



SOUTHLAND PROVINCIAL GOVERNMENT GAZETTE.

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[No. 19.

PROCLAMATION.

By JAMES A. R. MENZIES, Esquire,
Superintendent of the Province
of Southland.

WHEREAS by an Act of the General Assembly of New Zealand, entitled the "Superintendent's Deputy Act, 1856," it is among other things enacted that it shall be lawful for the Superintendent of any Province to appoint such person as he may think fit, being a registered elector in such Province, to be his Deputy, and, as such, to perform and exercise all the acts and powers (except such powers as are conferred by the "Constitution Act, 15 and 16 Vic., c. 72") which may be exercised and performed by such Superintendent; and the acts of such Deputy Superintendent, so far as authorised by such proclamation, shall be effectual in all respects as if performed by the Superintendent himself;

And, whereas I am about to be absent from the Province, and it is therefore necessary that I should appoint a registered

elector to be my Deputy Superintendent to act during my absence, as provided by the said Act;

Now, therefore, I, the said Superintendent, do hereby proclaim and declare that I have appointed

THEOPHILUS HEALE, Esquire,
a registered elector of the Province of Southland, to be my Deputy, and, as such, to perform and exercise, during my absence from the Province, all the acts and powers (except such powers as are conferred by the "Constitution Act, 15 and 16 Vic., c. 72," or by delegation from His Excellency the Governor of New Zealand) which may be exercised or performed by me.

Given under my hand, and issued under the Public Seal of the Province of Southland, this twenty-first day of May, One thousand eight hundred and sixty-four.

J. A. R. MENZIES,
Superintendent
Of the Province of Southland.

PROCLAMATION.

By JAMES A. R. MENZIES, Esquire,
Superintendent of the Province
of Southland.

IN pursuance of the provisions of the "Provincial Reserved Bills Act, 1858," section 2, I hereby notify that the Ordinance passed by the Provincial Legislature of the Province of Southland, entitled the "Appropriation Ordinance, No. 3, 1864," has been laid before His Excellency the Governor, and that His Excellency has assented to the same.

Given under my hand, and issued under the Public Seal of the Province of Southland, this twenty-first day of May, eighteen hundred and sixty-four.

J. A. R. MENZIES,
Superintendent.

INVERCARGILL TOWN BOARD.

ELECTION OF THREE MEMBERS.

IN pursuance of the provisions of the "Town Board Ordinance, 1863," I, the Superintendent of the Province of Southland, do hereby appoint the Electors entitled to vote for Members for the Town of Invercargill, in the Provincial Council of Southland, to assemble upon Monday, the sixth day of June, in the office of the said Board, for the purpose of electing three legally qualified persons who shall be Members of the Town Board under the provisions of the Ordinance aforesaid, in the room of

WILLIAM H. CALDER, Esq.,

SAMUEL BEAVEN, Esq.,

AND

C. H. REYNOLDS, Esq.,

whose seats are vacant under the provisions of the Ordinance aforesaid: And I hereby appoint John Hare, Esq., of Invercargill, Returning Officer, to preside at the said meeting; and in the event of a Poll being demanded, I hereby appoint the polling to take place in the office of the said Board, on Tuesday, the seventh day of June, 1864.

J. A. R. MENZIES,
Superintendent.

Superintendent's Office,
Southland, May 20th, 1864.

THE following correspondence is published for general information.

By order,

W. H. AYLMER,

Clerk to Superintendent.

Superintendent's Office,
Southland, 23rd May, 1864.

Superintendent's Office,
Southland, 14th March, 1864.

SIR,—During the sitting of the Provincial Council in its late session, it passed a Bill entitled the "Representation Ordinance," which appeared to me to be open to serious objection, and therefore a message was sent to the Council recommending an amendment—a copy of which is enclosed—the adoption of which would preclude the possibility of a new election taking place until those persons who are now registering their claims were in a position to exercise the franchise after 1st October. The amendment was rejected, and, as I regarded the alteration proposed therein of much importance, I withheld the assent of the Governor from the Bill. On further consideration, however, and after consulting with the Provincial Solicitor, it appears to me that there is some doubt whether it is competent to withhold a Bill dealing with electoral matters, and as I am not aware that a case of a similar nature has as yet occurred in New Zealand, I have the honour to request that the case will be submitted to the Hon. the Attorney General for his opinion.

