

for it repeals provisions by which borrowers obtain a right to three months' notice of the repayment of the money borrowed. The Act should have been drawn so as not to affect debentures already issued. "The Southland Provincial Debt Act, 1865," forbids the passing of an Ordinance by a Provincial Legislature for raising a loan, and enacts that no such Bill shall be assented to by the Governor without the sanction of the Assembly; clearly indicating that all Provincial Bills for raising loans are to be reserved in accordance with the Governor's instructions before referred to.

"The Fencing Act, 1867."—The sixteenth section of this Act establishes a compulsory Court of Arbitration for settling certain matters in dispute. The Government is advised that such an enactment is *ultra vires*, as a Provincial Legislature cannot establish such a tribunal.

"The District Highways Act, 1867." This Act could only be passed by a Provincial Legislature under the authority of "The Provincial Councils Powers Extension Act, 1865," and should have been reserved, as required by the third section of the latter Act, for the signification of the Governor's pleasure thereon. The Government is also advised of the following objections to several of the sections of the Provincial Act, which necessitates its disallowance. Section 11 assumes to regulate the forms and the manner of proceeding in Courts of Law. This is in contravention of the nineteenth section of the Constitution Act and "The Provincial Councils Powers Act, 1856." Section 17—In the rating clause, buildings the property of the Crown, used or occupied by the General Government, ought to have been excepted. Section 20, referring to the recovery of rates, is also objectionable on the same ground that section 11 is objected to. If the subject matter had been limited to twenty pounds, this provision might perhaps have been authorized by "The Provincial Councils Powers Act, 1856," if the provision had also been made applicable solely to the Resident Magistrates' Court. Section 22 assumes to authorize the compulsory taking of land for roads. This power has been considered one not properly to be exercised by Provincial Legislatures, except under restrictions. In the last Session of the General Assembly the power was expressly given to Provincial Legislatures to take lands compulsorily, but subject to certain restrictions and conditions. The land must be taken in conformity with the provisions of "The Lands Clauses Consolidation Act, 1863." Moreover the proceedings on the introduction and passing a Bill for taking lands are to be regulated by Standing Orders, approved of by the Governor. And the Act forbids the taking of land under a Provincial Act, except in accordance with this Act ("The Provincial Compulsory Land Taking Act"). The Act also assumes to establish a tribunal for deciding disputes as to compensation; this is *ultra vires*, as pointed out with regard to the Fencing Act. Sections 23, 24, 25, are *ultra vires*, inasmuch as they assume to impose duties on the Supreme Court and its officers, and to regulate the practice of that Court. Section 28 is *ultra vires*; it is legislation as to Waste Lands of the Crown; for though it only applies to lands granted, yet it is so framed that it is really legislation on the subject of grants of Waste Lands. Besides that objection, this subject has been dealt with by legislation of the General Assembly—see "Crown Grants Act, 1866," sections 9, 10, 11. The section is objectionable as dealing with a subject which is one purely for the General Assembly. Section 30 is clearly beyond the power of a Provincial Legislature, except under "The Provincial Councils Powers Extension Act, 1865," but the Act has not been reserved as required by that Act. Section 31 is *ultra vires*, as affecting legislation of the General Assembly on the subject of Waste Lands; for though under "The Provincial Councils Powers Extension Act, 1865," Provinces may make laws affecting roads, yet such legislation must not be repugnant to, or inconsistent with, laws of the Colony. Section 32—The Crown Lands Commissioner ought not to have duties imposed on him by the Provincial Legislature. Section 39 assumes to empower Boards to dispose of highways. The Provincial Legislature is empowered by "The Highways and Watercourses Act, 1858," to authorize the Superintendent to dispose of highways, but the provisions of that Act must be observed. This section is not the same, but is repugnant to it. The same observation applies to this section that has been made to others, and may be made to the whole Act, namely, it ought to have been reserved.

I have, &c.,
E. W. STAFFORD.

His Honor the Superintendent, Wellington.

No. 4.

The Hon. E. W. STAFFORD to His Honor I. E. FEATHERSTON.

(No. 199.)

SIR,—Colonial Secretary's Office, Wellington, 28th June, 1867.

With reference to my letter, No. 197, of even date herewith, on the subject of the Acts enclosed in your Honor's letter of the 17th instant, I have now to address your Honor relative to "The Licensing Act, 1867."

This Act repeals existing laws authorizing the issue of licenses, but there is no provision preserving existing licenses. It comes into force on the first July next, and there can be no meeting of Justices to receive applications for licenses till August next. If the Act be not disallowed no licenses now existing will be valid; and while it imposes penalties for selling without a license, it makes no provision for granting licenses for a considerable period after the commencement of the Act. I should be glad if your Honor can furnish me with any explanation which would show that this interpretation of the Act is incorrect, and obviate the necessity of its disallowance.

I have, &c.,
E. W. STAFFORD.

His Honor the Superintendent, Wellington.