

In 1853 a reserve out of this frontage was set apart by the Governor for Native purposes, which is now known as the Princes Street Reserve, and is the subject of the present petition. The property has, since 1862, become of great value, and the objection which always existed to its being reserved for the Natives has been steadily urged on the Government.

It is alleged that His Excellency exceeded his powers in making such a reserve within the lands specifically assigned to other purposes by the New Zealand Company.

In 1865 the question was pressed to an issue in the Legislature, and a resolution of the House of Representatives, founded on a Report of a Select Committee, was passed, declaring that a grant to the Superintendent ought to be issued under the Public Reserves Act. The Government of the day proposed that an amicable suit should be instituted to try the questions of authority on one side and the other which had been raised. The Provincial Government never acquiesced in this proposal. Mr. Stafford, then Colonial Secretary, was advised that to bring the matter into Court a grant must issue to one party or the other, and had intended to recommend a grant; but in the mean time, inadvertently as regards His Excellency and the Colonial Secretary, a grant which had been prepared on the authority of the resolution of the House of Representatives was presented for signature and issued.

Since this the accrued rents, amounting to above £6,000, which had been impounded pending the settlement of the claim, have been handed to the Province on the undertaking to refund, should the ultimate legal decision upset the grant.

A suit has been instituted by the Native claimants, since the commencement of which an offer of £1,000 and a reserve of equal area on another part of the reserved frontage has been made by the Superintendent but not accepted by the Native claimants in satisfaction of their claims. The suit is now going forward. The Bill referred to by the petitioner was an authority to the Treasurer to pay over the rents to the grantee, but expressly saved the legal question, and in no way validated the grant.

It has since been withdrawn, and the money advanced, on the terms stated above.

The recent decision of the Privy Council in the Queen against Hughes and another having made it uncertain whether *scire facias* will lie to repeal letters patent from the Crown, it has been provided by an Act of the present session that *scire facias* shall be applicable in such cases, and now no technical obstacle exists, so far as Ministers are aware, to obtaining a decision of the Supreme Court.

It is doubtful whether in case of a decision adverse to the Natives any power exists to carry out the intention of His Excellency in 1853 in any other way. The power reserved in "The Waste Lands Act, 1853," for fulfilling promises, of which there is evidence in writing, would probably be held to be limited to specific promises, or to promises as to specified land.

5th October, 1867.

J. C. RICHMOND.

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