

P A P E R S

RELATIVE TO

OCCUPATION OF MINISTERIAL RESIDENCES.

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

WELLINGTON.

—
1869.

PAPERS RELATIVE TO MINISTERIAL RESIDENCE.

No. 1.

Mr. E. WAKEFIELD to Mr. STAFFORD.

SIR,—
 Government Offices, Wellington, 10th August, 1869.
 I have the honor to inform you that I am directed by Mr. Fox to remind you that it is six weeks since he assumed office, and became entitled to the use of the Ministerial residence occupied by you.

Mr. Fox will be obliged if you will place it at his disposal at your earliest convenience, and will be so good as to inform him in reply when you will be able to do so.

E. W. Stafford, Esq., M.H.R., Wellington.

I have, &c.,
 EDWARD WAKEFIELD.

No. 2.

Mr. STAFFORD to the Hon. the COLONIAL SECRETARY.

SIR,—
 Wellington, 11th August, 1869.
 I have the honor to acknowledge the receipt of Mr. Wakefield's letter of yesterday's date, written by direction of Mr. Fox, in which Mr. Fox states that it is six weeks since he became entitled to the Ministerial residence occupied by me, and that he would feel obliged if I would place it at his disposal, and inform him when I will be able to do so.

In reply I would observe, that the understanding with respect to the residence in question was, that the Minister who occupied it when a Session commenced should continue to do so until the Session terminated, although he might cease to remain a Minister throughout the Session. This understanding was acted on in 1865 when I succeeded Mr. Weld, on which occasion I did not take possession of the house until some days after the Session terminated. I am, however, willing to give up the residence whenever the Government is ready to give up to me the house taken by me as a residence from Sir Charles Clifford, and at present occupied by the Governor.

That house was at first proposed to be taken as a residence for a Minister, and a lease directed to be drafted accordingly, but on the draft lease being submitted to the lessor's solicitor, he objected to its being leased to the Crown, whereupon I determined to take it for myself, intending to occupy it whether I remained a Minister or not. (Accordingly a lease to me was made out, which has been duly executed since I resigned office.) Subsequent to my final decision, just as I was about to remove to that house, the Governor asked that it might be occupied temporarily by the Suite of the Duke of Edinburgh, and afterwards, during the present Session, by himself, instead of his living in the front part of the old Government House, which His Excellency had first proposed to do. In consequence of the Governor's request to the above effect, I delayed removing to the house which I had been anxious to do, both on account of its being a pleasant winter residence, and as having a good paddock for cows attached to it, and I am even now unwilling to cause any inconvenience to the Governor in the matter if His Excellency still desires to occupy it; but it will be seen that until that house is given up to me by the Government, it is necessary that I should continue to occupy my present residence.

The Hon. the Colonial Secretary.

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

No. 3.

The Hon. the COLONIAL SECRETARY to Mr. STAFFORD.

SIR,—
 Government Offices, Wellington, 13th August, 1869.

I have the honor to inform you that your letter of the 11th instant, relative to your occupation of the Ministerial residence, addressed to the Colonial Secretary, has been handed to me.

With respect to the understanding to which you refer, that the Minister who resigned during the Session should occupy the Ministerial residence until the end of the Session, I would observe that I am not able to ascertain from the permanent officers of Government that such an understanding ever existed, nor do I exactly apprehend between whom it did or could exist. With reference to the case of Mr. Weld, I have been assured by a friend and colleague of his, that on the day when that gentleman left office, on the next day he offered immediately to place the Ministerial residence at your disposal, and that he left that house a few days afterwards,—facts which have possibly escaped your recollection.

As, however, you state that you have been continuing to reside in the Ministerial residence on the faith of such an understanding, I do not feel disposed, at whatever personal inconvenience to myself, to disturb you in your present occupation until the end of the Session.

I learn with great surprise that you claim the residence occupied by His Excellency the Governor on the ground that, long after His Excellency's occupation had commenced, and after you had left office, you inserted your own name in the lease as lessee. I find, from a perusal of the documents connected with the lease of that building, that you, expressly on behalf of the Government, negotiated for the lease, and that it was only on account of some technical difficulty raised by the legal adviser of

the lessor, as to the insertion of the Queen's name as lessee, and after other official names had been suggested, that you inserted your own name; that there is no record that in doing so you intended to claim the place as your private property; and that the lessor and his legal adviser are quite ignorant that you had any such intention, and have always considered the Government as the tenant. Moreover, it does not appear that His Excellency was ever made aware that in occupying that house he was merely doing so by your permission and at your will as a private individual, a position in which, it is conceived, he would scarcely have allowed himself to be placed, and in which it would certainly not have been becoming for his Ministers to place him.

