

FURTHER PAPERS

RELATIVE TO THE

DISALLOWANCE OF PROVINCIAL BILLS.

*(In continuation of Papers presented 9th December, 1864.)*

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PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF  
HIS EXCELLENCY.

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WELLINGTON.

—  
1865.



# FURTHER PAPERS RELATIVE TO THE DISALLOWANCE OF PROVINCIAL BILLS.

## PROVINCE OF MARLBOROUGH.

### No. 1.

The SUPERINTENDENT, Marlborough, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Picton, 28th October, 1864.  
I have the honor to forward the undermentioned Acts passed by the Provincial Council of this Province:—

- “Provincial Council Enlargement Act Amendment Act, 1864;”
- “Picton Institute Act, 1864;”
- “Vagrant Act, 1864 (Amended);”
- “Wharves Regulation Act, 1864;”
- “Picton Institute Loan Act, 1864;”

to which I trust you will advise His Excellency the Governor to give his assent.

I have, &c.,

A. P. SEYMOUR,  
Superintendent.

The Hon. the Colonial Secretary, Auckland.

### No. 2.

The Hon. the COLONIAL SECRETARY to SUPERINTENDENT, Marlborough.

SIR,— Colonial Secretary's Office, Auckland, 2nd December, 1864.

I have the honor to acknowledge the receipt of your Honor's letter No. 201 of the 28th October last, transmitting certain Ordinances passed by the Provincial Council of Marlborough, and reserved by your Honor for the signification of the Governor's pleasure thereon.

I proceed to inform your Honor of the decision of the Government with respect to those Bills respectively.

“The Picton Institute Act, 1864,” authorises a conveyance from the Superintendent to certain Trustees. “The Picton Institute Loan Act, 1864” authorises a loan upon mortgage of the property to be conveyed, and recites a conveyance as actually made. There is an obvious error in this. No conveyance could be made till the Governor assented to the former Ordinance; a conveyance must be therefore made after such assent, and power may then be given by Ordinance to borrow money upon the security of the property. His Excellency the Governor has therefore been advised to assent to “The Picton Institute Act, 1864,” a copy of which with such assent duly noted thereon is returned.

His Excellency cannot be advised to assent to “The Picton Institute Loan Act, 1864” until a conveyance has been duly made under the former Ordinance. If I am informed by your Honor to that effect before February next, the latter Bill will be assented to.

There is no legal objection to “The Provincial Council Enlargement Act Amendment Act, 1864,” and “The Vagrant Act, 1864,” and I return to you copies of them respectively with the Governor's assent duly noted thereon.

With respect to “The Wharves' Regulation Act 1864,” I have to request your Honor to inform me whether the land on which the wharves referred to are erected has been granted to your Honor under “The Public Reserves Act, 1854.” In Bills of that kind the recital should always in such case specify the particular Crown grants under the Reserves Act.

As only one copy of “The Vagrant Act, 1864” was received with your Honor's letter, under reply, I have to request you to be good enough to transmit another copy in order that it may be returned to you with the Governor's assent noted thereon.

I have, &c.,

His Honor the Superintendent, Marlborough.

FRED. A. WELD.

### No. 3.

The SUPERINTENDENT, Marlborough, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Picton, 28th December, 1864.

I have the honor by instruction from his Honor the Superintendent, in reply to that portion of your communication of 2nd December, 1864, relating to the wharves in this Province, to inform you that the land upon which the Picton wharf is situate has been granted to his Honor the Superintendent, and that the wharves at Blenheim and Havelock abut upon the public road.

I have, &c.,

L. STOWE,  
Clerk to Superintendent.

The Hon. the Colonial Secretary, Auckland.

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## No. 4.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Marlborough.

SIR,—

Colonial Secretary's Office, Auckland, 16th January, 1865.

I have to acknowledge the receipt of your Honor's letter of the 28th ultimo, in further reference to "The Wharves Regulation Act" reserved by your Honor for the signification of the Governor's pleasure thereon, and transmitted in your letter of the 28th October last.

Ministers regret that they cannot recommend His Excellency to assent to the Bill in question.

Reserves granted under "The Public Reserves Act, 1854" can only be dealt with under that Act, and if wharves have been erected (as it would appear from your letter) upon land not granted to the Superintendent, the Provincial Legislature cannot empower the Superintendent to grant leases of such land or of tolls payable in respect of wharves erected thereon.

I have, &amp;c.,

His Honor the Superintendent, Marlborough.

WALTER MANTELL,  
(for the Colonial Secretary.)

