

P A P E R S

RELATIVE TO

OVERDRAFTS BY PROVINCIAL GOVERNMENTS.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF
HIS EXCELLENCY.

WELLINGTON.

—
1869.

P A P E R S

RELATIVE TO OVERDRAFTS BY PROVINCIAL GOVERNMENTS.

No. 1.

CIRCULAR.

(68-341.)

SIR,— Colonial Secretary's Office, Wellington, 19th March, 1869.

As there is reason to believe that your Bank may be applied to on behalf of some Provincial Executives for loans, either by way of overdraft or otherwise, the Government deems it right that you should be informed that it is advised that advances made to Provincial Executives, either by way of overdraft or otherwise, to be repaid out of Provincial revenues are illegal, and that any Act or Ordinance of a Provincial Council purporting to appropriate money for the payment of any such overdraft or loan would be invalid.

The Legislature, as you are probably aware, in the last Session of the General Assembly, declared in the Provincial Appropriations Validation Act that loans by way of overdraft were illegal, and certain Provincial Ordinances which had been passed to appropriate money to repay such advances were declared invalid until validated by the General Assembly, and a special authority was required to enable the Governor to assent to certain Provincial Bills passed for the same purpose.

The Legislature has also repeatedly enacted that no further debts were to be contracted by Provinces without its previous authority. There is therefore no ground for supposing that the General Assembly will again validate any Provincial Bill passed for appropriating money to repay overdrafts, or that it will itself appropriate moneys to the payment of moneys advanced in defiance of the law. Under these circumstances, it will be the duty of the Government to advise His Excellency to disallow any Act or Ordinance passed by any Provincial Council, appropriating money to the payment of any such loan or overdraft, and to withhold his assent from any such Bill which may be reserved for his assent.

I have further to inform you that should any officer of your Bank receive any revenue of a Province in payment of any money advanced by way of overdraft or loan to such Province, without the authority of an Act of the General Assembly, the provisions of "The Provincial Audit Act, 1866," will be enforced.

I have, &c.,

E. W. STAFFORD.

P.S.—Please inform the other Branches of your Bank to the effect of the above letter.

No. 2.

Mr. BUCHANAN to the Hon. E. W. STAFFORD.

SIR,— Bank of Australasia,
Wellington, New Zealand, 22nd March, 1869.

I beg to acknowledge the receipt of your circular of the 19th instant (No. 68-341), and to thank you for the information contained therein. In accordance with your request, a copy of the circular shall be forwarded to the other branches of this Bank within this Colony.

I have, &c.,

J. H. BUCHANAN, Manager.

The Hon. the Colonial Secretary.

No. 3.

Mr. COWIE to the Hon. E. W. STAFFORD.

SIR,— Inspector's Department, Union Bank of Australia,
Wellington, New Zealand, 3rd April, 1869.

I have the honor to acknowledge receipt of your circular, dated 19th ultimo, on the subject of advances to Provincial Governments, and as to the improbability of the General Assembly in future sanctioning any appropriation for their repayment.

In reply, I have the honor to thank you for the information conveyed in your circular as to the state of the law on the subject of making advances to Provincial Executives.

I have, &c.,

GEO. COWIE,
Assistant Inspector.

The Hon. the Colonial Secretary.

No. 4.

Mr. MURDOCH to the Hon. E. W. STAFFORD.

SIR,— Inspector's Office, Bank of New Zealand,
Auckland, 17th April, 1869.

I have the honor to acknowledge receipt of your letter of 19th ultimo, on the subject of loans to Provincial Executives.

PAPERS RELATIVE TO OVERDRAFTS

Your letter has had the most attentive consideration of the Directors of this Bank, but it is difficult to reconcile many statements in it with the existing law of the Colony. For example, you state, "The Legislature, as you are probably aware, in the last Session of the General Assembly, declared, in the Provincial Appropriation Validation Act, that loans by way of overdraft were illegal;" on reference to the Act named I do not find that it contains any declaratory enactment on the subject, but the preamble recites that overdrafts (such as therein referred to) are *deemed* to be illegal.