I will refer the lease and other papers to the Attorney-General for his opinion whether you have any such claim to that building as you now prefer, and on the receipt of that opinion I will communicate with you further on that subject.

E. W. Stafford, Esq., M.H.R., Wellington.

I have, &c.,

WILLIAM FOX.

No. 4.

Copy of a MINUTE by Mr. Fox, &c.

MR. PHARAZYN,—

14th August, 1869.

Mr. E. Wakefield informs the Premier that the counterpart lease, Sir Charles Clifford to Mr. Stafford, was signed by Mr. Stafford about the 26th July ultimo, and returned by Mr. Wakefield to Mr. Pharazyn to exchange with Mr. Brandon for the lease.

Will Mr. Pharazyn state what was done, and in whose custody the lease now is?

WILLIAM FOX.

HON. MR. FOX,—

14th August, 1869.

Until yesterday I was under the impression that Mr. Wakefield had not left the counterpart lease with me after the signature; but I cannot trust my memory sufficiently to say that Mr. Wakefield is in error in the information given to the Hon. the Premier. I am certain that the signed counterpart was taken from my office by some one soon after Mr. Wakefield brought it to me, and that the person who took it did so for the purpose, as I supposed, of returning it to the office of the Colonial Secretary, to place with the other papers. I cannot say positively who it was that received it. It may have been Mr. Stafford himself.

W. PHARAZYN.

MR. WAKEFIELD,—

14th August, 1869.

Ask Mr. Fountain and the several clerks in the Attorney-General's Office whether they know anything of the "taking" of the counterpart lease. Request Mr. Fountain to minute.

W. FOX.

The matter never came into my hands in any way. No one in this room knows anything of the "taking."—R. G. F.

Mr. Pharazyn's explanation is not satisfactory. The *régime* of the office ought to prevent the possibility of valuable documents being taken away by nobody knows whom. Why is not a minute-book kept, as in a solicitor's office?

W. FOX.

16th August, 1869.

CASE for the OPINION of MR. ATTORNEY-GENERAL.

THE intended demolition of Government House rendered it necessary in November last for the Government to find a temporary residence for the Governor.

On the 7th of November proposals to Mr. Levin were made by Mr. Gisborne (Under Secretary), by the direction of Mr. Stafford, to rent, on behalf of the New Zealand Government, the House and land belonging to Sir Charles Clifford, in Hobson Street, Wellington; the rent to be at the rate of £150 per annum, from 1st February, 1869, for two years certain; the Government to have the power to continue the tenancy at the same rent.

Mr. Levin on 9th November accepted the offer, on condition that "the New Zealand Government keep the house in repair, pay taxes, &c., and that, in case of injury by earthquakes, the Government should resume the tenancy," if the premises be put in repair by the lessor.

This letter is minuted by the Hon. J. C. Richmond—"Referred to the Attorney-General to prepare necessary agreement." Several other minutes by Mr. Bethune, the Assistant Law Officer of the Government; Mr. Gisborne, the Under Secretary; Mr. Domett, the Secretary for Crown Lands; and Mr. Stafford, follow. The last, addressing the Assistant Law Officer, concludes thus—"The rent should be said to be payable out of moneys voted by the Parliament."

An agreement (appended) was accordingly prepared by the Attorney-General for a lease between Sir Charles Clifford and Her Most Gracious Majesty the Queen, at the rent of £150; "to be paid out of moneys voted for that purpose by the General Assembly of New Zealand," and was sent to Mr. Brandon (Mr. Levin's solicitor), with a letter by "Mr. Gisborne, Under Secretary," on "the subject of the Government renting the house, &c.," and there are minutes on the draft letter by Mr. Gisborne and the Attorney-General. On the 18th December the Attorney-General writes to Mr. Brandon, "I understand that Mr. Levin is pressing Government to complete the matter." On 1st February a draft lease, of which a copy is with the papers, having been sent to the Attorney-General, was returned to Mr. Brandon "approved;" and again returned to the Attorney-General by Mr. Brandon with alterations. It seems to have been again referred to Mr. Brandon, who on the 9th March sends it to the Attorney-General for engrossment of counterpart.

