

to be Crown lands." The Solicitor-General is requested to give his opinion whether, under the existing law, the New Plymouth Harbour Board is entitled to one-fourth of the land revenue derived from sales of land within the Provincial District of Taranaki taken under the New Zealand Settlements Act, and known as confiscated lands.

This is the opinion given by the Solicitor-General on the 13th January, 1881:—

I have carefully considered the various statutes bearing on the above question, and am of opinion that, as the law at present stands, it must be answered in the affirmative. The matter was quite clear up to the date of the passing of "The Public Revenues Act, 1878," which repealed "The Public Revenues Act, 1875." Section 16 of the latter Act had expressly stated that the moneys derived from the sale, &c., of confiscated lands should be deemed Land Fund; but, in the case of Taranaki, and for the purposes of "The New Plymouth Harbour Board Endowment Act, 1874," the benefit of this enactment was not to accrue till after 30th September, 1876. The term "Land Fund" had been defined by "The Public Revenues Act, 1867" which was repealed by the Act of the same name in 1878, and no other statutory definition of Land Fund has been given. Indeed, there was no need to do so, as "The Public Revenues Act, 1877" had repealed the section of the Act of 1867, which defined the expression "Land Fund;" and it further declared that all moneys payable to the Government should be paid into the Public Account. This account was divided into two funds—the Consolidated Fund and the Public Works Fund; and this enactment is repeated in the Public Revenues Act of 1878, and is now law. Again, "The Land Act, 1877," expressly brought all lands formerly included within the expressions "waste lands," "Crown lands," and "confiscated lands" under one common denomination of "Crown lands." From the date when this Act came into force, therefore, it would appear that the distinction between the various classes of land ceased, and that the proceeds of sales, &c., of Crown land was properly called land revenue for the purposes of the several Financial Arrangements Acts, and has been administered accordingly. The express enactment contained in "The Public Revenues Act, 1875," having been repealed, as stated above, the question really is, whether there is authority to continue payments to the Harbour Board subsequently to the passing of "The Public Revenues Act, 1878." To determine this point, recourse must be had to the Financial Arrangements Acts which contain the authority for disposing of the land revenue. "The Financial Arrangements Act, 1876," provided for the special percentage of Land Fund payable to the New Plymouth Harbour Board (section 4), and sections 11 and 12 gave permanent appropriations of or charges upon such Land Fund. The Amendment Act of 1877 made all land revenue (with an immaterial exception) part of the consolidated revenue of the colony, and expressly kept alive sections 11 and 12 of the original Act of 1876. Lastly, the Amendment Act of 1878, section 3, provides that all revenues accruing from the sale of *waste or other lands* of the Crown, which by any Act or Ordinance are appropriated to or charged with any proportion of such revenues, shall continue to be so appropriated. I do not quite see the need of this provision, as the Financial Arrangements Act of 1877 had already done all that it purports to do. It is true the expression "waste or other lands of the Crown" is used; but this may be explained by the fact that this section is repeated verbatim from "The Public Revenues Act, 1877," section 14, which passed two days before the Land Act of the same year; and the latter Act brought all lands of the Crown into one category, as has been already stated. Again, the 4th section of the Financial Arrangements Act of 1878 defined the term "land revenue" as not including land sold on deferred payments, nor that part of the land revenue of the District of Taranaki which is required to be paid over to the New Plymouth Harbour Board. Had the Legislature intended to restrict the payment to revenue derived from a particular class of land, here was an opportunity to do so; but the existing law was left to its operation. Bearing in mind, therefore, that in 1875 revenue derived from the sale and disposal of confiscated lands was declared to be "Land Fund;" that, in 1877, Land Fund as a district fund ceased to be, and the revenue derived from the sale, &c., of Crown lands became part of the Consolidated Fund; that confiscated lands were in the same year declared to be included in the term "Crown lands;" and, looking to the terms of the Financial Arrangements Acts, there seems to me sufficient grounds for saying that the New Plymouth Harbour Board is entitled to one-fourth of the land revenue derived from sales of land within the Provincial District of Taranaki, taken under the New Zealand Settlements Acts, and formerly known as confiscated land.

354. *Mr. Pitt.*] Although the confiscated lands are deemed to be Crown lands, yet the New Plymouth Harbour Board Endowment Act of 1874 stated they were only entitled to the revenue arising from the waste lands of the Crown. I understand the Solicitor-General to mean that the subsequent interpretation of the terms to be Crown lands, without, as it might have done, introducing a special limitation, was an indication that Parliament meant the law to stand without limitation?—There was an opportunity for them to say "We do not mean confiscated lands."

354A. I should consider the confiscated lands brought under the denomination of Crown lands for the purposes of this Act. I should hardly have thought that affected an express provision that the Harbour Board should only have a fourth of the revenue derived from waste lands. I mean that the alteration including confiscated lands in the term "Crown lands" did not make confiscated lands waste lands?—Yes. There is no doubt that a very substantial alteration would be effected in the terms of the contract with the Harbour Board, and a benefit for New Plymouth. This is Mr. Whitaker's opinion:—

"The New Plymouth Harbour Board Endowment Act, 1874," enacts that, "there shall from time to time be paid over to such Harbour Board one-fourth, or such less part as shall be fixed by the Legislature of the said province (Taranaki), of all revenues arising from the sale, occupation, or disposal of the waste lands of the Crown within the said province." A provincial Ordinance was subsequently passed fixing the amount at the one-fourth. No doubt at that time revenue arising from confiscated lands was not included by the terms "revenue arising from the sale, &c., of the waste lands of the Crown." (See especially "The Public Revenues Act, 1867.") But "The Land Act, 1877," brings lands theretofore designated "waste lands," "Crown lands," and "confiscated lands" respectively under one denomination—namely, "Crown lands." If this were all bearing on the subject of provisions of the special Act, the New Plymouth Harbour Board Endowment Act would not, in my opinion, be affected by the general Act—"The Land Act, 1877"—and the revenue arising from confiscated lands would not by the latter Act be brought within the operation of the former. But there are other enactments affecting the question to be considered. Section 16 of "The Public Revenues Act, 1875," enacts "that the revenue arising from lands confiscated from the Natives shall be deemed to have been Land Fund within the meaning of 'The Public Revenues Act, 1867;'" but provides that, till after the 30th day of September, 1876, the revenue arising from the confiscated land within the Province of Taranaki shall not be deemed to be land revenue for the purposes of "The New Plymouth Harbour Board Endowment Act, 1874." Since the Act of 1875 the Legislature has treated the revenue from confiscated land as ordinary land revenue, and has drawn no distinction between the one and the other. But as "The Public Revenues Act, 1878," repeals all the previous Public Revenues Acts, including the Act of 1875, the question arises whether such repeal destroys the right then existing of the New Plymouth Harbour Board to the fourth of the whole revenue derivable from Crown lands, as defined by "The Land Act, 1877," including those confiscated. I am of opinion that, under the provisions of "The Public Revenues Act, 1878," and "The Interpretation Act, 1878," the rights of the New Plymouth Harbour Board to such fourth is preserved, and still exists. I have not gone into the question as to whether the fourth of the land revenue, as appropriated by "The New Plymouth Harbour Board Endowment Act, 1874," at its passing is still payable, as that is not disputed; but I have confined my opinion to the solution of the question raised by Mr. Waterhouse in the Legislative Council on the 27th August, 1880, in reference to revenue from confiscated lands, and which question I promised should be considered by the Law Officers of the Crown.

355. *Mr. Montgomery.*] Have confiscated lands in any other provincial district been treated as waste lands of the Crown when the 20 per cent. was given to counties?—I could not answer that question.