

# FURTHER PAPERS

RELATIVE TO THE

## DUNEDIN PRINCES STREET RESERVE.

*(In continuation of Papers presented on the 20th September, 1865.)*

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

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WELLINGTON.

—  
1867.



## FURTHER PAPERS

### RELATIVE TO THE DUNEDIN PRINCES STREET RESERVE.

#### No. 1.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor the SUPERINTENDENT of OTAGO.  
(435.)

Colonial Secretary's Office,  
Wellington, 16th October, 1866.

SIR,— I have the honor to enclose a copy of a letter dated the 5th August last from the Native chief Hori Kerei Taiaroa, representing the claims of the Natives in Otago to the reserve known as the Princes Street Reserve, in Dunedin, which was granted to the Superintendent of Otago under "The Public Reserves Act, 1854," in a Crown Grant dated the 11th January, 1866.

After a careful consideration of all the circumstances connected with the Native claim to this reserve, and with the Crown Grant referred to, the Government is of opinion that the question of the validity of the grant should be submitted to a proper judicial tribunal.

The best mode of testing the question of law appears to the Government to be by "Writ of Intrusion;" and I have to propose to your Honor that this mode of bringing the matter before the Supreme Court be taken.

The expenses attending the process will be chargeable on the contingencies of the Native Department, or on the proceeds of the reserve, according as the issue may be.

As it is important that this question should be determined without delay, I have to request your Honor to be good enough to favour me with a reply at your early convenience.

His Honor the Superintendent, Otago.

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

#### Enclosure in No. 1.

[TRANSLATION.]

Otago, 5th August, 1866.

Go, O my letter of love, to the Governor. Salutations. I have a word to say to you about our reserve here in the town. I request you to make clear to us the case in respect of it. I have heard that it is being taken away by the Pakehas of the town, that land is. It is very wrong thus to take our land away without a cause.

Friend the Governor,—With you is the disposal of that land. Do you, in replying to this letter, make clear to us its position. If any Pakehas importune for that land, do not let them have it without paying for it.

Friend, give heed. If you would like to have that land for yourself, give me the payment.

If that letter reach you, write in reply, so as I may know whether it is right or wrong.

That is all.

Your friend,  
HORI KEREI TAIAROA.

#### No. 2.

Copy of a Letter from His Honor the SUPERINTENDENT of OTAGO to the Hon. E. W. STAFFORD.

Province of Otago, N.Z.,  
Superintendent's Office, Dunedin, 30th October, 1866.

SIR,— I have the honor to acknowledge the receipt of your letter No. 435, of the 16th instant, enclosing copy of a letter from the Native chief Hori Kerei Taiaroa, representing the claim of the Natives in Otago to the reserve known as the Princes Street Reserve, in Dunedin, which was granted to the Superintendent of Otago on the 11th January last, in which, after stating that the Government, after a careful consideration of all the circumstances connected with the case, is of opinion that the question of the validity of the Crown Grant should be submitted to a proper judicial tribunal, you propose to me to test the law of the case by "Writ of Intrusion" before the Supreme Court.

In reply, I do myself the honor to state that, on behalf of this Government, I decline to try the validity of the Crown Grant by the course proposed, on the ground that the Provincial Government cannot recognize any Maori right or title to the reserve in question, which point, it was understood, had already been definitely decided by the General Assembly.

The Hon. the Colonial Secretary,  
Wellington.

I have, &c.,  
THOMAS DICK,  
Superintendent.

## No. 3.

Copy of a Letter from OTAGO MEMBERS of GENERAL ASSEMBLY to the Hon. E. W. STAFFORD.

SIR,—

Wellington, 12th July, 1867.

We, Members from Otago, in the General Assembly of New Zealand, have now the honor, in accordance with the request made by you to that effect at the interview with which you favoured us on the 9th instant, to apply to the Government through you for a restoration of the moneys which have accrued from the occupation of a piece of land in Princes Street, Dunedin, granted to the Superintendent of Otago in trust for the Corporation of Dunedin, and which moneys have been retained by and are now in the hands of the General Government.

Amongst the grounds upon which we make this application are the following:—

1. That the land comprising the Otago Block, and within which the City of Dunedin is situate, was purchased from the Natives in the year 1844; that certain reserves were then made by and for the Natives; that no parts of the towns of Dunedin or Port Chalmers were included in such reserves; and that the deed of conveyance from the Natives to the Crown did not contain any provision for further reserves being made for the use of the Natives, either out of the lands which were the subject of the conveyance or otherwise.