At this date Mr. Brandon objected to the Queen's name being inserted as lessee, and it was suggested by him that the name of Mr. Domett, as Crown Lands Commissioner, should be inserted instead. Mr. Domett declined, and suggested Mr. Gisborne, who also declined, observing, "It has been the practice to place Her Majesty in the position of lessee, and I cannot conceive what objection

there can be on behalf of the lessors to such a course. If that objection be the want of responsibility of a private individual to supplement the possible deficiency of the Government, it is evidently unfair to ask (as this would virtually be) a Government officer to give his private responsibility for the purpose." To this Mr. Stafford added a minute as follows—"If the Queen is not (as is usual) made the lessee, I have no objection to being so made." The Attorney-General then wrote to Mr. Brandon "If you will not consent to make the Queen lessee, would you consent to Mr. Stafford's name being used?" Mr. Brandon replies, "I have no objection to Mr. Stafford's name being used in the lease from Sir Charles Clifford as lessee." On the 17th May, 1869, the Assistant Law Officer of the Government wrote to Mr. Brandon—"Clifford and the Government. Dear Sir,—I return the draft lease and counterpart engrossed, &c. If you will let me have the counterpart filled up to correspond with the lease, I will get it executed and exchange with you."

While the lease was in preparation and the above correspondence being carried on, the Government entered into possession some time in February, and His Excellency took up his residence in the house, where he has since remained.

At the time of the above transactions Mr. Stafford was Colonial Secretary and Prime Minister. On the 24th of June he resigned those offices; his resignation was accepted and his successor was sworn into office on the 28th June. On that day Mr. Stafford signed the counterpart lease, took it (as far as can be learned) from the office of the Assistant Law Officer of the Government, and exchanged it with Mr. Brandon for the lease signed by Mr. Levin as agent of Sir Charles Clifford.

It will be seen by the accompanying correspondence between Mr. Fox, the present Premier, the Hon. Mr. Gisborne, and Mr. Stafford, that Mr. Stafford now asserts that the lease of Sir Charles Clifford's house was made to him *in his private capacity*, and he refuses to vacate the Ministerial furnished house, garden, and premises, occupied by him during the term of his holding office, unless he is placed in possession of the former house, occupied by His Excellency the Governor.

The opinion of the Attorney-General is requested as to what the position of the Government is in this matter, and particularly whether Mr. Stafford is entitled to claim, on his private account, the house leased from Sir Charles Clifford; and whether, if he be so entitled (or not), he has any right to insist upon retaining the Ministerial house till he is put in possession of the other.

Wellington, 17th August, 1869.

WILLIAM FOX.

Enclosure 1 in No. 5.

Mr. W. GISBORNE to Mr. N. LEVIN.

Colonial Secretary's Office,

Wellington, 7th November, 1868.

SIR,—

I have the honor, by the direction of Mr. Stafford, to propose to rent, on behalf of the New Zealand Government, the house and land in Hobson Street belonging to Sir Charles Clifford, and now occupied by you.

The rent to be at the rate of £150 per annum. The tenancy to commence from the 1st of February next, and to be for two years certain from that date. The Government to have the power, after the expiration of that term, to continue the tenancy at the same rent, and the tenancy then to be determinable by notice of three months on either side. The rent to cease in the event of the house becoming uninhabitable in consequence of fire, earthquakes, or other accidents.

Should you agree to these conditions, an agreement will be directed to be prepared.

I have, &c.,

N. Levin, Esq., Wellington.

W. GISBORNE,
Under Secretary.

Enclosure 2 in No. 5.

Mr. N. LEVIN to Mr. W. GISBORNE.

Wellington, 9th November, 1868.

SIR,—

I have the honor to acknowledge receipt of your letter of the 7th instant, written by direction of the Hon. Mr. Stafford, proposing on behalf of the New Zealand Government to rent the house and land in Hobson Street, the property of Sir Charles Clifford and now in occupation of myself, for a period of two years, to be computed from the 1st February next, at a yearly rental of £150, and at the expiration of the term to continue the tenancy at the same rent, the same to be terminable by notice of three months on either side, and that the rent should cease in the event of the house becoming uninhabitable in consequence of fire or earthquakes.

In reply, I have to inform you that, on behalf of Sir Charles Clifford, I accept the offer above referred to, on the condition that the New Zealand Government keep the house in habitable repair and the garden in good order, and that they pay all taxes during the tenancy, and that the rent be paid half-yearly. It should also be understood that in the event of the house becoming uninhabitable from either of the causes specified in your letter, that the Government should resume the tenancy thereof on the owner putting the same in a state of repair equal to what it was prior to the same having occurred.

I have, &c.,

W. Gisborne, Esq., Under Secretary.

N. LEVIN.

17th November, 1868.

REFERRED to Attorney-General to prepare necessary agreement.

J. C. RICHMOND.

MR. GISBORNE,—

The number of the section should be ascertained. If the land comprises less than the whole acre, I shall want to have the description of it. Mr. Levin, I presume, holds a power of attorney from Sir Charles Clifford. The power of attorney should be examined.

17th November, 1868.

