

the plaintiffs to indemnify me for holding possession and selling, but they refused to do so—this was communicated to the Provincial Government by me, with a view to obtain an indemnity, they could give none except that of the Superintendent, which I took; on which I withdrew from possession and returned the writ "*nulla bona*," although it subsequently came to my knowledge that the General Government had not accepted the assignment.

When afterwards three rules were obtained against me by the plaintiffs; the first, to set aside my return; the second, to bring my bond of indemnity into Court; and the third, for attachment of my person; I being anxious to do all in my power to relieve the Provincial Government in their difficulties, by the advice of my counsel, set up in my answering affidavit, the following question, of which I at the time apprized the Provincial Government.

"Eleventh.—I say that I entertain doubts, whether in pursuance of the provisions of the Provincial Law Suits Act, 1858, any Provincial Government property can be sold under execution. Whereon I humbly entreat the opinion of this honorable Court."

In dismissing these rules, however, in January last, the Court expressed no opinion on this point, and although the Provincial Government well knew that this judgment was still hanging over the Province, no step whatever was taken by them to raise this important question, until after I was in possession a second time, and after they had given a written guarantee to the plaintiffs that they would raise no technical legal objections, or their right to sell.

I have, &c.,

L. PRICE,  
Sheriff.

The Hon. the Attorney-General, Wellington.

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COPY A.

In the Supreme Court of New Zealand, }  
Otago and Southland District. }

Between James McKenzie and William Cain, trading as "James McKenzie and Co.,"

Plaintiffs,

and

James Alexander Robertson Menzies, sued as Superintendent of the Province of Southland,

Defendant.

Take notice, that this honourable Court did on Tuesday, the twenty-third day of May, instant, order that the plaintiffs shall, upon Tuesday, the thirtieth day of May instant, shew cause why the writ of *feri facias*, issued herein, should not be set aside upon the grounds following, that is to say:—

1. That a writ of execution does not lie against the Superintendent of a Province when sued in his official capacity.

2. That under a writ of *feri facias*, issued against the Superintendent of a Province, *ex officio*, no property is subject to seizure.

And the Court did further order that in the meantime all proceedings taken and had, under the said writ of *feri facias*, should be stayed, and you are accordingly required to take no further proceedings thereunder.

Dated this twenty-fifth day of May, one thousand eight hundred and sixty-five.

MCDONALD & RUSSELL,  
Defendant's Solicitors.

To Matthew Price, Esq.,  
Sheriff of Southland, and all others whom it may concern.

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COPY OF TELEGRAM. B.

MR. CHIPMAN TO THE SHERIFF OF SOUTHLAND.

Dunedin,  
May 25th, 1865.

McKenzie v. Menzies, Superintendent.—A rule *nisi* was granted on Tuesday last, returnable for Tuesday next, to set aside *feri facias* herein, and court ordered that proceedings should be in meantime stayed.

ROBT. CHAPMAN.

The Sheriff of Southland.

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