2. That on the original survey of the town of Dunedin by the late Mr. Kettle, in or about the year 1846, the piece of land in Princes Street before referred to formed a part of a line of sections surveyed, mapped, and intended for selection by Colonists under the scheme of the "Otago Association."

3. That by letter dated 21st October, 1846, Mr. Harington, the Secretary of the New Zealand Company, by order of the Court of Directors of the Company, instructed Colonel Wakefield, its Chief Agent in New Zealand, *inter alia*, "That all water frontages, from about high water mark, be reserved for public use, as at Glasgow, Bordeaux, &c."

4. That the above instructions were forwarded by Colonel Wakefield to Mr. Kettle, who thereupon obliterated from the selection map of sections in the town of Dunedin, all those which had frontages to the harbour, and marked them off as Public Reserves.

5. That the said sections are some of the most valuable in the City of Dunedin; that many of the early settlers felt and still feel aggrieved at being precluded from selecting them under their original land orders—on this ground amongst others, that such sections were indicated as open for selection upon the official map of the town, exhibited at the New Zealand House before they left London; and that they were induced to waive their rights to select these sections solely on the ground that they had been withdrawn from sale for public purposes, and would thereby enhance the value of the sections which they afterwards selected.

6. That from the arrival of the first Colonists in Otago to the present time, the land in question has been partially used as the site of various public buildings, an hospital having been erected thereon by the New Zealand Company, and more recently barracks and stores for immigrants and their luggage, and the Chief Constabulary Depot of the Province.

7. That in the year 1853, as we are informed, the sections of land in question were, on the recommendation of Mr. Mantell, ordered to be set aside for the use of the Natives as a place for landing and encampment.

8. That such recommendation was made without the knowledge or consent of the Colonists of Otago, or of the Provincial Government thereof.

9. That the land in question was and is quite unsuitable for the use of the Natives for the purposes before mentioned, and that it has never been used by them for such purposes.

10. That portions of the said land are and have been for several years past occupied by merchants, storekeepers, and others, as sites for buildings, used by them in connection with their various businesses, and that a large sum of money has accrued from the use and occupation thereof, and is now in the custody of the General Government.

11. That on the 1st day of August, 1865, a Select Committee of the House of Representatives was appointed to examine into the claims of the Provincial Government of Otago to the lands in question.

12. That such Committee, consisting of yourself, Mr. Robert Graham, Mr. Waring Taylor, Mr. A. J. Richmond, Dr. Featherston, Mr. Wilkin, and Mr. Reynolds, after much labour and research relative to the matters intrusted to them, unanimously reported to the House of Representatives, *inter alia*, as follows:—

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"After a careful consideration of the above facts as to the equity of the case, your Committee have arrived at the conclusion that the land forming the Dunedin Reserves having been reserved from sale for a specific public purpose, was wrongfully set aside for the use of the Natives, and therefore recommend that a Crown Grant be issued in favour of the Municipality of Dunedin, as trustees and representatives of the local public, as was evidently the intention of the New Zealand Company, conveyed in the instructions of Mr. J. C. Harington to Colonel Wakefield."

13. That the report of the Select Committee, from which the foregoing is extracted, was presented to the House of Representatives and adopted; and that, in pursuance thereof, a grant of the said lands has been made to the Superintendent of Otago in trust for public purposes.

14. That in our humble opinion the moneys which have been received by the General Government for the use and occupation of the said lands are as much the property of the Province of Otago as the lands themselves, and that it would be an act of injustice on the part of the General Government any longer to withhold them.

15. That the Municipal Council of the City of Dunedin, relying on the decision of the House of Representatives on the ownership of the said lands, and the necessary inference to be deduced therefrom, that the accrued rents from the said lands would be placed at their disposal, entered into engagements and have incurred liabilities on account of public works within the city which they are

now unable to fulfil and discharge, whereby serious loss to the public interests and to the credit of the Corporation have resulted.

We would therefore most respectfully but urgently request that you will move the Government to take immediate steps for the payment of the moneys now in its hands, which have accrued from the sources before alluded to, to the credit of the Provincial Treasurer of Otago.

