

1875.  
NEW ZEALAND.

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# DISALLOWANCE OF PROVINCIAL BILLS,

(PAPERS RELATIVE TO).

*Presented to both Houses of the General Assembly by command of His Excellency.*

AUCKLAND.

No. 1.

His Honor the SUPERINTENDENT, Auckland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Auckland, 22nd June, 1874.

Herewith I have the honor to transmit to you duplicates of the under-named Bills, passed by the Auckland Provincial Council, and assented to by me on behalf of the Governor, viz. :—

- “ The Newmarket Hall Act, 1874 ; ”
- “ The Fencing Acts Suspension Act, 1874 ; ”
- “ The Hauraki District Fire Rate Act 1872 Amendment Act, 1874 ; ”
- “ The Public Buildings Act, 1874 ; ”
- “ The Mangapiko Road Act, 1874 ; ” and
- “ The Auckland Supreme Court Site Grant Empowering Act, 1874.”

I have, &c.,

J. WILLIAMSON,  
Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 2.

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

SIR,—

Colonial Secretary's Office, Wellington, 27th July, 1874.

I have received your Honor's letter of the 22nd ultimo, No. 723, in which you enclose duplicates of the under-named Bills, passed by the Auckland Provincial Council and assented to by your Honor on behalf of the Governor, viz. :—

- “ The Newmarket Hall Act, 1874 ; ”
- “ The Fencing Acts Suspension Act, 1874 ; ”
- “ The Hauraki District Fire Rate Act 1872 Amendment Act, 1874 ; ”
- “ The Public Buildings Act, 1874 ; ”
- “ The Mangapiko Road Act, 1874 ; ” and
- “ The Auckland Supreme Court Site Grant Empowering Act, 1874.”

2. His Excellency will not be advised to exercise his power of disallowance with respect to—

- “ The Newmarket Hall Act ; ”
- “ The Fencing Acts Suspension Act ; ”
- “ The Hauraki District Fire Rate Act 1872 Amendment Act ; ” or
- “ The Mangapiko Road Act.”

3. With reference to the last-mentioned Act, however, though it is left to its operation, I must point out to you that it is open to the same objections as those which have been made to other similar legislation of the last session.

4. “ The Public Buildings Act,” and “ The Supreme Court Site Act,” are still under consideration, and will form the subject of a future communication.

I have, &c.,

His Honor the Superintendent, Auckland.

DANIEL POLLEN.

## No. 3.

His Honor the SUPERINTENDENT, Auckland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Auckland, 4th August, 1874.

I have the honor to acknowledge the receipt of your letter dated 27th ultimo, No. 272, intimating that "The Newmarket Hall Act, 1874;" "The Fencing Acts Suspension Act, 1874;" "The Hauraki District Fire Rate Act 1872 Amendment Act, 1874;" and "The Mangapiko Road Act, 1874," have been left to their operation.

With respect to the two other Acts enumerated in your letter, I shall be glad to be advised, at an early date, of the decision of the Government thereon, as the Commissioners are anxious to proceed without delay with the proposed scheme of public buildings.

I have, &c.,

P. DIGNAN,

(for the Superintendent).

The Hon. the Colonial Secretary, Wellington.

## No. 4.

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

SIR,—

Colonial Secretary's Office, Wellington, 9th September, 1874.

Adverting to my letter of the 27th July last, No. 272, in which I stated that "The Public Buildings Act," and "The Auckland Supreme Court Site Grant Empowering Act," of the Provincial Council were still under consideration, and would form the subject of a future communication, I proceed again to address your Honor in regard to those Acts.

2. I am advised that "The Public Buildings Act" is *ultra vires* as to such of the lands as have not been granted—that is, all those mentioned in the First Schedule and those in the Third Schedule, except allotment No. 15 of section 17 of the City of Auckland. As however the Act is valid as to the rest, the Government are not disposed to advise its disallowance if your Honor will give an undertaking to introduce to the Provincial Council a Bill to remedy the defects pointed out, after grants are issued.

3. I am advised that the trusts proposed by "The Supreme Court Site Act" are too complicated, and I would recommend your Honor to introduce a Bill next session to provide that the trusts to be inserted in the grant should be of a more simple character. Moreover, "The Public Buildings Act" is *ultra vires* as to these lands. It will therefore be the duty of the Government to advise the disallowance of this Bill, as the trusts proposed refer to that Act.

I have, &c.,

DANIEL POLLEN.

His Honor the Superintendent, Auckland.

## No. 5.

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

SIR,—

Colonial Secretary's Office, Wellington, 14th September, 1874.

Referring to Dr. Pollen's letter No. 308, of the 9th of September instant, in which he informed your Honor that His Excellency the Governor would be advised to disallow "The Auckland Supreme Court Site Grant Empowering Act, 1874," I have the honor to enclose the *New Zealand Gazette* containing the usual proclamation disallowing the Act.

I have, &c.,

WILLIAM H. REYNOLDS,

(in the absence of the Colonial Secretary).

His Honor the Superintendent, Auckland.

## No. 6.

His Honor the SUPERINTENDENT, Auckland, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Auckland, 22nd September, 1874.

I have the honor to acknowledge the receipt of your letter dated the 9th instant, No. 308, and to state in reply that I will undertake to introduce to the Provincial Council, at its next session, a Bill to remedy the defects pointed out in "The Public Buildings Act, 1874."

I have, &c.,

J. WILLIAMSON,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

## No. 7.

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

SIR,—

Colonial Secretary's Office, Wellington, 16th October, 1874.

With reference to your letter No. 3,175, of the 22nd September last, in which you undertake to introduce into the Provincial Council at its next session a Bill to remedy the defects

pointed out in "The Public Buildings Act, 1874," I have to inform your Honor that His Excellency the Governor has not been advised to exercise his power of disallowance with respect to that Act.

His Honor the Superintendent, Auckland.

I have, &c.,  
DANIEL POLLEN.

## TARANAKI.

### No. 8.

His Honor the SUPERINTENDENT, Taranaki, to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 20th August, 1874.

I have the honor to transmit herewith parchment copy of the following Ordinance passed by the Provincial Council of Taranaki, which I have assented to on behalf of His Excellency the Governor, viz. :—

"An Ordinance to Amend the Branding of Cattle Ordinance, 1865."

The delay in forwarding it has arisen from an unforeseen accident.

I have, &c.,

FRED. A. CARRINGTON,  
Superintendent of Taranaki.

The Hon. the Colonial Secretary, Wellington.

### No. 9.

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

SIR,—

Colonial Secretary's Office, Wellington, 14th September, 1874.

I have the honor to acknowledge the receipt of your letter No. 68, of the 20th August, enclosing an Ordinance intituled "An Ordinance to Amend the Branding of Cattle Ordinance, 1865," to which your Honor had assented on behalf of His Excellency the Governor.

2. The Government are advised that this Ordinance should have been reserved by your Honor for the Governor's assent, as it expressly provides by section 9 that its operation is to depend upon that; and as "The Provincial Reserved Bills Act, 1870," does not apply to this Bill, the Government have no option but to advise His Excellency to disallow it.

3. I enclose the *New Zealand Gazette* containing the usual Proclamation.

4. This Ordinance, which was assented to by your Honor on the 23rd of May, was not received at this office until the 26th of August, being three months and three days after assent. This, your Honor informs me, was the result of an unforeseen accident. I trust your Honor will direct steps to be taken to guard against the recurrence of such an accident, as the 28th Section of the Constitution Act requires Provincial Ordinances to be sent to the Governor "forthwith," and serious complications might arise from laws, which may turn out to be *ultra vires*, remaining in operation for an indefinite time prior to their disallowance.

I have, &c.,

WILLIAM H. REYNOLDS,  
(in the absence of the Colonial Secretary).

His Honor the Superintendent, Taranaki.

## HAWKE'S BAY.

### No. 10.

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

SIR,—

Superintendent's Office, Napier, 9th July, 1875.

I have the honor to transmit the under-mentioned Acts in duplicate, and trust you will advise His Excellency the Governor to assent to the same:—

- "The Market Reserves Act, 1875;"
- "The Fencing Act, 1875;"
- "The Licensing Act Amendment Act, 1875;"
- "The Cattle Trespass Act Amendment Act, 1875;"
- "The Municipality Waterworks Act, 1875;"
- "The Sheep Act Amendment Act, 1875;"
- "The Credit Act, 1875;"
- "The Appropriation Act, 1875;" and
- "The Hospital Endowment Act, 1875."

