

time the debentures became repayable. It also seems to me that the framers of the Provincial Loan Ordinances calculated that the sinking fund would produce 6 per cent. I shall be happy to give you, or any one authorized to receive them, any further explanations you may desire.

Your second request, that I will transmit all securities, &c., relating to investments made on behalf of the sinking funds of Canterbury to the Crown Agents for the Colonies, and transfer to the account of the Commissioners, &c., all such balances remaining in my hands still uninvested, I must, as you will have anticipated, decline altogether to comply with. My reasons for this will sufficiently appear from my letter to Earl Granville. And further, I have been advised by high legal authority, and I entirely concur in the opinion, that such action by the trustees would be a breach of trust, which might be restrained by injunction from Chancery if we intimated our intention to take such measures as you request, and would make us personally liable to the outstanding debenture-holders if we carried those measures into execution. Probably this view of the matter has not been present to your mind, or to that of the New Zealand Government; for I cannot imagine they would knowingly invite trustees in England to commit a breach of trust, and threaten innocent parties with penalties for our non-compliance with the invitation,—and all this without any provision, that I know of, for our indemnification and release.

Your suggestion, that it would be desirable that we should decline, for the future, to receive any further payments on account of these sinking funds, shall receive every consideration. Perhaps it is one which may be more fitly addressed to the Superintendent of Canterbury, to whom I shall of course forward a copy of this correspondence.

J. E. FitzGerald, Esq.

I have, &c.,

HENRY SELFE SELFE.

I entirely concur in the above.

T. S. COCKS.

Enclosure 5 in No. 1.

Copy of a Letter from Mr. J. E. FITZGERALD to Mr. S. SELFE.

Office of the Commissioners of the Public Debts Sinking Funds,
Wellington, New Zealand, 10th June, 1869.

SIR,—

I have the honor, on behalf of the Commissioners of the Public Debts Sinking Funds, to acknowledge the receipt of your letter of the February, 1869, in reply to my letter of the 8th December, 1868, together with the accounts which accompanied it, and to convey to you the thanks of the Commissioners for the attention which you have paid to their communication.

The Commissioners have given careful attention to the objections which you have raised to the transfer of the sinking funds in your hands to their control. They desire, however, to say that it is no part of their duty to enter upon any question as to the policy of the Act under which they derive their powers. Their duty is simply to carry out the intention of Parliament to the best of their abilities. The Commissioners have therefore submitted your letter to the Government, and have no doubt that the questions which it raises will become the subject of consideration in the General Assembly, which is now in session. In the meanwhile, the Commissioners will not think it right to take any further steps at present.

I am, however, at the same time to acquaint you that the Crown Agents for the Colonies, as trustees for the sinking funds of the unconverted portion of the New Zealand Loan of 1863, have raised an objection to the transfer of those funds to the Commissioners, upon the ground that, in the advertisements for tenders, subscribers to that loan were promised that the sinking fund should be intrusted to trustees in England. In laying the correspondence before the Government, the Commissioners have accompanied it with an expression of their opinion that it is not desirable to disturb arrangements made in England, in the maintenance of which the credit and good faith of the Colony may be deemed, whether reasonably or otherwise, to be involved; and they have submitted for the consideration of the Government whether it may not be prudent to bring the matter before the General Assembly, which is now in session, with the view of passing an Act for relieving the Commissioners from the control and custody of the sinking funds upon the unconverted portion of the Loan of 1863.

The Commissioners have made no such expression of opinion in the case of the Canterbury sinking funds, because they do not gather that any promise was made, or understood to be made to the lenders that the sinking funds would be placed in the hands of trustees in England; and Canterbury is the only Province whose sinking funds were not paid to trustees in the Colony and are not now in the hands of the Commissioners. They also hold all the sinking funds of the Colonial loans, except those referred to above and those of the loans guaranteed by the Home Government.

The Commissioners have therefore thought it right to lay your letter before the Government, unaccompanied by any expression of opinion, in order that Parliament may determine whether it will leave the Act to be carried out or will pass some measure relieving the Commissioners from the duty of taking such steps as might become necessary to enforce its provisions.

So soon as the Commissioners shall have been made acquainted with the decision to which the Government and Parliament have arrived, they will do themselves the honor of communicating with you again upon the subject.

I have, &c.

JAMES EDWARD FITZGERALD,

Chairman of the Public Debts Sinking
Funds Commission.

Henry Selfe Selfe, Esq.,
15, St. George's Square, London.