

REPORT AND EVIDENCE

OF THE

SELECT COMMITTEE

UPON

THE NEW ZEALAND LAND CLAIMS SETTLEMENT ACT EXTENSION BILL.

Appointed August 1st, 1861. Report brought up August 13th, 1861.

ORDER OF REFERENCE.

Extract from the Journals of the House of Representatives.

THURSDAY, AUGUST 1ST, 1861.

Ordered, That the "New Zealand Land Claims Settlement Extension Bill," be referred to a Select Committee to consist of—

Mr. C. J. Taylor,
Mr. Firth,
Mr. Jollie,
Mr. Crosbie Ward,
Mr. Weld,
Mr. Domett,
Mr. Dillon Bell,
Mr. Waring Taylor, and
Mr. Carleton.

To report on the 13th instant.

True extract,

F. E. CAMPBELL,
Clerk of House of Representatives.

REPORT.

The Select Committee to whom the Bill intituled "An Act to amend the Land Claims Settlement Act, 1856, and to make further provision for the Settlement of Land Claims" has been referred, having considered the same, are of opinion that the following words: "in any case not hereinbefore provided for," in section 33 of the Act of 1856 ought to be repealed. Also, that they approve of the reference of cases to the Supreme Court and a Jury.

HUGH CARLETON,
Chairman.

Committee Room, 13th August, 1861.

SATURDAY, 3RD AUGUST, 1861.

Committee met pursuant to notice.

Present :—

Mr. Carleton,
„ Dillon Bell,

Mr. Firth.

Mr. C. J. Taylor,
„ Jollie,

Mr. Carleton was elected Chairman.

Order of Reference of 1st August, read.

Moved by Mr. Dillon Bell, that clause 2 be expunged, and the following clause be inserted in lieu thereof :—

"No claim shall be entered under this Act unless the same shall have been notified to the Government, before the 31st December, 1861."

Resolved in the Affirmative.

Adjourned to Friday the 9th instant.

HUGH CARLETON,
Chairman.

FRIDAY, 9TH AUGUST, 1861.

Committee met pursuant to adjournment.

Present :—

Mr. Weld,
„ Jollie,
„ Waring Taylor,
„ Firth.

Mr. Dillon Bell,
„ C. J. Taylor,
„ Domett,
Hon. Mr. Crosbie Ward.

Mr. Carleton in the Chair.

Minutes of last meeting were read and confirmed.

Motion made and Question proposed.

"That in all cases where injustice can be shewn to have been done, past Legislation ought not to be considered as an absolute bar to re-consideration." (Mr. Chairman.)

Debate ensued.

The Committee adjourned *siné die*.

HUGH CARLETON,
Chairman.

SATURDAY, 10TH AUGUST, 1861.

Committee met pursuant to notice.

Present :—

Hon. Mr. Crosbie Ward,
Mr. C. J. Taylor,
„ Dillon Bell,
„ Domett,

Mr. Firth,
„ Jollie,
„ Waring Taylor.

Mr. Carleton in the chair.

Minutes of last Meeting were read and confirmed.

Moved by Mr. Chairman and Question put, "That in all cases where injustice can be shewn to have been done, past Legislation ought not to be considered as an absolute bar to re-consideration."

Moved by Mr. Domett: That the following words be added to the Question:—

"That injustice should be shewn to have been done before the House should interfere in the matter by fresh Legislation."

Upon the Question being put, That the words proposed to be added, be so added, it was resolved in the Affirmative.

Question put as amended, and agreed to.

Motion made and Question proposed:—

“That if it be proved to the satisfaction of this Committee that injustice has been committed, such Legislation should be suggested as will enable parties aggrieved, to refer their cases to the Supreme Court and a Jury.” (*Mr. Waring Taylor.*)

Mr. Chairman moved by way of Amendment:—That all the words after the word “That” be left out, and the following words inserted in lieu thereof: “the indiscriminate reference of all such cases to the Supreme Court and a Jury is unadvisable, there being reason to suppose that in the great majority of cases the claimants would be satisfied with the simple decision of the Land Claims Commissioner, if made under increased powers.”