JOHN C. BETHUNE.

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MR. DOMETT,—

18th November, 1868.

Would you let Mr. Marchant communicate with Mr. Bethune, and get him the information required?

W. GISBORNE.

18th November, 1868.

MR. BETHUNE says he can get the required information from Mr. Levin.

A. DOMETT.

MR. GISBORNE,—

23rd November, 1868.

Can you tell me whether it is intended that the demise should be terminable (by three months' notice being given) only at the end of any complete year of the term, or (as the rent is payable half-yearly) at the end of any half-year; or how otherwise?

JOHN C. BETHUNE.

FOR ASSISTANT LAW OFFICER,—

Demise to be terminable by three months' notice at the end of any half-year. There are four acres, or at least three and upwards acres, in the land to be leased. (Mr. F. Wakefield has a list of them.) All the numbers of the sections should be stated in the lease, a blank to be left for the date of its commencement, as possibly possession was not to be given or required on 1st February. The rent should be said to be payable out of moneys voted by Parliament.

[No date or signature. Mr. Stafford's handwriting: probably written on 30th November, the day the papers were again referred to Mr. Bethune.—E. W.]

Enclosure 3 in No. 5.

Mr. W. GISBORNE to Mr. N. LEVIN.

No. 884.)

Colonial Secretary's Office,

SIR,—

Wellington, 15th December, 1868.

I have the honor, by the direction of Mr. Stafford, to acknowledge the receipt of your letter of the 9th ultimo on the subject of the Government renting the house and lands in Hobson Street, the property of Sir Charles Clifford, and to state that a draft agreement has been made and submitted for the consideration of your lawyer, Mr. Brandon.

I have, &c.,

W. GISBORNE,

Under Secretary.

N. Levin, Esq., Wellington.

[On draft of this letter.]—I wish this to be sent at once, and the draft agreement also sent to Mr. Brandon.

(No signature. Mr. Gisborne's handwriting.)

THE HON. COLONIAL SECRETARY,—

5th January, 1869.

Levin's Case.—Mr. Brandon says he will write as soon as he has seen Mr. Levin who is now out of Wellington but is expected to return shortly.

File, E.W.S.

J. PRENDERGAST.

Enclosure 4 in No. 5.

DRAFT AGREEMENT.

AN AGREEMENT made the day of , in the year of our Lord one thousand eight hundred and sixty-eight, between Sir Charles Clifford, of , Knight (hereinafter called the Lessor), of the one part, and Her Most Gracious Majesty Queen Victoria (hereinafter called the Lessee) of the other part: The Lessor hereby agrees to let, and the Lessee to take, all that parcel of land in the City of Wellington, in the Colony of New Zealand, containing by admeasurement three acres (more or less), and comprising the sections numbered 597, 598, and 599, on the official plans of the said City: bounded towards the North-east by Hobson Street; towards the South-east by the section numbered 596; towards the South-west by the sections numbered 586, 587, 588, and 589; and towards the North-west by the section numbered 600, together with the dwelling-house, outhouses, and garden thereon, and all rights and appurtenances thereto belonging for a term of two years to be computed from the day of , at the yearly rent of one hundred and fifty pounds (£150) to be paid (out of moneys voted for that purpose by the General Assembly of New Zealand) by equal half-yearly payments on the day of and the day of in each year, clear of all deductions; the first such payment to be made on the day of . The Lessee further agrees with the Lessor to keep the said premises, including the dwelling-house, outhouses, fences, drains, and garden, in good and tenantable repair (damage by fire or earthquake only excepted), and to keep the Lessor indemnified and saved harmless from all rates, taxes, and assessments which during the said term may be levied and imposed in respect of the said premises: Provided always, and it is hereby further agreed between and by the parties hereto, that in case the dwelling-house aforesaid shall during the said term become or be rendered ruinous or uninhabitable by fire or earthquake, it shall be the duty of the Lessor, with all convenient speed, to repair, reinstate, and restore the same premises, and that from the rent hereby reserved shall in such case be deducted a proportionate part in respect of the time during which the said premises shall remain so out of repair, ruinous, or uninhabitable: Provided also, and it is hereby further agreed and declared, that this demise shall be determined at the end of the first or any subsequent period of six

months, reckoned from the day of , by three calendar months' notice in writing to that effect being given to the said Sir Charles Clifford, or his duly authorized Attorney or Agent, by the Colonial Secretary for the time being, or by a similar notice being given to the Colonial Secretary for the time being by the said Sir Charles Clifford or his duly authorized Attorney or Agent.

In witness, &c.

No. 6.

Mr. J. PRENDERGAST to Mr. A. DE B. BRANDON.