I have, &c.,

J. D. ORMOND,  
Superintendent.

The Hon. the Colonial Secretary, Wellington.

## 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.

## WELLINGTON.

## No. 13.

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

SIR,—

Superintendent's Office, Wellington, 15th May, 1875.

I do myself the honor to forward through you, for His Excellency the Governor, the following Acts, passed by the Provincial Council of Wellington during their present Session (XXVIII.), to which I have assented on His Excellency's behalf, viz. :—

- "An Act to appropriate the Revenue of the Province of Wellington for a Term commencing on the first day of April, 1875, and ending on the thirty-first day of May, 1875 ;"
- "An Act to authorize the Superintendent of the Province of Wellington to sell part of the Wellington Harbour Reserves to the Corporation of the City of Wellington ;"
- "An Act to amend an Act of the Provincial Council of the Province of Wellington intituled 'The Wanganui Reserves Management Act, 1874 ;'"
- "An Act to bring 'The Municipal Corporations Waterworks Act, 1872,' into operation in and for the Borough of Wellington, in the Province of Wellington ;"
- "An Act to enable the Superintendent of the Province of Wellington to sell Town Acre No. 671, in the City of Wellington, to be used for a Site for a Church ;"
- "An Act to authorize the Superintendent of the Province of Wellington to sell a certain Block of Land in the City of Wellington ;"
- "An Act to regulate the System of Impounding in Districts proclaimed under 'The Local Boards Act, 1873 ;'"
- "An Act to appropriate the Revenue of the Province of Wellington for the period commencing the first day of April, 1875, and ending the thirty-first day of March, 1876 ;"
- "An Act to provide for the Qualification of Members of the Wellington Education Board."

I have reserved for the consideration of His Excellency the Governor,—

- "An Act to provide for the Management of the Sandon Public Park Reserve."

I have, &c.,

WILLIAM FITZHERBERT,  
Superintendent.

The Hon. the Colonial Secretary, Wellington.

## No. 14.

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

SIR,—

Colonial Secretary's Office, Wellington, 2nd June, 1875.

I have received your Honor's letter of date 15th May ultimo, covering the under-mentioned Acts, passed during the late session of the Wellington Provincial Council, viz. :—

- "The *Ad Interim* Appropriation Act, 1875 ;"
- "The Wellington Harbour Reserves Sale Act, 1875 ;"
- "The Wanganui Reserves Management Act 1874 Amendment Act, 1875 ;"
- "The Municipal Corporations Waterworks Act (Wellington) Adoption Act, 1874 ;"
- "The Wellington Church of England Site Sale Act, 1875 ;"
- "The Wellington Land Sale Act, 1875 ;"
- "The Local Districts Impounding Act, 1875 ;"
- "The Appropriation Act, 1875 ;"
- "The Wellington Education Act 1871 Amendment Act, 1875 ;"
- "The Sandon Public Park Management Act, 1875."

His Excellency the Governor has not been advised to exercise his power of disallowance with respect to the following Acts, notification of which will be made in the next *New Zealand Gazette*, viz. :—

- "The *Ad Interim* Appropriation Act, 1875 ;"
- "The Municipal Corporations Waterworks Act (Wellington) Adoption Act, 1874 ;"
- "The Wellington Land Sale Act, 1875 ;"
- "The Wellington Church of England Site Sale Act, 1875 ;"
- "The Local Districts Impounding Act, 1875 ;"
- "The Appropriation Act, 1875 ;" or
- "The Wellington Education Act Amendment Act, 1875."

Upon the subject of objections to the Wellington Harbour Reserves Act, and to the Wanganui Reserves Management Act, I shall have to address your Honor upon a future occasion.

With respect to the Sandon Public Park Management Act, I note, first, that, although said to be reserved for the consideration of His Excellency the Governor, it is signed by your Honor as having been assented to by you, no doubt in error. I submit for your consideration and remark another objection which, I am advised, exists to this Bill. It authorizes "the sale of a reserve made for purposes of public recreation." The Superintendent is only authorized to vest the management of such a reserve in a corporate body, or persons having corporate succession,

under such limitations and restrictions as shall secure the full maintenance of the purposes for which such lands have been reserved. (*Vide* section 3 of "The Public Reserves Act, 1862.") Section 6 of this Ordinance empowers the Superintendent to convey to a Board, and section 9 provides that, subject to the "purposes and trusts for which the land shall be conveyed to them," the Board may let, &c., for twenty-one years. The reserve was made partly for purposes of a public park, and it is obvious—if the trusts in the conveyance from the Superintendent to the Board authorized the latter to divert the land from the original reservation, or in any way to interfere with the purposes for which the reserve was made—that they could not be maintained.

I have, &c.,

His Honor the Superintendent, Wellington.

DANIEL POLLEN.

### No. 15.

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

SIR,—

Superintendent's Office, Wellington, 15th June, 1875.

I have the honor (referring to your letter of the 2nd instant, acknowledging the receipt of my letter covering the Acts passed during the last session of the Provincial Council) to inform you that I have taken the opinion of counsel upon that part of the letter which refers to the Sandon Public Park Management Act, and to inform you that I am advised as follows:—

"I am at a loss to see where this Act gives the power of sale mentioned in the Hon. Dr. Pollen's letter dated 2nd June instant. The defect in the Act consists in this: That it nowhere defines the trusts to be expressed in the conveyance to the trustees named. It would be well that there should be in the intended conveyance express trusts consistent with the purposes for which the land was set apart. The Hon. Dr. Pollen appears to suggest that the Superintendent may create trusts inconsistent with 'The Public Reserves Act, 1854,' and 'The Amendment Act, 1862;' but I imagine that he will be advised to grant such powers only as he is by law authorized to do. I presume that the object in granting power to lease for a term not exceeding twenty-one years is in furtherance of the object for which the reserves were made. (*Vide* section 3, 'Public Reserves Act Amendment Act, 1862.')

The error in the foot-note is merely a clerical one on the part of the Clerk of the Council, as I specially reserved the Act for His Excellency the Governor's assent in my Speech in proroguing the Council.

I have, &c.,

HENRY BUNNY,

Provincial Secretary  
(for the Superintendent).

The Hon. the Colonial Secretary, Wellington.

P.S.—This letter was written on the 15th instant, but was unfortunately overlooked, and is only forwarded now, on the 24th.

### No. 16.

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

SIR,—

Colonial Secretary's Office, Wellington, 15th July, 1875.

I have the honor to acknowledge the receipt of your letter of the 15th ultimo, in which, in reply to mine of the 2nd, you forward counsel's opinion on the subject of "The Sandon Public Park Management Act, 1875," of the Provincial Council, and explain that the error in the note on the Act by which your Honor purports to have assented to it on the 12th of May, on behalf of the Governor, is merely a clerical one, as you specially reserved the Act for His Excellency's assent in your speech proroguing the Council.

Your Honor's letter admits the defect in the Ordinance, pointed out in my letter of the 2nd of June, with respect to the trusts on which the Sandon Park may be conveyed to trustees. It is true, as your Honor's adviser remarks, that there is no mention in the Ordinance of a power to sell; but if the Superintendent could convey on trusts at variance with the purposes of the original reserve, it is manifest the transaction would have all the effect of a sale. As it now stands, the Ordinance does not strictly comply with the third section of "The Public Reserves Act Amendment Act, 1862," inasmuch as it does not "secure the full maintenance of the purposes for which such lands shall have been reserved." However, as your Honor's attention has been called to the defect, I am not disposed to advise the Governor to withhold his assent from the Ordinance, if your Honor will give me an assurance that, in any conveyance to be made to trustees, the trusts shall be so defined as to secure the maintenance of the purposes for which the land was reserved. I hope to receive this assurance from your Honor at an early date.

I now proceed, in fulfilment of the promise made in my letter of the 2nd ultimo, to indicate the course the Government intend to pursue with reference to "The Wellington Harbour Reserves Sale Act, 1875," and "The Wanganui Reserves Management Act 1874 Amendment Act, 1875."

With regard to the first of these Ordinances, though a discrepancy has been observed in the description of the land contained in the schedule, which affects the land on which the Public

Offices are now being built, that discrepancy has, on examination, been found to be but slight, and to be capable of being rectified by other means; and the Government have therefore not thought it necessary to advise His Excellency to exercise his power of disallowance. "The Wellington Harbour Reserves Sale Act, 1875," will accordingly be left to its operation.

