New Munster by the New Zealand Company's Colonization Act (passed in July, 1847), until the 5th of July, 1850, when they again came into operation. But meanwhile the demesne lands in that Province being vested in the Company, the Company itself was, by section 3 of tho last-mentioned Act, restrained from disposing of any of those lands except either by sale, at not less than 20s an acre, or by conveyance thereof (section 4) in trust for public purposes, sanctioned by the Governor-in-Chief, or by one of Her Majesty's Principal Secretaries of State Throughout these legislative provisions, no express mention is made of reserves to be made for the exclusive benefit of Natives. The Australian Land Sales Act (5 and 6 Vict., c. 36) did indeed include a provision for that purpose. After enacting that no waste lands of the Crown should be alienated except by way of sale, the Act provides that nothing therein contained should extend to prevent Her Majesty from excepting from sale and reserving to Her Majesty, or disposing of, in such manner as for the public interest might seem best, such lands as might be required *(inter alia)* for the use or benefit of the aboriginal inhabitants. But that Act was in force only for a short time, viz. : from November, 1842, till 1846; and it is not pretended that any claim to this *scire facias* arises out of it. This review of the early legislation affecting the demesne lands of the Crown in New Zealand so far as that legislation provides for creating reserves, whether for the general public or for Native purposes, appeared to us desirable, as a means by which to test the degree of significance which the Court ought to attribute to the acts of the officers of the Crown as found upon the issues. It appears therefrom that the creation of Native reserves was not one of the objects especially provided for in the statutes, charters, instructions, and ordinances by or under which the management or disposal of the demesne lands of the Crown was regulated. It seems, indeed, in the subsequent legislation of the Colony, that lands were from time to time appropriated, or reserved, and set apart, for the exclusive benefit of aboriginal natives, including, probably, lands ceded by the native owners to the Crown itself for some especial purpose lands forming part of a tract ceded to the Crown, under a contract, promise, or engagement with the Crown itself, that a certain part, or proportion thereof, should be so reserved and set apart, and even perhaps lands given by European purchasers to the Crown for Native purposes, the management of all such lands remaining with the officers of the Crown, until provided for by special legislation. But the lands comprised in the grant of 1851 belonged to none of these categories. Neither is it found that the Crown has by any solemn act, whether by grant, or even by proclamation, declared the lands themselves to be Native Reserves. The only solemn and valid act in which any officer of the Crown is upon these findings shewn to be dealing with the Native owners themselves in respect of lands described generally as "certain lands situate in a bay in the harbour of Port Nicholson, New Zealand, on which a town has been laid by the New Zealand Company," and being portions only of the lands described in the deed of 1839, is that which formed part of an arrangement with the Pa Taranaki Natives of 29th August, 1840, signed by Willoughby Shortland, Colonial Secretary. The Natives executing that agreement do indeed thereby agree to assign and yield up to Mr. Shortland, on behalf of Her Majesty, all their interest in the lands described as above. And, connected therewith is a receipt or release signed by seven Natives, of whom three only appear to have signed the document of the 29th August, 1840. The release is executed with much solemnity, the signatures of the Natives being witnessed by Mr. Commissioner Spain, George Clarke, jun., Protector of Aborigines; Thos. S. Forsaith, also Protector and Interpreter; Samuel Ironside, Minister of Te Aro Pah; Arthur T. Holroyd, Barrister, Wellington; and Thomas Fitzgerald, Assistant Surveyor, attached to Commissioner.

The receipt thus signed is for £300, in full satisfaction and absolute surrender of all title and claims of the Natives parties thereto, in the lands written in the document affixed to the receipt, viz. :—"All the places at Port Nicholson, and in the neighborhood of Port Nicholson." But, in this receipt or release, the Natives declare that the pahs, cultivations, sacred places, *and the places reserved*, will remain alone to us. Much reliance was placed by the prosecutors on these documents, containing, as they are said to do, an admission by the Crown that lands had been "reserved," including those comprised in the grant now impeached, and an agreement with the Crown by the Natives, parties to the document of 29th August, 1840, to yield up to the Crown all their rights and interests in those lands *except the reserves.*

We do not undervalue the importance of this transaction. Substantially, however, it appears that the officer of the Crown was acting rather as a mediator between the New Zealand Company and the Natives, than as representing the Crown in the transaction with those Natives. The dispute was already between the Natives and the Company; the £300 was paid as an additional compensation by the Company to certain of the Natives, in consideration whereof those Natives promise in their receipt or release "to write their names, if asked, to a land-conveying document" (not to the Queen, but) "to the directors of the said Company," of all their claims, except the places reserved. The transaction thus seems only, at most, to amount to proof, that the Colonial Secretary brought about an arrangement between the Natives and the Company, whereas he was well informed that the Natives claimed certain lands as reserved for their exclusive use, thereby also, it may well be, quieting the possession of the Company, and indirectly providing by anticipation for the ultimate quiet possession of the Crown. But neither this, nor any other Acts found upon record, are shown to have been acts done in pursuance of any statutory power to create Native Reserves, nor even with the intention of creating them; although such conduct may indicate that the officers of the Crown believed the lands to have been legally set apart for Native purposes, and acted on that behalf. It is found in terms that the Queen never has expressly declared any trust in writing, constituting the disputed lands Native Reserves; and we think we are not at liberty to declare that the acts of the officers of the Crown and Colonial Governments, so far as they are made to appear on these findings, bind the estate of the Crown in those lands, so as to compel the Crown to hold the lands impressed with a trust as Native Reserves.

(2.) The allegation that the lands have never been ceded to the Crown, and that the Native title thereto has never been extinguished, may be shortly disposed of. No formal act of cession to the Crown was necessary. From and after the purchase of these lands by the Company from the Natives, they became by virtue of the alienation itself part of the demesne lands of the Crown; insomuch that even if the purchase by the Company had been investigated by Commissioners under the Land Claims Ordinance