

to on behalf of the Governor, and the latter reserved for signification of the Governor's pleasure thereon.

In reply, I have to inform your Honor that the Governor has not been advised to exercise his power of disallowance with respect to "The Town Buildings Roofing Ordinance Amendment Ordinance, 1871;" but with regard to "The Town Board of New Plymouth Endowment Ordinance, 1871," the Government is advised that it is *ultra vires*, for the following reasons, viz. :—

1. Because the proposed change of purpose is not a public purpose within the meaning of the Public Reserves Act.

2. Because the spirit, if not the letter, of "The Public Reserves Act, 1862," forbids the changing of trusts when the land has been reserved for recreation grounds.

His Excellency has therefore been advised to withhold his assent to the above Ordinance.

I have, &c.,

His Honor the Superintendent, Taranaki.

W. GISBORNE.

#### No. 14.

The Hon. W. GISBORNE to His Honor F. A. CARRINGTON.

SIR,—

Colonial Secretary's Office, Wellington, 22nd May, 1871.

I have the honor to acknowledge the receipt of your letter, No. 34, of the 10th instant, enclosing a copy of "The Beach Road Stoppage Ordinance, 1871," which you had assented to on behalf of His Excellency the Governor.

In reply, I have to inform your Honor that the Government is advised that the Ordinance in question is *ultra vires*, for the same reasons as those pointed out to you in the correspondence relating to "The Roads Diversion Ordinance, 1870," which was not disallowed on the understanding that the *ultra vires* provisions should not be acted on.

I have therefore to request that your Honor will be good enough to inform me whether you have anything to urge why this Ordinance should not be disallowed.

I have, &c.,

His Honor the Superintendent, Taranaki.

W. GISBORNE.

#### No. 15.

His Honor F. A. CARRINGTON to the Hon. W. GISBORNE.

SIR,—

Superintendent's Office, New Plymouth, 5th June, 1871.

I have the honor to acknowledge the receipt of your letters of the 15th and 22nd May ultimo, informing me that His Excellency the Governor has been advised to withhold his consent to "The Town Board of New Plymouth Endowment Ordinance, 1871," and "The Beach Road Stoppage Ordinance, 1871," on the grounds that the provisions of these Ordinances are *ultra vires*.

With reference to "The Town Board of New Plymouth Endowment Ordinance, 1871," I beg to submit the following reasons for reconsidering the decision, on the grounds that the provisions of this Ordinance are strictly in accordance with those of "The Public Reserves Act, 1854," and "The Public Reserves Act Amendment Act, 1862;" that an Ordinance identical in nature, though differing in the letter, was passed by the Superintendent and Provincial Council in 1867, and assented to by Sir George Grey, the then Governor, and that this present Ordinance is but a necessary corollary of its predecessor, more fully carrying out the intentions of the Provincial Council in endowing the Town Board of New Plymouth in 1867.

I am informed that the Ordinance in question is *ultra vires*—

1st. "Because the proposed change of purpose is not a public purpose within the meaning of the Public Reserves Act.

2nd. "Because the spirit, if not the letter, of 'The Public Reserves Act, 1862,' forbids the changing of trusts when the land has been reserved for recreation grounds."

In support of my position as to the invalidity of the first objection, I forward herewith "The Town Board of New Plymouth Endowment Ordinance, 1867," and three plans of the land held and proposed to be held by the Superintendent in trust for the Town Board under the former and proposed Ordinances—plans No. 1 and 2 showing the sections dealt with by the Ordinance of 1867; and plan No. 3, the same land as proposed to be dealt with by the Ordinance under consideration.

"The Public Reserves Act, 1854," is perfectly plain in its provisions as regards the management of the public reserves; by it the specific purposes for which "any such lands in any Province shall be held may be changed" without any limitation, so long as the lands appropriated to other and different purposes of public utility for the public service of such Province, and providing an Act or Ordinance of the Provincial Council of such Province be duly passed in that behalf. "The Public Reserves Act, 1862," contains no limitation of the powers of the Superintendent and Provincial Council in dealing with public reserves, with the exception of a provision in clause 3 prohibiting the sale of land reserved for public gardens or recreation grounds, or the lease of such land excluding the public therefrom, and this clause, as I shall presently show, certainly has no bearing on the Ordinance said to be *ultra vires*.

By deeds of grant dated respectively the 20th August, 1858, and the 27th February, 1870, and executed under the provisions of "The Public Reserves Act, 1854," the unalienated lands in the town of New Plymouth, and the belt and park lands round the town were granted to the Superintendent and his successors upon a trust described in the grants; this being an Education Trust, Mr. C. W. (now Judge) Richmond, the then Colonial Treasurer, in forwarding these grants pointed out that some specific trust must be mentioned, but that this would in no way hamper the Provincial Government, as under "The Public Reserves Act, 1854," the purpose could be changed when found desirable.