## PROVINCE OF CANTERBURY.

## No. 1.

The SUPERINTENDENT, Canterbury, to Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office,

Christchurch, Canterbury, New Zealand, 18th October, 1864.

I have the honor to transmit herewith copies of two Ordinances to which I have assented on behalf of His Excellency the Governor, viz.,—

"The Wakefield Settled Estate Ordinance, 1864;"

"The Christ's College Loan Ordinance, 1864."

I have, &amp;c.,

The Hon. the Colonial Secretary.

S. BEALEY,  
Superintendent.

## No. 2.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Canterbury.

SIR,—

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

I have to acknowledge the receipt of your Honor's letter No. 312, of the 18th ultimo, transmitting copies of two Ordinances entitled respectively—

"The Wakefield Settled Estate Ordinance, 1864;" and

"The Christ's College Loan Ordinance, 1864."

The Hon. the Attorney-General, to whom these Ordinances were referred, is of opinion that they are open to objection on the ground of their not containing the usual saving clause, as directed in the Royal Instructions to the Governor (published in the Appendix to the Journals of the House of Representatives, 1862, A.—No. 1, page 5, in the following terms:—

"Sixth. When any Bill is presented to you for Our assent of either of the clauses hereinafter specified, you shall (unless you shall think proper to withhold Our assent from the same) reserve the same for the signification of Our pleasure thereon—subject, nevertheless, to your discretion, in case you should be of opinion that an urgent necessity exists requiring that such Bill to be brought into immediate operation, in which case you are authorised to assent to such Bill in Our name, transmitting to Us by the earliest opportunity the Bill so assented to, together with your reasons for assenting thereto; that is to say:

"5. Any private Bill whereby the property of any individual may be affected, in which there is not a saving clause of the rights of Us, Our heirs and successors, and of all bodies politic or corporate, and of all other persons excepting those at whose instance or for whose especial benefit such Bill may be introduced, and those claiming by, from, through, and under them."

By analogy to the practice in the case of Estate Bills passed by the General Assembly, His Excellency cannot be recommended to sanction a Provincial Ordinance without such clause.

But, independently of this objection, the question as to the expediency of Ordinances of this kind being passed by Provincial Legislatures is under the consideration of the Government, and it is probable that some legislation on this subject may be proposed in the next session of the General Assembly.

Under these circumstances Ministers regret that they will be compelled to advise His Excellency to disallow the two abovenamed Ordinances.

I have, &amp;c.,

His Honor the Superintendent, Canterbury.

FRED. A. WELD.

## No. 3.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Canterbury.

SIR,—

Colonial Secretary's Office, Auckland, 22nd December, 1864.

With reference to my letter No. 378, of the 2nd instant, I have now to transmit to your Honor the accompanying *New Zealand Gazette* (No. 8, 16th December, 1864), containing a Proclamation disallowing the "Wakefield Settled Estate Ordinance, 1864;" and "The Christ's College Loan Ordinance, 1864."

I have, &amp;c.,

His Honor the Superintendent, Canterbury.

HENRY SEWELL,  
(For the Colonial Secretary.)

## No. 4.

The SUPERINTENDENT, Canterbury, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office,  
Christchurch, Canterbury, New Zealand, 6th October, 1864.

I have the honor to forward herewith copies of the Ordinances to which I have assented on behalf of His Excellency the Governor, viz., "The Wilson Mill Dam Ordinance, No. 1, 1864; The Wilson Mill Dam Ordinance, No. 2, 1864."

I have, &c.,

S. BEALEY,  
Superintendent.

The Hon. the Colonial Secretary.

## No. 5.

The Hon. the COLONIAL SECRETARY to SUPERINTENDENT, Canterbury.

SIR,—

Colonial Secretary's Office, Auckland, 16th December, 1864.

I have the honor to acknowledge the receipt of your Honor's letter No. 304, of the 6th October last, transmitting copies of two Ordinances entitled respectively "The Wilson Mill Dam Ordinance No. 1, 1864;" and "The Wilson Mill Dam Ordinance, No. 2, 1864," which have been passed by the Council of Canterbury, and to which your Honor has assented on behalf of His Excellency the Governor.

I have referred the Ordinances to the Hon. the Attorney-General, and I enclose for your Honor's information a copy of his opinion on the first-named Ordinance, which opinion also applies to the second.

Your Honor will perceive from that opinion that Ministers are obliged on legal grounds to advise His Excellency to disallow those two Ordinances.

A Proclamation of such disallowance will be published in an early *Gazette*.