Again you state that "certain Provincial Ordinances which have been passed to appropriate money to repay such advances (overdrafts) were declared invalid." The Act referred to does not appear to contain such declaration, but the preamble recites that it is desirable to remove doubts as to the validity of such Acts already passed. The effect of this recital it would appear to me is not to make a law either declaratory or enacting, but to record an authoritative declaration of the Legislature *that doubts do exist* as to the legality of overdrafts, and the validity of certain Ordinances appropriating money to repay them.

Having regard, however, to the general scope of your letter, to your expressed intention of enforcing the provisions of "The Provincial Audit Act, 1866," and to the wish of the Directors of this Bank to avoid, if possible, tedious and uncertain legal proceedings, the Directors have resolved to limit the Bank's advances to Provincial Executives as far as possible, consistently with engagements already existing, and they by this mail forward to the Provinces a copy of your letter and their reply.

I have, &c.,

D. L. MURDOCH,
Inspector.

The Hon. the Colonial Secretary.

 No. 5.

Mr. HOOS to the Hon. E. W. STAFFORD.

SIR,—

Empire Hotel, Wellington, 12th May, 1869.

Referring to our interview of to-day with regard to the circular letter issued from your office, No. 68-341, dated March 19, 1869, to the Banks, and its effect upon a negotiated overdraft by the County Council of Westland with the Bank of New Zealand at Hokitika, I beg to state that at the time when the Council was sitting it was thought highly desirable, and resolved, that greater facility to prospecting and settlement should be afforded by opening up the country, and of establishing easier and cheaper communication between existing populated centres. This opinion was so generally approved of that the Banks were induced to come forward to offer their services in advancing money at a very low rate (8 per cent.) to attain this desirable object.

In accordance with the wishes of the majority of the population and the County Council, and with the firm conviction that the resources of the County, when developed, were more than sufficient to repay the advances received, the County Council, by resolution, instructed the Chairman and Mr. Lahman to come to an arrangement with the Bank for an accommodation of not exceeding £20,000; this sum to be solely expended in constructing roads and tracks. An arrangement was concluded on the 2nd March (see copy of correspondence), and I lost no time to carry out the proposed works at once, and entered into contracts up to present date of over £10,000, of which a portion has already been executed, and the remainder is progressing towards completion.

The revenue of the County, I am glad to state, realizes the estimated expectations, and the County Council also took the precaution of passing a resolution for the part redemption of the overdraft, by offering for sale along the constructed roads, as soon as completed, all available lands, and devote the whole proceeds to that purpose. It is further the intention of the Council to place tolls on those roads, for the defrayment of their future maintenance.

In conclusion, I would remind you that the circular issued from your office appears to me not to include Westland, of which no mention whatever is made in the same, nor has a copy been forwarded to me, and the first intimation I received was from the Bank Manager in Hokitika, with a notice of breaking the agreement, on the 20th April last. Westland is also under a special audit, according to section 7 of the Westland County Act. I therefore trust that such assurance will be given to me and the Bank of New Zealand as to induce the same to carry out the arrangement, otherwise great inconvenience—as I have already personally stated to you—will arise, and retard seriously the progress of a County which endeavours to do all for its advancement without involving others in the responsibility.

I enclose a copy of the agreement and correspondence with the Bank, and of the estimates as passed during last session of the County Council, from which you will see that any reduction on the £20,000 charged against Westland, annually, on the Canterbury Loan, will also become available for the further redemption of the overdraft. The items under Class XII., marked x, are the proposed works to be constructed out of the overdraft, and the votes marked § have all been satisfied to the one half at the last quarter, and it is my wish to be able to wholly satisfy them at the end of the current quarter.

I have, &c.,

C. Hoos,

Chairman, County Council.

The Hon. the Colonial Secretary.

