

MINUTES OF EVIDENCE.

MONDAY, 19TH NOVEMBER, 1877.

The Hon. Mr. MACANDREW, being in attendance, was examined.

1. *The Chairman.*] The Committee are met to take into consideration the Bill before the House, proposing to vest ten acres of land, situated in the Municipality of South Dunedin, in the Corporation of that borough. Probably you are acquainted with the circumstances connected with this particular piece of land, and you would oblige by stating them. I may mention that the following telegram has been received from Mr. J. L. Gillies, Secretary to the Otago Harbour Board: "Respecting the ten acres of Dunedin foreshore applied for by Mr. Seaton to be vested in the South Dunedin Municipality, I am directed to inform you that the ten acres in question were included in the Board's Endowment Act, 1875, two months before the Municipality existed. I shall send you by first boat a *précis* of the circumstances"—I may mention that the question of reserving this piece of land, with a view to its being granted to that Municipality, was mooted a considerable time ago—very shortly after the Municipality came into existence. I find, however, that nothing was done officially in the matter by communicating with the Waste Lands Board until October, 1876. As you are aware, on the 31st October the Provincial Government ceased to exist, and that month was devoted to some extent to clearing up all arrears and putting matters square. The question of this reserve came before the Government, along with many other matters which had been standing over some time in October, and a resolution was passed by the Executive, and communicated to the Waste Lands Board, in terms of the then Land Act, requesting that this piece of land might be reserved as an endowment for the South Dunedin Municipality. Of course, had the Provincial Council met, it would have been vested in the Municipality by Ordinance. The Provincial Council not having assembled is the reason why this Bill is brought in by Mr. Seaton. What I wish the Committee mainly to observe is this: that up to the time of the 31st October, 1876, this land was within the jurisdiction of the Provincial Government. The General Government had no doubt the right, but practically the General Government did not interfere with the administration of the waste lands of the Crown until after the date of Abolition. I find, on referring to papers in the Crown Lands Office on the subject, the first application from the Harbour Board appears, as you have stated, to be dated on the 4th of August.

2. 1876?—Yes; that is the date of the first application from the Harbour Board. I see that is corroborated by Mr. McKerrow, the date being three months before the abolition of the provinces. I would call special attention to the fact that the ground on which the application was made is contained in section 5 of "The Otago Harbour Board Empowering Act, 1875." That section provides as follows: "All lands which the Board may from time to time reclaim from the sea, under any lawful authority, may, in the name and on behalf of Her Majesty, be granted by the Governor to the said Board, and when so granted to the said Board shall be held and may be dealt with subject to the provisions of this Act, in like manner as the Board is authorized to deal with lands hereby vested in them: Provided that no such lands shall be so reclaimed from the sea or be granted to the Board under this Act unless the plans and specifications of such reclamation shall first have been submitted to and approved of by the Governor in Council, in the manner prescribed by the thirty-third section of 'The Marine Act, 1867,' as amended by 'The Harbour Works Act, 1874.'" By the 4th clause of the Act of 1875, provision is made whereby 400 acres of the foreshore, and what was termed the Wharves and Quays Reserves, which were Crown-granted to the Superintendent, should be transferred to the Harbour Board; and these have been so transferred accordingly. The land now in question, however, had not been Crown-granted; it was Crown land, and did not require to be reclaimed from the sea; so that I think it will be found that the grant has been issued in contravention both of the letter and spirit of the law. Not one spadeful of earth has been placed on this land by way of reclamation, in as much as the land is *terra firma* already. I may say, in looking over the papers, I find that the Solicitor-General, when the matter was referred to him, called attention to the fact that the land must be reclaimed before it could be Crown-granted, in terms of section 5 of the Act above referred to, he not knowing that it was above water at the time. However, his opinion seems to have been ignored, and the grant was issued on the 11th July, 1877. Those are the facts of the case as far as I am aware. The reserve was granted in terms of the Otago Waste Lands Act. Being Crown lands, it was subject to be dealt with by the Provincial Government and Waste Lands Board in terms of that Act. Mr. Gillies appears to have communicated with the Colonial Secretary in August; that was three months before the abolition of provinces. I knew nothing of this application, and, as I was Chairman *ex officio* of the Harbour Board at the time, if I had known of the matter I should have called attention to it.

3. Then the Crown grant has been newly issued in favour of the Harbour Board for themselves?—On the 11th July last, for land which had previously been dealt with by the Provincial Government.

4. Is this below high watermark?—No; the land below high watermark is disposed of under section 4. These ten acres the Superintendent did not hold under any Crown grant. They are above high watermark, and were Crown lands.

5. In October, did not the Provincial Government recommend to the Waste Lands Board the reserving of this land?—Yes.

6. For what purpose?—For the endowment of the South Dunedin Municipality.

7. In the Abolition of Provinces Act the Governor in Council stands in the position of the Provincial Council as well as of the Provincial Government. Would it be in the power, therefore, of the Governor in Council to assent to reserve, after being vested within the South Dunedin Municipality?—No; it has been done in terms of an Act of the Assembly which did not apply to it, it having been previously set aside as an endowment for the Municipality.

2—I. 6A.