I have, &c.,

HENRY SEWELL,  
(For the Colonial Secretary.)

His Honor the Superintendent, Canterbury.

## No. 6.

THE Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Canterbury.

SIR,—

Colonial Secretary's Office, Wellington, 9th March, 1865.

With reference to my letter of the 16th December last, I have now the honor to transmit to you the accompanying *New Zealand Gazette* (No. 9, 9th March, 1865) containing a Proclamation by His Excellency the Governor, disallowing "The Wilson Mill Dam Ordinance No. 1, 1864;" and "The Wilson Mill Dam Ordinance No. 2, 1864."

I have, &c.,

J. RICHARDSON,  
(For the Colonial Secretary.)

His Honor the Superintendent, Canterbury.

## No. 7.

The SUPERINTENDENT, Canterbury, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office,  
Christchurch, Canterbury, New Zealand, 16th March, 1865.

I have the honor to acknowledge the receipt of your letter (9.3-65.) forwarding copy of the *New Zealand Gazette*, No. 9, of 9th March, 1865, containing a Proclamation by His Excellency the Governor, disallowing "The Wilson Mill Dam Ordinance, No. 1, 1864;" and "The Wilson Mill Dam Ordinance, No. 2, 1864."

I have, &c.,

S. BEALEY,  
Superintendent.

The Hon. the Colonial Secretary.

## PROVINCE OF SOUTHLAND.

## No. 1.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Invercargil, February 21st, 1865.

I have the honor to forward for the signification of His Excellency's pleasure thereon, the following Ordinances passed by the Provincial Council at its recent session:—

"Superintendent's Indemnity Ordinance, 1865;"

"Provincial Auditor and Deputy Auditor's salaries Ordinance, 1865."

I have, &c.,

J. P. TAYLOR, Superintendent.

The Hon. the Colonial Secretary, Wellington.

## No. 2.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Southland.

SIR,—

Colonial Secretary's Office, Wellington, March 9th, 1865.

I have to acknowledge the receipt of Mr. J. P. Taylor's letter of the 21st ultimo, transmitting the undermentioned Ordinances passed by the Provincial Council of Southland, and reserved by him

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for the signification of the Governor's pleasure thereon :—

“Superintendent's Indemnity Ordinance, 1865 ;”

“The Provincial Auditor and Deputy Auditor's salaries Ordinance, 1865.”

The Hon. the Attorney-General, to whom I referred that communication, does not see any objection to the Bills themselves, but as he is of opinion that the election of Mr. Taylor as Superintendent of Southland was invalid, His Excellency cannot be advised to assent to them.

I have, &c.,

His Hono the Superintendent, Southland.

W. FITZHERBERT,  
(For Colonial Secretary.)

## No. 3.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Southland, 20th March, 1865.

I have the honor to acknowledge the receipt of your letter No. 98, 9th March, 1865, informing me that in consequence of the election of Mr. Taylor as Superintendent of Southland being invalid, His Excellency would not be advised to assent to “The Superintendent's Indemnity Ordinance, 1865 ;” and “The Provincial Auditor and Deputy Auditor's Salaries Ordinance, 1865.”

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. P. TAYLOR, Superintendent.

## No. 4.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Southland, 2nd March, 1865.

I have the honor to enclose herewith “The Executive Council Ordinance, 1865,” passed by the Provincial Council of Southland in its late session, and to request that you will lay the same before His Excellency the Governor in order that his assent may be obtained.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. P. TAYLOR, Superintendent.

## No. 5.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Southland.

SIR,—

Colonial Secretary's Office, Wellington, 11th March, 1865.

I have to acknowledge the receipt of Mr. J. P. Taylor's letter of the 2nd instant, forwarding “The Executive Council Ordinance, 1865,” passed by the Provincial Council of Southland, and in reply to transmit for your Honor's information the accompanying copy of a Memorandum by the Hon. the Attorney-General, which will explain why His Excellency cannot be advised to assent to that Ordinance.

I have, &c.,

His Honor the Superintendent, Southland.

WILLIAM FITZHERBERT,  
(For the Colonial Secretary.)

## Enclosure to No. 5.

MEMORANDUM by the Hon. the ATTORNEY-GENERAL.

I regret to be obliged to recommend His Excellency not to assent to this Ordinance.

This is rendered necessary by the disallowance of Mr. Taylor's election as Superintendent.

Independently of this, the 2nd section of the Ordinance limits the power of the Superintendent by law in a manner which may conflict with the authority vested in him by the Constitution Act and Acts of the General Assembly.