The provisions in the latter part of section 27 of the Constitution Act, and the 1st and 12th sections of the "Provincial Elections Act, 1858," would appear to deal conclusively with this subject and forbid all action by a Superintendent, when dealing with a Bill affecting electoral matters—other than the reservation of the Bill for the Governor's assent. The provisions alluded to above are specific. On the other hand a later Act of 1858—the "New Provinces Act"—in section 12 gives general powers to a Superintendent to reserve for or withhold from the assent of the Governor, all Bills without exception—there is no saving clause in the Act with reference to Bills of any particular class.

The question then is—Do the general powers given by the "New Provinces Act" overrule specific provisions contained in earlier Acts?

I look forward with much interest for the reply of the Attorney General. In case he should be of opinion that the specific provisions are not overruled by the general one, then the declaration,

that the Bill is withheld from receiving the assent of the Governor will become void, and it will be transmitted in the usual way as a reserved Bill.

I enclose a copy of it for your further information.

I have, &c.,

J. A. R. MENZIES,
Superintendent.

The Hon. the Colonial Secretary,
Auckland.

Superintendent's Office,
Southland, 15th March, 1864.

SIR,—I have the honour to enclose a petition adopted by the Provincial Council on the day of its prorogation, the 12th inst; it prays that, in the event of the Representation Bill being assented to, the Council should be dissolved at such a time as will permit the new elections to be held early in October.

The prayer of the petition is quite in consistent with the action of the Council during the session—the Representation Bill was brought in (by a private member) with the express intention of providing for an immediate dissolution. I proposed as an amendment that the Bill should not come into operation until 1st October; when the new Electoral Rolls would also come into force; this the Council rejected. It also resolved that the supplies should be voted only to 30th June, on the ground that a new Council would be elected by that time under the provisions of the Representation Ordinance, a hostile vote which at once caused the resignation of the Executive. The petition substantially agrees with the provisions of the amendment to the Bill named above, and, if that had been adopted, I should have willingly concurred in the desire of the petitioners. I believe however that provision for increased representation should be made before the dissolution of the Council.

I have also the honour to enclose a resolution of the Council on the same subject passed on the 11th inst.

I have, &c.,

J. A. R. MENZIES,
Superintendent.

The Hon. the Colonial Secretary,
Auckland.

Colonial Secretary's Office,
Auckland, 2nd May, 1864.

SIR,—I have to acknowledge the receipt of your Honor's two letters of the 14th and 15th March respectively, on the subject of a Bill entitled "The Representation Ordinance," which had been passed by the Provincial Council of Southland, but which had not been re-

served by your Honor for the signification of the Governor's pleasure thereon.

The legal question which your Honor raises as to the action of a Superintendent of a new Province when dealing with a Bill affecting electoral matters, is not, in the opinion of the Honorable the Attorney-General, free from doubt and difficulty; but the inclination of his opinion is, that the new "Provinces Act" overrides the "Electoral Act," and that the Superintendent may withhold the Governor's assent.

It is, however, clear that the intention of the Legislature was that Bills passed under the "Provincial Elections Act, 1858," should be reserved for the signification of the Governor's pleasure thereon, and the proper course to pursue will be for the Governor to issue an instruction to the Superintendents of new Provinces to reserve such Bills for the signification of the Governor's pleasure thereon. This course, which will give effect to the intention of the Legislature, and clear away any difficulty of interpretation, will be adopted, and, in the meantime, I am to request your Honor to be good enough to transmit the Bill in question in the usual manner for the consideration of the Governor.

I have to request your Honor to be good enough to inform the Provincial Council, in reply to the petition transmitted in your Honor's letter of the 15th March last, to the above effect.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Southland.

Superintendent's Office,
Southland, 21st May, 1864.

SIR,—I have the honour to acknowledge the receipt of your letter of 2nd inst., in which you communicate the opinion of the Hon. the Attorney-General, with reference to the withholding of the assent of His Excellency the Governor to the "Representation Bill," passed by the Provincial Council of Southland in its last session, that the general provisions contained in the "New Provinces' Act," regarding Electoral Bills, override the specific provisions contained in anterior Acts, an opinion which coincides with the view I entertained when the assent to it of His Excellency the Governor was declared to be withheld.

In conformity with your desire, I now transmit the Bill referred to. As explained in my letters, to which you refer, my object in withholding assent to this bill, was

in order to avoid a general election of members of the Provincial Council, prior to the first of October, when the new Electoral Rolls will come into operation; by the lapse of time, this object is now attainable, under the provisions of the "Provincial Reserved Bills;" therefore, in forwarding this Bill, I have, at the

same time, to express my own concurrence therein.

I have, &c.,

J. A. R. MENZIES,
Superintendent.

The Hon. the Colonial Secretary,
Auckland.