I regret to say that "The Wanganui Reserves Management Act 1874 Amendment Act, 1875," will have to be disallowed. By the 3rd section, the land, with its rents, &c., is vested in the Corporation; and these are declared to form part of the ordinary revenue of the borough, for certain purposes of public works in the borough; while the 4th section gives a specific power of sale, mortgage, &c., but is silent as to the application of the proceeds.

Besides this fatal defect there are minor ones in the Ordinance which require amendment. It declares that certain public reserves are to vest in the "Mayor, Councillors, and *citizens*" of the borough, whereas the "Mayor, Councillors, and *burgesses*" is the legal style of the Corporation (*vide* section 26 of "The Municipal Corporations Act, 1867"); and a certain grant recited in the Ordinance as of the 5th of June, 1861, really bears date the 12th of February, 1873.

His Excellency the Governor will therefore be advised to exercise his power of disallowance in respect of "The Wanganui Reserves Management Act 1874 Amendment Act, 1875."

I have, &c.,

DANIEL POLLEN.

His Honor the Superintendent, Wellington.

### No. 17.

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

SIR,—

Superintendent's Office, Wellington, 19th July, 1875.

I have the honor to acknowledge the receipt of your letter of the 15th instant, in which you state you have received from me counsel's opinion on the subject of "The Sandon Public Park Management Act, 1875," of the Provincial Council, and that you are not disposed to advise the Governor to withhold his assent from the Ordinance if I will give you an assurance that, in any conveyance to be made to trustees, the trusts shall be so defined as to secure the maintenance of the purposes for which the land was reserved.

In reply, I beg to state that I am quite prepared to give you such assurance.

I have, &c.,

WILLIAM FITZHERBERT,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

### No. 18.

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

SIR,—

Colonial Secretary's Office, Wellington, 19th July, 1875.

I have the honor to acknowledge the receipt of your letter of this day's date, in which you state that you are quite prepared to give the assurance asked for in my letter of the 15th instant, relative to "The Sandon Public Park Management Act, 1875"—viz., "that, in any conveyance to be made to trustees, the trusts shall be so defined as to secure the maintenance of the purposes for which the land was reserved."

I now return to your Honor the copies of the Act enclosed in your letter of the 15th of May last, in order that you may cancel the note at the foot (which states that you have assented to the Act on behalf of the Governor), and substitute the usual notice that you have reserved it for the signification of His Excellency's pleasure thereon. His Excellency will then be advised to assent to the Act.

I have, &c.,

DANIEL POLLEN.

His Honor the Superintendent, Wellington.

### No. 19.

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

SIR,—

Superintendent's Office, Wellington, 21st July, 1875.

In reply to your letter of 19th instant, I have the honor to return you herewith "The Sandon Public Park Management Act, 1875," with the necessary alteration made in the footnote, reserving it for the signification of His Excellency's pleasure.

I have, &c.,

WILLIAM FITZHERBERT,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

## No. 20.

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

SIR,—

Colonial Secretary's Office, Wellington, 24th July, 1875.

With reference to former correspondence on the subject of the Acts of the Provincial Government of Wellington, passed at the last session of the Council, I have the honor to inform you that His Excellency the Governor has been advised to exercise his power of disallowing "The Wanganui Reserves Management Act 1874 Amendment Act, 1875," for the reasons stated in my letter of the 15th instant; and I enclose a copy of the *New Zealand Gazette* of the 22nd instant, containing the Proclamation of disallowance.

His Excellency has not been advised to exercise his power of disallowance with respect to "The Wellington Harbour Reserves Sale Act, 1875;" and has assented to "The Sandon Public Park Management Act, 1875," a copy of which I enclose herewith, with such assent duly noted upon it.

His Honor the Superintendent, Wellington.

I have, &c.,  
DANIEL POLLEN.

## NELSON.

## No. 21.

His Honor the SUPERINTENDENT, Nelson, to the Hon. the COLONIAL SECRETARY.

SIR,—

Superintendent's Office, Nelson, 30th June, 1875.

I have the honor to forward herewith the under-mentioned Acts passed by the Provincial Council of this Province, to which I have given my assent on behalf of His Excellency the Governor, viz.,—

"An Act to amend the Gold Fields Local Revenues Acts."

"An Act to authorize the Erection of Toll-Gates or Bars in the Province of Nelson, and the Levying of Tolls thereat."

"An Act to amend and repeal the Nelson Waterworks Acts."

"An Act to amend 'The Nelson Scab Act, 1868.'"

"An Act to amend 'The Nelson Highways Act, 1872.'"

"An Act to appropriate the Revenue of the Province of Nelson for the Year ending thirty-first day of March, One thousand eight hundred and seventy-six."

I have also the honor to forward a copy of a letter from the Speaker of the Provincial Council, relative to the unauthorized expenditure during the year ended 31st March, 1875.

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

The Hon. the Colonial Secretary, Wellington.

## Enclosure in No. 21.

The SPEAKER of the Provincial Council to His Honor the SUPERINTENDENT, Nelson.

SIR,—

Provincial Council Chamber, Nelson, 19th May, 1875.

In pursuance of a resolution adopted yesterday, the 18th instant, by the unanimous vote of an absolute majority of the number of members of the Provincial Council, I have the honor to request that you will send to this Council a recommendation to grant a sum of money to meet the unauthorized expenditure out of the provincial revenue, during the year ended 31st March, 1875, amounting to £1,339 7s. 6d.

I have, &c.,  
J. W. BARNICOAT,  
Speaker.

His Honor the Superintendent, Nelson.

## No. 22.

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

SIR,—

Colonial Secretary's Office, Wellington, 10th August, 1875.

I have the honor to acknowledge the receipt of your letter No. 797, of the 30th June last, forwarding the under-mentioned Acts passed by the Provincial Council of Nelson, and assented to by your Honor on behalf of His Excellency the Governor, viz.,—

"The Gold Fields Local Revenues Act Amendment Act, 1875;"

"The Tolls Act, 1875;"

"The Nelson Waterworks Act Amendment Act, 1875;"

"The Nelson Scab Act Amendment Act, 1875;"

"The Nelson Highways Act Amendment Act, 1875," and

"The Appropriation Act, 1875."

His Excellency has not been advised to exercise his power of disallowance with respect to

"The Gold Fields Local Revenues Act Amendment Act, 1875;"

"The Tolls Act, 1875;"

"The Nelson Waterworks Act Amendment Act, 1875;"

"The Nelson Scab Act Amendment Act, 1875;" or to

"The Appropriation Act, 1875."



With regard to "The Nelson Highways Act Amendment Act, 1875," I have to point out the following objection:—Clause 3 imposes functions on a Court to be exercised judicially, and is I am advised *ultra vires*. Money is to be paid on the order of a Court for damage done to a road; the sum to be paid is in the nature of a penalty, but it is to be paid to the Board. Provincial Legislatures cannot so deal with penalties which belong to the Crown. If it should be said it is not a penalty, then the Ordinance would affect to alter the jurisdiction of a Court beyond what is allowed by law. His Excellency has therefore been advised to exercise his power of disallowing this Act.

I have, &c.,

His Honor the Superintendent, Nelson.

DANIEL POLLEN.

## CANTERBURY.

### No. 23.

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

SIR,— Superintendent's Office, Christchurch, 8th July, 1875.

I have the honor to forward herewith the under-mentioned Ordinances passed by the Provincial Council, to which I have assented on behalf of His Excellency the Governor:—

- "The Imprest Supply Ordinance, 1875;"
- "The Canterbury Sheep Ordinance 1872 Amendment Ordinance, 1875;"
- "The Imprest Supply Ordinance, (No. 2), 1875;"
- "The Road Boards Advances Ordinance, 1875;"
- "The Reserve No. 88 Ordinance, 1875;"
- "The Educational Reserves Leasing Ordinance, 1875;"
- "The Diversion of Roads Special Ordinance (No. 1), 1875;"
- "The Diversion of Roads Special Ordinance (No. 2), 1875;"
- "The Diversion of Roads Special Ordinance (No. 3), 1875;"
- "The Diversion of Roads Special Ordinance (No. 5), 1875;"
- "The Diversion of Roads Special Ordinance (No. 6), 1875;"
- "The Diversion of Roads Special Ordinance (No. 7), 1875;"
- "The Diversion of Roads Special Ordinance (No. 8), 1875;"
- "The Width of Tires Ordinance, 1875;"
- "The Executive Council Ordinance 1864 Amendment Ordinance, 1875;"
- "The Education Ordinance, 1875;" and
- "The Appropriation Ordinance, 1875."

