

CORRESPONDENCE

RELATIVE TO

THE PAYMENT OF THE

NELSON AND MARLBOROUGH PROVINCIAL DEBTS.

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

WELLINGTON.

—
1868.

CORRESPONDENCE RELATIVE TO THE PAYMENT OF THE NELSON AND MARLBOROUGH PROVINCIAL DEBTS.

NELSON.

No. 1.

Copy of a Letter from Mr. BARNICOAT to the Hon. F. A. WELD.

(No. 20.)

SIR,—

Superintendent's Office,
Nelson, 18th March, 1865.

I have the honor to inform you that the sum of £430, sinking fund on £21,500, the sum apportioned to this Province of the debt incurred under "The Nelson Debenture Act, 1858," is ready for investment.

"The Waterworks Loan Act, 1864," under which this sinking fund is set apart, provides that it shall be invested in such manner as the Governor shall direct, and I venture to suggest that the Superintendent, Sub-Treasurer, and Commissioner of Crown Lands of this Province, should be appointed trustees for this purpose.

The Hon. the Colonial Secretary,
Wellington.

I have, &c.,
J. W. BARNICOAT,
Acting Superintendent.

No. 2.

Copy of a Letter from the Hon. J. C. RICHMOND to His Honor A. SAUNDERS.

(No. 316.)

SIR,—

Colonial Secretary's Office,
Wellington, 1st August, 1865.

I have the honor to acknowledge the receipt of the acting Superintendent's letter, No. 20, of the 18th March last, stating that the sum of four hundred and thirty pounds, sinking fund on twenty-one thousand five hundred pounds (£21,500), the sum apportioned to the Province of Nelson of the debt incurred under "The Nelson Debenture Act, 1858," is ready for investment; and referring to "The Waterworks Loan Act, 1864," under which this sinking fund is set apart, and which provides that it shall be invested in such manner as the Governor shall direct.

In reply, I have to inform your Honor that His Excellency the Governor approves of the appointment, suggested by the acting Superintendent, of the Superintendent, the Sub-Treasurer, and the Commissioner of Crown Lands of Nelson, as trustees for the above purpose.

I have, accordingly, to request your Honor to be good enough to undertake this trust, in conjunction with the other gentlemen named, who will be also requested to a similar effect.

His Honor the Superintendent, Nelson.

I have, &c.,
J. C. RICHMOND.

No. 3.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor A. SAUNDERS.

(No. 444.)

SIR,—

Colonial Secretary's Office,
Wellington, 15th November, 1865.

Referring to my predecessor's letter to your Honor, No. 316, of the 1st of August last, on the subject of the appointment of trustees under "The Waterworks Loan Act, 1864," passed by the Nelson Provincial Council, I have to inform your Honor that the proper mode of giving effect to such appointment has been under the consideration of the Government, and after consulting the Hon. the Attorney-General, I have to make the following observations respecting it.

There appears to be a legal difficulty in this matter which I am advised can only be removed by legislation by the General Assembly. What is required is a power in the Governor or Superintendent to appoint trustees of the sinking fund, in whom the fund shall vest, and a power to remove such trustees, and on the death, resignation, or removal, or absence from the Colony of a trustee, to appoint a successor, and a provision that upon any such death, resignation, or removal, the fund shall vest in the remaining trustee, and that upon appointment of a new trustee, the fund shall vest in the new trustee jointly with the remaining trustee. It is doubtful whether a Provincial Legislature has power to make such a provision.

I am advised that the present difficulty may be met by the appointment of certain persons to act as trustees of the fund, but such persons should sign and make a declaration of trust whenever they receive the money. The appointment by the Governor may be made, whatever may be the legal validity, and the money be paid to the trustees, contemporaneously with the signing of the trust deed. This deed should be prepared by the Provincial Solicitor.

I perceive that in accordance with the recommendation of the acting Superintendent in August last, it was contemplated that the Superintendent, Commissioner of Crown Lands, and the Sub-Treasurer, should be appointed trustees. It must, however, be understood that neither of these officers can take the fund, except in his individual capacity, or in other words, that in case of removal from

office, or resignation, or absence, the property would remain in the individual, and would not, on the appointment of a successor, vest in such successor, as that can only be effected by legislation.

Apart from the question of law, it appears advisable that two persons disconnected from the Provincial Government should be selected. The object of the sinking fund is to provide a fund for the payment of the debt, which fund should be put beyond the control of the debtor. This cannot effectually be attained if the trustees are the representatives of the debtor. In Otago the trustees appointed are the Hon. A. C. Strode, the Resident Magistrate; and Mr. John Jones, merchant; and it is believed the effect of appointing such persons is to give increased security for the punctual payment of the annual sums payable.

I would accordingly suggest for the consideration of your Honor, that you should nominate two or three indifferent persons, resident in Nelson, who will consent to act as trustees, and that the Provincial Solicitor prepare a proper declaration of trust, and that then the Governor appoint the persons named and that the money be paid to them. In the event of any change of trustees, a new appointment and a transfer will be necessary. This can only be avoided by legislation.

As the Commissioner of Crown Lands, and the Sub-Treasurer at Nelson, were requested to undertake the duties of trustees, I should feel obliged if your Honor would communicate to them the purport of this letter.

His Honor the Superintendent, Nelson.

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

No. 4.

Copy of a Letter from His Honor A. SAUNDERS to the Hon. E. W. STAFFORD.

(No. 85.)
SIR,—

Superintendent's Office,
Nelson, 29th December, 1865.

Referring to your letter of the 15th ultimo on the subject of the appointment of trustees under the Waterworks Loan Act for the investment of sums of money to be set apart as sinking fund for the liquidation of previous loans, I have to state that I entirely concur in the opinion expressed in that letter that the Trustees should be persons disconnected with the Provincial Government, and I have therefore much pleasure in recommending the undermentioned gentlemen for appointment, viz:—

D. Rough, Esq.,
Oswald Curtis, Esq.,
W. C. Hodgson, Esq.,

I have, &c.,
ALFRED SAUNDERS,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 5.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor A. SAUNDERS.

(No. 22.)
SIR,—

Colonial Secretary's Office,
Wellington, 12th January, 1866.

I have the honor to acknowledge the receipt of your Honor's letter No. 85, of the 29th ultimo, recommending certain persons for appointment as trustees under The Nelson Waterworks Loan Act, for the investment of sums of money set apart as sinking fund, and in reply to state that these persons will be appointed, but that the Provincial Solicitor should prepare a declaration of trust in terms of my letter No. 444, of the 15th November last.

His Honor the Superintendent, Nelson.

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

No. 6.

Copy of a Letter from His Honor A. SAUNDERS to the Hon. E. W. STAFFORD.