 Enclosure 1 in No. 5.

WESTLAND COUNTY COUNCIL.

Extract from Proceedings.

RESOLVED,—That the Chairman of the County Council and Mr. Lahman be authorized to negotiate with the Bank of New Zealand for an overdraft not exceeding the sum of £20,000, the said overdraft to be repaid from the revenue of the County of Westland.

J. HEAWOOD,

Secretary of the Council.

16th February, 1869.

Enclosure 2 in No. 5.

Mr. Hoos to Mr. ROBERTS.

(No. 129.)

SIR,—

Hokitika, 15th February, 1869.

I have the honor to request you will inform me upon what terms and conditions you can advance an overdraft to the Westland County Council, or loan of a sum of money not exceeding £20,000. I shall esteem it a favour if you will kindly furnish me with a reply at your earliest convenience.

I have, &c.,

W. C. Roberts, Esq.,
Manager of the Bank of New Zealand, Hokitika.

C. Hoos,
Chairman of the County Council.

Enclosure 3 in No. 5.

Mr. ROBERTS to Mr. Hoos.

SIR,—

Bank of New Zealand, Hokitika, 15th February, 1869.

I have the honor to acknowledge receipt of your letter of this date, requesting me to inform you upon what terms and conditions the Bank can advance an overdraft to the Westland County Council, or loan of a sum of money not exceeding £20,000.

In reply I would beg to submit the following terms for your consideration:—

That the Bank allow the County an overdraft as required to the extent of £15,000, upon which 8 per cent. per annum will be charged. Any further sums, to the extent named by you, to be specially arranged for.

For the average balance to the credit of the account the Bank will allow 3 per cent. per annum, or for special deposits $\frac{1}{2}$ per cent. over rates to the public.

No interest on deposits at any sub-office.

Remittances within New Zealand to be made at par; beyond the Colony, at current rates.

That the account be held by the Bank subject to three months' notice of withdrawal; the same notice to be given by the Bank, unless the revenues of the County be unduly interfered with by legislation by the General Assembly.

That the advance be allowed under and by authority of a vote of the Council against and in anticipation of the collections of the revenue of the County, all of which are to be paid into the County Account with the Bank of New Zealand as received.

I will be happy to afford you any further information requisite, and trust the above conditions will meet your approval.

I have, &c.,

Conrad Hoos, Esq.,
Chairman of the County Council, Westland.

WM. C. ROBERTS,
Manager.

Enclosure 4 in No. 5.

Mr. ROBERTS to Mr. Hoos.

SIR,—

Bank of New Zealand, Hokitika, 1st March, 1869.

Referring to my letter to you of 15th ultimo, and to my conversation with yourself and Mr. Lahman this morning, I beg to substitute for the clause of the letter above referred to, reading, "That the account be held by the Bank subject to three months' notice of withdrawal, the same notice to be given by the Bank, unless the revenues of the County be unduly interfered with by legislation by the General Assembly," to the following, which will be considered a portion of the conditions upon which the Bank is prepared to advance money by way of overdraft to the County, viz.,—That the County Account be held by the Bank subject to six months' notice of withdrawal from either party to the arrangement. I would be glad to be informed if these conditions are considered satisfactory, in which case I would request that I may be favoured with a copy of the Resolution of the Council and bye-laws referring to the account, also the acceptance by yourself and Mr. Lahman to the conditions embodied above and in my letter of 15th ultimo.

I have, &c.

Conrad Hoos, Esq.,
Chairman, County Council, Westland.

WM. C. ROBERTS,
Manager.

Enclosure 5 in No. 5.

Mr. Hoos to Mr. ROBERTS.

(No. 175.)

SIR,—

Hokitika, 2nd March, 1869.

Referring to your letters dated the 15th February and the 1st instant, we have the honor to state, that on behalf of the County Council we are willing to accept the terms as stated in the letters above mentioned.

