

APPENDIX B.

Sir,—

Mulgrave Street, 5th November, 1879.

I have the honor to acknowledge the receipt of your letter of the 4th instant. I now return my evidence signed by me. In accordance with your permission, I also forward a statement to be appended to the evidence.

I have, &c.,

The Chairman, Wanganui Endowed School Bill Committee.

O. WELLINGTON.

P.S.—I also enclose schedule of lands leased, asked for by the Committee, and a correction from Mr. Churton of a memorandum inserted in my evidence.—O. W.

In order to make my meaning, given during my examination before the Select Committee, intelligible, I desire to add the following remarks:—

I do not concede that there can be any room for doubting that the grant was made to the Church of England, when made to “the Bishop of New Zealand and his successors.” This was clearly admitted by the Royal Commissioner in 1869, when he said, “This was a grant . . . to Trustees of one religious denomination.”

The provision made in the grant for the children of “poor and destitute persons” applies only to “inhabitants of islands in the Pacific Ocean,” and does not imply any such condition as to other children taught in the school, but rather the contrary, otherwise it would have been expressed, in accordance with the maxim *Expressio unius est exclusio alterius*.

The “industrial training” was originally intended to aid in the support of the school. It was tried, and failed; partly because it occasioned additional expense instead of being a means of support, and partly because it was so much disliked by the English and Maoris that they would not submit to it. It was abandoned as a means of support before the present Trustees were appointed. The land was leased as a better mode of supplying an income for the school. It could not, therefore, subsequently be carried out, even if it had been, for other reasons, advisable to do so.

Religious teaching, beyond a prayer and the reading of the Bible, was not enforced, both because it would have entailed additional expense, and because it was thought desirable to allow residents belonging to other religious denominations to avail themselves of the only good school in the town. This was done as a concession to them on the part of the Trustees; but of course the Trustees have no wish to continue this concession if it is not appreciated.

The present Trustees have in no sense whatever failed to fulfil the conditions of the Trust, so far as these admitted of being fulfilled. They could do no more—*Nemo tenetur ad impossibilia*. There are many instances of land held on trust, such as the Wellington Grammar School Reserve, which have been left for many years without any revenue being derived from them; that is to say, all the provisions of the Trust were in abeyance. It seems strange to contend that whereas no blame seems to have been attached to this, to leave some of the provisions, such as “industrial training,” in abeyance is deemed a serious offence.

I consider it a monstrous doctrine that, because Trustees have not fulfilled all the provisions of a Trust (admitting for the sake of argument that they have not done so), the land held under trust for any religious or other body should on that account be confiscated, and revert to the Crown to be disposed of in any other manner. For the Legislature to act on such a principle would be a gross act of spoliation.

If the provisions of a Trust become obsolete, that is to say, cannot be carried out, the recognized usual course would be to apply to the Supreme Court to obtain its sanction to a scheme *ci pres* to the original intention of the Trust. This would be granted by the Court. There is no necessity whatever for the Legislature to intervene in this matter.

Turning now to the management of the land, I maintain that it has been well managed from the beginning. Swamps and barren sand-hills have been converted into a valuable property. Leases of lands originally let at a low rate have recently (in 1877) fallen in, and have been relet at a considerable advance. The leases of all these sections were sold by auction. They have yielded during the last two years a rental which has enabled the Trustees to build new school-rooms and make other improvements. Mr. Edward Churton, the local agent, is a man of high character and excellent business habits, and his advisers in any important matters are two of the best business men in Wanganui. To suppose these gentlemen guilty of the stupidity attributed to them by Mr. Peat in his evidence before the Royal Commission is simple nonsense. Mr. Churton is a gentleman in the Commission of the Peace, who has twice been elected Mayor of Wanganui. He is managing director of a flourishing building society, and he is secretary and treasurer of the Wanganui Harbour Board.

As to the school, it has always been taught by competent masters. A competent master fit to be intrusted with a school does not require a Board of local men to superintend him. I have been intrusted by the other Trustees with the duty of giving instructions to the master, which I have always done. The clergyman of the parish, Rev. T. L. Tudor, who resides immediately opposite the school, is acquainted with all that is going on, and has frequently, at my request, communicated with me in reference to it. The school has been examined every half-year by competent examiners—all, with one exception, graduates either of Oxford or Cambridge—having no connection with the school.

It has been constantly reported that the number of boys in the school fell a year ago to a low number. The relevancy of this is not very evident. The Trustees do not pretend to prevent occasional fluctuations in the number of boys attending the school. But the temporary decrease in the number last year is very easily accounted for. There was a change of masters, and the old school-room became almost unfit for use. As a new and commodious building containing good rooms was being erected, it was thought undesirable to expend money in the repair of the old one. Want of funds, till the rents derived from the newly-leased sections of land became available, prevented the new school-rooms being built before.

Taking these premises into consideration, I contend that the land has been well and beneficially managed, and I challenge comparison in respect to this with any similar trust-land in New Zealand.