I also forward the under-mentioned Ordinances, which I have reserved for the signification of His Excellency the Governor's pleasure thereon:—

- "The Reserve No. 1599 Ordinance;"
- "The Quail Island Ordinance, 1875;"
- "The Classical Schools Reserves Ordinance, 1875;"
- "The Reserves Nos. 1207 and 1208 Ordinance;"
- "The Reserve No. 168 Ordinance, 1875;"
- "The Reserve No. 62 Ordinance, 1875;"
- "The Public Libraries Ordinance, 1875;"
- "The Educational Reserves Leasing Ordinance (No. 2), 1875;"
- "The Railway Tolls and Management Ordinance, 1875;"
- "The Fencing Ordinance, 1875;" and
- "The Canterbury Sheep Ordinance Amendment Ordinance (No. 2), 1875."

I have, &c.,

W. ROLLESTON,  
Superintendent.

The Hon. the Colonial Secretary, Wellington.

### No. 24.

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

SIR,— Colonial Secretary's Office, Wellington, 9th August, 1875.

I have the honor to acknowledge the receipt of your letter No. 303, of the 8th ultimo, forwarding seventeen Ordinances, therein quoted, passed by the Provincial Council of Canterbury and assented to by your Honor on behalf of His Excellency the Governor, and eleven which you had reserved for the signification of His Excellency's pleasure thereon.

His Excellency will not be advised to exercise his power of disallowance with respect to any of the following Ordinances to which your Honor has assented on his behalf:—

- "The Imprest Supply Ordinance, 1875;"
- "The Canterbury Sheep Ordinance 1872 Amendment Ordinance, 1875;"
- "The Imprest Supply Ordinance (No. 2), 1875;"
- "The Road Boards Advances Ordinance, 1875;"
- "The Reserve No. 88 Ordinance, 1875;"
- "The Educational Reserves Leasing Ordinance, 1875;"
- "The Diversion of Roads Special Ordinance (No. 1), 1875;"
- "The Diversion of Roads Special Ordinance (No. 2), 1875;"

"The Diversion of Roads Special Ordinance (No. 3), 1875;"  
 "The Diversion of Roads Special Ordinance (No. 5), 1875;"  
 "The Diversion of Roads Special Ordinance (No. 6), 1875;"  
 "The Diversion of Roads Special Ordinance (No. 7), 1875;"  
 "The Diversion of Roads Special Ordinance (No. 8), 1875;"  
 "The Width of Tires Ordinance, 1875;"  
 "The Executive Council Ordinance 1864 Amendment Ordinance, 1875;"  
 "The Education Ordinance, 1875;" and  
 "The Appropriation Ordinance, 1875."

With regard to "The Educational Reserves Leasing Ordinance, 1875," I have, however, to point out that it is not stated in the Ordinance that the grants have been made under the Public Reserves Act, though such, no doubt, is the case; but it is usually mentioned in such Acts, so as to show under what authority the Provincial Legislature have acted.

His Excellency will be advised to assent to the following Ordinances, viz.,—

"The Quail Island Ordinance, 1875;"  
 "The Classical School Reserves Ordinance, 1875;"  
 "The Reserves Nos. 1207 and 1208 Ordinance, 1875;"  
 "The Reserve No. 168 Ordinance, 1875;" and  
 "The Reserve No. 62 Ordinance, 1875."

With regard to "The Public Libraries Ordinance, 1875," I am advised that its provisions are somewhat inconsistent and require explanation. The preamble recites that, under "The Public Reserves Act, 1854," and also by conveyances for that purpose, certain lands "have been and are now or may hereafter be" vested in the Superintendent upon trust for public libraries, while the 2nd section authorizes the Superintendent, with the advice of his Executive Council, on the requisition of the managing body "of any library contained in any building *erected on any land* vested in and leased for a period of not less than ten years to the said Superintendent," to appoint managers of such land and buildings. Your Honor will observe that while the preamble states that the object of the Bill is to provide for the management of reserves and lands held on trust for *public libraries*, yet the second section affects to deal with *any land* vested in and leased to the Superintendent for a period of not less than ten years. In fact it is not clearly shown what lands are to be dealt with. The Ordinance could not deal with lands not granted, and even as to public reserves generally, I am advised that the particular reserves should be specified, so that the Governor may have an opportunity of saying whether he would allow any particular reserve to be dealt with as proposed by provincial legislation. I should be glad to receive an explanation from your Honor of this difficulty.

To "The Fencing Ordinance, 1875," there are the following legal objections:—Section 10 gives power to any person to summon another person before a Court of competent jurisdiction; but the section is so framed as to direct the person aggrieved *personally* to take action. It should have left the question to the operation of the 13th section. Section 11 also gives mileage expenses to persons attending Courts in certain cases: I am advised that this is *ultra vires*, as altering the general law of the colony. Section 4 of the Empowering Act of 1874 directs how proceedings are to be taken and conducted, and the provision in question goes beyond what would be allowed as costs in any case within the jurisdiction of the Courts therein mentioned. Both sections 10 and 11 are objectionable in other respects, because they have enacted provisions at variance with the 4th section of the Provincial Fencing Laws Empowering Act of 1874. His Excellency will accordingly be advised to withhold his assent from this Ordinance.

There is no legal objection to "The Canterbury Sheep Ordinance Amendment Ordinance (No. 2), 1875," though the power it gives to the Superintendent to order the destruction of sheep is a very stringent power, and one to be exercised with great discretion.

I will address your Honor on a future occasion on the subject of "The Reserve No. 1599 Ordinance, 1875," and "The Railway Tolls and Management Ordinance, 1875."

His Honor the Superintendent, Canterbury.

I have, &c.,  
DANIEL POLLEN.

#### No. 25.

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

SIR,— Colonial Secretary's Office, Wellington, 14th August, 1875.

With reference to my letter of the 9th instant, in which I stated that I would address your Honor on a future occasion on the subject of "The Reserve No. 1599 Ordinance, 1875," and "The Railway Tolls and Management Ordinance, 1875," I have now the honor to inform you that His Excellency the Governor will be advised to assent to these Ordinances, and that a notice of such assent will be published in the next issue of the General Government *Gazette*.

I have, &c.,  
DANIEL POLLEN.

His Honor the Superintendent of Canterbury, Wellington.

#### No. 26.

The DEPUTY SUPERINTENDENT, Canterbury, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Christchurch, 14th August, 1875.

I have the honour to acknowledge the receipt of your letter No. 442, dated the 9th instant, in which you intimate that His Excellency the Governor will not be advised to exercise his power of

disallowance with respect to any of the Ordinances passed by the Provincial Council of Canterbury, and assented to by the Superintendent on behalf of His Excellency.

You also specify some of the Ordinances reserved for the Governor's assent which His Excellency will be advised to assent to, and you mention that, for reasons stated in your letter, His Excellency would be advised to withhold his assent from the Fencing Ordinance.

With regard to your remarks respecting the Public Libraries Ordinance, and the provisions of the preamble, and the 2nd section being inconsistent, I may observe that a misprint has occurred in the third line of the 2nd section, which renders the sense obscure, the word "and" having been printed in mistake for "or." This alteration would seem to make it clear that the words "any land vested in" are intended to apply to the reserves and lands referred to in the preamble, the words which follow "or leased for a period of not less than ten years to," and which were added when the Bill was in Committee, being intended to extend the scope of its provisions to other lands to which no reference is made in the preamble. I have forwarded corrected copies of the Ordinance to His Honor the Superintendent, in Wellington.

I should be glad to be informed, as soon as possible, of the decision of the Government with respect to the Railway Tolls and Management Ordinance. I may observe that no mention is made in your letter of "The Educational Reserves Leasing Ordinance (No. 2), 1875," ten only out of the eleven Ordinances forwarded for the Governor's assent being therein referred to.

I have, &c.,

R. J. S. HARMAN,  
Deputy Superintendent.

The Hon. the Colonial Secretary, Wellington.

### No. 27.

The Hon. the COLONIAL SECRETARY to His Honor the DEPUTY SUPERINTENDENT, Canterbury.

(Telegram.)

Wellington, 16th August, 1875.

"THE Educational Reserves Leasing Ordinance (No. 2), 1875," has been assented to. The omission of reference to it in my letter of the 9th instant was an oversight.

