

No. 3.

His Honor W. ROLLESTON to the Hon. the COLONIAL SECRETARY.

SIR,—
 Superintendent's Office,
 Christchurch, Canterbury, N.Z., 20th March, 1873.
 Referring to your letter of the 7th ultimo, in which you inform me that His Excellency the Governor has been advised to withhold his assent to "The Reserve No. 424 Ordinance, 1872," I have the honor to forward, for your consideration, copy of a memorandum written by the legal adviser of the Provincial Government.

I have, &c.,
 W. ROLLESTON,
 Superintendent.

The Hon. the Colonial Secretary.

Enclosure in No. 3.

THE letter of the Colonial Secretary proceeds upon the assumption that the land has been appropriated to the purposes of, or used as a site for a telegraph station, and, supposing that to be the case, the General Government are correctly advised; but, as I am informed, the land has not been used or appropriated for any such purpose. I do not see how land granted to the Superintendent upon trust for a specific purpose can be said to be appropriated or set apart for any of the purposes mentioned in section 2 of "The Public Buildings Reserves Act, 1867," except under the authority of an Ordinance. Section 8 of the Public Reserves Act enacts that the specific purposes for which any land may be held by the Superintendent shall only be changed or appropriated to other purposes under the authority of an Act or Ordinance of the Provincial Council. There has been, then, no appropriation or use which would enable the Superintendent to convey the land.

I am aware that section 2 uses the words "shall be appropriated set apart or used;" but it seems to me that the Superintendent would not be justified in permitting the land to be used for any other purpose than that for which it has been granted, and would, in fact, be guilty of a breach of trust. Section 8 of "The Public Reserves Act, 1854," is conclusive as to his duty in the matter. If the Superintendent were to allow the land to be used as a site for the telegraph station, with the intention that as soon as it had been so used he would grant a surrender to the Crown, he would initiate a system by which the most valuable lands of the Province might be transferred by him to the Crown without any reference to the Provincial Council.

If this land can be transferred without an Ordinance, then the reserves in Christchurch can be, by following the same plan.

11th February, 1873.

W. P. COWLISHAW.

No. 4.

The Hon. W. H. REYNOLDS to His Honor W. ROLLESTON.

SIR,—
 Colonial Secretary's Office, Wellington, 4th June, 1873.
 I have the honor to acknowledge the receipt of your letter of the 20th March last, enclosing for the consideration of the Government a copy of a Memorandum written by the legal adviser of the Provincial Government on the subject of "The Reserve No. 424 Ordinance, 1872," from which His Excellency's assent was withheld.

In reply, I have to inform your Honor that the Government do not agree with Mr. Cowlshaw that the words "used for" mean "used for under Ordinance of Provincial Legislature," and that it has been the practice to pass Ordinances in such cases. There are several cases in which like surrenders have been made to the Crown by the Superintendent of Canterbury without intervention of Provincial Ordinances: for instance, Superintendent of Canterbury to Crown—Grant of Reserve 168, at Temuka (for telegraph station), dated 11th May, 1870; Superintendent of Canterbury to Crown—Section 224, Sumner, dated 3rd October, 1870.

If however, your Honor is still advised otherwise, I have to request you to be good enough to obtain the sanction of a Provincial Ordinance for the purpose.

His Honor the Superintendent, Canterbury.

I have, &c.,
 WILLIAM H. REYNOLDS.