We have, &c.,

J. HYDE HARRIS, M.L.C.  
J. CARGILL, M.H.R.  
JAS. PATERSON, M.H.R.  
WILLIAM H. REYNOLDS, M.H.R.  
D. F. MAIN, M.H.R.  
ROBERT CAMPBELL, M.H.R.  
GEORGE HEPBURN, M.H.R.  
C. E. HAUGHTON, M.H.R.  
J. B. BRADSHAW, M.H.R.  
JULIUS VOGEL, M.H.R.  
JOHN McLEAN, M.L.C.  
D. H. MERVYN, M.H.R.  
A. BUCHANAN, M.L.C.  
JAMES MACANDREW, M.H.R.  
CHARLES O'NEILL, M.H.R.  
A. J. BURNS, M.H.R.

The Hon. the Colonial Secretary, Wellington.

#### No. 4.

Copy of a Letter from the Hon. E. W. STAFFORD to the OTAGO MEMBERS of GENERAL ASSEMBLY.  
(No. 861.)

GENTLEMEN,—

Colonial Secretary's Office, Wellington, 23rd July, 1867.

I have the honor to acknowledge the receipt of your letter of the 12th instant, requesting that the moneys which have accrued from the occupation of a certain reserve in Princes Street, Dunedin, granted to the Superintendent of Otago, and which are now in the possession of the General Government, may be paid.

In reply, I have to state that the Government, after a careful review of all the circumstances of the case, is of opinion that the payment requested should be made, and will consider in what matter this can be legally effected.

Messrs. J. H. Harris, M.L.C.; J. Cargill, M.G.A.;  
J. Paterson, M.G.A., and others.

I have, &c.,

E. W. STAFFORD.

#### No. 5.

Copy of a Letter from the Hon. E. W. STAFFORD to His Honor the SUPERINTENDENT of OTAGO.  
(No. 342.)

SIR,—

Colonial Secretary's Office, Wellington, 24th July, 1867.

I am advised that as the Princes Street Reserve is vested in you as Superintendent, you only, and not the Corporation of Dunedin, can be recognized as the recipient of the rents.

I am also advised that as proceedings are threatened, and are, it is believed, about to be commenced, with a view to obtaining a declaration of the invalidity and cancellation of the Crown Grant of these lands, I should not be justified in handing over these rents except upon an undertaking from you as Superintendent, on behalf of the Province, that in the event of the Crown Grant being declared invalid in a Court of competent jurisdiction, or by the Legislature, or in the event of the right or title of any persons, other than yourself as Superintendent, to these moneys being established in a Court of competent jurisdiction, or declared by an Act of the Legislature, the moneys paid over will be refunded to the Colonial Treasurer. I shall also require a similar undertaking in general terms to guarantee the Crown and Government of New Zealand against all claims which may be made in consequence of the payment of these moneys to you as Superintendent.

On receiving from your Government a communication to the effect that it undertakes the guarantee above mentioned, I will cause the rents to be paid over to the Provincial Treasury.

His Honor the Superintendent, Otago.

I have, &c.,

E. W. STAFFORD.

#### No. 6.

Copy of a Letter from His Honor the SUPERINTENDENT of OTAGO to the Hon. E. W. STAFFORD.  
Wellington, 25th July, 1867.

I have the honor to acknowledge the receipt of your letter of yesterday's date, intimating that the Government is prepared to pay over to the Provincial Treasury the arrears of rental which have accrued in respect of the Princes Street Reserve, Dunedin, upon condition of my entering into an obligation to refund the amount, in the event of an adverse decision of the Supreme Court as to the right to the City of Dunedin to the money in question.

I regret being unable to concur in this proposal, because such concurrence would imply a doubt on my part as to the rightful ownership of this money, and because it appears to me to be inexpedient to expend money to which there is not an absolute right.

I feel moreover that, however improbable it may be that the Supreme Court will give other than an equitable decision in this case, yet I am not warranted in committing the Province to the chances of such a contingency. I may add further, that on consulting over the matter with several of the Otago Members, they are of opinion that the most advisable course will be to submit the question to the Legislature, with which view Mr. Dillon Bell has been good enough to agree to introduce the Bill which received the assent of the Lower House last Session.

The Hon. the Colonial Secretary,  
Wellington.

I have, &c.,

JAMES MACANDREW,  
Superintendent of Otago.

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