And the Question being put, That the words proposed to be left out stand part of the Question, it was resolved in the Affirmative.”

Original Motion agreed to.

Adjourned to Monday at 10½.

HUGH CARLETON,
Chairman.

MONDAY, 12TH AUGUST, 1861.

Committee met pursuant to adjournment.

Present:—

Mr. Firth,

Mr. Weld.

Mr. Carleton in the chair.

Minutes of last Meeting were read and confirmed.

Mrs. Margaret Forbes called in and examined.

Mrs. Margaret Forbes

12 Aug., 1861.

1. *Chairman.*] I believe you are a pre-emptive land-claimant at Onehunga?—I am.

2. Will you give the Committee any particulars you may desire that they should know concerning your case?—I produce a statement of my case as it appears in Mr. Busby's speech, published in 1853, which, as altered, is correct: also *Government Gazette*, 10th August, 1847.

“The sophistry with which Sir G. Grey attempts to justify his contempt of the Queen's instructions is unworthy of refutation. He assumes that the policy of his Predecessors in allowing individuals to purchase land from the Aborigines, was injurious to the interests of the public, and therefore calls it injustice to the rights of the rest of Her Majesty's subjects; and he then proceeds to deal with the titles of the purchasers, which had been sanctioned by his Predecessor,—not according to the express instructions of the Queen, but according to the dictates of his own arbitrary self-will. But, Sir, it is not only in respect to the titles sanctioned by his Predecessor that he has violated the public faith committed to his keeping. It is also the fact that in cases where he has himself sanctioned the preparation of a grant for a portion of land, and given public notice of such sanction, and of such grant being in preparation, he has actually sold to the highest bidder the greatest portion of the lands of which he himself had sanctioned the grant, and reserved for the proprietor a mere fraction of the limited portion of the land which he in the first instance chose to admit.* I shall only refer to one case in which injustice presents itself in a form so abhorrent, so surpassing all belief, that its very enormity seems to place it beyond credulity.”

* Extract from *Government Gazette* No. 17, August 10, 1847.

Headed—“List of claims reported on by the Commissioner, and the title deeds for which are now in course of preparation.

No. of pre-emption certificate.	No. of acres waived on.	Names of Claimants.	Recent Government Survey.
	A. R. P.		A. R. P.
239—11	8 2 0	Robert Forbes.	9 3 25

LITERAL COPY OF A PRINTED CIRCULAR.

Colonial Secretary's Office,

Auckland, 4th day of June, 1849.

MADAM,—I have the honor to inform you by direction of His Excellency the Governor that a grant has been prepared in your favor for 1a. 1r. 5p. of land, claimed to have been purchased from the Natives under pre-emption certificate No. 239, upon which fees to the amount of 2s. 6d. are due.

I am instructed further to add that, unless these fees are paid to the Colonial Treasurer within one month from this date, the claim will be disallowed, and the grant cancelled, and the Surveyor-General will be directed to take possession of the property.

I have the honor to be, Madam,
Your most obedient Servant,
ANDREW SINCLAIR,
Colonial Secretary.

Mrs. M. Forbes, Onehunga.

Mrs. Forbes was a widow with seven children to maintain, and her Memorial to the Council (see *Government Gazette*, August, 1849, page 123), states, that in order to pay for the 8½ acres which Governor FitzRoy authorised to purchase, she was obliged to sell the rings off her fingers and a watch.

I quote from the *Southern Cross* newspaper of 21st September, 1849:—

Mrs. Margaret Forbes

12 Aug., 1861.

"On Wednesday, in accordance with the Proclamation in the *Government Gazette*, the Colonial Treasurer offered for sale—to an audience, we believe, of two individuals,—fifty-three allotments of land, near the Pensioner village of Onehunga, of which he sold three allotments, amounting to thirty pounds! There is a voice in this result which may be disregarded, but must be heard. If there was nothing connected with the result of this renewed effort to sustain a false and unsound system beyond what lies upon the surface, it would be proof sufficient of the paralysed state of the Colony, and the absurdity of still continuing the attempt to force the sale of land at exorbitant prices. But what must we think of the result of this sale, when we remember that even this paltry amount was unrighteously obtained. It was the proceeds of a part of the inheritance of the fatherless—the price of part of the portion of a widow! Of all the broad acres that the Government could fairly and honestly offer for competition, not one single rood was sold, and but one solitary bidder—Mr. W. F.—could be found for the stolen property.