The 4th section seems to me to vest in the Executive Council larger power than by law can belong to them. If it has any operation, it restricts the power of the Superintendent in matters otherwise within his competency. This would practically give the Executive Council power which can only belong to a Legislature.

The 12th section is so vague as to be incapable to be brought into practical operation.

The 14th section is in my opinion open to grave objections. If it means that the Provincial Council can restore to office an officer duly dismissed by the Superintendent—that would be an exercise of Executive functions by the Council which would be open to the gravest objections.

The constitutional control which the Provincial Legislature ought to exercise over the Acts of the Provincial Executive, is through its power of controlling the expenditure of the public revenue of the Province.

HENRY SEWELL.

March, 1865.

## No. 6.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Southland, 22nd March, 1865.

I have the honor to acknowledge the receipt of your despatch No. 104, date 11th March, 1865, enclosing copy of Memorandum of the Hon. the Attorney-General on “The Southland Executive Council Ordinance,” and informing me that His Excellency cannot be advised to assent thereto.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. P. TAYLOR, Superintendent.

## No. 7.

The Hon. the COLONIAL SECRETARY to the SUPERINTENDENT, Southland.

SIR,— Colonial Secretary's Office, Wellington, 13th April, 1865.

With reference to my letter No. 104, of the 11th March last, transmitting a copy of a Memorandum by the Hon. the Attorney-General on the subject of "The Executive Council Ordinance, 1865," I have to inform your Honor that that Officer has since stated that his attention has since been drawn to the fact that an Ordinance, in similar terms with the above named, was passed by the Provincial Council of Otago, and disallowed under the advice of the late Attorney-General, upon exactly the same grounds; in consequence, an amended Ordinance was forwarded by the Provincial Council of that Province, which has been left to its operation.

The Attorney-General's opinion is thus confirmed, and he is constrained by the precedent established by his predecessor to adopt a similar course in the present instance. I have, &c.

His Honor the Superintendent, Southland.

FRED. A. WELD.

## No. 8.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Southland, 22nd April, 1865.

I have the honor to acknowledge the receipt of your letter No. 738, 13th April, 1865, in reference to your letter No. 104, of the 11th March last, transmitting a copy of a Memorandum by the Hon. the Attorney-General on the subject of "The Executive Council Ordinance, 1865," and informing me that that Officer has since stated that his attention had been drawn to the fact that an Ordinance, similar to the above, was passed by the Provincial Council of Otago, and disallowed under the advice of the late Attorney-General, upon the same grounds; in consequence, an amended Ordinance was forwarded by the Provincial Council of that Province, which was left to its operation.

Also, that the Attorney-General is constrained to adopt a similar course in the present case.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. P. TAYLOR, Superintendent.

## No. 9.

The Hon. the COLONIAL SECRETARY to SUPERINTENDENT, Southland.

SIR,— Colonial Secretary's Office, Wellington, 2nd May, 1865.

The five undermentioned Bills, passed by the Provincial Council of Southland, were, I believe, left on my table by your Honor, without any covering letter:—

"Appropriation Ordinance, No. 1, 1865;"

"Appropriation Ordinance, No. 2, 1865;"

"Tolls Ordinance, 1865;"

"The Dog Ordinance, 1865;"

"Debentures Ordinance, 1865."

These Bills were passed by the Provincial Council before a valid election had, in the opinion of the Attorney-General, taken place of yourself as Superintendent of the Province of Southland, and therefore, in order to avoid legal difficulties, Ministers have not thought it advisable to recommend His Excellency the Governor to assent to these Bills.

It will accordingly be for the Provincial Council to re-enact these Bills, if it is thought advisable to do so.

I have, &c.,

His Honor the Superintendent, Southland.

FRED. A. WELD.

## No 10.

The SUPERINTENDENT, Southland, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Southland, 10th May, 1865.

I have the honor to acknowledge the receipt of your letter No. 177, 2nd May, 1865, informing me that the following Bills, viz:—

"Appropriation Ordinance, No. 1, 1865;"

"Appropriation Ordinance, No. 2, 1865;"

"Tolls Ordinance, 1865;"

"The Dog Ordinance, 1865;"

"Debentures Ordinance, 1865;"

were passed by the Provincial Council of Southland before a valid election of Superintendent, and therefore, in order to avoid legal difficulties, Ministers had not recommended His Excellency's assent to these Bills.

I have, &c.

The Hon the Colonial Secretary,  
Wellington.

J. P TAYLOR,  
Superintendent.

