1861, a copy of the "Executive Council Ordinance (Bill) 1861," as introduced into the Provincial Council of Otago, the eighth Section of which is the same word for word as Section 9 of the "Otago Executive Council Ordinance, 1854." I have not received any authenticated copy of the Ordinance as it passed the Council, but a perusal of the debate upon it as reported in the *Otago Colonist*, June 28th, especially that portion which refers to the evening sitting on June 23rd, wherein it is stated that after the passing of the 7th clause, the remaining clauses passed with slight amendments, leads to the conclusion that Section 8 passed the Council substantially in the form in which it was introduced, and yet I find that the assent of His Excellency to this Ordinance is notified in the *New Zealand Gazette* of 7th instant, notwithstanding that it appears to have contained a provision open to legal objection.

The disallowance of the Diseased Cattle Ordinance was anticipated as a necessary consequence after the enactment on the same subject by the General Assembly.

The Hon. the Colonial Secretary,
Auckland.

I have, &c.,
JAS. R. MENZIES.

Enclosure 1 in No. 72.

EXTRACT FROM A REPORT ON IMMIGRATION, BY COLIN ALLAN, IMMIGRATION AGENT, WHICH WAS PUBLISHED IN THE OTAGO PROVINCIAL GOVERNMENT GAZETTE, DATED NOVEMBER 11TH, 1861.

Immigration Department,
14th October, 1861.

SIR,—

I beg respectfully to forward to your Honor the following Report on the state of the Home Immigration Scheme.

1. *State of the Labour Market.*

About the end of July and the month of September the ships "Storm Cloud," "Pladda" and "Robert Henderson," arrived with an aggregate number of 963 passengers of whom 609 were assisted immigrants. (*After alluding to their sanitary condition on arrival, the following paragraph, to which attention is directed, occurs*)

"The Immigrants themselves were of a good class and admirably suited to the requirements of the Colony. Though the former ship arrived at a time when the excitement consequent on the discovery of the Tuapeka Gold Fields had well nigh drawn away the male population of the town, and matters were in a most unsettled state," and the "Pladda" when thousands were pouring in like a flood from the neighbouring Colonies, yet the demand for such labour as the home ships bring us seemed greater than ever, and the living freights of both were soon disposed of. Very few went to the diggings, the great bulk having taken service in town and country. I may here notice that farmers and run-holders entertain a prejudice (from what cause I am unable to say) against engaging immigrants from the other Colonies as shepherds and farm servants; the preference being always given to those from the Mother country.

I have, &c.,

COLIN ALLAN,
Immigration Agent.

His Honor the Superintendent,
Otago.

Enclosure 2 in No. 72.

Superintendent's Office,
Southland, 17th December, 1861.

SIR,—

I have the honor to request that you will proceed to lay on a vessel of sufficient capacity to carry about two hundred passengers, to sail from the Clyde, about May, for New River (where, by the time she arrives, I trust a powerful steam tug will have been established), or, if she will not come into the New River, then to the Bluff. It has been determined that the Immigrants shall be shipped, as far as practicable, in the following proportions, viz :—

- 1st. Four-tenths to be persons whose friends here guarantee their passage money.
- 2nd. Three-tenths of those who pay half the passage money in Britain, and give a promissory note for the remainder here.
- 3rd. Three-tenths of those who pay their own passage money, and are consequently free immigrants. Of the second class, passages should be given only to families, as far as possible (of whom large families, consisting chiefly or largely of females, will have a preference) and females of good character.

The surgeon and matron must be selected with caution; firmness and good character being indispensable, in both cases, to protect the female passengers from the demoralizing influences incident to an immigrant ship.

I have to request also that due notice of the intended departure of the vessel shall be published in several newspapers in Glasgow, Edinburgh, and Perth, together with the accommodation, destination, fares, &c., &c.

About nine hundred and fifty pounds will be sent by next mail, in case you may not find charterers willing to accept payment on the arrival of the vessel here. Those who are willing to do so, other things being equal, will of course receive a preference.

It is necessary that all promissory notes granted by immigrants should be made payable, within twelve months after the arrival here of the vessel, to Nathaniel Chalmers, Esq., Provincial Treasurer, at the Bank of New South Wales here, in order to ensure their validity.

