

38. At this time there were pending a considerable number of applications, fourteen of which had been heard, and were, at the request of the parties, standing over for judgment, in order that it might be ascertained whether the Legislature would authorise the Commissioners to remove certain formal defects mentioned in the report of the Commissioners on the Gisborne sitting, and some five of which, at the like request and for the like reason, had been adjourned for hearing. There were also one or two applications for hearing for which no date had then been fixed. Further, it was probable that a large number of additional applications would be lodged before the 20th day of March, when the time for receiving applications would expire. Your petitioner informed the Hon. the Premier of these facts by letter on the 16th day of March, 1891.

39. The letters referred to in paragraphs 37 and 38 appear upon page 29 of the said parliamentary paper H.—13, and the report on the Gisborne sitting appears on pages 59 to 67, both inclusive, of the same parliamentary paper.

40. Before the 20th day of March, 1891, when the time fixed for receiving applications expired, twenty-two additional applications were lodged with the Commissioners, and the sum of £220 was paid as fees on lodging the same.

41. Nevertheless, your petitioner was, by Order in Council, removed from his said office of Commissioner as from the 31st day of March last, solely upon the ground, as expressed in the letter of the 14th March, 1891 (No. 61, parliamentary paper H.—13 of the session of 1891), from the Premier to your petitioner, that "Parliament has not made any provision for the expenses of the Commissioners appointed under section 20 of 'The Native Land Court Acts Amendment Act, 1889,' after the 31st instant."

42. In the Bill relating to Native lands laid before the session of Parliament of 1891, and also before the present session of Parliament, the defects in the existing legislation to which your petitioner has called attention, and which have precluded that legislation from being effective, have been recognised, and clauses have been inserted which are designed to remedy the same; but by the same Bill it is proposed to transfer the powers given by the Act of 1889 to the Commissioners to be appointed under that Act to the Native Land Court.

43. On the 6th day of May, 1891, the Hon. the Attorney-General commenced proceedings against your petitioner in the Supreme Court of New Zealand, Wellington District, with a view to ousting your petitioner from his office of a Judge of the Supreme Court of New Zealand. These proceedings were not commenced until after the sitting of the Court of Appeal had begun for several days, and in consequence thereof it would not have been possible, but for the concurrence and active assistance of your petitioner, to have brought the said proceedings to a hearing before the Court of Appeal until the month of November, 1891.

44. Your petitioner, however, instructed his solicitors and counsel in every way to facilitate the said proceedings, and in consequence thereof the same proceedings were heard before the Court of Appeal on the 18th, 19th, and 20th days of May, 1891, and on the 27th day of May, 1891. The Judges of the Court of Appeal delivered judgment in the said matter, whereby the validity of your petitioner's commission was upheld by a majority of the said Court.

45. The Attorney-General took the necessary steps to appeal to the Privy Council against the said judgment of the Court of Appeal.

46. Your petitioner applied to the Government to make some provision for his costs of the said appeal, and for payment of his salary, or of some sum equal to his salary, whether by that name or not, pending the appeal, but the Government refused to do so.

47. Your petitioner was unable, owing to his judicial position, to which the Court of Appeal had declared him to be entitled, to devote himself to any profitable pursuit during the pending of the said appeal; and your petitioner was compelled to borrow large sums of money, and to undertake heavy responsibilities in order to defray the costs of the said appeal, and to maintain himself and his family during the pendency of the said appeal.

48. On the 23rd day of May last the said appeal was allowed by the Judicial Committee of the Privy Council.

49. The sole question raised in the said proceedings against your petitioner was as to the meaning of the 5th section of "The Supreme Court Act, 1882," and there was in the said proceedings no charge whatever against your petitioner.

50. The number of the Judges was three times permanently increased prior to the appointment of your petitioner, and on each occasion the Judge appointed was in the same legal position as your petitioner, and his appointment was for the same reason invalid. In the year 1875 the number of the Judges was, in anticipation of vacancies about to occur, temporarily raised from five to seven. The appointments of the two Judges then appointed were for the same reason invalid.

51. The judgment of the Privy Council in the proceedings against your petitioner clearly establishes the invalidity of the appointments mentioned in the last paragraph, and the Privy Council has not adopted the argument that such of the said appointments as were subsisting at the time of the passing of "The Supreme Court Act, 1882," were thereby validated.

52. Your petitioner's net annual income, over and above all costs and expenses whatever, derived from his practice for the four years and ten months prior to his retirement from practice in order to accept the said offices has now been proved by actual receipts in cash to have exceeded the sum of £2,300 per annum.

53. Your petitioner's actual loss in money up to the present time, caused by reason of his acceptance of the said offices, exceeds the sum of £4,500; and, in addition to the said loss, your petitioner has wholly lost a practice built up during a period of nearly fourteen years, the net annual profit from which has, as above stated, been found to have exceeded the sum of £2,300 per annum.

54. Your petitioner therefore submits,—

(a.) That the selection of your petitioner for the office originally offered to him was entirely unsolicited by your petitioner.