

Solicitor-General's to that effect, which I have not here, but which I will endeavour to obtain. [A copy of the memorandum was subsequently sent in. It runs thus:—"Mr. Batkin,—It seems that the effect of section 12, 'Financial Arrangements Act, 1876,' is to preserve the charge upon the Land Fund created by 'The New Plymouth Harbour Board Endowment Act, 1874.' I think these fourths are a first charge on the sales.—W. S. REID.—8th August, 1877."'] In April, 1878, I addressed the following memorandum to the Treasury:—"Commissioner of Audit to the Treasury.—It must be admitted that the operation of section 12 of 'The Financial Arrangements Act, 1876,' is distinctly contradictory to the limitation imposed by the 10th section in respect of the New Plymouth Harbour Board. Is it not the maxim of interpreting Acts of Parliament, that a later provision in the same Act overrides the earlier, except where the one is general and the other specific? Does not a special provision, as to a particular case, always override a general provision which might otherwise have included it?—J. E. F'G., C.A., 30th April, 1878." Upon this, Mr. Batkin, then Secretary to the Treasury, wrote as follows:—"Memorandum on minute by Mr. FitzGerald, 30th April, 1878.—The Solicitor-General has given it as his opinion that the effect of the 12th section of 'The Financial Arrangements Act, 1876,' is to preserve the charge upon the Land Fund created by 'The New Plymouth Harbour Board Endowment Act, 1874,' and that that charge is a first charge on the land sales. A confirmation of that opinion may be found in the fact that the Legislative Council, after having had the subject investigated by a Select Committee, endeavoured to insert a provision in the New Plymouth Harbour Board Ordinance Amendment Bill to the effect that the Colonial Treasurer should not pay over to the Harbour Board any portion of the land revenue of Taranaki, until he should have first deducted the several charges enumerated in the subsections 1, 2, 3, 4, and 5, of section 4 of 'The Financial Arrangements Act, 1876.' The proposed amendment was inadmissible, because it purported to affect or limit a charge upon the revenue; but the fact of it having been attempted to make this charge rank *after* the charges created by the Financial Arrangements Act would appear to confirm the opinion that, as the law stands, it ranks before them.—C. T. BATKIN, 2nd May, 1878." On the 4th May, this memorandum was indorsed with the words "I agree," and initialled by Mr. Ballance. There was another memorandum from Mr. Batkin to the Colonial Treasurer, in which he wrote:—"In connection with the question raised in the papers 377/2604 (the fourth of land revenue payable to the New Plymouth Harbour Board, under 'The New Plymouth Harbour Board Endowment Act, 1874') I beg to call attention to section 6 of 'The Financial Arrangements Act, 1877,' which enacts 'that a separate account shall be kept of the land revenue accruing within each county; and there shall be paid to such county out of the Consolidated Fund, quarterly, a sum equal to 20 per centum of such land revenue so accruing in each county,' and to submit for the decision of the Hon. the Colonial Treasurer, whether the sum payable out of the Consolidated Fund is to be equal to 20 per cent. of the gross land revenue accrued within the county, or 20 per cent. of that revenue *after deducting from it the fourths payable to the New Plymouth Harbour Board*. My own opinion is that each county is entitled to a sum equal to 20 per cent. of the gross land revenue accrued. If this be so, it will be seen that 45 per cent. of the Land Fund of Taranaki is given back to the district. The question requires immediate decision, in order that the 20 per cent. payment for the March quarter may be made without delay.—C. T. BATKIN.—2nd May, 1878." A memorandum initialled by Mr. Ballance, and dated the 4th May, 1878, says: "Act upon the construction that 20 per cent. of the amount of land revenue, *after deducting the fourth to Harbour Board*, is payable." The Committee will understand that under "The Financial Arrangements Act, 1876," there was to be a division between certain fixed charges and a percentage charge; whilst, under "The Financial Arrangements Act, 1877," there were no fixed charges, but two percentages. Then the question arose: which was to be considered the first charge. If they were both calculated upon the gross proceeds, 45 per cent. of the Land Fund would be handed over to New Plymouth, of which 25 per cent. was to be devoted to the Harbour Board. Subsequently, another question has arisen: that is, whether the confiscated lands on the Waimate Plains were to be included, and upon that there is a long opinion. It has never been raised by the Audit, but by the Attorney-General and the Treasury. A minute to the Treasury was written on the 8th of May, 1878, to this effect: "It may be presumptuous to differ from the opinion of the Solicitor-General, but I cannot think that the whole facts have been under his consideration. The rule of law, in apparently contradictory provisions, is *generalibus specialibus non derogant*. The 12th section is general; the 10th section is special, and stringent. The Harbour Board is to get its share, if there is any; but if it can only get it by *borrowing money*, then it is not. The 10th section clearly contemplates a case in which the Harbour Board was not to get a share: there can be no other meaning to those words. But if the 12th section *overrides all*, then there is *no* case in which the Harbour Board would be without the subsidy. But, whatever be the effect of the Act of 1876, there is no doubt as to the meaning of that of 1877. The appropriation of one-fourth of the land revenue by the Harbour Board Act of 1874, and of one-fifth by "The Financial Arrangements Act, 1877," are both specific endowments, which do not conflict with one another, and are both equally in force. The deduction of the harbour endowment out of the fifth seems to me directly contrary to the law. The vouchers are passed because the sum claimed is within that appropriated."—JAMES EDWARD FITZGERALD, Commissioner of Audit." A memorandum from Mr. Batkin is attached, referring the minute to the Solicitor-General, as to the question raised in the first paragraph. The Solicitor-General replied as follows: "I do not think there is any real difference between the view taken by Mr. FitzGerald and myself. His statement of the rule of law is quite correct, and would apply in the case before me. The opinion I gave before was to the effect that section 12 of the Financial Arrangements Act preserved the charge upon the Taranaki Land Fund, created under "The New Plymouth Harbour Board Endowment Act, 1874." I am still of that opinion, and I do not think this conflicts with section 10 of the first-mentioned Act. If there is no Land Fund in Taranaki, or a deficiency, then section 10 comes in and prevents the fund being created, or the deficiency supplied, by Treasury bills. Section 12 left the general law in operation unaffected by the general terms of section 4; but section 10 is a special provision to meet exceptional cases, and would take effect as I have pointed out. My opinion only bears on the first paragraph of Mr. FitzGerald's memorandum, as