

No. 32.

Copy of a Letter from His Honor O. CURTIS to the Hon. E. W. STAFFORD.

House of Representatives,

Wellington, 20th July, 1868.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 14th instant.

The references you make to the letters of the late Superintendent and acting Superintendent undoubtedly prove, what has never been in the slightest degree disputed, that the Provincial Council of Nelson appropriated the sum of £15,000 towards the augmentation of the sinking fund, and that it was the intention of both those gentlemen to carry out that appropriation,—at all events to the extent of £12,000.

The fact remains, however, that that intention was never carried into effect, although the money was deposited at interest, in order that it might be ultimately available for the purpose. It seems to me that it is not material to the subject to enquire into the reasons which influenced the late Superintendent to withhold the £12,000 from the trustees of the sinking fund, but you state them quite correctly.

It is also true that the appointment of the trustees of the sinking fund was never gazetted, but their names were submitted for the approval of His Excellency, and in your letter of the 12th January, 1866, you state that “they will be appointed.”

On the receipt of that letter the late Superintendent, considering the trustees to be virtually appointed, handed to them the amount of the sinking fund which had then accrued, which was by them paid to the Union Bank of Australia to the credit of the “trustees of the sinking fund.” That amount and the subsequent yearly accumulations of the fund were available, and have been devoted towards liquidating the Provincial debt.

The £12,000 on the contrary was never handed over to the trustees nor in any way made available for the sinking fund, but was “paid over to a separate account as a fixed deposit,” as stated in the acting Superintendent’s letter of the 21st February, 1867.

Here is, I think, a most important “element wanting to the completion of the transaction,” the absence of which appears to me to be fatal to the claim of the Colonial Government.

Whether it was strictly legal for the Superintendent to withdraw a portion of the revenue from the Provincial account and place it on deposit, in order that the Province might have the advantage of interest upon it, is, I think, not very important.

If the £12,000 had been paid to the trustees of the sinking fund, or to any other persons under trusts, either declared or implied, to apply it to the augmentation of that fund or the payment of the debentures, the claim of the Colonial Government could probably not have been disputed, although I am of opinion that in equity the Province should, even in that case, have been released, upon the passing of the Public Debts Act, from an application of its funds to the discharge of a liability from which it was relieved by that Act, and that Nelson should have been placed in the same position as the other Provinces of the Colony, by being allowed to liquidate its debt by the ordinary operation of the sinking fund provided by law.

The Colony cannot, so far as I can see, in any degree benefit by anticipating the operation of the sinking fund in the case of the Nelson debt instead of including it with those of the other Provinces in the amount raised by authority of the Consolidated Loan Act in accordance with the Schedule to the Public Debts Act, in which the amount appears; and I am at a loss to account for the pertinacity with which the Colonial Government seems to wish to take advantage of the desire exhibited by the Province of Nelson to meet the liability which at one time rested upon it, after that liability has been removed by the Public Debts Act, and that by what I must be permitted to call the far-fetched process of attempting to establish the existence of a constructive trust.

I have to request that this letter be printed, and added to the preceding portion of the correspondence on the subject which has already been laid before the General Assembly.

I have, &c.,

The Hon. the Colonial Secretary,
Wellington.

OSWALD CURTIS,
Superintendent of Nelson.

No. 33.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor O. CURTIS.

Colonial Secretary’s Office,

Wellington, 21st July, 1868.

SIR,—

I have to acknowledge the receipt of your Honor’s letter of the 20th instant, and to state that it will be printed and presented to the General Assembly in continuation of the correspondence already laid before that body on the subject of the sinking fund to the Nelson Loan.

I have, &c.,

His Honor the Superintendent of Nelson.

E. W. STAFFORD.

MARLBOROUGH.

No. 1.

The Hon. Major RICHARDSON to His Honor W. H. EYES.

Telegram.

Wellington, 30th April, 1868.

THE amount of Nelson Provincial Debt apportioned to Marlborough is £7,500. This principal is due and must be paid on 1st July next. What provision has been made by Marlborough to meet this liability?

His Honor the Superintendent, Marlborough.

J. RICHARDSON.