

amount payable to each Province being fixed on a gradually descending scale, varying in amount according to the population in the respective Provinces each year. In the current year, the rate per head of the population payable under such Act would have been 38s.

In the same Act was also contained a provision that, in every year during the same period of seven years, a sum of £50,000 should be paid out of the Consolidated Revenue to the Provinces, in the ratio of their respective population, for distribution amongst the various Road Boards within such Provinces, according to a scale fixed by the Act.

In the same Session (1870) another Act was passed, intituled "The Immigration and Public Works Act, 1870," (a copy of which is herewith,) whereby provision was made for various objects, viz., The Construction of Railways; Immigration; the Construction of Water-races on Gold Fields; the Purchase of Lands from the Natives; the Extension of Telegraphs; the Formation of Roads in the North Island.

And by another Act of the same Session (1870), intituled "The Immigration and Public Works Loan Act, 1870," (a copy of which is herewith,) authority was given to the Governor to raise by loan four million pounds (£4,000,000), to be applied in the way prescribed by the Schedule to the Act, namely,—

For Railways	...	...	...	...	£2,000,000
Immigration	...	...	...	...	1,000,000
Construction of Roads in North Island	...	...	...	...	400,000
Waterworks on Gold Fields	...	...	...	...	300,000
Purchase of Land in North Island	...	...	...	...	200,000
Extension of Telegraph	...	...	...	...	60,000
Unapportioned	...	...	...	...	40,000
					£4,000,000

This amount was authorized to be raised by issue of debentures,—the interest and sinking fund not to exceed 6 per cent.,—and the same were to be a charge upon the Consolidated Revenue. The 14th section provided that "the moneys raised under the authority thereinbefore contained, should and might, subject to the provisions thereafter contained, and to the provisions contained in 'The Immigration and Public Works Act, 1870,' be issued and applied to the purposes mentioned in the Act and no other, and as to purposes mentioned in the said Schedule, should be issued and applied in sums not exceeding the amounts in the said Schedule respectively provided."

It was further provided by the 19th section, that in the event of the Imperial Parliament passing an Act to guarantee any loan raised by the Colony of New Zealand for all or any of the purposes for which the loan thereby authorized might be applied, the Governor, or any such Agents as might be appointed under the Act, might raise any portion of the loan, with such guarantee, upon and subject to all or any of the terms, conditions, and stipulations expressed in such Act of the Imperial Parliament, and the Governor or such Agents as aforesaid was further empowered to enter into any such contract or arrangement as he might think fit, with the Lords Commissioners of Her Majesty's Treasury in England, with regard to any portion of the loan, and the guarantee thereof, and in and by any such arrangement or contract, the Governor or such Agent as aforesaid might fix the order of priority of charge on the Consolidated Fund of New Zealand, which the loan so guaranteed, or any part or parts thereof, should take with relation to any other part or parts of the loan; and in and by such arrangement might provide for the transmission to England and investment of the Sinking Fund (if any) of the loan so guaranteed, provided that such contract or arrangement was not inconsistent with the purposes for which such loan was authorized to be raised.

In the Session of the General Assembly just passed (1871), the Government introduced in the House of Representatives a Bill intituled "The Payments to Provinces Bill, 1871," (a copy of which is herewith,) the object of which was to alter the financial arrangements between the Colony and the Provinces; to reduce the amount of capitation allowance payable out of the Consolidated Revenue from 38s. per head to 15s. per head; and in lieu of the £50,000 per annum payable, under the Act of last year, out of the Consolidated Revenue, to the Provinces for the service of the Road Boards, to apply £100,000 out of the moneys authorized to be raised by loan under "The Immigration and Public Works Loan Act," and which are referred to in the Bill as "The Public Works Fund," to the Provinces for distribution amongst the Road Boards, "to be expended by them in the construction of new roads, bridges, and culverts, and in the maintenance thereof for one year, and the completion of such works commenced last year as were not finished." And there was added in the Bill as sent up to the Legislative Council from the House of Representatives, a clause which has given rise to the question now raised, upon which the opinion of the Law Officers of the Crown in England is requested. The clause was as follows:—

28. "Notwithstanding anything herein contained, it shall be lawful for the Minister of Public Works, if he think fit, on the application of the Superintendent of any Province, to expend any sum not exceeding one-half of the money to be allotted to such Province for the year ending the thirtieth of June, one thousand eight hundred and seventy-two, under section eleven of this Act, in payment of or in repayment to such Province of the cost of permanent works in such Province; provided however, that except in the County of Westland such works shall have been authorized by any Act of the Superintendent and Provincial Council of the Province now in force."

The object of this clause, as it appeared to the Legislative Council, was, under colour of a repayment to the Provinces of former outlay on public works, really to place in the Provincial Treasuries additional funds for Provincial appropriation.

The Legislative Council objected to this clause. Though ready to give effect to the financial arrangements of the Government so far as they properly could, they considered that to divert £50,000 of the money authorized to be raised by loan last year for new public works specifically defined by the Act, to other services of a wholly different kind, namely, to replace in the Provincial