DEAR SIR,—

Wellington, 18th December, 1868.

May I ask whether you approve of the draft agreement forwarded to you for approval on behalf of Sir C. Clifford's agent, Mr. Levin? I understand Mr. Levin is pressing Government to complete the matter.

I have, &c.,

A. de B. Brandon, Esq., Wellington.

J. PRENDERGAST.

No. 7.

Mr. J. PRENDERGAST to Mr. A. DE B. BRANDON.

DEAR SIR,—

Wellington, 1st February, 1869.

I return you draft herewith, approved with certain alterations. The term is two years only and certain.

Will you return the draft approved that I may have it engrossed at once, as time is going on?

I have, &c.,

A. de B. Brandon, Esq., Wellington.

J. PRENDERGAST.

No. 8.

Messrs. BRANDON and QUICK to the ATTORNEY-GENERAL.

DEAR SIR,—

Wellington, 3rd February, 1869.

I return draft lease Clifford to () with replies to your remarks and alterations. With deference to you, the engrossing, as also the drawing, is the duty of the solicitor of the lessors.

Yours truly,

The Attorney-General, Wellington.

BRANDON and QUICK.

Enclosure in No. 8.

DRAFT LEASE.

THIS DEED, made the day of One thousand eight hundred and sixty-nine, between Sir Charles Clifford, of Knight, hereinafter called the Lessor, of the one part, and hereinafter called the Lessee, of the other part, witnesseth: That in consideration of the rent hereinafter reserved, and of the covenants and agreements herein expressed and implied, and on the part of the Lessee, his executors and administrators, to be respectively paid, observed, and performed, he the Lessor doth hereby convey and assure by way of lease unto the Lessee, his executors and administrators, for the term of two years, to be computed from the fifteenth day of February, 1869, all that piece of land, containing three acres more or less, situate in and being sections numbers and on the plan of the City of Wellington, in the Province of Wellington, with the messuage or tenement and buildings thereon, and all the appurtenances thereto belonging, as the same land is particularly delineated on the plan drawn hereon, and coloured red—the Lessee, his executors or administrators, paying therefor the yearly rent or sum of £150 by equal half-yearly payments, on the fifteenth day of August and the fifteenth day of February in each year, clear of all deductions on account of any taxes, charges, rates, assessments or impositions whatsoever, parliamentary or otherwise, already or hereafter to be imposed, the first of such payments to be made on the fifteenth day of August now next; and the Lessee, for himself, his executors and administrators, hereby covenants with the Lessor, his heirs and assigns, that he the Lessee, his executors or administrators, will and shall, during the term hereby granted, keep the messuage or tenement and buildings on the said land, and the fences and drains, in good tenantable repair, order and condition, damage by fire, tempest or earthquakes, and ordinary wear and tear, only excepted, and the orchard, garden, and grounds in good order and condition, and in such repair, order and condition, except as aforesaid, will and shall quietly yield up this messuage and tenement, and buildings, fences, drains, orchard, garden and grounds, at the end of or sooner termination of the tenancy. And it is hereby expressly provided that the covenant to repair and yield up in repair, which by the Ordinance of the Governor and Legislative Council of New Zealand, Session II., No. 10, it is provided shall be implied in leases, shall not be implied in this lease, except as aforesaid. Provided always, and it is hereby further agreed between the parties hereto, that in case the messuage or tenement and buildings, or any part thereof, shall during the said term be rendered ruinous or uninhabitable by fire, tempest, or earthquake, it shall be lawful for the Lessee or his representatives respectively to determine this lease, by giving to the Lessor or his representatives notice of his intention to determine the same, by giving to or leaving such notice with A B of in the Town of Wellington aforesaid, or with such other person in Wellington as the same Lessor shall appoint to be his agent in Wellington, and of such appointment shall have informed the Lessee; and it is hereby expressly agreed, that if the rent hereby reserved, or any part thereof, shall be in arrear for the space of one calendar month after any of the days hereinbefore appointed for payment thereof respectively, whether the same shall be legally demanded or not, or if breach shall be made in any of

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the covenants or agreements herein expressed or implied, and on the part of the Lessee, his executors and administrators, to be respectively paid, observed, and performed, it shall be lawful for the Lessor his heirs, executors or administrators, thereupon, or at any time thereafter, to enter upon the land and buildings hereby leased, and determine the estate and interest of the Lessee, his executors, administrators and assigns therein, and that without releasing him or them from his or their liability in respect of the non-payment of the rent or breach of any such covenants or agreements as aforesaid. And it is hereby expressly declared that the covenants contained

 No. 9.

Mr. A. DE B. BRANDON to Mr. J. PRENDERGAST.

