

of which at the like request and for the like reason had been adjourned for hearing. There were also one or two applications for hearing for which no date had then been fixed. Further, it was probable that a large number of additional applications would be lodged before the 20th day of March, when the time for receiving applications would expire. Your petitioner informed the Hon. the Premier of these facts by letter on the 16th March, 1891.

39. The letters referred to in paragraphs 37 and 38 appear upon page 29 of the said Parliamentary Paper H.—13, and the report on the Gisborne sitting appears on pages 59 to 67, both inclusive, of the same parliamentary paper.

40. Before the 20th day of March, 1891, when the time fixed for receiving applications expired, twenty-two additional applications were lodged with the Commissioners, and the sum of £220 was paid as fees on lodging the same.

41. Nevertheless your petitioner was, by Order in Council, removed from his said office of Commissioner as from the 31st day of March last.

42. In the Bill relating to Native lands laid before the present session of Parliament, the defects in the existing legislation, to which your petitioner has called attention and which have precluded that legislation from being effective, have been recognised, and clauses have been inserted which are designed to remedy the same, but by the same Bill it is proposed to transfer the powers given by the Act of 1889 to the Commissioners to be appointed under that Act to the Native Land Court.

43. On the 6th day of May, 1891, the Hon. the Attorney-General commenced proceedings against your petitioner in the Supreme Court of New Zealand, Wellington District, with a view to ousting your petitioner from his office of a Judge of the Supreme Court of New Zealand. These proceedings were not commenced until after the sitting of the Court of Appeal had begun for several days, and in consequence thereof it would not have been possible, but for the concurrence and active assistance of your petitioner, to have brought the said proceedings to a hearing before the Court of Appeal until the month of November next.

44. Your petitioner, however, instructed his solicitors and counsel in every way to facilitate the said proceedings, and in consequence thereof the same proceedings were heard before the Court of Appeal on the 18th, 19th, and 20th days of May last, and on the 27th day of May last the Judges of the Court of Appeal delivered judgment in the said matter, whereby the validity of your petitioner's Commission was upheld by a majority of the said Court.

45. On the 29th day of June last the Crown Solicitor informed your petitioner's solicitors that he was instructed to appeal to the Privy Council against the said judgment of the Court of Appeal, and that he had instructed his agents to retain Sir Horace Davey and Mr. Findlay, Q.C., to argue the case before the Privy Council.

46. On the 4th day of July last the Crown Solicitor informed your petitioner's solicitors that he had lodged the cases on appeal for transmission to the Privy Council.

47. Your petitioner, through his solicitors, have applied to the Government, through the Crown Solicitor, to make provision for his costs of the said appeal to the Privy Council, and for payment of his salary, or of some sum equal to his salary, whether by that name or not, pending the appeal, and also to grant to your petitioner leave of absence pending the appeal, and your petitioner has undertaken that neither the payment of your petitioner's salary nor the granting of leave of absence to your petitioner shall involve any recognition on the part of the Government of the validity of your petitioner's Commission, and your petitioner has offered to sign any formal undertaking to that effect which may be deemed advisable.

48. The Government have, through the Crown Solicitor, declined to accede to any of these requests.

49. Unless leave of absence is granted to your petitioner it will be necessary, for the preservation of his rights, that he should resume the exercise of his judicial functions, and he will have no alternative but to do so.

50. Your petitioner's salary has not been paid since the 31st day of March last.

51. Your petitioner is unable, by reason of his judicial position, to devote himself to any profitable pursuit during the pendency of the said appeal, and your petitioner is not possessed of private means sufficient to enable him to defray the enormous cost of the proceedings which have been instituted against him, nor to live without salary for the lengthened period which must elapse before judgment in the matter of the said appeal can be obtained in the Privy Council.

52. The sole question which is raised in the said proceedings is the meaning of the fifth section of "The Supreme Court Act, 1882," and there is in the said proceedings no charge whatever against your petitioner.

53. The same interpretation which was placed by the Government which advised the appointment of your petitioner upon the statute was placed by prior Governments upon the same words in the prior statute, and it is admitted by the Judges of the Court of Appeal, by the Hon. the Attorney-General, and by his counsel Sir Robert Stout, that if your petitioner's appointment is invalid then the appointments of Mr. Justice Richmond in 1862, of Mr. Justice Chapman in 1863, and Mr. Justice Gillies and Mr. Justice Williams in 1875, were also invalid at the time of their being made, and until the passing of "The Supreme Court Act, 1882," which, it is said, has validated these appointments, though it is not pretended that any validation was intended.

54. Your petitioner therefore submits—

- (a.) That the selection of your petitioner for the office originally offered to him was entirely unsolicited by your petitioner.
- (b.) That the offices conferred upon your petitioner were only conferred upon him after a protracted negotiation with the late Ministry, and then only after the same offices had first been offered to and had been declined by another member of the Bar.
- (c.) That the appointment of your petitioner as a Judge of the Supreme Court of New Zealand was in strict conformity with every precedent in the colony.