We have, &c.,

W. C. Roberts, Esq., Manager of the
Bank of New Zealand, Hokitika.

C. Hoos,
Chairman, County Council.
H. H. LAHMAN.

Enclosure 6 in No. 5.

Mr. ROBERTS to Mr. Hoos.

SIR,—

Bank of New Zealand, Hokitika, 26th April, 1869.

Under instructions which reached me this day from the Inspector of the Bank, I have the honor to hand you herewith copy of a letter recently received by him from the Hon. the Colonial

Secretary, and to express the great regret of the Directors that, after such notice from the General Government and their expressed intention of putting into force the Provincial Audit Act, it will not be possible to carry out the arrangement of advancing by overdraft, or otherwise, to the County Council.

It will be evident to you and the County Council, that the Bank has at least shown a desire to further the interests of the County; but as it is declared that any financial assistance allowed would be illegal, and its repayment prevented, you will at once see that the Bank is rendered powerless to make such advances, without some alteration in the law being first effected.

Conrad Hoos, Esq.,
Chairman, County Council, Westland.

I have, &c.,
W. M. C. ROBERTS,
Manager.

Sub-Enclosure 1 to Enclosure 6 in No. 5.

Hon. E. W. STAFFORD to the INSPECTOR of the BANK OF NEW ZEALAND, Auckland.

(No. 68-341.)

Colonial Secretary's Office,

Wellington, 19th March, 1869.

SIR,—

As there is reason to believe that your Bank may be applied to on behalf of some Provincial Executives for loans, either by way of overdraft or otherwise, the Government deems it right that you should be informed that it is advised that advances made to Provincial Executives, either by way of overdraft or otherwise, to be repaid out of Provincial revenues, are illegal, and that any Act or Ordinance of the Provincial Council purporting to appropriate money for the payment of any such overdraft or loan would be invalid.

The Legislature, as you are probably aware, in the last Session of the General Assembly, declared in the Provincial Appropriations Validation Act that loans by way of overdraft were illegal, and certain Provincial Ordinances which had been passed to appropriate money to repay such advances were declared invalid until validated by the General Assembly; and a special authority was required to enable the Governor to assent to certain Provincial Bills passed for the same purpose.

The Legislature has also repeatedly enacted that no further debts were to be contracted by Provinces, without its previous authority. There is therefore no ground for supposing that the General Assembly will again validate any Provincial Bill passed for appropriating money to repay overdrafts, or that it will itself appropriate moneys to the payment of moneys advanced in defiance of the law. Under these circumstances it will be the duty of the Government to advise His Excellency to disallow any Act or Ordinance passed by any Provincial Council appropriating money to the payment of any such loan or overdraft, and to withhold his assent from any such Bill which may be reserved for his assent.

I have further to inform you, that should any officer of your Bank receive any revenue of a Province in payment of any money advanced by way of overdraft or loan to such Province, without the authority of an Act of the General Assembly, the provisions of "The Provincial Audit Act, 1866," will be enforced.

The Inspector of the Bank of New Zealand,
Auckland.

I have, &c.,
E. W. STAFFORD.

P.S.—Please inform the other branches of your Bank to the effect of the above letter.

Sub-Enclosure 2 to Enclosure 6 in No. 5.

Extract from the Westland County Estimates for the Year ending 30th June, 1869.