SIR,—

Superintendent's Office,
Nelson, 6th May, 1866.

By "The Waterworks Loan Act, 1864," it is provided that a sum equal to two pounds per centum per annum on the amount borrowed by this Province under the authority of "The Nelson Debenture Act, 1858," shall be paid out of the revenue of the Province and set apart as a sinking fund for the liquidation of the loan referred to and invested in such manner as the Governor shall direct.

In addition to the two per cent. the Provincial Council in its last session voted the sum of fifteen thousand pounds to be invested for the same purpose, and as it is the intention of this Government to hand over this amount to the trustees appointed to invest the amount appropriated by the Waterworks Loan Act, I have the honor to request that you will be good enough to inform me at your earliest convenience in what manner His Excellency requires the investment made.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,
ALFRED SAUNDERS,
Superintendent.

No. 7.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor A. SAUNDERS.

(No. 324.)

Colonial Secretary's Office,

SIR,—

Wellington, 20th July, 1866.

I have to acknowledge the receipt of your Honor's letter of the 6th instant, requesting to be informed in what manner under "The Nelson Waterworks Act, 1864," the Governor would direct the sinking fund of that loan to be invested.

In order to enable me definitely to reply to this letter, I have to request your Honor to be good enough to state the precise sum which has accrued or is payable on account of that portion of the sinking fund of "The Nelson Debenture Act, 1858," which relates to the present Province of Nelson, under the eleventh section of "The Waterworks Loan Act, 1864," and also within what precise period the Provincial Government of Nelson propose to liquidate their share of that loan, amounting to £21,500.

I have, &c.,

His Honor the Superintendent, Nelson.

E. W. STAFFORD.

No. 8.

Copy of a Letter from His Honor A. SAUNDERS to the Hon. E. W. STAFFORD.

Superintendent's Office,

SIR,—

Nelson, 28th July, 1866.

In reply to your letter of the 20th instant, relative to the investment of the sinking fund for the liquidation of this Province's share of the loan raised under "The Nelson Debenture Act, 1858," I have the honor to inform you that the amount which has accrued under the provisions of the eleventh section of "The Nelson Waterworks Loan Act, 1864," for the three years ending 31st March next, is £1,290. In addition to this sum the Provincial Council in its last session voted the sum of £15,000 to be invested for the same purpose. It is therefore anticipated that the Government of this Province will be prepared to meet the whole of the debentures to the amount of £21,500, when they become due—namely, on the 1st July, 1870.

As the whole of the abovementioned fund is now lying at the Bank ready for investment, the Province is losing a large sum for the interest which would be obtained as soon as instructions are received that will authorize the trustees to act, and the present time is an unusually favourable one for investment in consequence of the great demand for money.

I have, &c.,

ALFRED SAUNDERS,

The Hon Colonial Secretary, Wellington.

Superintendent.

No. 9.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor A. SAUNDERS.

(No. 468.)

Colonial Secretary's Office,

SIR,—

Wellington, 17th November, 1866.

In reply to your Honor's letter of the 28th July last relative to the investment of the sinking fund for the liquidation of the Nelson Provincial share of the loan raised under "The Nelson Debenture Act, 1858," I have the honor to state that such investment can be made for the present in Colonial Treasury Bills, bearing interest at the rate of four pence per cent. per diem.

I have, &c.,

His Honor the Superintendent, Nelson.

E. W. STAFFORD.

No. 10.

His Honor A. SAUNDERS to the Hon. E. W. STAFFORD.

Telegram.

Nelson, 3rd December, 1866.

THE Nelson Government declines to invest £15,000 in a manner so disadvantageous to this Province as that offered by the Treasury Bills at six and one-twelfth per cent.

The Colonial Secretary, Wellington.

ALFRED SAUNDERS.

No. 11.

Copy of a Letter from His Honor ALFRED SAUNDERS to the Hon. E. W. STAFFORD.

Superintendent's Office,

SIR,—

Nelson, 21st December, 1866.

I have again the honor to address you relative to the investment of the sinking fund provided by this Province for the repayment of the loan raised under "The Debenture Act, 1858." I have already informed you by telegram that this Government cannot consent to the investment being made in Treasury Bills, at a little over six per cent., and I have now to state that it is considered advisable to buy up some of the debentures, if the holders thereof are willing to dispose of them on reasonable terms, instead of investing the money in any other way, and an advertisement has been issued with that view.

Should it be found, however, that these debentures are not to be obtained on terms advantageous

to the Province, Government prefer investing the money in taking up their own debentures issued under "The Waterworks Loan Act, 1864."

I am, of course, aware that "The Waterworks Loan Act, 1864," provides that two per cent. per annum on the sum of £21,500 shall be invested in such manner as the Governor may direct, and I may state that the Provincial Government is prepared to carry out the Act in this respect, but not without a hope that some more advantageous investment may be recommended than Treasury Bills at such a low rate of interest.

I may also state that it was the wish of this Government to have invested the full amount voted by the Provincial Council as a sinking fund, including the two per cent. referred to, in one sum, had His Excellency's Government recommended an investment bearing a higher rate of interest, and less liable at any time to depreciate in value.

I have, &c.,

ALFRED SAUNDERS,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 12.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor A. SAUNDERS.

(No. 527.)

Colonial Secretary's Office,
Wellington, 27th December, 1866.

SIR,—

I have to acknowledge the receipt of your Honor's letter No. 103, of the 21st instant, relative to the investment of the Sinking Fund provided by the Province of Nelson for the repayment of the loan raised under "The Debenture Act, 1858," passed by the Provincial Legislature of that Province.

As the Provincial Government of Nelson appears to consider the rate of interest secured by the Treasury Bills of the General Government, viz., a little more than six per cent., not sufficient, possibly it might be preferred to invest in some of the Provincial securities yet unsold, an abstract of which, showing the respective rates of interest and sinking fund, &c., &c., I enclose for your consideration.

Further information on the subject can be obtained from the various Loan Ordinances themselves.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent, Nelson.

No. 13.

Copy of a Letter from His Honor J. W. BARNICOAT to the Hon. E. W. STAFFORD.

(No. 21.)

Superintendent's Office,
Nelson, 21st February, 1867.

SIR,—

Referring to your letter of the 27th December last, I have the honor to inform you that, previous to the resignation of Mr. Saunders of the office of Superintendent of this Province, the sum of £12,000 was paid over to a separate account as a fixed deposit, the Union Bank allowing six per cent. interest. The reason for adopting this course being that the debentures issued under "The Nelson Debenture Act, 1858," become payable on the 1st July, 1868, and that an investment for so short a period of so large a sum of money could not be readily found.