DEAR SIR,—

Wellington, 9th March, 1869.

I enclose draft lease, to enable you to have the counterpart lease engrossed.

I have, &c.,

J. Prendergast, Esq.,
Attorney-General.

A. DE B. BRANDON,
Pro W. W. BATHAM.

No. 10.

Mr. A. DE B. BRANDON to Mr. J. PRENDERGAST.

Sir Charles Clifford and the Government.

DEAR SIR,—

Wellington, 22nd April, 1869.

With reference to this matter, I would suggest that Mr. Domett would be the proper party to make the lessee, since he is the Secretary of Crown Lands and the head of the Land Commission Department.

I have, &c.,

The Attorney-General.

A. DE B. BRANDON.

HON. COLONIAL SECRETARY,—

23rd April, 1869.

This is Mr. Brandon's proposal. I do not see how the Secretary for Crown Lands can be asked to take a responsibility of this kind, however remote the risk. Should he be asked?

J. PRENDERGAST.

I AGREE with the Attorney-General, but the Secretary for Crown Lands may be asked.

E. W. S.

30th April, 1869.

I BEG, with all due respect, to decline this responsibility. It would be better either that the head, or say the Under Secretary, of one of the Departments, the head of which is intended to reside in the house, should be made lessee, as he would be always in a position to hear about repairs wanted, &c., or other business connected with the tenancy.

A. DOMETT.

30th March, 1869.

I MUST also respectfully decline the responsibility, which, if I left office, would still attach to me, and which, I conceive, is no part of the duty of my office.

It has been the practice to place Her Majesty in the position of lessee, and I cannot conceive what objection there can be on behalf of the lessor to such a course. If that objection be that he wants the responsibility of a private individual to supplement the possible deficiency of the Government, it is evidently unfair to ask (as this virtually would be) a Government officer to give his private responsibility for that purpose.

W. GISBORNE.

FOR THE ATTORNEY-GENERAL,—

1st May, 1869.

If the Queen is not (as is usual) made the lessee, I have no objection to being so made.

E. W. S.

No. 11.

Mr. J. PRENDERGAST to Mr. A. DE B. BRANDON.

Clifford and the Government.

Wellington, 10th May, 1869.

DEAR SIR,—

If you will not consent to make the Queen lessee, would you consent to Mr. Stafford's name being used?

I have, &c.,

A. de B. Brandon, Esq.,
Wellington.

J. PRENDERGAST.

No. 12.

Mr. A. DE B. BRANDON to Mr. W. PHARAZYN.

DEAR SIR,—

Wellington, 10th May, 1869.

I have no objection to Mr. Stafford's name being used in the lease from Sir Charles Clifford as lessee.

I have, &c.,

W. Pharazyn, Esq.

A. DE B. BRANDON.

No. 13.

Mr. W. PHARAZYN to Mr. A. DE B. BRANDON.
Clifford and the Government.

Attorney-General's Office, Wellington,
17th May, 1869.

DEAR SIR,—

I return the draft lease and counterpart engrossed. The term will be from 1st April, 1869. If you will let me have the counterpart filled up to correspond with the lease, I will get it executed and exchange with you.

A. de B. Brandon, Esq.,
Solicitor, Wellington,

I am, &c.,
W. PHARAZYN,
Assistant Law Officer.

No. 14.

OPINION OF THE ATTORNEY-GENERAL.

THE HON. THE PRIME MINISTER,—

1. As to the house leased from Sir C. Clifford, I am of opinion that the contract having been made on behalf of the Crown, Mr. Stafford must be deemed to have executed the counterpart and accepted the lease as trustee for the Crown. From my own knowledge of all the facts, I may say that there can be no doubt whatever on this matter.

2. As to the second question, there can also be no doubt Mr. Stafford is not entitled to retain occupation of the house on any such ground.

19th August, 1869.

JAMES PRENDERGAST.

No. 15.

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

SIR,—

Government Offices, Wellington, 20th August, 1869.

Referring to my letter of the 13th instant, I have the honor to inform you that I have placed the lease of the house rented from Sir Charles Clifford, together with all the papers bearing on that subject, and on that of your occupation of the Ministerial residence, in the hands of the Attorney-General for his consideration, and I now forward you a copy of his opinion on the two questions raised, namely, whether you are entitled to claim, on your private account, the house in Hobson Street; and whether, if you be so entitled or not, you have any right to insist upon retaining the Ministerial residence until you are put in possession of the other.

I hope that after this, I shall learn from you that you are prepared to place me in possession of the Ministerial house at the immediate termination of the Session, and that you will oblige me by informing me that you will be prepared to do so, in order that I may be able to make my arrangements accordingly.

