

No. 13.

The SECRETARY, Marine Department, to the SECRETARY, Harbour Board.

SIR,—

Marine Department, Wellington, 4th March, 1882.

I have the honor to acknowledge the receipt of your letter of the 24th ultimo, forwarding a resolution adopted by the Wellington Harbour Board upon the subject of the proposed Te Aro reclamation, and with reference thereto to draw your attention to my letter No. 77/32, of yesterday's date, on this matter.

I have, &c.,

The Secretary, Wellington Harbour Board,
Wellington.

H. S. McKELLAR.

For Secretary.

No. 14.

The CHAIRMAN, Harbour Board, to the Hon. the MINISTER, Marine Department.

SIR,—

Wellington Harbour Board, Wellington, 10th March, 1882.

I have the honor to acknowledge the receipt of your letter No. 77/32, dated the 3rd instant, and in reply beg to inform you that the subject-matter thereof has been referred to the Board's solicitors, who have advised that the Harbour Board is not the proper authority to move the Attorney-General to take steps to obtain an injunction of the Supreme Court to restrain the Corporation from proceeding with the proposed Te Aro reclamation, a copy of which opinion I enclose herewith for your perusal.

I beg to draw your attention to your letter of the 16th ultimo, and also to the Board's reply thereto dated the 24th ultimo, which latter embodied a resolution passed at a special meeting of the Board; that resolution, together with the tracing accompanying the same, clearly defined the limits to which, in the Board's opinion, the proposed reclamation should be carried.

I have, &c.,

The Hon. Minister in Charge of the Marine Department,
Wellington.

W. V. JACKSON,

Chairman.

Enclosure in No. 14.

MEMORANDUM for CHAIRMAN, Wellington Harbour Board.

DEAR SIR,—

We have perused the letter of the 3rd instant from the Secretary of the Marine Department to your Board, and we understand that you desire to be advised whether, from a legal point of view, the Board is the proper authority to apply for an injunction against the Corporation, as therein suggested. With regard to the opinion of the Crown Law Officers referred to, we need say nothing, except that we consider the chance of success upon a motion for injunction would be very remote. The question is whether, if interference is required, the Board is by law the proper body to interfere; and we are distinctly of opinion that it is not. It is true that Harbour Boards, as constituted, have a certain jurisdiction over harbour matters, including harbour navigation, but they are bodies with restricted functions, and created for special purposes, and in many instances a controlling power is reserved to the Legislature or the Government. By section 148 of the Harbours Act the Board is expressly prohibited from reclaiming "except under the authority of a special Act." Again, section 156 (which we are surprised to find is relied upon by the Crown Law Officers) makes the Governor's assent a condition precedent to the construction of harbour works. Further than that, it expressly declares by subsection (4) that "the Minister may, at the expense of Board, &c., take all necessary steps and proceedings to abate and remove the work" done in contravention of the provision of this section. It will accordingly be observed that, where the right to reclaim or erect harbour works is given to the Board, a right of veto is in all cases reserved either to the Legislature or the Governor in Council. The Board is the controlled and not the controlling body; and how, in the face of the subsection (4) above quoted, the Board can be said to be the proper authority to move for an injunction, we are at a loss to conceive.

Wellington, 8th March, 1882.

Yours faithfully,

BULLER AND GULLY.

No. 15.

The TOWN CLERK to the Hon. the MINISTER, Marine Department.

SIR,—

Town Clerk's Office, 9th March, 1882.

I have the honor, by instructions from the City Council, to inform you that a plan in duplicate, showing an area of the land comprised in the Schedule to "The Te Aro Reclamation Act, 1879," which the City Council propose to reclaim under the provisions of that Act, and showing the details of the works proposed to be constructed in connection with and for the purpose of such reclamation, and showing generally the mode in which the reclamation is intended to be carried out, together with a copy of the specifications for the execution of the same, have been this day deposited at the office of the Marine Department.

The Council have taken this course in order to obviate any possible difficulty which might otherwise arise under the provisions of "The Harbours Act, 1878," but desire it to be understood that, whilst it may fairly be contended that the Governor in Council has power to deal with questions affecting the mode of carrying out the proposed reclamation, and the works ancillary thereto, having regard to their possible effect upon the navigation of other parts of the harbour, they cannot admit the existence of any right whatever to interfere with the discretion of the City Council in regard to the area to be reclaimed.

As the City Council are anxious that the work in question should be commenced without delay, they have instructed me to urge that the matter be forthwith brought under the notice of the Governor in Council, and that they may be informed as speedily as possible of the approval of the Governor in Council of the *modus operandi* and ancillary works, or of any modification of or addition thereto, as the case may be, which may appear to His Excellency and the Executive Council to be reasonably required.

I have, &c.,

The Hon. the Minister of Marine Department.

CHARLES C. GRAHAM,

Town Clerk.