XII. PUBLIC WORKS.

*	*	*	*	*	*	*	*	*	*	
								£	s.	d.
x	4.	Track, Greymouth to Poenamū ...	...	...	...	...	...	4,000	0	0
x	5.	Road, Hohonu Junction to Poenamū ...	...	...	...	...	...	1,800	0	0
x	6.	„ Stafford to Hohonu Junction ...	...	...	...	...	...	5,000	0	0
x	7.	Arnold Track ...	...	...	...	...	...	1,000	0	0
x	8.	Road, Hokitika to Arahura ...	...	...	...	...	...	5,000	0	0
x	9.	„ Ross to Totara Store ...	...	...	...	...	...	1,500	0	0
x	10.	„ Kanieri, Kanieri Lake, and Longford ...	...	...	...	...	...	3,000	0	0
x	11.	Track, Chesterfield to Hohonu ...	...	...	...	...	...	500	0	0
*	*	*	*	*	*	*	*	*	*	*
x	16.	Tracks, Okarito District ...	...	...	...	...	...	2,000	0	0
	17.	Road Board Grants, viz.:—								
		Arahura ...	...	...	...	...	...	£750	0	0
		Kanieri ...	...	...	...	...	...	750	0	0
		Totara ...	...	...	...	...	...	750	0	0
		Okarito ...	...	...	...	...	...	750	0	0
		Paroa ...	...	...	...	...	...	750	0	0
								£3,750	0	0

No. 6.

The Hon. E. W. STAFFORD to Mr. Hoos.

(No. 395.)

Colonial Secretary's Office,
Wellington, 14th May, 1869.

SIR,—

I have to acknowledge the receipt of your letter of the 12th instant, on the subject of an overdraft to the amount of twenty thousand pounds, for which, under the circumstances stated therein, the County of Westland had negotiated with the Bank of New Zealand.

After a careful consideration of your letter by the Cabinet, they are strongly of opinion that in the short interval (about a fortnight) which must now elapse before the session of the General Assembly, they would not be justified in prejudging the opinion of the Legislature in respect of the proposed overdraft.

The Government have been influenced in arriving at this decision, by the fact that the General Assembly has in successive Sessions, since 1865, prohibited Provinces from borrowing without its previous assent, and, from the seventh section of "The County of Westland Act, 1868," that the County is virtually in the position of the Provinces in that respect.

As it appears from your letter that the Estimates of Revenue which you forward are being realized, I trust that no public inconvenience can occur in the short interval which will elapse before the decision of the General Assembly on this question can be announced.

The Chairman of the County Council
of Westland.

I have, &c.,
E. W. STAFFORD.

No. 7.

Mr. Hoos to the Hon. E. W. STAFFORD.

Wellington, 15th May, 1869.

SIR,—

I have the honor to acknowledge your letter No. 395, dated 14th May, 1869, and, in reply, I respectfully ask you to state whether the decision given in the same, with regard to the circular letter addressed to the Banks mentioned in my former communication, is retrospective as regards the negotiated overdraft by Westland?

A reply to this will greatly oblige.

I have, &c.,
C. Hoos,

The Hon. the Colonial Secretary.

Chairman, County Council of Westland.

No. 8.

The Hon. E. W. STAFFORD to Mr. Hoos.

Colonial Secretary's Office, Wellington, 15th May, 1869.

SIR,—

I have the honor to acknowledge the receipt of your letter of this day, and, in reply, to state that the notice to which you refer, given by the Government to the Banks respecting Provincial overdrafts, could necessarily have no retrospective effect.

The Chairman of the County Council of Westland.

I have, &c.,
E. W. STAFFORD.

No. 9.

Mr. Hoos to the Hon. E. W. STAFFORD.

Telegram.

Hokitika, 9th June, 1869.

PLEASE induce the Bank authorities to forward instructions to the Manager here for carrying out the financial arrangement between the Bank of New Zealand and the County.

The Colonial Secretary, Wellington.

C. Hoos.

No. 10.

Mr. Hoos to the Hon. E. W. STAFFORD.

Telegram.

Hokitika, 18th June, 1869.

No reply received to my telegram dated 9th June. The Manager here is anxious for instructions from his principals. Please reply.

The Hon. the Colonial Secretary.

C. Hoos.

No. 11.

The Hon. E. W. STAFFORD to Mr. Hoos.

Telegram.

Wellington, 18th June, 1869.

THE Government has no power to compel the Bank in the matter in question.

The Chairman of the County Council, Westland.

E. W. STAFFORD.

N.B.—This telegram was prepared on the 10th June, but, by an accident, was not despatched till the 18th.