"Our local readers are well aware that the allotments purchased by Mr. F—— were not honestly acquired by the Government; but it may be necessary for the information of others at a distance to explain briefly how this land came into their possession.

"Some years back, when the Colony was at the lowest position, and when Governor FitzRoy by removing the land monopoly, inspired new life into the expiring energies of the colonists, Mrs. Forbes purchased about nine acres of land at Onehunga. The claim was examined by the Commissioners and favourably reported on; the report was finally ratified by Governor Grey, and a notice inserted in the *Gazette* about two years ago, that deeds were being prepared for it. Before they were ready, however, His Excellency, for some reason or other, altered his mind, and told Mrs. Forbes that she had too much land, and would only allow her one and a quarter acres.

"The allotments offered on Wednesday were part of the land which had thus been unceremoniously and despotically cut off the widow's claim. Now, we appeal to men of honesty and uprightness, is such policy to be tolerated? Can it be reconciled with truth and justice? If Mrs. Forbes had "too much land," it must be presumed that she had more than she had validly bought—but did the Commissioner say so? Quite the contrary.

"The widow's claim was found just and good, the Commissioner's award was favourable, and deeds were actually being prepared for it, when the grasping, covetous, Ahab-like policy of the Governor, led him to conceive and execute this act of spoliation!

"We speak of this matter in strong and indignant terms—not because we hope to make any impression upon the local Government; the moral sense of our present rulers is utterly perverted, and their consciences so completely cauterised, that we neither expect nor hope to excite anything like shame or compunction in their bosoms."

3. *Mr. Firth.*] Have you any reason to give us as to what induced Sir George Grey to refuse to issue the grant after the intimation contained in the *Gazette* of its being about to be made out?—I believe he wanted it for a township: it was sold for a township.

4. Was any offer of compensation made for the land taken away from you?—I was paid £13 and some shillings to cover the expense of survey and other items; which I accepted.

5. *Mr. Weld.*] Among those items was any part for compensation for any of the land taken away?—I cannot say.

6. *Mr. Firth.*] Do you recollect what was the original purchase money paid to the Natives for the land?—One silver watch, worth £5, and one double-barrel gun, to purchase which I had to sell two rings for £4.

7. In what year was the purchase made?—Between October, 1844, and beginning of 1845.

8. *Mr. Weld.*] Had you made any improvements upon the land before it was taken away?—It was all but two acres fenced in and cultivated.

(Witness here put in *Gazette* of 10th September, 1849, in which is published her Memorial as follows:—)

The Memorial of Margaret Forbes of Onehunga, widow, respectfully sheweth:—

"That, from family circumstances of peculiar hardship, well known to the community, the support of a large family, seven in number, was thrown on your Memorialist, who finding herself otherwise unable to maintain herself and family, availed herself of the Proclamation issued by Governor Fitzroy on the 10th October, 1844, and purchased from the Native owners a small portion of land, situated at Onehunga, supposed to contain about eight acres, though the actual measurement, on being surveyed, proved to be nine acres, three roods and thirty perches. Small as the amount of the required purchase money was, viz., £9 10, your Memorialist was unable to pay it without disposing of a watch and the rings off her fingers—which, though of little intrinsic value, were only parted with through extreme necessity.

"That by her own industry and ceaseless exertion your Memorialist succeeded in getting a small raupo whare, for which a bush license to sell spirits was obtained, and she was thus enabled to maintain herself and family.

"That the claim for the land was duly heard and proved before Major Matson, the Commissioner appointed for that purpose, whose favorable award was made and notified in the *Government Gazette* for 1847, page 95, in which *Gazette* it was likewise officially intimated that the title deeds for this, as well as various other claimant's lands were "in the course of preparation."

