

of the Crown. Even then I would draw attention to the distinction between the prerogative rights of the Crown and the rights of the Crown in their general acceptance.

RICHMOND, J.—Supposing this was in reality a misapplication of the general revenues of the Colony, you are not contending that the Attorney-General would not be the proper informant in such a case?

Mr. TRAVERS.—I am not prepared to admit absolutely that he could be the proper informant, except at the instance of a relator. In what position are the revenues of the Province? They are kept in a Bank in the name of the Provincial Treasurer, who operates upon them by his own cheque.

RICHMOND, J.—The general revenues of the Colony are in the same case.

Mr. TRAVERS.—Yes, but they are under a Controller.

JOHNSTON, J.—Who do you suggest should be the relator?

Mr. TRAVERS.—Anybody who is interested in the Provincial revenue.

JOHNSTON, J.—But if the warrant mentioned here was a warrant for the specific payment to specific individuals of a portion of the sum appropriated, nobody but those individuals would be interested, and they would be the proper relators.

Mr. TRAVERS.—Everybody in the Province who pays rates and who is entitled to vote for the election of Superintendent and Provincial Council, is interested in the expenditure of the Provincial revenue, and would be entitled to be relator. The Attorney-General has nowhere in this information stated that the revenues in respect to which he has filed the information are revenues of the Crown. They are throughout treated as Provincial revenues, and therefore, I submit, precisely in the same position as the revenues of any corporate body. It is true that the mode of appropriating and distributing these revenues is by a legislative enactment, but to all intents and purposes that enactment has no greater force than the resolutions or orders of a municipal body. They must be applied to particular purposes, and those only, and not to the general benefit of the Colony.

I now propose to consider the validity of the Appropriation Ordinance, which is said in the information not to be valid.

The section in question is the 3rd, which is as follows :—

“The Superintendent is hereby authorized and empowered to expend any sum or sums not exceeding £50,500 in the construction of the several works set forth in the Second Schedule hereto.”

The point raised under that section is referred to in a letter of the 28th January, 1874, from the Colonial Secretary to the Superintendent, in the following passage :—

“The Bridges, Roads, and other Works Appropriation Act, 1874,” has attracted the notice of the Government on account of the manner in which it is framed. Instead of the ordinary authority to expend out of the Provincial revenue, with the provisions usually inserted in the Appropriation Ordinances of the Province, the Ordinance authorizes the expenditure to be made by the Superintendent, without defining out of what source it is to be defrayed.”

The words “out of the Provincial revenues,” which are usually inserted, do not occur in this section. I submit that it is immaterial whether they occur or not, because it is only out of Provincial revenue that such expenditure can be made by law, the words must therefore be implied, inasmuch as the only source from which expenditure of this kind can be derived is the ordinary revenues at the command of the Provincial Government, or funds which, though not properly considered as revenue, are in the hands of the Government for expenditure. Such funds are moneys raised by loan or otherwise. In point of fact the omission of these words may, to a certain extent, be proper in all cases, inasmuch as there are sources from which funds are placed at the command of the Provincial Government which would not come strictly under the title “revenue,” although properly in the hands of the Government.

I submit, therefore, that the omission of the words “out of the Provincial revenue,” does not invalidate the Ordinance.

RICHMOND, J.—I presume that such loans must be taken to be loans specifically authorized by the Provincial Council, and not what the Superintendent can raise *ex officio*?

Mr. TRAVERS.—Clearly; they are loans raised without infringing on the powers conferred on Provincial Councils. The Superintendent has no power, without the sanction of the Provincial Council or of the General Assembly, to incur any debt or raise any loan except under special provisions contained in the Provincial Audit Acts. In “The Provincial Audit Act, 1866,” and “The Provincial Audit Amendment Act, 1869,” a distinction is drawn between the two classes of revenue. Under the former Act the Superintendent is empowered to issue special orders to the extent of one-twentieth part of the amount of the ordinary Provincial revenues for the preceding year—the words being “ordinary Provincial revenues.” Under the latter Act he is empowered to borrow from any Bank or other person to the extent of one-fifth of the previous year’s “Provincial revenue;” and the previous year’s Provincial revenue is defined to mean “the total sum actually paid into the Provincial Account on account of revenue during the financial year ending next before the commencement of the Session in which such appropriations as aforesaid shall have been made, after deducting therefrom the proceeds of all loans, whether raised under this Act or otherwise, and the amount of any sinking funds paid or payable to such Province under any Act of the General Assembly.”

JOHNSTON, J.—Does not that tend to show that the word “revenue” excludes loans?

Mr. TRAVERS.—The Act also uses the term “income,” which includes loans, while