

“revenue” apparently excludes them. It is not necessary, however, in an Appropriation Act, to state that the moneys to be expended are to be expended out of Provincial revenue, because they can be expended out of the sources I have indicated, and no other. If there be no other funds, then the words must be implied; and if there be any other funds not contemplated by the Provincial Audit Acts, then the Attorney-General can make no objection, because it is not a matter which affects the General Government in any degree. If the Superintendent have at his command sums of money which may be applied to certain purposes, he may, as between himself and the Provincial Council, require authority to expend them, while at the same time they may be funds entirely outside the general revenue of the Colony, and not derived from any of those sources which come under the ordinary denomination of Provincial revenue.

ARNEY, C. J.—Are we to assume that, having got this Appropriation Act passed, and there not being sufficient money at the Bank, even if aided by the power given under the Provincial Audit Acts, the Superintendent had power to borrow from the Bank to the extent required?

MR. TRAVERS.—Up to a certain extent, namely, to one-fifth of the previous year’s revenue. Furthermore, there is nothing to prevent any individual in the Colony placing at the disposal of the Provincial Government sums of money to be devoted to public works, and only to be expended on appropriation by the Provincial Council. Moneys received in that way, as a gift, could not be treated as Provincial revenue, and therefore it would be improper for the Appropriation Act to treat it as appropriation out of Provincial revenue. There is no doubt that it would have been better to have inserted the words, but what I submit is, that there is nothing to show that there was any intention to omit them for the purpose of committing an illegality.

RICHMOND, J.—The objection of the General Government appears to be that the Provincial Council went into supply without first finding ways and means.

MR. TRAVERS.—It may be so. But we know the ways and means of the Provincial Government. Provincial Councils are not, in their broadest sense, taxing bodies, and their incomes are somewhat fixed. The revenue of a Provincial Council is a fund accruing *de die in diem*; and all that the Provincial Council has to do is to see that, during the course of the financial period for which they make an appropriation, funds will accrue to meet the appropriations they make.

RICHMOND, J.—I believe it has been notoriously a fact that Provincial Legislatures authorize expenditure far beyond revenue, which throws immense power into the hands of the Executive, as they may choose which sums out of the appropriation shall be expended. It has not hitherto been thought illegal for Provincial Councils to act in that way, but it may be illegal for all that.

MR. TRAVERS.—I submit that it cannot be contended that the Provincial Legislature contemplated any illegal action on the part of the Executive.

This Act was passed on the 16th January, and was not disallowed until the 12th March; and I submit that everything done and completed during that interval must be treated as good and valid.

I submit, also, that there is a distinction between an Act repealed and an Act the operation of which is merely discontinued from a particular period. An Act repealed does not interfere with transactions commenced and duly completed under it. I contend that in the case of an Act discontinued from a certain date, contracts entered into prior to the discontinuance must be treated as existing contracts, and be carried out. If disallowance from a certain period has the same effect as repeal, then there is no distinction between them, and the language of the 29th section of the Constitution Act is insensible. That section says that the disallowance may take place from the date of the proclamation or a “subsequent date.” There would be no magic in those words if disallowance is to have the same effect as repeal, for repeal already saves all transactions commenced and duly completed. I submit that all rights acquired under a disallowed Act should be saved; that contracts absolutely entered into and concluded between the parties while the Act was still in force, should be treated as transactions completed; and that all transactions entered into during the period while it was still to be treated as a subsisting Statute, should be saved and declared capable of being carried on to completion, if they do not require the aid of the Act to complete them. This is an Act authorizing the construction of certain works. If a contract had been made for the construction of one of these works, and the work was completed, but the party was not to receive payment for one month after the completion, and the Statute should be disallowed any time before the payment of the money and after the completion of the work, would the remedy of the party be gone because the Act was gone?

JOHNSTON, J.—But you say yourself that a repealed Act saves all transactions completed, and that would be such a transaction, and the party would have earned his money. In the present case there is no pretence that any of the moneys have been earned.

MR. TRAVERS.—If a disallowed Act is only to have the same force as a repealed Act, the functions of the Provincial Government might just as well cease for the three months after an Act is passed, during which it is in the power of the Governor to disallow it. I submit that, on the true construction of the terms of the Constitution Act, it was intended that all rights actually acquired should be deemed to be subsisting rights, capable of complete effect, even after the date on which the Ordinance was no longer to operate, otherwise great embarrassment would accrue in carrying on the government of the country.

JOHNSTON, J.—But look at the other side of the question. If the Provincial Council passes an Act authorizing the expenditure of £50,000, and the next day the Government enters