The amount set aside as required by the Water Works Loan Act, viz., two per cent. on £21,500, the sum to be repaid by this Government, has not yet been invested, and I have the honor to recommend that immediate instructions should be given, in order that the trustees may adopt a similar course to that adopted by the Provincial Government, by depositing the amount in the bank as a fixed deposit until the 1st July, 1868.

I have also to call your attention to the amount coming due from the Province of Marlborough, viz., £7,500, being the share of the debt apportioned to that Province on its separation from the original Province of Nelson. No steps appear to have been taken for meeting the payment of this portion of the debt, and as the debentures were all issued by the Superintendent of Nelson, this Government will no doubt be called upon in the first instance to redeem them; the Marlborough Government should therefore be requested to make some immediate provision for the liquidation of that portion of the loan.

I have, &c.,

J. W. BARNICOAT,
Deputy Superintendent.

The Hon. the Colonial Secretary,
Wellington.

No. 14.

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

(No. 457, Circular.)

Colonial Secretary's Office,
Wellington, 23rd October, 1867.

SIR,—

With a view to bringing into operation the second section of "The Public Debts Act 1867," a copy of which I enclose, I have to request your Honor to be good enough to furnish the Government, as soon as practicable, with the following information as far as the Province of Nelson is concerned:—

The amount now payable for interest and sinking fund.

The dates and places at which such amounts are due.

In case of such amounts having to be remitted to England or elsewhere, whether any contracts or permanent arrangements have been made in respect of such remittances, and what is the nature of such contracts or arrangements.

A statement is also requested distinguishing the amounts which have been raised, from those which remain to be raised under the authority of any Provincial Loan Acts.

It will also be necessary that specific information should be afforded as to any instructions which your Honor or your predecessors may have forwarded with respect to the disposal of any such unraised portion prior to the passing of "The Public Debts Act 1867."

His Honor the Superintendent, Nelson.

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

No. 15.

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

(No. 90.)

Superintendent's Office,
Nelson, 28th November, 1867.

SIR,— I have the honor to forward herewith, in compliance with the request contained in your letter of the 23rd ultimo, a return containing particulars of the Loans of this Province, required by you, with a view to bringing into operation the second section of "The Public Debts Act, 1867."

A reference to this return will show that the £29,000 borrowed under the authority of "The Debentures Act 1858," becomes due on the 1st July next.

I have, &c.,
OSWALD CURTIS,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

Enclosure in No. 15.

PROVINCIAL LOANS, PROVINCE OF NELSON.

Authority and Amount of Loan.	When due.	Rate of Interest.	Annual Amount of Interest and Exchange.	When payable.	Where payable.	Rate of Sinking Fund.	Amount of Sinking Fund paid to Trustees.
"Debenture Act, 1858,"* £29,000.	1868. July 1.	£700 at 10 per cent. £28,300 at 8 per cent.	£ s. d. 2,356 12 10	Half-yearly, 1 Jan. and 1 July.	Union Bank of Australia, Nelson.	2 per cent.	£860.
"Nelson Water Works Loan Act, 1864,"† £20,000.	1867, Jan. 1, £10,000. 1868, Jan. 1, £10,000.	8 per cent.	1,600 0 0	Half-yearly, 1 Jan. and 1 July.	Union Bank of Australia, Nelson.	2 per cent.	Nil.
(Loan authorized, but not raised.)							
"Lunatic Asylum Act, 1862," £5,000.	Not later than 1 July 1880.	Not exceeding 8 per cent.	2 per cent.	...

The rate of sinking fund for all the above-mentioned Acts is fixed by "The Water Works Loan Act, 1864."

* The Province of Nelson is liable for the full amount of this loan, although £7,500 is payable by the Province of Marlborough, as well as £603 12s. 5d. per annum interest thereon.

† By "The Water Works Act, 1863," it is provided that the Water Rates shall be appropriated by the Superintendent in carrying out the provisions of the Act, and in repayment of the principal and interest of this loan.

Provincial Treasury,
Nelson, 28th November, 1867.

J. SHARP,
Provincial Treasurer.

No. 16.

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

(No. 489.)

Colonial Secretary's Office,
Wellington, 2nd December, 1867.

SIR,— I have the honor to acknowledge the receipt of your Honor's letter No. 90, of the 28th ultimo, containing information relating to Provincial Loans.

His Honor the Superintendent, Nelson.

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

CORRESPONDENCE RELATIVE TO PAYMENT OF

No. 17.

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

(No. 49.)

Superintendent's Office,

Nelson, 17th April, 1868.

SIR,—

I have again to call the attention of the Government to the fact that the debentures issued under "The Nelson Debenture Act, 1858," become payable on the 1st July next; and as they are to be presented at this office for payment, I shall be glad to hear what course the Colonial Government intend to pursue to relieve the Province of the responsibility of meeting the demands of the holders thereof.

I have, &c.,

OSWALD CURTIS,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 18.

His Honor O. CURTIS to the Hon. E. W. STAFFORD.

Telegram.

Nelson, 21st April, 1868.

No provision has been made by the Province for payment of debentures. The Public Debts Act provides that principal shall be paid by Colony; and I conclude the Province has clearly no concern in the loan except as to payment of interest and sinking fund.

OSWALD CURTIS,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 19.

The Hon. E. W. STAFFORD to His Honor O. CURTIS.

Telegram.

Wellington, 24th April, 1868.

YOUR telegram of 21st, received as to Nelson Debentures. In your predecessor's letter of 28th July, 1866, the sums of £1,290 and £15,000 were reported as having been appropriated by the Provincial Legislature as sinking fund. Also in Deputy Superintendent's letter of 21st February, 1867, it was reported that out of these amounts, £12,000 were paid into a separate account in the Union Bank as a fixed deposit with six per cent interest, the alleged reason being that the debentures would be payable on the 1st of July, 1868, and that an investment for so short a period could not be readily found.

These amounts of £1,290 and £15,000, appropriated by Nelson Appropriation Acts, 1865 and 1866, and additional sinking fund £860, appropriated permanently by Nelson Waterworks Act, and by Nelson Appropriation Act, 1867, are, with interest thereon, available for paying the debentures when due, and are held by the Province in trust for that purpose.

His Honor the Superintendent, Nelson.

E. W. STAFFORD.

No. 20.

His Honor O. CURTIS to the Hon. E. W. STAFFORD.

Telegram.

Nelson, 25th April, 1868.

THE Council appropriated £15,000 towards payment of debentures, and £12,000 was lodged in the Bank on separate account in the name of Executive Council. The Council has surely the right to alter the disposition of all funds still within their control. I told the Colonial Treasurer the £12,000 would probably not be applied as intended, and he agreed. The Public Debts Act can only refer to sinking fund provided in Debentures Act.