The Deputy Superintendent, Christchurch.

DANIEL POLLEN.

### No. 28.

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

SIR,—

Colonial Secretary's Office, Wellington, 23rd August, 1875.

I have the honor to acknowledge the receipt of Mr. Harman's letter of the 14th instant, on the subject of "The Public Libraries Ordinance, 1875," in which he points out that the discrepancy between the preamble and the second section of the Bill arose from a misprint in the third line of the second section, the word "and" having been misprinted for "or."

I have received the correct copies of the Ordinance from your Honor, and have substituted them for those originally sent up.

The mistake thus corrected does not, however, dispose of the main difficulty the Government had in advising His Excellency to assent to the Ordinance, which is that the second section authorizes the Superintendent to appoint trustees and officially establish any library erected on "*any land vested in or leased for a period of not less than ten years to the said Superintendent,*" instead of confining its operation to lands vested in or leased to the Superintendent as sites for libraries. By the Ordinance as it stands there is nothing to prevent the Superintendent from declaring any building erected on any land vested in or leased to him for any purpose whatever to be a public library, and thus possibly divert the original purpose of the reserves.

I am willing, however, to accept your Honor's assurance, if you will give it me, that it is not intended to apply the provisions of this Ordinance to any lands, except such as have been *bonâ fide* granted or leased for the purpose of being used as sites for libraries. Upon receiving your Honor's assurance to this effect, I will advise His Excellency to assent to the Ordinance. But it will require amendment, so as to make it quite clear as to what lands are intended to be dealt with.

The omission of "The Educational Reserves Leasing Ordinance (No. 2), 1875," from the list contained in my letter of the 9th instant of those Ordinances to which the Governor had assented, was purely accidental, and has since been corrected by my telegraphic message of the 16th instant.

I have, &c.,

His Honor the Superintendent, Canterbury.

DANIEL POLLEN.

### No. 29.

His Honor the SUPERINTENDENT, Canterbury, to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 26th August, 1875.

I have the honor to acknowledge the receipt of your letter of the 23rd inst. on the subject of "The Public Libraries Ordinance, 1875," in which you state that you are willing to accept my assurance that it is not intended to apply the provisions of this Ordinance to any lands except such as have been *bonâ fide* granted or leased for the purpose of being used as sites for libraries, and that, upon receiving my assurance to this effect, you will advise His Excellency to assent to the Ordinance.

In reply, I have to state that it was not the intention of the Provincial Council to apply the provisions of the Ordinance to any lands except such as have been granted or leased for the purpose of being used as sites for public libraries, and that I have, therefore, no hesitation in giving the assurance you require.

I have, &c.,

W. ROLLESTON,

Superintendent of Canterbury.

The Hon. the Colonial Secretary Wellington.

### No. 30.

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

SIR,—

Colonial Secretary's Office, Wellington, 31st August, 1875.

Adverting to my letter of the 9th instant, I have the honor to inform you that His Excellency the Governor has not exercised his power of disallowing the following Ordinances passed by the Provincial Council of Canterbury, and assented to by your Honor on his behalf, viz.,—

- "The Imprest Supply Ordinance, 1875;"
- "The Canterbury Sheep Ordinance 1872 Amendment Ordinance, 1875;"
- "The Imprest Supply Ordinance (No. 2), 1875;"
- "The Road Boards Advances Ordinance, 1875;"
- "The Reserve No. 88 Ordinance, 1875;"
- "The Educational Reserves Leasing Ordinance, 1875;"
- "The Diversion of Roads Special Ordinances (Nos. 1, 2, 3, 5, 6, 7, and 8), 1875;"
- "The Width of Tires Ordinance, 1875;"
- "The Executive Council Ordinance 1864 Amendment Ordinance, 1875;"
- "The Education Ordinance, 1875;" or
- "The Appropriation Ordinance, 1875."

His Excellency has been pleased to assent to the following Ordinances passed by the Provincial Council, and reserved by your Honor for the signification of his pleasure thereon, viz.,—

- "The Quail Island Ordinance, 1875;"
- "The Classical Schools Reserves Ordinance, 1875;"
- "The Reserves Nos. 1207 and 1208 Ordinance, 1875;"
- "The Reserve No. 168 Ordinance, 1875;"
- "The Reserve No. 62 Ordinance, 1875;"
- "The Educational Reserve Leasing Ordinance (No. 2), 1875;"
- "The Canterbury Sheep Ordinance Amendment Ordinance (No. 2), 1875;"
- "The Reserve No. 1599 Ordinance, 1875;"
- "The Railways Tolls and Management Ordinance, 1875;" and
- "The Public Libraries Ordinance, 1875;"

duplicates of which I herewith enclose, with such assent duly noted upon them.

His Excellency has been pleased to withhold his assent from "The Fencing Ordinance, 1875," for the reasons already stated to your Honor in my letter of the 9th instant.

I have, &c.,

DANIEL POLLEN.

His Honor the Superintendent, Canterbury.

### OTAGO.

### No. 31.

His Honor the SUPERINTENDENT of Otago to the Hon. the COLONIAL SECRETARY.

Province of Otago, N.Z., Superintendent's Office, Dunedin,

10th July, 1875.

SIR,—

I do myself the honor to forward the enclosed Ordinances passed at the last session of the Provincial Council to which I have assented on behalf of His Excellency the Governor, viz.,—

- "Imprest Supply Ordinance, 1875;"
- "Oamaru Waterworks Empowering Ordinance, 1875;"
- "Immigration and British Agent Ordinance, 1875;"
- "Immigration and British Agent Ordinance (No. 2), 1875;"
- "Cattle and Sheep Ordinance, 1875;"
- "Town and Country Police Ordinance 1862 Amendment Ordinance, 1875;"
- "Appropriation Ordinance, 1875-76;"
- "Otago Gold Bonus Ordinance, 1875;"
- "Turnpikes Ordinance 1866 Amendment Ordinance, 1875;"
- "Otago Municipal Corporations Ordinance, 1875;" and
- "Licensing Laws Amendment Ordinance, 1875."

Also the following Bills which I have reserved for the signification of His Excellency's pleasure thereon, viz.,—

- "Dunedin and Peninsular Railway Ordinance, 1875;"
- "Otago Harbour Board Ordinance 1874 Amendment Ordinance, 1875."

I have, &c.,

J. MACANDREW,

Superintendent of Otago.

The Hon. the Colonial Secretary, Wellington.

## No. 32.

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

SIR,—

Colonial Secretary's Office, Wellington, 26th July, 1875.

With reference to your letter No. 16436 of the 10th instant, I have to inform your Honor that His Excellency the Governor has been pleased to assent to "The Otago Harbour Board Ordinance 1874 Amendment Ordinance, 1875," passed by the Provincial Council of Otago and reserved by your Honor for His Excellency's pleasure thereon, and I enclose a duplicate of the Ordinance, with such assent duly noted upon it.

His Honor the Superintendent of Otago.

I have, &c.,

DANIEL POLLEN.

## No. 33.

The DEPUTY SUPERINTENDENT, Otago, to the Hon. the COLONIAL SECRETARY.

Province of Otago, New Zealand, Superintendent's Office, Dunedin,

31st July, 1875.

SIR,—

I have the honor to acknowledge the receipt of your letter, of the number and date quoted in the margin, addressed to His Honor the Superintendent, intimating that His Excellency the Governor No. 287, 26th has been pleased to assent to "The Otago Harbour Board Ordinance 1874 Amendment Ordinance, July, 1875," and forwarding a duplicate of the Ordinance, with the assent duly noted on it.

I have, &c.,

GEO. TURNBULL,

Deputy Superintendent of Otago.

The Hon. the Colonial Secretary, Wellington.

## No. 34.

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

SIR,—

Colonial Secretary's Office, Wellington, 17th August, 1875.

I have the honor to acknowledge the receipt of your letter of the 10th ultimo, in which you enclose thirteen Ordinances passed by the Provincial Council of Otago during its last session, to eleven of which your Honor had assented on behalf of the Governor, and the remaining two you had reserved for the signification of His Excellency's pleasure thereon.

With regard to

"The Imprest Supply Ordinance, 1875;"

"The Oamaru Waterworks Empowering Ordinance, 1875;"

"The Immigration and British Agent Ordinance, 1875;"

"The Immigration and British Agent Ordinance (No. 2), 1875;"

"The Appropriation Ordinance, 1875;"

"The Turnpikes Ordinance 1866 Amendment Ordinance, 1875;"

"The Otago Municipal Corporations Ordinance, 1875;"

"The Licensing Laws Amendment Ordinance, 1875,"

His Excellency will not be advised to exercise his power of disallowance.

