

FURTHER PAPERS RELATING TO THE

No. 4.

THE HONORABLE COLONIAL SECRETARY TO THE SUPERINTENDENT OTAGO.

Colonial Secretary's Office,
Auckland, 2nd September, 1864.

SIR,—

With reference to your Honor's letter dated 4th of July last, in which are enclosed certain Ordinances to which your Honor had assented, I regret to inform you that the four Ordinances hereunder specified, will have to be disallowed on Legal Grounds.

"The Criminals' Ordinance, 1864."

"The Licensed Hawkers' Ordinance, 1864."

"The Bush Fires Ordinance, 1864," and "The Medical Practitioners' Ordinance, 1864."

I proceed to inform your Honor of the respective reasons which compel Ministers to advise His Excellency the Governor to disallow these four Ordinances.

"The Criminals' Ordinance, 1864" is clearly beyond the power of a Provincial Legislature, and the rule in such cases has been to advise the disallowance of the Ordinance.

"The Licensed Hawkers' Ordinance, 1864" has been assented to by your Honor on behalf of the *Government* and not of the *Governor*. The Constitution Act explicitly states that the assent of a Superintendent must be on behalf of the Governor. The Ordinance therefore, must necessarily be disallowed.

"The Bush Fires Ordinance, 1864" is in its third section, beyond the power of a Provincial Legislature, as by fixing no limit to the sum to be recovered in a summary way, it contravenes the Act of the General Assembly entitled "The Provincial Council Powers Act, 1856." The Ordinance is disallowed on that ground, but I have also to point out to your Honor that the penalty inflicted in the second section, namely, £40 (Forty Pounds) or imprisonment for six months, for the offence of a person leaving the spot where he has lighted or caused to be lit, a fire, until it is extinguished, is in the opinion of the General Government excessive.

"The Medical Practitioners' Ordinance, 1864" has the same radical defect, as the "Licensed Hawkers' Ordinance, 1864" having been assented to by your Honor on behalf of the *Government* and not of the *Governor*, also section 21 is *ultra vires*, as it purports to define the legal interpretation of terms used in Acts of the Imperial Parliament and of the General Assembly, in the former case without any reservation.

A Proclamation of the disallowance of these four Ordinances will be issued in the New Zealand Gazette.

I have, &c.,
WILLIAM FOX.

His Honor the Superintendent,
Otago.

No. 5.

SUPERINTENDENT OTAGO TO THE HONORABLE COLONIAL SECRETARY.

Province of Otago, N. Z.
Superintendent's Office,
Dunedin, 27th September, 1864.

SIR,—

I have the honor to acknowledge the receipt of your letter of the number and date quoted in the margin, informing me of the disallowance of the "Criminals' Ordinance, 1864," "The Licensed Hawkers' Ordinance, 1864," "The Bush Fires' Ordinance, 1864," and "The Medical Practitioners' Ordinance, 1864."

I have, &c.,
J. HYDE HARRIS,
Superintendent.

The Honorable the Colonial Secretary,
Auckland.

No. 6.

SUPERINTENDENT OTAGO TO THE HONORABLE COLONIAL SECRETARY.

Province of Otago, N. Z.,
Superintendent's Office,
Dunedin, 22nd August, 1864.

SIR,—

I do myself the honor to forward the following Ordinances passed at the last session of the Provincial Council of Otago, to which I have assented on behalf of His Excellency the Governor, viz.:

1. "The Superintendent's Indemnity Ordinance, 1864."
2. "The Education Reserves Ordinance, 1864."
3. "Kerosene and Paraffin Oils Ordinance 1863 Amendment Ordinances 1864."
4. "Hawkesbury Roads Lands Ordinance, 1864."
5. "Southern Trunk Road Lands Ordinance, 1864."
6. "Kaikora District Roads Lands Ordinance, 1864."
7. "Anderson's Bay District Roads Lands Ordinance, 1864."
8. "Tokomairiro District Roads Lands Ordinance, 1864."
9. "Taiaeri District Roads Lands Ordinance, 1864."