OSWALD CURTIS,

Superintendent.

The Hon. Colonial Secretary, Wellington.

No. 21.

QUERIES put by the Hon. E. W. STAFFORD to His Honor O. CURTIS.

HIS Honor the Superintendent is requested to cause answers to be given to the following queries in connection with the Nelson Loan of £29,000.

1. Amount of debentures issued?
2. At what date due?
3. Where payable?
4. By whom (as far as is known) are debentures held?
5. What prospect would there be, if it were thought desirable, of getting the debentures or any portion of them renewed?
6. What is the amount of the sinking fund which will have become due when the debentures mature, together with interest accrued on the same from date when it was due for investment?
7. What is the amount of interest which will have accrued to the same date on the £12,000 deposited in the Union Bank of Australia to take up debentures?

Nelson, 1st May, 1868.

E. W. STAFFORD.

No. 22.

His HONOR'S REPLIES.

No. 1. £29,000, including £7,500 apportioned to Province of Marlborough.

No. 2. On the 1st July, 1868.

No. 3. Superintendent's Office, Nelson.

No. 4. Don't know. Manager, Union Bank of Australia, will write to Sydney and Melbourne and will inform us. £700 held in Nelson.

No. 5. If all control over the principal of the loan had not been removed from the Provincial Government by the Public Debts Act of last session, they would have had no difficulty whatever in renewing the amount on probably much more favourable terms.

It is surmised that holders of debentures will exchange for 6 per cent. Colonial debentures.

No. 6. £1,720.

No. 7. £1,020.

OSWALD CURTIS,
Superintendent.

No. 23.

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

Colonial Secretary's Office,
Wellington, 21st May, 1868.

SIR,—

The Government has had under its consideration the question of the payment of the Nelson debentures, which become due on the 1st of July next, and the several communications which have passed between the Colonial Government and the Superintendent of Nelson on the subject.

The position of this question is as follows:—When the original loan, amounting to £29,000, was authorized under "The Nelson Debentures Act, 1858," no sinking fund was provided by law, but in 1864 the Nelson Provincial Legislature, desirous of remedying this defect, provided a sinking fund of two per cent. out of the Provincial revenue on the sum of £21,000, that being the share apportioned to the present Province of Nelson under "The Nelson and Marlborough Public Debt Apportionment Act, 1860." In March, 1867, this sinking fund had accumulated to £1,290, and the same Legislature, anxious to supplement this comparatively small provision, which was quite insufficient to meet the debentures due on the 1st July, 1868, appropriated £15,000 for investment for the same purpose. Out of this sum £12,000 was invested by your Honor's predecessor as a fixed deposit in a separate account in the Union Bank of Australia at six per cent. interest, with the express object of enabling the debentures, when they matured, to be duly paid. These appropriations and investments were from time to time reported to the General Government, which was thus led to believe that ample provision had been made by the Provincial Legislature for almost the whole of the debt due by Nelson, and that the small residue could easily be met in a similar manner. The Government is now, however, informed by your Honor, within a few weeks of the maturity of the debentures, that the present Provincial Government of Nelson proposes, without even the authority of any Act of the Provincial Council, to divert to other purposes the appropriation of the £15,000, and of the interest accrued therefrom, from its original object, only leaving the sinking fund (estimated at £1,720, and which was absolutely enjoined by law), to meet a liability of £21,500.

As a justification of this course your Honor refers to the second section of "The Public Debts Act, 1867," which provides that the principal, interest and sinking fund of all Provincial debentures shall be charged upon and paid out of the consolidated revenue of the Colony.

It is obvious, however, from the context of the Act to which you refer, that the obligation imposed on the Colonial Government is only a part of the general financial scheme contemplated by the Legislature, and that the fulfilment of that obligation must depend on the completion of those arrangements now pending in London, which the Public Debts and Consolidated Loan Acts require to be made before those Acts can be carried into practical effect. I would also call your attention to the fact that these Acts may possibly be disallowed by Her Majesty, in which case the Provincial Government of Nelson would alone be responsible for providing the funds with which to pay the Nelson debentures, and if the course proposed by your Honor should be adopted, and the source of payment provided by the Provincial Government be destroyed by your Honor, no funds will be available to meet this liability, and the consequent result would appear to be the non-payment of the Nelson debt.

Under these circumstances, I trust your Honor will reconsider the proposal to divert the funds which the Provincial Legislature has deliberately set apart to discharge the liabilities of the Province of Nelson, and I am encouraged to believe that your Honor will, on reconsideration, recognize that the funds so set apart (and which, I understand, are still available for the purpose) should be applied as originally provided, both because the honor and credit of the Province of Nelson are concerned, and because, as a matter of sound policy in connection with that Province, to act otherwise would afford a precedent likely to be hereafter most prejudicial to its interests. The debt of Nelson is comparatively small, and can be at once discharged in conformity with the intention of the previous Provincial Government and Council, which, with a wise foresight, made timely provision to meet it; but if your Honor, ignoring all liability, should persist in using for other purposes the funds provided for discharging the debt of the Province, it is easy to foresee, in the case of Provinces whose financial burthens are infinitely greater, the advantage that may be taken by them to the subsequent prejudice of Nelson in consequence of that action.

His Honor the Superintendent, Nelson.

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

No. 24.

Mr. J. SHARP to the Hon. JOHN HALL.

Telegram.

Nelson, 2nd June, 1868.

FULL particulars by mail on fifth. To save delay, Superintendent has already made provision for payment of coupons next due on first July.

J. SHARP,
Provincial Treasurer.

The Hon. the Colonial Treasurer, Wellington.

No. 25.

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

Superintendent's Office,
Nelson, 1st June, 1868.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 21st ultimo respecting the debentures of this Province which will become due on the 1st July next.

The statement of facts with which your letter commences is perfectly correct, so far as regards the intention of the Provincial Council in its appropriation of the sum of £15,000 and the steps taken by the late Superintendent in carrying out that intention by placing the sum of £12,000 on fixed deposit in the names of three members of his Executive Council, at the Union Bank of Australia, until the date at which the debentures become due.

The amount was, as you are aware, never added to the Sinking Fund Account nor paid over to the trustees appointed for the management of that fund, and was, on the contrary, retained, and now remains within the direct control of the Executive Government, and therefore at all times subject to re-appropriation by the Provincial Council.

In the meantime the General Assembly, by the second clause of the Public Debts Act, relieved the Provinces from the date of the passing of that Act, namely, the 10th of October, 1867, from all liability to provide for the payment of the principal of their loans otherwise than by the operation of the ordinary sinking funds.