E. W. Stafford, Esq., M.H.R.,
Wellington.

I have, &c.,
WILLIAM FOX.

No. 16.

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

SIR,—

Wellington, 20th August, 1869.

I have the honor to acknowledge the receipt of your letter of the 13th instant, and have to apologise for the delay which has occurred in replying to it. I have also received your letter of this day's date referring to the same subject.

With reference to the first portion of your letter of the 13th, you have misapprehended my intention if you conceived that I intended to assert that there was any positive arrangement between any particular persons to the effect that the Minister in occupation of the Ministerial residence should continue to occupy it until the end of the Session. What I intended to convey was, that opinions to that effect had been expressed by many persons (Ministers and others), in which I concurred, and which had ruled the action taken when I succeeded Mr. Weld in 1865. What exactly took place on that occasion was as follows: One or two days after I took office Mr. Weld said to me that it would be a convenience to Mrs. Weld and himself if they could remain in the house until their arrangements for returning to Canterbury were completed (or words to that effect). I replied, that I considered he was entitled to remain in the house during the Session, and other persons whom I consulted concurred in thinking so. Acting on that understanding, I had no further communication with Mr. Weld on the subject, and he made such arrangements as to his return to Canterbury as were convenient to him, and left for that Province some four or five days before the Session ended,—possession of the house being taken by me some nine or ten days after, when two of my colleagues went to reside in it.

I only mention these facts in explanation of part of my letter of the 11th instant, and not as necessarily determining any question of occupancy of the residence—the more especially as I have been for some time before the Session commenced anxious to remove to Sir C. Clifford's house, which I had taken for my residence, and to which, as I have previously stated, I would have removed some months since, had His Excellency not wished it to be temporarily available for the Duke of Edinburgh and himself.

As regards my position in respect of that house, I cannot understand on what grounds you, who had never previously been informed as to my intentions in the matter, can express surprise at hearing what those intentions were. Those intentions were correctly stated in my letter of the 11th instant,

and may be shortly summarized as follows: That I at first intended to take the house for the Crown, and to reside in it as a Minister; that on the lessor's solicitor objecting to lease it to the Crown, I proposed to Mr. Gisborne to have the lease made to him which he declined to accede to; that the matter then remained in abeyance for some time until the lessor's agent requested to have my final decision, when I arranged to take the house for myself, and the lease was made out accordingly.

You state that there is no "record"—I presume you mean public record—of this. Of course there is not. I have never, nor has any other person, so far as I am aware, been in the habit of entering their private intentions or acts in the public records. You also state that the lessor and his legal adviser were quite ignorant that I had any such intention. To this I reply that for all I know the lessor, Sir C. Clifford, may know nothing of the transaction; but his agent (Mr. Levin) knew for a considerable time before he left the house that I wished to reside in it when he vacated it, and had asked and been promised the refusal of it; and that subsequently he expressly told me, when I said I would take the house for myself instead of for the Crown, that he preferred me as a tenant. I have also been informed by a gentleman residing in Wellington, who wished to take the house, that Mr. Levin told him distinctly that he could have it, provided I, who had the refusal of it at the time, declined to take it within a day or two. As regards the lessor's solicitors, the only communication I had with them, after Mr. Brandon objected to the house being let to the Crown, was in connection with the lease to myself. My name was inserted in the lease, not (as you state) by me after I left office, but by the lessor's solicitor long before I left office; and the lease was signed by the lessor's agent some time before I left office and before I had seen either lease or counterpart. I have stated all this as a matter of courtesy in reference to your expressed ignorance of my intentions (and I might add of the facts), but I must decline to permit any person to be the interpreter of my intentions.

Nor can I admit, in reference to the latter portion of your letter of the 13th, that His Excellency has, in respect of his temporary occupancy of Sir C. Clifford's house, been placed in an unbecoming position, as it was never contemplated that he should be under any pecuniary obligation to me, it being, as a matter of course, understood that, so long as the house was occupied on account of the public service, the rent would be defrayed from the public revenue. With respect to His Excellency's own feelings, I am quite satisfied with what he has himself said to me on the subject.

I propose to notice your letter of this day's date separately.

The Hon. W. Fox, Premier, &c., Wellington.

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

No. 17.

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

SIR,—

Wellington, 21st August, 1869.

Referring to my letter of the 11th instant, I inadvertently used the word "lease" instead of "counterpart," when referring to the execution of the latter.

The lease was signed by the lessor's attorney (Mr. Levin) some weeks before I left office, and was left for me at the office of Messrs. Brandon and Quick. The counterpart was signed by me on the 28th June, and on my taking it to Messrs. Brandon and Quick, I received the lease previously signed, and the same date was then inserted in it as the counterpart bore.