I enclose original certificates, duplicate copies of which will be presented to you or your agents by intending Immigrants, for sundry Emigrants, whose friends here have guaranteed their passage money, one being a second cabin passage; and, as a precautionary measure, a detailed account of all certificates granted will be forwarded to you by any mail succeeding that by which original certificates have been sent you.

I have, &c.,

JAMES R. MENZIES,
Superintendent.

John Morrison, Esq.,
London.

No. 73.

MR. FOX TO THE SUPERINTENDENT OF SOUTHLAND.

Colonial Secretary's Office,
Auckland, 27th January, 1862.

SIR,—

I regret that your Honor should express dissatisfaction with the decision arrived at by His Excellency under the advice of Ministers with respect to the "Loan and Provincial Council Ordinances."

As regards the first, it is a source of much satisfaction to the Government to find that the emergency which it appeared in your Honor's judgment to render it advisable to contract a loan has passed away.

As regards the Provincial Council Ordinance, I fear that I have not made clear the ground on which it has been necessary to disallow it, as repugnant to the Constitution Act.

The 6th section of the "Constitution Act" enacts that every person qualified as an elector shall be qualified to be elected a member of the Provincial Council, and the 10th section declares expressly in what cases the members' seat in the Council shall become vacant.

It is not, in the opinion of the Attorney General, competent to any Provincial Council to add disqualifying conditions to those expressly provided for by the Constitution Act.

Such has been the view taken by former Governments, and it has been frequently recognized and acted on in other Provinces. Your Honor will observe on consideration, that the Otago Ordinance referred to by you does not touch the present question.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Southland.

No. 74.

THE SUPERINTENDENT, SOUTHLAND, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Southland, 1st March, 1862.

SIR,—

I have the honor to acknowledge the receipt of your communication of date 27th January, referring to reasons which led to the disallowance of the Southland Loan and Provincial Government Ordinances.

After perusing your letter and reconsidering the clauses in the other Ordinances referred to, I can see no reason for departing from the opinion expressed in my letter of the 24th December, and must express my regret that I am unable to concur in your views.

I have, &c.,

JAS. R. MENZIES,
Superintendent.The Honorable the Colonial Secretary,
Auckland.

No. 75.

No. 352.

MR. FOX TO THE SUPERINTENDENT OF SOUTHLAND.

Colonial Secretary's Office,
Auckland, 3rd April, 1862.

SIR,—

I have the honor to acknowledge the receipt of your letter of the number and date quoted in the margin.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Southland.

APPENDIX.

CANTERBURY.

THE SUPERINTENDENT, CANTERBURY, TO THE COLONIAL SECRETARY.*

No. 80.

Superintendent's Office,
Christchurch, April 30, 1862,

SIR,—

With reference to your letter of the 7th ultimo, on the subject of the Lyttelton Municipal Reserves Ordinance, I have the honor to enclose a copy of the Provincial Solicitor's opinion on the subject.

I should be glad to know whether, if I cause draft Crown Grants for these properties to be forwarded, you will recommend His Excellency the Governor to execute them.

I have, &c.,

W. S. MOOREHOUSE,
Superintendent.

The Honorable the Colonial Secretary,

Opinion.

I am of opinion that it is advisable to obtain further powers from the General Assembly to enable the Superintendent and Provincial Council to hand over to Boards the management of certain Reserves.

I cannot find any trace of a Crown Grant having been issued, which of itself is fatal to this Ordinance. Additional powers should be obtained next sitting of the General Assembly, and this Ordinance again passed by the Provincial Council after Crown Grant is obtained.

THOS. S. DUNCAN,
Provincial Solicitor.

20th March, 1862.

THE SUPERINTENDENT, CANTERBURY, TO THE COLONIAL SECRETARY.

No. 79.

Superintendent's Office,
April 30th, 1862.

SIR,—

With reference to your letter of the 7th ultimo, on the subject of the Railway Severance Ordinance, I have to inform you that I have been advised for the present to reserve to myself the opinion as to whether the Lands Clauses Consolidation Act provides for the disposal of severances and other lands taken for railway purposes, but not now wanted for the Lyttelton and Christchurch Railway, and to retire upon the suggestion contained in your letter, to obtain power from the Legislature hereafter to cover any defect of title that may arise.

I have, &c.,

W. S. MOOREHOUSE.

The Honourable the Colonial Secretary.

* These letters, referred to in page 12 of this paper, were not at hand to be inserted in their proper place.