The same clause provides that the interest and sinking fund on Provincial Loans shall also be paid by the Colony, but only after proclamation of time and place by the Governor, the obligation on the Colony to provide for the due payment of the loans themselves being, on the contrary, made operative from and after the passing of the Act.

The third clause provides that all payments made by the Colonial Government on account of interest and sinking fund upon Provincial Loans shall be charged against the Province in respect of which such payment may have been made, and deducted from any moneys payable to such Province.

No such provision for repayment is made with respect to the loans themselves, and it appears to me to be beyond dispute that it was the intention of the Legislature and that the Legislature deliberately enacted that immediately on the passing of the Public Debts Act the Provinces should be absolutely relieved from the repayment of their loans otherwise than by the operation of sinking funds, and that such loans should be provided for, as they become due, by the General Government, and not in any way charged back again to the Provinces.

I cannot conceive that the provisions of the Public Debts Act admit of any other interpretation, or that there is any ground whatever to justify the exception of the Province of Nelson from the benefit of those provisions.

It is true that before the passing of the Public Debts Act, when it was the duty of the Provinces, and not as now, of the Colony, to provide for the payment of their loans, the Legislature of this Province appropriated a sum of money towards the liquidation of their debt. The Provincial Government however, retained possession of that money, and I conceive it is impossible to question the right of the Provincial Legislature, under totally altered circumstances, when relieved by the legislation of the Colony from the liability which it was intended to meet, to dispose of the amount as they think most desirable.

I may mention that it was never my intention, as you appear to conclude, to re-appropriate the £12,000 without the sanction of an Act of the Provincial Council.

Shortly after the passing of the Public Debts Act, viz., on the 28th November, 1867, I furnished the Colonial Government, at your request, with full particulars of the position of the debentures in question, including the date when due, rate of interest and sinking fund, and also the amount of sinking fund, which was stated as £860. No reference whatever was made to any sum of £15,000 or £12,000 or any sum, beyond the ordinary sinking fund, being available to provide for the payment of these debentures; while, on the other hand, in my letter of the 28th of November, accompanying the return, I called your attention to the fact that they would become due on the 1st July, 1868, any further explanation being rendered unnecessary by conversations I had with the Colonial Treasurer in Wellington.

I must therefore be allowed to protest, most emphatically, against that part of your letter to which I am now replying, which implies that you are only recently in possession of the intentions of the Provincial Government on this subject.

The possible disallowance of the Public Debts Act, by the Queen, does not appear to have been in the contemplation of the Colonial Government at the time of its enactment by the General Assembly, or they would otherwise, I presume, have reserved the measure for the signification of Her Majesty's pleasure thereon, as is the usual practice in such cases, instead of advising the Governor to give his assent to it on Her Majesty's behalf, so as to bring it into immediate operation, wholly without reference to the other measures to which you refer, or to the completion of any arrangements whatever.

I am unable to discover that the honor and credit of the Province of Nelson can in any way be

injured by calling upon the General Government to fulfil engagements imposed upon them by the Legislature, or that the interests of the Province would be served by the payment of a considerable sum of money for the relief of the Colonial Treasury.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,
OSWALD CURTIS,
Superintendent.

No. 26.

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

(No. 313.)

Colonial Secretary's Office,
Wellington, 16th June, 1868.

SIR,—

I have to acknowledge the receipt of your Honor's letter of the 1st instant, on the subject of the payment of the Nelson debentures which will become payable on the 1st proximo.

The main question at issue is whether the sum of £15,000 appropriated by the Nelson Provincial Legislature as sinking fund for the payment of their debentures, of which sum £12,000 was invested by the late Superintendent of that Province in the Union Bank as a fixed deposit with interest in trust for this purpose, is under existing law available towards such payments.

Your Honor admits in your letter that the Colonial Legislature did not, in assuming the repayment of Provincial Loans, relieve the Provinces concerned from such repayment, so far at least as the operation of the sinking funds is concerned, and I am unable to perceive that your Honor has drawn, or even attempted to draw, any distinction either in law or equity between the sinking fund appropriated by the Nelson Provincial Legislature, in respect of this loan in the eleventh section of "The Nelson Waterworks Loan Act, 1864," and the sum (now in question) of £15,000, similarly appropriated in 1865, by the same Legislature.

"The Nelson Provincial Appropriation Act, 1865," appropriated distinctly £15,000 as sinking fund on the Provincial Loan, and in reference to that appropriation, Mr. Saunders, then Superintendent, in his letter of the 6th July, 1866, clearly speaks of it as the sinking fund of the Nelson Loan raised under "The Nelson Debentures Act, 1858," and states that it was his intention to transfer the sum of £15,000 to trustees appointed for the investment of the sinking fund already established, of that loan, and he requested the directions of the Governor as to the mode of investment. He thus treated the whole amounts appropriated as one sinking fund of the loan raised under the Debentures Act, and in his letter of the 28th of July, 1866, he reiterated that this sum had been so appropriated, and stated that it was lying at the Bank ready for investment. Pending some arrangement for this investment, the sum of £12,000, to which I have before referred as part of the sum of £15,000, was paid by the Superintendent to a separate account at the Union Bank, as a fixed deposit at interest in trust for the object named. It appears also from the Deputy Superintendent's letter, dated 21st February, 1867, that at that time the Provincial Government considered that this sum of £12,000 was set aside as part of the sinking fund for the payment of the loan. The reasons why this money was not otherwise invested in the names of trustees on an express trust were chiefly of a technical character, but one reason is specially stated in that letter of the 21st of February, 1867, to be "that the debentures issued under 'The Nelson Debentures Act, 1858,' become payable on the 1st July, 1868, and that an investment for so short a period of so large a sum of money could not readily be found."

It cannot therefore be disputed that this sum of £12,000 did, from the time of deposit, cease to be Provincial revenue, and became strictly a trust fund for payment of the loan. The mere fact of your Honor's omitting to include this sum in a return furnished to the Government of the available amount of sinking fund, or any wish on the part of the Provincial Government of Nelson to treat the sum as discharged of the trust, does not discharge it of the trust fastened on it.

Your Honor seems to consider, in your telegram of the 25th April last, that because the money was invested in the bank in the names of your Executive Council, "the Council" (which may mean either the Provincial or the Executive Council) has control over it, and can alter its disposition. But as this money ceased to be revenue (and it could not otherwise have been invested in the names of persons named by the Superintendent), and had been issued from the Provincial Treasury under the Appropriation Act, and deposited at interest in the name of certain persons (whether members of the Executive or otherwise is of no moment) to await the maturity of the debentures for the purpose of paying them, it would, even if the Provincial Legislature had power to do so, be a distinct breach of faith with the public creditor to abolish this security. It could not be pretended that the Provincial Legislature could properly pass a measure dealing with the sums heretofore appropriated to pay the two pounds per cent. per annum towards the sinking fund, and the position of these sums does not differ from that of the £12,000. Both were alike appropriated, issued, and applied towards the sinking fund.