To "The Cattle and Sheep Ordinance, 1875," I am advised there are several objections of a more or less serious character. Section 21 empowers a Resident Magistrate to make order as to the disposal of diseased carcasses of cattle or sheep: if this power is to be exercised judicially, it is beyond the powers of a Provincial Council to bestow it. Section 70 empowers any two Justices of the Peace to allow a sum not exceeding £100, if claimed, to any owners of cattle or sheep who have sustained damage by the unlawful act of another person. This provision is *ultra vires*, as giving jurisdiction to Justices. Although a similar provision to this is contained in the Ordinance of 1867, which was not disallowed, I feel it my duty to advise His Excellency to disallow this Bill. Besides the above objections to this Ordinance, there is an important omission as to the recovery of penalties, which ought to have been made recoverable summarily, whereas the Ordinance contains no provision on the subject. There is also an error in the last clause in referring to "The Diseased Cattle Act, 1861," which is probably only a misprint. The Act of 1861 was repealed by that passed in 1871.

"The Town and Country Police Ordinance 1862 Amendment Ordinance 1875," is also open to objection. By the 5th and 9th sections power is given to a constable to arrest without warrant in the cases therein provided for; and the terms of the 5th section are I am advised too wide to admit of the Ordinance being left to its operation. I shall be under the necessity of advising His Excellency to disallow this Ordinance.

"The Otago Gold Bonus Ordinance, 1875," will form the subject of a future communication to your Honor.

It will be my duty to advise His Excellency to withhold his assent from "The Dunedin and Peninsular Railway Ordinance, 1875," for the following reasons:—

By the 4th section it is provided that the railway is to be constructed "in, through, or over" the lands particularized in the Schedule, and in accordance with certain plans which appear to have been deposited with the Clerk of the Provincial Council, and which are incorporated with the Ordinance. In the Schedule referred to are mentioned several sections of Crown land, which, or parts of which, are to be taken for the purposes of the railway. I am advised that this provision is legally objectionable as affecting Crown lands, Provincial Legislatures being prohibited from doing this by the 19th section (subsection 10) of the Constitution Act. It is true it is provided by the 5th section of the Ordinance that lands for the railway are not to be taken compulsorily, and that the 32nd section provides that the Ordinance shall not affect Crown lands; but it is evident these provisions are

inconsistent with the general power previously given to construct the railway, in so far that the objects of the Ordinance cannot be carried out if the Crown or a private owner did not assent to land being occupied for the purposes of the railway.

Section 14 is, as I am advised, *ultra vires*. It purports to empower the Superintendent to make regulations, and to affix penalties to the breach of these, in any case not exceeding £100. The Provincial Legislatures may themselves create offences, and may impose penalties to such an amount, but they cannot delegate this power to another person or body.

Section 16 conflicts with the Act of the General Assembly called "The Railways Regulation and Inspection Act, 1873." By the 10th section of that Act the Governor is empowered to lay down lines of electric telegraph upon any railway, and to use the same without charge. This Ordinance requires the company to allow the Colonial Government the use of the line for telegraph purposes upon the request of the Superintendent, and, subject to conditions being imposed, to guard against unnecessary injury to the lands of the company, or their works, as may be just and expedient. This section thus affects to take away the general right of the Colonial Government, given by the Act of 1873, and requires them to go to the Superintendent and the company for leave, subject to such conditions (it is not said by whom to be imposed) as may be considered just and expedient.

I have already addressed your Honor on the subject of "The Otago Harbour Board Ordinance 1874 Amendment Ordinance 1875," in my letter No. 287 of the 26th ultimo.

His Honor the Superintendent, Otago.

I have, &c.,  
DANIEL POLLEN.

### No. 35.

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

SIR,— Colonial Secretary's Office, Wellington, 20th August, 1875.

Adverting to my letter of the 17th instant, I enclose, for your Honor's information, a copy of the *New Zealand Gazette* of yesterday's date, containing Proclamations by His Excellency the Governor disallowing

"The Town and Country Police Ordinance 1862 Amendment Ordinance, 1875;" and  
"The Cattle and Sheep Ordinance, 1875."

The *Gazette* also notifies that His Excellency has not exercised his power of disallowing

"The Imprest Supply Ordinance, 1875;"  
"The Oamaru Waterworks Empowering Ordinance, 1875;"  
"The Immigration and British Agent Ordinance, 1875;"  
"The Immigration and British Agent Ordinance (No. 2), 1875;"  
"The Appropriation Ordinance, 1875-76;"  
"The Turnpikes Ordinance 1866 Amendment Ordinance, 1875;"  
"The Otago Municipal Corporations Ordinance, 1875;" and  
"The Licensing Laws Amendment Ordinance, 1875."

And that he has withheld his assent from

"The Dunedin and Peninsula Railway Ordinance, 1875."

His Honor the Superintendent, Otago.

I have, &c.,  
DANIEL POLLEN.

### No. 36.

His Honor the SUPERINTENDENT, Otago, to the Hon. the COLONIAL SECRETARY.

Province of Otago, New Zealand, Superintendent's Office,  
Dunedin, 17th July, 1875.

SIR,—

I do myself the honor to forward the enclosed Ordinances, passed at the last session of the Provincial Council, to which I have assented on behalf of His Excellency the Governor, viz.,—

"Invercargill Corporation Borrowing Powers Extension Ordinance, 1875;"  
"Arrowtown Waterworks Empowering Ordinance, 1875;"  
"Southland Railways Ordinance, 1875;"  
"Cemetery Reserves Management Ordinance 1864 Amendment Ordinance, 1875;"  
"Dog Nuisance Ordinance 1862 Amendment Ordinance, 1875;"  
"Dog Nuisance Ordinance (Southland) Repeal Ordinance, 1875;"  
"University of Otago Lands Trust Ordinance, 1875;"  
"Roxburgh Waterworks Empowering Ordinance, 1875;"  
"Municipalities Validation Ordinance, 1875."

Also the following Bills which I have reserved for the signification of His Excellency's pleasure thereon, viz.,—

"Port Chalmers Seamen's Institute Ordinance, 1875;"  
"Moeraki Harbour Board Ordinance, 1875;"  
"Otago Harbour Board Lands Ordinance, 1875;"  
"Balclutha Reserves Management Ordinance, 1875;"  
"Oamaru Education and Municipal Reserves Exchange Ordinance, 1875;"  
"Kaitangata Railway Ordinance, 1875;"  
"Invercargill Town Hall Site Ordinance, 1875;"  
"Outram and Greytown Railway Ordinance, 1875;" and  
"Invercargill Public Offices Ordinance, 1875."

I have, &c.,  
J. MACANDREW,  
Superintendent of Otago.

The Hon. the Colonial Secretary, Wellington.

## No. 37.

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

SIR,—

Colonial Secretary's Office, Wellington, 18th August, 1875.

I have the honor to acknowledge the receipt of your letter of the 17th ultimo, in which you enclose eighteen Bills passed by the Provincial Council of Otago in its last session, to nine of which your Honor has assented on behalf of His Excellency the Governor, and the remaining nine you have reserved for the expression of his Excellency's opinion thereon.

His Excellency will not be advised to exercise his power of disallowance with respect to

- "The Invercargill Corporation Borrowing Powers Extension Ordinance, 1875;"
- "The Arrowtown Waterworks Empowering Ordinance, 1875;"
- "The Cemetery Reserves Management Ordinance 1864 Amendment Ordinance, 1875;"
- "The Dog Nuisance Ordinance 1862 Amendment Ordinance, 1875;"
- "The Dog Nuisance Ordinance (Southland) Repeal Ordinance, 1875;"
- "The Roxburgh Waterworks Empowering Ordinance, 1875;" and
- "The Municipalities Validation Ordinance, 1875."

His Excellency will be advised to assent to

- "The Port Chalmers Seamen's Institute Ordinance, 1875;"
- "The Otago Harbour Boards Lands Ordinance, 1875;"
- "The Balclutha Reserves Management Ordinance, 1875;" and
- "The Oamaru Education and Municipal Reserves Exchange Ordinance, 1875."

His Excellency will be advised to withhold his assent from

- "The Kaitangata Railway Ordinance, 1875;" and
- "The Outram and Greytown Railway Ordinance, 1875."

