

I would, however, take the liberty of suggesting that the proposed terms of the Commission should be submitted to the legal representative of the claimants, for their approval.

I should be glad to be informed officially, at the earliest practical opportunity after the issuing of the Letters Patent, with whom I am to communicate as the representatives of His Excellency on the one side, and the claimants on the other, in order that I may ascertain, as soon as possible, whether they have agreed upon the facts, so as to be ready to submit the matter for my consideration in the shape of a special case, or whether it will be necessary for me to ascertain the facts "by such ways and means as I may think fit."

If the latter course must be adopted, I should desire to be able to conduct the investigation at some time during the vacation of the Supreme Court, (25th January to 10th March, inclusive,) so as not to interfere with the business of the Court, but to enable me to decide on the preliminary question of right in sufficient time to allow the parties, if dissatisfied with my decision thereon, time for submitting the question to the Court of Appeal at its sitting in the beginning of May. I have re-enclosed the draft sent.

I have, &c.,
ALEXANDER J. JOHNSTON.

The Hon. the Colonial Secretary (Judicial Branch).

No. 5.

The Hon. W. GISBORNE to his Honor Mr. Justice JOHNSTON.

SIR,— Colonial Secretary's Office, Wellington, 6th January, 1872.
I have the honor to enclose a Commission, under the hand of His Excellency the Governor and the public seal of the Colony, appointing your Honor to be the Commissioner under "The London and Whitaker Claims Act, 1871."

The amendments suggested in your Honor's letter of 8th December, have been introduced into the Commission.

In reply to your Honor's question, as to whom you should address in your capacity of Commissioner, I have to request that you will forward such communication as you may desire or feel called upon to make to His Excellency, under cover to myself.

Mr. McCormick, a barrister of the Supreme Court at Auckland, has been instructed to communicate with Messrs. London and Whitaker, and to arrange, after communication with the Chief Judge of the Native Lands Court, for stating a case to be heard before your Honor here; and if a case cannot be agreed on, then to arrange for an early hearing of the matters in dispute.

Notice of this has been given to the parties.

I have not yet received any reply to the above-mentioned communication, but expect one by the mail now due. When it has been received, no time shall be lost in informing your Honor of the steps that are being taken.

His Honor Mr. Justice Johnston, Wellington.

I have, &c.,
W. GISBORNE.

Enclosure in No. 5.

G. F. BOWEN, Governor.

To Our trusty and well-beloved ALEXANDER JAMES JOHNSTON, Esquire, a Judge of the Supreme Court of New Zealand, Greeting.

WHEREAS by an Act of the General Assembly of New Zealand, passed in the thirty-fifth year of the reign of Her Majesty Queen Victoria, the Short Title whereof is "The London and Whitaker Claims Act, 1871," it is, among other things, enacted that the Governor shall, as soon as conveniently may be after the passing of the said Act, appoint one of the Judges of the Supreme Court of New Zealand to be a Commissioner under the said Act for the purposes and with the powers thereafter mentioned: And by the said Act it is also enacted that the said Commissioner shall, by such ways and means as he may think fit, inquire into and determine whether John London and Frederick Alexander Whitaker (in the said Act mentioned) possessed any rights, at law or at equity, in respect of certain lands situate at Grahamstown, in the Province of Auckland, which have been improperly or unconstitutionally taken away or prejudicially affected by the passing of "The Native Lands Act, 1869," or by the proceedings taken in the Native Land Court in pursuance of the said Act: Provided that the question thereinbefore referred to the Commissioner shall be submitted to him in the form of a special case, if the Governor on the one part, and the said John London and Frederick Alexander Whitaker on the other part, can agree upon the facts to be stated: And whereas by the said Act it is further enacted that if it shall be determined that the said John London and Frederick Alexander Whitaker had such rights as aforesaid, the Commissioner shall then proceed to determine the amount of compensation to which they are entitled by reason of such rights having been taken away or prejudicially affected by the said Act:

Now therefore, I, Sir George Ferguson Bowen, the Governor of the Colony of New Zealand,