Nor is there anything in the Public Debts Act, on which your Honor appears to rely, to relieve the Province from payment of the Provincial Loan, nor anything which can be construed as releasing this sum of £12,000 from the trust to which it was applied. It is clear from the second section of "The Public Debts Act, 1867," and from the forty-fourth section of "The Public Revenues Act, 1867," (and, as I have already stated, your Honor admits the fact), that the existing sinking funds were to be maintained. If then this sum became, as it is evident it did, part of the sinking fund, it is equally clear that it is still charged with the trust imposed on it, and is only applicable to the discharge of that trust, namely, the payment of the loan. Nor can I concur with the opinion apparently entertained by your Honor, that the Provinces were, by the Public Debts Act, absolved from all duty and responsibility with respect to their loans. It would be more correct to state that the Public Debts Act superadded the Colonial security to the Provincial security which the creditor already possessed. The Provinces are, as the Government is advised, still liable and bound to meet their creditors, and the absence in the Public Debts and Public Revenues Acts of any provision charging the principal directly against the Provinces, does not justify the conclusion that the Colony undertook the whole responsibility and liability, and that the Provinces were accordingly discharged

therefrom, but is attributable to the obvious fact that the payment of the principal of the Provincial debts was expressly provided for by means of the sinking funds which, in addition to the annual interest, are charged upon the Provinces, and which (if properly calculated and invested) will in themselves provide sufficient funds for the payment of the principal of the debts. It was evidently assumed by the Legislature that the annual sinking fund of each loan should be so computed and invested as to create a sufficient fund to pay off the principal when it became due.

Should your Honor, after a consideration of all these circumstances, still determine, which I trust will not be the case, to withhold that portion of the sinking fund to which I have referred, from the object to which it was appropriated, the Colonial Government will take care that the sum, less £1,720, accruing from the annual two per cent. under "The Nelson Waterworks Loan Act, 1864," shall be paid to retire the Nelson debentures which will be due on the 1st of July next. The whole case will, however, be submitted to the General Assembly for its decision, and in the meantime I have to inform your Honor that until the decision of the General Assembly has been arrived at, the Governor will be advised to withhold his assent from, or to disallow, any Provincial Act which may purport to appropriate to other purposes the sums already appropriated towards providing for the discharge of the Nelson debts.

I may, in conclusion, observe in reference to conversations which you state took place between yourself and the Colonial Treasurer, that, whatever conversations may have taken place, your Honor must have totally misconceived the meaning of the Colonial Treasurer, if you supposed him to mean that the Province of Nelson was not to provide for discharging its debts.

His Honor the Superintendent, Nelson.

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

No. 26.

The Hon. JOHN HALL to His Honor O. CURTIS.

Telegram.

Wellington, 11th June, 1868.

CONTROLLER objects to issue money for paying Nelson debentures until some personal evidence is produced of the date when the debentures are payable. Will you send a formal certificate to the above effect by first mail.

JOHN HALL.

His Honor the Superintendent, Nelson.

No. 28.

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

(No. 63.)

Superintendent's Office,

SIR,—

Nelson, 13th June, 1868.

In compliance with the request contained in the telegram received from the Postmaster-General on the 11th instant, I have the honor to forward herewith a certificate as to the date when the debentures issued under the authority of "The Nelson Debenture Act, 1858," become due.

I have, &c.,

OSWALD CURTIS,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

Enclosure in No. 28.

Superintendent's Office, Nelson, 13th June, 1868.

I HEREBY certify that the Debentures issued under the authority of "The Nelson Debenture Act, 1858," mature on the 1st July, 1868, and become payable at this office on that day.

OSWALD CURTIS,
Superintendent.

Countersigned—J. SHARP,
Provincial Treasurer.

No. 29.

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

(No. 314.)

Colonial Secretary's Office,

SIR,—

Wellington, 19th June, 1868.

I have the honor to acknowledge the receipt of your Honor's letter No. 63, of the 13th instant, forwarding a certificate as to the date when the debentures issued under the authority of "The Nelson Debenture Act, 1858," become due.

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

His Honor the Superintendent, Nelson.

No. 30.

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

SIR,—

House of Representatives, Wellington, 11th July, 1868.

I have the honor to acknowledge the receipt of your letter of the 16th of June, respecting the payment of the Nelson debentures, which fell due on the 1st of this month.

The main question at issue is, as you remark, whether the sum of £15,000, appropriated by the Provincial Legislature in 1866, towards augmenting the sinking fund provided by "The Waterworks Loan Act, 1864," or at all events that of £12,000, lodged by the late Superintendent in the Union Bank of Australia with the intention that it should be ultimately so applied, can be claimed by the Colonial Government towards payment of the debentures.

But I cannot allow that this sum of £12,000 was, as you state, deposited "in trust for that purpose." On the contrary, no such trust was either declared or implied, and at the expiration of the term for which the money was deposited, the amount necessarily reverted to the Provincial Treasury. Had it been intended by the late Superintendent to create any such trust, it seems perfectly clear that he would have placed the money in the hands of the trustees of the sinking fund itself, instead of in the hands of three members of his Executive Council, with no other instructions than to deposit it at interest in the Union Bank of Australia for a specified term.

There can be no question that, so far as the operation of the sinking funds provided by law is concerned, the Provinces are still responsible for the repayment of their loans, but, as I have already maintained, not otherwise.

You observe that I have not drawn, and have not attempted to draw, any distinction between the sinking fund provided in "The Waterworks Loan Act, 1864," and the sum set down for sinking fund in "The Appropriation Act, 1866."

I have not done so because I considered the distinction to be so wide and so obvious that it was quite unnecessary to refer to it.

The Waterworks Loan Act enacts, that "there shall be paid yearly out of the public revenue of the Province of Nelson, such sum of money as shall be equal to two pounds per centum per annum upon the said sum of £21,500, being the debt of the Province of Nelson under the said first-mentioned Act." ("Nelson Debentures Act, 1858.")

"The Appropriation Act, 1866," enacts that "out of the revenue of the Province of Nelson there may be issued and applied any sums of money not exceeding the several sums hereinafter specified."

The first quoted Act imposes a positive legal obligation to pay not less than a certain sum of money.

The Appropriation Act simply authorizes, but does not require, the Superintendent to apportion the revenue in the manner therein specified.

