

FURTHER PAPERS RELATIVE TO

obtain the sanction of the General Assembly to their undertaking, a suggestion in which that Government has acquiesced. I venture to make a similar suggestion to your Honor in the present instance.

5th. In the formation of a new town, particularly one so important as Dunedin is likely to become, it is also essentially requisite that provision should be made for securing to the public all necessary conveniences, such as, roads, quays, public reserves, &c. These are, no doubt, contemplated by your Honor, but the power of withholding them from the public is too large to be properly entrusted to the direction of any individual. The Government would not be justified in placing even in your Honor's hands, the power of shutting out from the sea, and thus practically destroying the present town of Dunedin.

6th. Or granting that a just reliance might be placed in your Honor's judgment, if the property were sold or mortgaged under the power for that purpose proposed to be vested in your Honor, the purchaser or mortgager would be governed by no considerations of public convenience or expediency.

7th. I would also draw your Honor's attention to the circumstance that, although the "Public Reserves Act" enables the Governor to grant the soil and freehold of the land below high-water mark, there are public rights of navigation, commerce, and traffic in ports and harbours of which the Crown or the Governor cannot deprive the public by such a grant. An encroachment on these rights frequently leads to resistance (sometimes unreasonably) on the part of the public. The proper mode of disposing of such questions is by obtaining the sanction of the General Legislature, a course which the Government has recommended to the Provincial Government of Napier, and which they recommend to your Honor.

8th. Apart from these considerations the present Ordinance appears open to grave objection. Its evident intention is to place in the hands of the Superintendent the receipt and disposal of all the funds arising from this large undertaking without control. This appears to me to conflict both with the letter and spirit of the "Public Reserves Act," which directs that all funds accruing from Public Reserves shall be paid to the Provincial Treasurer, and shall be disposed of by appropriations of the Provincial Council and Superintendent, intending thereby that the same shall be specifically appropriated from time to time as they accrue. Without having entered into minute discussion as to the precise effect of the "Public Reserves Act," your Honor will, I think, perceive that the power proposed to be created by the Ordinance is not consistent with its reasonable intention.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
In the absence of Mr. Fox.

No. 61.

MR. SEWELL TO THE SUPERINTENDENT OF OTAGO.

Colonial Secretary's Office,
Auckland, 13th February, 1862.

SIR,—

In my letter, No. 63, dated the 7th ultimo, I addressed you on the subject of the "Harbour Endowments Otago Ordinance, 1861," and directed your attention to certain points connected therewith.

I have not received any reply to that letter, and the Governor's proposed departure from Auckland precludes the Government from any further delay in the action to be taken by them with respect to this Ordinance. I have accordingly been compelled, for the reasons specified in the letter to which I have referred, to advise His Excellency to disallow the Ordinance in question.

I have, &c.,

His Honor the Superintendent,
Otago.

HENRY SEWELL,
For the Colonial Secretary.

No. 62.

THE SUPERINTENDENT, OTAGO, TO THE COLONIAL SECRETARY.

Superintendent's Office,
Dunedin, March 20th, 1862.

SIR,—

I have the honor to acknowledge the receipt of your letters, numbers and dates as per margin, on the subject of the Harbour Endowment Ordinance, which I forwarded for submission 13th Feb., 1862, No. 200, to His Excellency the Governor. 25th Feb., 1862, No. 210,

While I regret that my letter of the 24th January did not reach Auckland in sufficient time to admit of a consideration of the reasons I adduced in favor of the Bill being allowed to take its course, at the same time, I fully appreciate the anxiety evinced by the General Government in their endeavour to avoid embarrassment to the Province by the proposal you make which will meet the more urgent requirements of the present moment.