The former of these Ordinances is, as I am advised, legally objectionable for the following reasons:—Section 3 provides that the railway is to be constructed over certain lands mentioned in a plan deposited in the office of the Clerk of the Provincial Council; but the lands are not mentioned in a Schedule, and it may be that Crown lands are affected in some way not disclosed by the Ordinance. Some colour is given to this objection also by the fact that, by the 34th section, it is provided that nothing in the Ordinance is to sanction any interference with Crown lands *below high water-mark*, leaving it to be inferred that *other* Crown lands are or may be interfered with. Section 6 authorizes the Superintendent to grant to the Company the exclusive use of reserves made, or that may be made, for the use of the Provincial Government under "The Otago Waste Lands Act, 1872." This power the Superintendent is to exercise by Proclamation. By "The Otago Waste Lands Act, 1872," it is enacted that reserves made under that Act shall not be alienated except under the provisions of "The Public Reserves Act, 1854," or of "The Public Reserves Act Amendment Act, 1862." This alienation would, of course (except for a limited period specified by the Act of 1854), be effected by an Ordinance of the Provincial Council, which would be reserved for the Governor's assent, and which would give him the opportunity of assenting or dissenting to any particular alienation. But not only does this Ordinance affect to give this power in respect of reserves already made, but it extends to those that *may be made*, so that the Superintendent would by Proclamation have, as it were, a wholesale power of alienating or of affecting such reserves, and the Governor would have no power in the matter. The same section contains a like provision respecting lands vested in the Superintendent "for public purposes" under the Public Reserves Acts, and is open to the above objection. Section 15 as to regulations, and section 17 as to power to lay down lines of electric telegraph, are open to precisely the same objections as in the case of "The Dunedin and Peninsula Railway Ordinance, 1875," referred to in my letter No. 465, of the 17th instant. I need not therefore repeat them here.

"The Outram and Greytown Railway Ordinance, 1875," is open to the same objections as the Ordinance above referred to, with respect to the power to make regulations and to impose penalties vested in the Superintendent, and that the lands are not specified so as to show whether Crown lands are in any way affected. Moreover, this Ordinance provides that lands may be taken compulsorily, and it does not appear whether the lands to be taken have been granted, or that the 4th section of "The Provincial Compulsory Land Taking Act, 1866," has been complied with. In fact, there is nothing to show that the framers of the Ordinance intend to comply with, or make the Ordinance subject to, the Act of the General Assembly above quoted.

Before deciding upon the advice which it will be my duty to offer to His Excellency in respect of "The Southland Railways Ordinance, 1875," I shall be glad to be informed by your Honor of the reasons why it was considered necessary to give to the Superintendent so vague a power as is herein given to him to make such by-laws "as to him shall seem meet."

With regard to

- "The University of Otago Lands Trust Ordinance, 1875;"
- "The Moeraki Harbour Board Ordinance, 1875;"
- "The Invercargill Town Hall Site Ordinance, 1875;" and
- "The Invercargill Public Offices Ordinance, 1875,"

I shall have the honor of addressing you in a separate communication.

His Honor the Superintendent, Otago.

I have, &c.,  
DANIEL POLLEN.

## No. 38.

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

SIR,—

Colonial Secretary's Office, Wellington, 27th August, 1875.

Adverting to my letter of the 18th instant, I have the honor to enclose for your information a copy of the *New Zealand Gazette* of yesterday's date, notifying that His Excellency the Governor has not exercised his power of disallowing the following Ordinances passed by the Provincial Council of Otago, and assented to by your Honor on his behalf, viz.,—

- "The Invercargill Corporation Borrowing Powers Extension Ordinance, 1875 ;"
- "The Arrowtown Waterworks Empowering Ordinance, 1875 ;"
- "The Cemetery Reserves Management Ordinance 1864 Amendment Ordinance, 1875 ;"
- "The Dog Nuisance Ordinance 1862 Amendment Ordinance, 1875 ;"
- "The Dog Nuisance Ordinance (Southland) Repeal Ordinance, 1875 ;"
- "The Roxburgh Waterworks Empowering Ordinance, 1875 ;" or
- "The Municipalities Validation Ordinance, 1875."

Also, that His Excellency has been pleased to assent to the following Ordinances passed by the Provincial Council, and reserved by your Honor for the signification of his pleasure thereon, viz.,—

- "The Port Chalmers Seamen's Institute Ordinance, 1875 ;"
- "The Otago Harbour Boards Lands Ordinance, 1875 ;"
- "The Balclutha Reserves Management Ordinance, 1875 ;" and
- "The Oamaru Education and Municipal Reserves Exchange Ordinance, 1875."

And to withhold his assent from

- "The Kaitangata Railway Ordinance, 1875 ;"
- "The Outram and Greytown Railway Ordinance, 1875 ;"
- "The Invercargill Town Hall Site Ordinance, 1875 ;" and
- "The Invercargill Public Offices Ordinance, 1875."

His Excellency has been advised to withhold his assent from the two last-named Ordinances, as they interfere with the site of the proposed new General Government Buildings at Invercargill.

His Honor the Superintendent, Otago.

I have, &c.,  
DANIEL POLLEN.

### No. 39.

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

SIR,—

Colonial Secretary's Office, Wellington, 4th September, 1875.

I have the honor to inform you that His Excellency the Governor has been pleased to withhold his assent from "The Moeraki Harbour Board Ordinance, 1875," passed by the Provincial Council of Otago, and reserved by your Honor for the signification of his pleasure thereon,

His Excellency has been advised to take this action as the Ordinance authorizes harbour works to be constructed, or at least authorizes the Harbour Board to acquire lands for such works, but does not contain a provision, as required by the Harbour Works Act of 1874 that the Ordinance is subject to that Act.

His Honor the Superintendent, Otago.

I have, &c.,  
DANIEL POLLEN.

### No. 40.

His Honor the SUPERINTENDENT, Otago, to the Hon. the COLONIAL SECRETARY.

Province of Otago, N.Z., Superintendent's Office, Dunedin,

SIR,—

22nd July, 1875.

Referring to my letters of the numbers and dates quoted in the margin, I now do myself the honor to enclose further Ordinances passed at the last session of the Provincial Council, to which I have assented on behalf of His Excellency the Governor, viz.,—

- "Arrowtown Athenæum Ordinance, 1875 ;"
- "Otago Roads Ordinance 1871 Amendment Ordinance, 1875 ;"
- "Peninsula District Thistle Prevention Ordinance, 1875."

Also the following Bills which I have reserved for the signification of His Excellency's pleasure thereon, viz.,—

- "Superintendents Land Sale Ordinance, 1875 ;"
- "Clutha River Conservators Board Ordinance, 1875 ;"
- "Dunedin Recreation Reserve Change Ordinance, 1875 ;"
- "Naseby Reserves Management Ordinance, 1875 ;"
- "Palmerston Reserves Management Ordinance, 1875 ;"
- "Fairfax School Lands Sale Ordinance, 1875 ;"
- "Lawrence Reserve Sale Ordinance, 1875 ;"
- "Invercargill Athenæum Reserve Management Ordinance, 1875 ;"
- "Tokomairiro School Residence and Glebe Land Sale Validation Ordinance, 1875 ;"
- "Invercargill Education Reserve Exchange Ordinance, 1875 ;"
- "Invercargill Recreation Reserve Change Ordinance, 1875 ;" and
- "Lawrence Reserves Management Ordinance, 1875."

I have, &c.

The Hon. the Colonial Secretary, Wellington.

J. MACANDREW,  
Superintendent of Otago.

### No. 41.

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

SIR,—

Colonial Secretary's Office, Wellington, 18th August, 1875.

I have the honor to acknowledge the receipt of your letter of the 22nd ult., in which you enclose fifteen Ordinances passed by the Provincial Council of Otago during its last session, to three of which your Honor had assented on behalf of the Governor, and the remaining twelve you had reserved for the signification of His Excellency's pleasure thereon.



His Excellency will not be advised to exercise his power of disallowance with respect to the following Ordinances to which your Honor has assented, viz.,—

- “The Arrowtown Athenæum Ordinance, 1875;”
- “The Otago Roads Ordinance 1871 Amendment Ordinance, 1875;”
- “The Peninsula District Thistle Prevention Ordinance, 1875.”