It is the Superintendent's constitutional duty to carry out the provisions of the Appropriation Act; but he is under no legal obligation to devote a single shilling of the revenue to any one of the items of expenditure specified in it.

While generally carrying out the intentions of the Provincial Legislature, it is, I contend, not only the right, but the duty, of the Superintendent to refrain from the expenditure of the public money upon objects to which subsequent events have rendered it unnecessary or impolitic to devote it.

"The Public Debts Act, 1867," entirely changed the position of the Provinces with respect to the repayment of their loans, by imposing that duty directly, and not by way of guarantee, as I understand you to maintain, upon the Colonial Government.

The only obligation still devolving upon the Provinces is that of providing for the payment of the interest and sinking funds established by law, and this obligation the Province of Nelson is perfectly prepared to fulfil.

I am unable to understand your reference to "a breach of faith with the public creditor."

So long as the public creditor is paid his money when it becomes due there can be no breach of faith; and I am surely not to infer that you consider that the public creditor will be aggrieved by being so paid under the provisions of "The Public Debts Act, 1867," instead of under those of "The Nelson Appropriation Act, 1866."

The question in difference is one affecting the relations between the Colony and the Provinces as regards the Provincial loans, and in no way concerns the public creditor, who can have recourse to either, or both.

The immediate points at issue are, firstly—Whether an Appropriation Act, passed by the Provincial Legislature, binds the Province to expend each and every of the sums therein specified, whatever circumstances may arise to render such expenditure unnecessary or unadvisable; and, secondly—Whether the admitted intention of one Superintendent to expend a certain sum in accordance with that Act can be construed to be either legally or morally binding upon his successor under a totally altered state of things which it was impossible to foresee.

That any trust, either declared or implied, other than that to return the money and interest to the Provincial Treasury when the term had expired, attached to the £12,000 deposited in the Union Bank of Australia, or to the gentlemen in whose names it was deposited, I again distinctly deny; and I must at the same time protest against the manner in which you repeatedly assume and assert, in the course of the letter to which I am now replying, that the £12,000 was placed in trust for the augmentation of the sinking fund, or for the payment of the debentures.

In reference to your intimation that, pending the decision of the General Assembly upon this subject, the Governor will be advised to withhold his dissent from, or to disallow, any Provincial Act which may purport to appropriate to other purposes the sums already appropriated towards providing for the discharge of the Nelson debts, I may observe that no Act of the Provincial Legislature of Nelson will be submitted to His Excellency which purports to appropriate any specific sums, or any money which does not legally form a part of the public revenues of that Province.

I have, &c.,

OSWALD CURTIS,
Superintendent of Nelson.The Hon. the Colonial Secretary,
Wellington.

No. 31.

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

(No. 351.)

Colonial Secretary's Office,

SIR,—

Wellington, 14th July, 1868.

I have the honor to acknowledge the receipt of your Honor's letter of the 11th instant, in reply to mine of the 16th ultimo, on the subject of the sinking fund for the payment of the Nelson Debentures.

As the arguments contained in your letter appear to me to be founded on some misapprehension of the facts of the case, I desire, as briefly as possible, to point out in what, I conceive, that misapprehension consists.

Your Honor states, with respect to the sum of twelve thousand pounds, that no trust was "either declared or implied" for the payment of that sum as sinking fund to the loan. On that point I would refer your Honor to the letters respectively dated the 6th of May, the 6th of July, and the 21st of December, 1866. In those letters, Mr. Saunders, the then Superintendent of the Province of Nelson, altogether recognizes the sum voted by the Provincial Council as part of the sinking fund raised under "The Nelson Waterworks Loan Act, 1864," and treats of the whole as one amount ready for investment by trustees. I would also refer your Honor to the letter dated 21st February, 1867, from the Deputy Superintendent of Nelson, who writes, that "previous to the resignation of Mr. Saunders of the office of the Superintendent of this Province, the sum of twelve thousand pounds was paid over to a separate account as a fixed deposit, the Union Bank allowing six per cent. interest—the reason for adopting this course being that the debentures issued under 'The Nelson Debenture Act, 1858,' become payable on the 1st July, 1868, and that an investment for so short a period of so large a sum of money could not be readily found;" and further, with respect to the sinking fund created by the Waterworks Loan Act, he advises that trustees should "adopt a similar course to that adopted by the Provincial Government, by depositing the amount in that bank as a fixed deposit until the 1st July, 1868." The effect of these letters appears to have escaped your Honor's attention, for they not only imply, but even declare a trust with respect to the sum to which they refer. The deposit in the bank is expressly named as a substitute, under special circumstances, for a more permanent investment—the object to which the money was devoted being the same in both cases—and the advice given was to adopt the same course with respect to the other part of the sinking fund, concerning which no question has arisen. The investment of the money in the names of three members of the Provincial Executive Council instead of trustees of the sinking fund, does not prove, as your Honor infers, that no trust was intended to be created, for at that time no such trustees had been appointed, and the Superintendent had no power to make the appointment.

Your Honor further states that the Provincial Appropriation Act, under which the twelve thousand pounds were appropriated, simply authorized, but did not require the Superintendent to expend that sum. But I must remind your Honor that in this case the authority conferred by the Provincial Legislature was acted on by the Superintendent, who drew the money from the Provincial Treasury, and invested it in the names of certain persons for the express and avowed purpose of using it as a supplemental sinking fund. The combined action of the Provincial Legislature, which authorized the issue of the money for the particular purpose of a sinking fund, and of the Superintendent who, under that authority, issued that money, necessarily converted it into a sinking fund as inalienable as that created by "The Nelson Waterworks Loan Act, 1864," and constituted, so far as equity is concerned, a contract with the public creditor which could not, without breach of faith, be revoked even by subsequent legislation.

This statement will elucidate the reference (which you state you are unable to understand) in my letter of the 16th ultimo, to "a breach of faith with the public creditor." I cannot, however, perceive any indistinctness in the paragraph which contains those words. I stated that, as the money in question had ceased to be Provincial revenue, and had been issued under the Appropriation Act, and had been deposited at interest in the names of certain persons to await the maturity of the debentures for the purpose of paying them, it would be a breach of faith with the public creditor to abolish, even by legislation, this security. The mere fact that another person has guaranteed that the principal when due shall be paid, does not affect the breach of faith that would arise from the diversion to other purposes of what had accrued as a sinking fund for the payment of that principal.

