

No. 3.

His HONOR the SUPERINTENDENT, Wellington, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Wellington, 2nd February, 1874.

I have the honor to acknowledge the receipt of your letter of the 28th ultimo. In reply to your several questions, I have to observe,—

1. That, whilst I am unable to give you any specific assurance, it will be the aim and endeavour of the Provincial Government to provide, as far as practicable, for the expenditure authorized by "The Bridges, Roads, and other Works Appropriation Ordinance, 1874," out of the ordinary Provincial revenue, and not to have recourse to any overdraft to a greater extent than may be necessary to give effect to the wishes of the Council.

2. That no expenditure will be made except, under authority of a warrant first certified to by the Provincial Auditor, and afterwards signed by the Superintendent.

With reference to the last paragraph of your letter, I venture to express my belief that the New Zealand Parliament will, if left to itself, be disposed to support the views of the several Provincial Councils; and that it will not oppose the wishes of the representatives of the people of any particular Province, after they have been deliberately and unanimously expressed by Acts.

I have, &c.,

WILLIAM FITZHERBERT,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 4.

The Hon. the COLONIAL SECRETARY to His Honor the SUPERINTENDENT, Wellington.

SIR,—

Colonial Secretary's Office, Wellington, 6th February, 1874.

I have the honor to acknowledge the receipt of your letter of February 2nd, in which you decline to give me the specific assurance for which I asked in my letter of the 28th ultimo, that you would confine within legal limits the expenditure under "The Wellington Bridges, Roads, and other Works Appropriation Ordinance, 1874;" and in which you further state, in reply to the second assurance asked for in my letter, "That no expenditure will be made except under the authority of a warrant first certified to by the Provincial Auditor, and afterwards signed by the Superintendent."

Before referring further to your Honor's letter, I will explain the circumstances under which the letter was written to which yours is a reply.

It was within the knowledge of the Government that in your Honor's opening address to the Provincial Council on the 5th November, you stated that you had arranged to procure £50,000 by overdraft from the bank, and that you proposed that this sum should be expended on account of a larger sum appropriated, which you said the Provincial Government would endeavour to obtain as wanted. The proposed Ordinance fell through during the then Session; but during a second Session held in January, the Ordinance now under consideration passed the Council, and in ordinary course it came before the Government to consider whether His Excellency should be advised to leave it to its operation or to exercise his power of disallowance.

If the Ordinance had proposed to give power to expend money obtained by way of overdraft or loan in excess of what the law allows, the Government would at once have felt it their duty to advise His Excellency to disallow it. The Ordinance is so framed as to raise a strong presumption that it is intended the money appropriated shall be procured in some other than the ordinary way, because (as I remarked in my letter of January 28th), instead of the ordinary authority to expend out of Provincial revenue, with the usual provisions inserted in Appropriation Ordinances of the Province, the Ordinance authorizes the expenditure to be made by the Superintendent, without defining the source out of which it is to be defrayed. The Government were advised that, supposing any one sufficiently relied on the good faith of the Province to make him willing to advance the money to the Superintendent without the authority of law, there would be nothing to prevent the Superintendent expending such money without the concurrence of the Provincial Auditor. Granted that an Ordinance framed under such circumstances would be *ultra vires*, it might still be held as a moral recognition on the part of the Provincial Council of the debt incurred. The Assembly attaches so much importance to restricting unauthorized Provincial borrowing, and to Provincial expenditure being controlled by Provincial Auditors, that the General Government felt they would not be fulfilling their duty if they sanctioned, directly or indirectly, any measures which, either in letter or spirit, evaded the wishes of Parliament oftentimes expressed.

My letter of the 28th January was written to your Honor in the hope that, notwithstanding the questionable shape of the Ordinance, the Government might have been justified in advising that it should be left to its operation, upon the security afforded by your Honor's assurance that nothing irregular would be done under it. Two questions were submitted to your Honor: firstly, you were asked for an assurance that the expenditure under the Ordinance should be out of Provincial revenue, supplemented, if necessary, by an overdraft not exceeding that which the law permits; secondly, that the expenditure should only be made with the cognizance of the Provincial Auditor.