

Of course in such circumstances the General Government takes but little in the way of fines, and the Provincial Government less than it should do in the way of license fees. I believe that were half the fine allowed to be paid to the informer both sources of revenue would be more productive, and, which is infinitely more important, the demoralizing effect of habitually breaking the law openly and with impunity, would be stopped.

I respectfully submit these facts for your serious consideration.

I have, &c.,

JNO. P. TAYLOR,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 7.

The Hon. J. C. RICHMOND to His Honor J. P. TAYLOR.

SIR,—

Colonial Secretary's Office, 19th March, 1868.

I have to acknowledge the receipt of your Honor's letter of the 24th January last (received here on the 16th instant), transmitting "The Licensing Ordinance, 1868," passed by the Southland Provincial Council, and reserved by your Honor for the signification of the Governor's pleasure thereon.

There appears to be a clerical mistake in section seventeen of this Ordinance, reference being made to form B in the schedule, and there being no such form; as reference is also made to the form by a figure also (5), the error is not of much importance.

The Government is, however, advised that some of the provisions of this Ordinance are *ultra vires*.

Section seventeen expressly provides that the hearing of applications for licenses shall be a judicial proceeding. Provincial Legislatures are precluded by the Constitution Act from altering the constitution, practice, or jurisdiction of any court. It is true that Provincial Legislatures have constantly passed Acts imposing on Justices of the Peace and Resident Magistrates the duty of hearing applications for licenses, but in many cases the provisions of such Acts have been so framed as to leave it in doubt whether the Justices are invested in the matter with judicial or mere ministerial functions. The provisions in the Ordinance under consideration puts the question beyond doubt by an express declaration that the duties are judicial.

There are also provisions for empowering Justices to declare property forfeited for certain breaches of the Ordinance; these provisions, as the Government is advised, alter the jurisdiction and practice of the court, and are, therefore, *ultra vires*. The Provincial Council should have confined itself to providing penalties for the offences, summarily recoverable, as the law of the Colony provides for the practice and procedure in such cases.

The Government wish, before deciding on the advice to be given with respect to this Ordinance, to be informed whether your Honor wishes it to be assented to in the face of these legal objections.

I have, &c.,

J. C. RICHMOND.

His Honor the Superintendent, Southland.

No. 8.

His Honor J. WILLIAMSON to the Hon. E. W. STAFFORD.

(No. 229.)

Superintendent's Office,

SIR,—

Auckland, 7th March, 1868.

Herewith I have the honor to transmit to you "The Auckland and Drury Railway Act, 1868," (in duplicate) which I have reserved for the signification of His Excellency's pleasure thereon.

I have, &c.,

J. WILLIAMSON,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 9.

The Hon. E. W. STAFFORD to His Honor J. WILLIAMSON.

(No. 150.)

Colonial Secretary's Office,

SIR,—

Wellington, 16th May, 1868.

I have to acknowledge the receipt of your Honor's letter No. 229, of the 7th of March last, transmitting a reserved Bill entitled "The Auckland and Drury Railway Act, 1868."

I regret to have to state that the Government are advised that legal defects in this Bill will prevent the Governor's assent being given to it in its present shape.

The Act of the General Assembly, entitled "The Auckland and Drury Railway Act, 1867," empowers the Superintendent and Provincial Council of the Province of Auckland, by Act, to authorize the mortgage, sale, or lease of the railway on such terms and conditions as to the Superintendent and Provincial Council should seem meet. The Bill in question does not define the terms and conditions, but provides that the Superintendent may mortgage, sell, or lease, but subject to a proviso that any such disposition shall be on condition "only" that the mortgagee, &c., shall complete the railway; but section three provides that the Superintendent may make other conditions as to the completion of any contract made by virtue of the Act for the completion of and working the railway. It is presumed that the framers of the Bill intended by the use of the word "only" that there should, in any disposition, be a condition to the effect that the mortgagee, &c., should complete the work. It could not have been intended that there should be no other conditions; indeed, it seems from the third section that other conditions may be made by the Superintendent. The Act provides that the Superintendent is to decide upon the conditions other than that condition expressly provided. This