I cannot admit the correctness of your Honor's definition of the points at issue. They do not relate merely to questions of discretion and intention, but they are—first: Has the money been issued by warrant of the Superintendent under the Appropriation Act? And, secondly: Did the Superintendent make that issue with the express object of using the money as an additional sinking fund? Both these questions must, I submit, be distinctly answered in the affirmative. The Superintendent had no legal power to take money out of the Provincial Treasury and pay it to certain persons in trust, and then to return it into that Treasury. Those persons had no power to hold public money for such a purpose. But the Superintendent had legal power to issue a sum appropriated towards the payment of the debentures, and he did make that issue, and invested it for that object in the mode which he thought most desirable. No element is wanting to the completion of the transaction. The authority to issue, the issue itself, and the intention of the Legislature and the Executive are in entire harmony, while all embarrassment and suspicion are avoided. Should your Honor's assumptions as to the position of the case be adopted, the intention of the Legislature would be frustrated, the action of the Superintendent illegal, and a large sum dealt with at the discretion of the Executive for the time being, either as a sinking fund or not, in a manner so lax and irregular as could not fail to be highly injurious to public interests.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent, Nelson.

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.

No. 2.

Mr. WOODWARD to Mr. C. GOULTER.

Telegram.

Wellington, 15th May, 1868.

THE Colonial Treasurer would be glad of an immediate answer to former telegram, stating what provision you are making for your portion of the Nelson debt, as it has to be paid off on the 1st of July.

J. WOODWARD,
Assistant Treasurer.

The Provincial Treasurer, Marlborough.

No. 3.

Mr. GOULTER to the Hon. JOHN HALL.

Telegram.

Blenheim, 15th May, 1868.

PROVISION has been made by clause 2 Public Debts Act 1867. Provincial Revenue liable after 1st July under clauses 44 and 46 Public Revenues Act 1867.

C. GOULTER,
Provincial Treasurer.

The Hon. the Colonial Treasurer, Wellington.

No. 4.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor W. H. EYES.

(No. 256.)

Colonial Secretary's Office,

Wellington, 15th May, 1868.

SIR,—

I have to draw your Honor's attention to the circumstance that the principal, amounting to £7,500, allocated by law to the Province of Marlborough out of the Provincial Debt of the original Province of Nelson, is payable on the 1st of July next at the office of the Superintendent of the Province of Nelson, and to request your Honor to be good enough to state what provision has been made on the part of the Province of Marlborough to pay that sum when it becomes due.

The Colonial Treasurer addressed to your Honor on the 30th ultimo a telegram requesting this information, but he has not, so far as I am aware, been yet furnished with it.

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

His Honor the Superintendent, Marlborough.

No. 5.

Copy of a Letter from Mr. J. B. WEMYSS to the Hon. E. W. STAFFORD.

(No. 43-140.)

Superintendent's Office, Blenheim,

20th May, 1868.

SIR,—

I beg to acknowledge the receipt of your letter No. 256, of the 15th instant, informing me that the sum of £7,500 allocated by law to the Province of Marlborough, out of the Provincial debt of the original Province of Nelson, is payable on the 1st of July next, and requesting to be informed what provision for the payment of the said sum has been made on the part of the Province.

I have now the honor to state that a telegram requesting this information was received a few days ago by the Provincial Treasurer, and a reply was forwarded by him to the Hon. the Colonial Treasurer to the effect that no special provision had been made by the Province for the payment of the said sum, but that the payment to the debenture holders had been provided for by the second clause of "The Public Debts Act, 1867," and the repayment to the Colonial Treasury, by clauses forty-four and forty-six of "The Public Revenues Act, 1867."

I have, &c.,
JAMES BALFOUR WEYMSS,
(for the Superintendent.)

The Hon. the Colonial Secretary, Wellington.

No. 6.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor W. H. EYES.

(No. 267.)

Colonial Secretary's Office,

Wellington, 21st May, 1868.

SIR,—

I have to address your Honor on the subject of the Marlborough Provincial Debt of £7,500, the share apportioned to Marlborough under "The Nelson and Marlborough Public Debt Apportionment Act of 1860," the principal of which debt falls due on the 1st of July next. I have been unable to ascertain from your Honor that any provision has been made by the Province of Marlborough to meet this liability. It appears that the Marlborough Provincial Council appropriated £1,000 in 1866 for sinking fund for this purpose, as no sinking fund had been provided by law, but I am not informed whether that sum has been added to or is still available. Reference is made by the Provincial Treasurer in a telegram dated the 15th instant, to the second section of "The Public Debts Act, 1867," but it is obvious from the whole scope of that Act, taken in connection with the Consolidated Loan Act, that the intention of the Colonial Legislature was, that action under the Public Debts Act should only take effect when the whole scheme of finance contemplated in that Act and "The Consolidated Loan Act, 1867," could be brought into practical operation. Until the negotiations now pending in London on this subject have been definitely concluded, this cannot be done. But even if the Act in question were in full operation the Province cannot be relieved from the direct liability for its debts imposed upon it by law.

I have accordingly to request that your Honor will, by an early opportunity, inform me what course you propose to take to provide for the payment of the sum of £7,500 due on the 1st July next.

His Honor the Superintendent, Marlborough.

I have, &c.,

E. W. STAFFORD.

No. 7.

Copy of a Letter from His Honor W. H. EYES to the Hon. E. W. STAFFORD.

(No. 46-143.)

Superintendent's Office,

SIR,—

Blenheim, 6th June, 1868.

In reply to your letter No. 68, of the 21st ultimo, on the subject of the Marlborough Provincial Debt of £7,500, I have the honor to inform you that in the present financial state of this Province, it is quite impossible for me to propose to take any steps to provide for the payment of the said sum to the Colonial Treasury other than the provision already made by the forty-sixth clause of "The Public Revenues Act, 1867."

The sum of £1,000, which in the year 1866, was voted by the Provincial Council as a sinking fund towards the payment of this debt, was never appropriated for the purpose, the revenue of the Province not admitting of my doing so.

I have, &c.,

W. H. EYES,

Superintendent.

The Hon. the Colonial Secretary, Wellington,

No. 8.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor W. H. EYES.

(No. 304.)

Colonial Secretary's Office,

SIR,—

Wellington, 17th June, 1868.

I have to acknowledge the receipt of your Honor's letter No. 46-143, of the 6th instant, on the subject of the payment, which will be due on the 1st proximo, of the sum of £7,500, being the principal allocated by law to the Province of Marlborough, out of the Provincial debt of the original Province of Nelson.

As your Honor is unable to take any steps to provide for the payment of this sum, and as the amount of £1,000 voted by the Provincial Council of Marlborough in 1866, as sinking fund towards such payment, was never appropriated for that purpose, the Colonial Government will provide the funds for the payment of this debt, but the whole case will be submitted to the General Assembly, in order that it may be dealt with by further legislation in such manner as may be found necessary.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent, Marlborough.