The Hon. W. Fox, Premier, &c., Wellington.

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

No. 18.

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

SIR,—

Wellington, 23rd August, 1869.

I have the honor to acknowledge the receipt of your letter of the 20th instant, enclosing the copy of an opinion of the Attorney-General on two questions submitted to him relative to my lease of Sir C. Clifford's house.

With respect to the first question, I transmit a copy of the opinion of Mr. Travers, and in connection with the subject have to state that the Attorney-General has been misinformed, if (as is apparently the case) he has been led to believe that I signed any contract, as no such contract was ever signed by me, nor was I ever asked to sign one.

As regards the second question, the Attorney-General is also in error if he supposes that I asserted any legal claim to occupy the Ministerial residence in Tinakori Road until I was put in possession of my house in Hobson Street. It was not as a matter of law but of propriety that I intimated that while the Government had the use of my house, I should have the use of the house I now occupy.

I do not desire to remain in the house I now occupy, but am anxious to remove into my own house in Hobson Street, and you will oblige me by informing me when I may be able to do so, that I may make my arrangements accordingly.

The Hon. W. Fox, Premier, &c., Wellington.

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

Enclosure in No. 18.

Copy of Mr. TRAVERS' OPINION.

To E. W. STAFFORD, Esq.,—

I have perused the lease from Sir Charles Clifford to you submitted to me, your letter to Mr. Fox of the 11th instant, his letter of the 20th instant, and the Attorney-General's opinion in reference to the position which you are alleged to hold as lessee under the lease referred to.

I am of opinion that the mere circumstance that you are designated Colonial Secretary in the lease could in no degree raise an implication that you hold as a trustee for the Crown.

I am further of opinion that, in the absence of any written contract anterior to the date of the lease, and which, upon the face of it, is expressly connected with the lease, showing that the lease was to be granted to you as a trustee for the Crown, no such trust can be raised as against you (*Bartlett v. Pickergill*, Bur. 2,255, 4 East. 577, u. (b.) Ed. 515). If a written contract such as that referred to above does exist, the trust would arise and could be enforced.

21st August, 1869.

WM. THOS. LOCKE TRAVERS.

No. 19.

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

SIR,—

Government Offices, Wellington, 25th August, 1869.

I beg to acknowledge the receipt of your letters of the 20th, 21st, and 23rd August.

I have laid them before the Attorney-General, and now enclose his further opinion.

The result on the whole correspondence is in my opinion this:—

1. That the house in Hobson Street, now occupied by the Governor, was taken by and on behalf of the Colonial Government, and the Government will not recognise the claim you assert as having taken it on your private account.

2. As regards the Ministerial house, you do not intimate when it will be convenient for you to place it at my disposal. As you will have occupied it for more than eight weeks since the change of Ministry, I trust that I shall not be considered as unduly exacting if I repeat my request, that I may be placed in possession immediately on the termination of the Session.

E. W. Stafford, Esq., M.H.R.

I have, &c.,

WILLIAM FOX.

Referred to the Attorney-General with reference to Mr. Travers' Opinion.

23rd August, 1869.

WILLIAM FOX.

Enclosure in No. 19.

FOR THE HON. THE COLONIAL SECRETARY,—

Mr. Travers appears to have been insufficiently instructed. There was an agreement prior to the lease.

I can only say that I see no reason to alter the opinion already expressed by me.

24th August, 1869.

JAMES PRENDERGAST.

No. 20.

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

SIR,—

Wellington, 25th August, 1869.

I have the honor to acknowledge the receipt of your letter of this day's date, enclosing a further opinion of the Attorney-General relative to my lease of Sir C. Clifford's house.

As I am perfectly unaware of the existence of any contract subsisting at the time when I took the lease, under which I could be treated as a trustee for the Crown or the Colonial Government, I would feel obliged if you would cause me to be furnished with a copy of that agreement upon which the Attorney-General appears to rely in his opinion.

I shall be ready to remove from the house I now occupy immediately after the termination of the Session.

The Hon. W. Fox, Premier, &c.

I have, &c.,

E. W. STAFFORD.

No. 21.

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

SIR,—

Government Offices, Wellington, 25th August, 1869.

In reply to your letter of to-day's date, I beg to inform you that the contract on which the Attorney-General rests his opinion is constituted of the several letters and memoranda relating to the lease of Sir Charles Clifford's house which I am about to lay on the Table of the House of Representatives, and to which I beg to refer you.

E. W. Stafford, Esq., M.H.R.

I have, &c.,

WILLIAM FOX.

