

PAPERS RELATIVE TO THE MINING ENCROACHMENT CASE.

No. 1.

Mr. J. B. BRADSHAW to the Hon. the COLONIAL SECRETARY.

SIR,—
House of Representatives, Wellington, 15th August, 1872.
The inclosed letters—one from Henry Eager to myself, and one from Wesley Turton to Henry Eager, of Queenstown, relative to a mining case pending the decision of the Courts of law—I received a few days ago. I herewith inclose these letters to you, with a request that you will be good enough to give the matter consideration, as desired by Mr. Eager.

The case seems to be a very hard one, and one which is deserving of consideration by the Attorney-General.

The Hon. the Colonial Secretary.

I have, &c.,
J. B. BRADSHAW.

Enclosure 1 in No. 1.

Mr. H. EAGER to Mr. J. B. BRADSHAW.

SIR,—
Queenstown, 2nd August, 1872.
I take a liberty in writing to you, but, under the circumstances, I have no alternative. I am the plaintiff in the encroachment case of Eager v. Grace. I inclose you a statement of my case from the commencement up to the present time. What I take the liberty of asking you to do for me is, to lay my case before the Government, and see if it is not possible that my claim and the defendant's could not be placed under injunction, and all works suspended until our case is decided by law.

I know that, being a perfect stranger to you, I am asking a great favour; but at the same time it is a question that affects all the diggers, and you being an old resident in our district, I suppose, as a public man, you take some interest in our affairs.

The facts of our case are these: I recovered a verdict against Grace, for £8,000 and expenses, for encroaching on my claim—a leasehold claim—and blocking out a large portion of my ground. Since then, I obtained a writ of execution on their property, which was placed in the hands of the bailiff, who seized their claim. Their counsel, Mr. G. B. Barton and Mr. Macassey, of Dunedin, applied for and obtained a rule *nisi* to stay proceedings until the validity of Mr. Beetham's judgment was tested in the Supreme Court.

Grace's partners then, by force and intimidation, took possession of the tunnel from the bailiff, and have been working day and night since, with a number of hired men, for the known purpose of working out their claim and leaving the Colony. In the meantime, I can get no protection by law, and am completely ruined with law expenses; and if it were not for the public raising money for me to carry on, I should have no alternative but to give up the action, allow myself to be robbed, and forfeit my own claim to pay expenses.

My case has been postponed from time to time for several months. Judge Chapman, of Dunedin, has heard the arguments of Grace's counsel and mine on the rule *nisi*, and reserved his judgment, which has put me to the expense of another delay. In the meantime the opposite party continue taking the gold out of their claim and depreciating my security in case I win the appeal that they have sought for in the District Court, and their lawyers have caused to be adjourned from time to time.

In conclusion, I refer you to Mr. Hallenstein, of Queenstown, who can confirm what I have stated; and hoping you will make some effort in my behalf,

I have, &c.,
HENRY EAGER.

Enclosure 2 in No. 1.

Mr. W. TURTON to Mr. H. EAGER.

DEAR SIR,—

Yourselves v. Grace.

Queenstown, 2nd August, 1872.

As requested, I now beg to state shortly how your case stands. The action was commenced on 23rd March last, to recover damages against the defendant for an encroachment on your mining lease, and was heard before the Warden and four assessors on 12th, 13th, 19th, and 20th April, on which last-mentioned day a verdict was found in your favour for £8,124 10s. 5d., and £86 6s. costs. On the 2nd May last you had a warrant of distress issued to recover the amount of your verdict, and on the following day the bailiff took possession of Grace's claim and had his tunnel locked up. On the same day (3rd May) the defendant obtained a rule *nisi* against you in the Supreme Court, to obtain a writ of prohibition, on two grounds—first, that the Warden's Court was illegally constituted, inasmuch as the Warden and Assessors acted together throughout as co-ordinate judges of law and fact; and