With regard to the Ordinances reserved by your Honor for the signification of His Excellency's pleasure thereon, His Excellency will be advised to assent to following, viz.,—

- “The Superintendent's Land Sale Ordinance, 1875;”
- “The Dunedin Recreation Reserve Change Ordinance, 1875;”
- “The Naseby Reserves Management Ordinance, 1875;”
- “The Palmerston Reserves Management Ordinance, 1875;”
- “The Fairfax School Lands Sale Ordinance, 1875;”
- “The Lawrence Reserve Sale Ordinance, 1875;”
- “The Invercargill Athenæum Reserve Management Ordinance, 1875;”
- “The Tokomairiro School Residence and Glebe Land Sale Validation Ordinance, 1875;”
- “The Invercargill Education Reserve Exchange Ordinance, 1875;”
- “The Invercargill Recreation Reserve Change Ordinance, 1875;” and
- “The Lawrence Reserves Management Ordinance, 1875.”

With respect to “The Clutha River Conservators Board Ordinance, 1875,” I am advised that it is doubtful whether the powers of a Harbour Board can be given in the manner provided; and in any case the Ordinance ought to have been made subject to the Act of the General Assembly, intituled “The Harbour Works Act, 1874” (See section 4 of that Act, which provides that any Ordinance authorizing harbour works shall contain a declaration that it is subject to that Act). As there is no such provision in this Ordinance, and as sections 5 and 6 provide for the construction of works of the nature indicated by the Act, I am advised that it is invalid. It is therefore my duty to advise His Excellency to withhold his assent from this Ordinance.

I have, &c.,

His Honor the Superintendent, Otago.

DANIEL POLLEN.

#### No. 42.

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

SIR,—

Colonial Secretary's Office, Wellington, 20th August, 1875.

With reference to my letter of the 18th inst., I have the honor to enclose for your information a copy of the *New Zealand Gazette* of yesterday's date, notifying His Excellency's assent to the following Ordinances, viz.,—

- “The Superintendent's Land Sale Ordinance, 1875;”
- “The Dunedin Recreation Reserve Charge Ordinance, 1875;”
- “The Naseby Reserves Management Ordinance, 1875;”
- “The Palmerston Reserves Management Ordinance, 1875;”
- “The Fairfax School Lands Sale Ordinance, 1875;”
- “The Lawrence Reserve Sale Ordinance, 1875;”
- “The Invercargill Athenæum Reserve Management Ordinance, 1875;”
- “The Tokomairiro School Residence and Glebe Land Sale Validation Ordinance, 1875;”
- “The Invercargill Education Reserve Exchange Ordinance, 1875;”
- “The Invercargill Recreation Reserve Change Ordinance, 1875;” and
- “The Lawrence Reserves Management Ordinance, 1875;”

duplicates of all of which I forward herewith, with such assent duly noted upon them.

The *Gazette* also notifies that His Excellency has withheld his assent from “The Clutha River Conservators Board Ordinance, 1875;” and that he has not exercised his power of disallowing

- “The Arrowtown Athenæum Ordinance, 1875;”
- “The Otago Roads Ordinance 1871 Amendment Ordinance, 1875;” or
- “The Peninsula District Thistle Prevention Ordinance, 1875.”

I have, &c.,

His Honor the Superintendent, Otago.

DANIEL POLLEN.

#### No. 43.

His Honor the SUPERINTENDENT Otago, to the Hon. the COLONIAL SECRETARY.

Province of Otago, N.Z., Superintendent's Office, Dunedin,  
July, 1875.

SIR,—

Referring to my letters of the numbers and dates quoted in the margin, I now do myself the honor to enclose further Bills passed at the last session of the Provincial Council, which I have reserved for the signification of His Excellency the Governor's pleasure thereon, viz.,—

- “Riverton Athenæum Reserves Management Ordinance, 1875;”
- “Oamaru Reserves Management Ordinance, 1875;”
- “Invercargill Reserves Management Ordinance, 1875 ”
- “Education Reserves Management and Leasing Ordinance, 1875;”
- “Roads Diversion Ordinance, 1875;”
- “Cromwell Reserves Management Ordinance, 1875;”
- “Queenstown Reserves Management Ordinance, 1875;”
- “Gaol Street Diversion Ordinance, 1875;”
- “Port Molyneux Reserves Management Ordinance, 1875;” and
- “Roxburgh Reserve Management Ordinance, 1875.”

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. MACANDREW,  
Superintendent of Otago.

## No. 44.

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

SIR,—

Colonial Secretary's Office, Wellington, 17th August, 1875.

I have the honor to acknowledge the receipt of your letter of July last, enclosing ten Bills passed at the last session of the Provincial Council of Otago, which your Honor had reserved for the signification of the Governor's pleasure thereon.

His Excellency will be advised to assent to,—

"The Riverton Athenæum Reserves Management Ordinance, 1875;"

"The Oamaru Reserves Management Ordinance, 1875;"

"The Invercargill Reserves Management Ordinance, 1875;"

"The Education Reserves Management and Leasing Ordinance, 1875;"

"The Roads Diversion Ordinance, 1875;"

"The Cromwell Reserves Management Ordinance, 1875;"

"The Queenstown Reserves Management Ordinance, 1875;"

"The Port Molyneux Reserves Management Ordinance, 1875." and

"The Roxburgh Reserves Management Ordinance, 1875."

I must, however, draw your Honor's attention to a misprint in the Schedule to "The Education Reserves Management and Leasing Ordinance, 1875," "Block VIII., Coast District," having been printed, in the first line of the tabular list, in lieu of "Block VII.," in which the section affected is contained.

I shall do myself the honor of addressing a separate communication to you upon the subject of "The Gaol Street Diversion Ordinance, 1875."

His Honor the Superintendent, Otago.

I have, &c.,

DANIEL POLLEN.

## No. 45.

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

SIR,—

Colonial Secretary's Office, Wellington, 23rd August, 1875.

Adverting to my letter of the 17th instant, in which I stated that I should address a separate communication to you on the subject of "The Gaol Street Diversion Ordinance, 1875," I have the honor to inform you that the Government have determined to advise His Excellency the Governor to withhold his assent from that Ordinance, on the ground that the closing of Gaol Street would involve an interference with the public property, by depriving the Supreme Court of its access on that side. Moreover, if the site of the street were sold, it might bring private property to abut on the prison wall, and so take away from the security of the gaol.

I enclose for your Honor's information a copy of the *New Zealand Gazette* of the 19th instant, notifying His Excellency's assent to the following Ordinances, viz.,—

"The Riverton Athenæum Reserves Management Ordinance, 1875;"

"The Oamaru Reserves Management Ordinance, 1875;"

"The Invercargill Reserves Management Ordinance, 1875;"

"The Education Reserves Management and Leasing Ordinance, 1875;"

"The Roads Diversion Ordinance, 1875;"

"The Cromwell Reserves Management Ordinance, 1875;"

"The Queenstown Reserves Management Ordinance, 1875;"

"The Port Molyneux Reserves Management Ordinance, 1875;" and

"The Roxburgh Reserve Management Ordinance, 1875."

His Honor the Superintendent, Otago.

I have, &c.,

DANIEL POLLEN.

## No. 46.

His Honor the SUPERINTENDENT, Otago, to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 6th September, 1875.

I have the honor to acknowledge receipt of the following letters, viz. of the 18th August, No. 464; 18th August, No. 466; 17th August, No. 465; 20th August, No. 474; and the 23rd August, No. 476, stating that certain Ordinances had been allowed, certain left to their operation, and others disallowed. I have to state that it seems to me that the reasons given for the disallowance of the Ordinances, when compared with the provisions of the Ordinances, are of a peculiar nature, and the grounds urged of a very weak character. The Town and Country Police Ordinance was passed at the request of the Colonial Secretary, as expressed in a letter addressed to myself in September last year, and if any provision in it or in any of the Ordinances disallowed was *ultra vires* of the Superintendent and Provincial Council, such provision did not necessarily invalidate the Ordinance. Seeing, however, that the Ordinances have been disallowed, and the Government possess the power to do so, it is unnecessary to discuss the various grounds alleged for the action of the Government. If defects had been discovered and stated to me before disallowance, I think I might have pointed out that they were more imaginary than real. This opportunity was not afforded me; and however weak and unsatisfactory the reasons urged are, my comments will be unavailing to give the Ordinances the force of law.

I have, &c.,

J. MACANDREW,

The Hon. the Colonial Secretary, Wellington.

Superintendent of Otago.