

## No. 11.

The Hon. the COLONIAL SECRETARY to His Honor the SUPERINTENDENT, Hawke's Bay.  
(No. 291.)

SIR,—

Colonial Secretary's Office, Wellington, 25th August, 1875.

I have the honor to acknowledge the receipt of your letter of the 9th ultimo, enclosing nine Bills which had been passed by the Provincial Council of Hawke's Bay, and had been reserved by your Honor for the signification of the pleasure of His Excellency the Governor thereon.

His Excellency will be advised to assent to

"The Market Reserve Act, 1875;"

"The Cattle Trespass and Impounding Act Amendment Act, 1875;"

"The Credit Act, 1875;" and

"The Appropriation Act, 1875."

With reference to "The Licensing Act Amendment Act, 1875," against the assent to which your Honor transmitted a petition in your letter of the 22nd ultimo, with a request, on your own behalf, that His Excellency might be advised to withhold his assent from the Act, I have to observe that, as the Act requires that application shall be made to the Licensing Court for the issue of a certificate before a bottle license can be obtained under it, the Government think that the protection thereby afforded to public interests is sufficient, without taking the unusual course of disallowing a provincial Act to which there appears to be no legal objection. His Excellency will therefore be advised to assent to this Act.

I am advised that "The Fencing Act, 1875," is legally objectionable. It purports to be made under the Act of the General Assembly, passed last session, permitting Provincial Legislatures to pass Ordinances authorizing Courts of law to hear and determine matters beyond the ordinary jurisdiction of such Legislatures. The 3rd section of this Ordinance brings the Act of 1874 into operation; but it will be seen, on reference to the 3rd section of the latter Act, that it is provided that, on the passing of any such Ordinance as in the 2nd section mentioned, certain Courts should have power "to hear and determine any such matters as in such Act or Ordinance provided," being any one of the matters thereinafter mentioned. The matters on which provinces may so legislate are specified, it having evidently been the intention of the Assembly that the Provincial Legislature should set out the matters which might be heard and determined by the Courts referred to. This the Ordinance does not do, but merely brings the Act of the Assembly into operation. However, as the defect pointed out is a technical one, and as your Honor has undertaken to pass an amending Bill through the next session of the Provincial Council, I will advise His Excellency to assent to this Act.

"The Municipal Corporations Waterworks Act Adoption Act, 1875," is, as I am advised, open to objection. The Act of the General Assembly passed in 1872 empowered Provincial Legislatures to bring the Act into operation in boroughs, to take effect from a day to be fixed by the Ordinance. No day is fixed by this Ordinance, and consequently the Act intended to be brought into operation has no effect. Moreover, the Ordinance affects to modify the Act, by introducing new provisions affecting sections 29 and 35 of such Act. This is clearly *ultra vires*. For the above reasons, therefore, it will be my duty to advise His Excellency to withhold his assent from the Ordinance.

Before deciding on the advice which it will be proper to tender to His Excellency with respect to "The Hospital Endowment Act, 1875," I should be glad to learn from your Honor how the lands described in Schedule B are vested in the Superintendent. As to that parcel of land mentioned in Schedule A, there would appear to be no objection to the proposed mode of dealing with it; but there is some confusion or inconsistency in sections 5, 6, and 7 of the Bill. There is a reference to lands in the Schedule to a "Napier Hospital Endowment Act, 1875," and leasing powers are given; but no powers are given in respect of the lands mentioned in the Schedule to this Act. Section 7 applies to lands in "the Schedule," but what Schedule is meant—that to "The Napier Hospital Endowment Act" or this Act? I await your Honor's reply on these points before taking further action in reference to this Bill.

I am advised that "The Hawke's Bay Sheep Act Amendment Act, 1875," contains an objectionable feature in providing that rates shall be recovered in a summary way, without saying who is to recover them. It ought simply to have created the rates a debt to the proper authority, and left their recovery to the ordinary operation of law. I call your Honor's attention to this defect, but am nevertheless prepared to advise His Excellency to assent to the Bill if your Honor will undertake to have it amended in the next session of the Provincial Council.

His Honor the Superintendent, Hawke's Bay.

I have, &c.,

DANIEL POLLEN.

## No. 12.

His Honor the SUPERINTENDENT of Hawke's Bay to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 30th August, 1875.

I have the honor to acknowledge the receipt of your letter No. 291, of the 25th instant, enclosing nine Bills passed by the Provincial Council of Hawke's Bay in its last session. In respect to "The Fencing Act, 1875," and "The Hawke's Bay Sheep Act Amendment Act, 1875," to which there are legal objections, but which Acts you inform me you will advise His Excellency the Governor to assent to, on my undertaking to pass amending Bills during the next session of the Provincial Council, to meet the legal objections referred to, I beg to state that I will do so. With regard to "The Hospital Endowment Act, 1875," I will take steps to furnish you with the information required.

I have, &c.,

J. D. ORMOND,

Superintendent.

The Hon. the Colonial Secretary, Wellington.