"That subsequently to this notification, various verbal statements were made by the surveyors, as if from His Excellency, to the effect that the Government could not permit your Memorialist to retain so large a piece of ground, and that 4½ acres only could be allowed. Your Memorialist being entirely ignorant of her legal rights in the matter, and being unwilling even to seem to oppose any proceedings of Government, had suffered the 4½ acres to be pointed out to her. Fences were

Mrs. Margaret Forbes erected, and other expences incurred in cultivating this land, when in a short period afterwards, another surveyor appeared who intimated the necessity of desisting from further cultivation, or making other improvements, as $4\frac{1}{4}$ acres were more than His Excellency the Governor could now give, and that a grant would be made out for $1\frac{1}{2}$ acres. Shortly after this verbal statement an official Circular was received from the Colonial Secretary, stating that the deed for $1\frac{1}{2}$ acres was ready, and that if it were not taken up within one month and the fees paid thereon, the grant would be cancelled.

"That your Memorialist, fearing that her right to the whole purchase might be compromised by such an act, did not at first intend taking up her diminished grant within the specified time, but various verbal intimations of the necessity of doing so without delay, having been made to her, she at last became alarmed, lest even the remaining $1\frac{1}{2}$ acres should be taken from her, or that they might be still further reduced in quantity as on the former occasion. Acting under these fears, she was induced to take up the grant in question. She has still retained possession of the land however, and, on the surveyor attempting to survey it some time ago, she refused to permit him, and pulled down the flags which he had placed on the ground, her feelings of irritation and disappointment at seeing the land thus torn from her, which she had acquired with such hard and incessant labour, having overcome, perhaps, her better judgment.

"That your Memorialist, in taking the grant for so small a portion of her honestly acquired property, had no intention of waving her claim to the remainder of the land, and therefore, at the first meeting of your honourable Council, throws herself with confidence upon its consideration.

"Your Memorialist therefore humbly prays, &c."

9. *Chairman.*]—Have you yourself bought any portion of this land since the public sale?—Yes.

10. Are you able to state the price?—There were no bidders at the sale. I bought some afterwards at the upset price. I cannot say exactly how much I paid, but it will be found among the Government papers.

11. Are you able to give the Committee any general idea how much land you bought and at what price?—I bought one acre from Mr. Gilfillan at second hand for which I paid £100. Mr. Hay bought a quarter of an acre further down for which he paid £50, and Mr. Williams a quarter at £40. I think these were the prices paid.

12. *Mr. Weld.*]—This, I understand, was part of your original land which you did not buy?—It was.

13. *Chairman.*] Do you recollect how much you bought at the upset price?—I bought five allotments. I also bought some from Mr. Nathan for £23, rather more than a quarter of an acre. When Mr. Nathan heard that it was originally mine, he let me have it for what he had paid for it.

Witness discharged.

Adjourned to Tuesday at 10 $\frac{1}{2}$.

HUGH CARLETON,
Chairman.

TUESDAY, 13TH AUGUST, 1861.

Committee met pursuant to adjournment.

Present:—

Mr. Dillon Bell,
„ Waring Taylor,
„ C. J. Taylor,

Hon. Mr. Crosbie Ward,
Mr. Firth.

Mr. Carleton in the chair.

Minutes of last Meeting were read and confirmed.

Motion made and Question proposed:—

That the words "In any case not hereinbefore provided for," in sec. 33 of the Act of 1856 ought to be repealed. (*Mr. Firth.*)

And the Question being put,

The Committee divided:—

Ayes, 3.

Mr. Dillon Bell,
„ Chairman,
„ Firth.

No, 1.

Mr. Waring Taylor.

Mr. C. Taylor declined to vote.

So it was resolved in the Affirmative.

Mr. Firth, in moving the omission of the words "In any case not hereinbefore provided for," observed that he intends simply to provide for those few cases of special hardship, which have been known to exist for many years, and without any intention of subverting the Act of 1856, except so far as to give its legitimate operation to clause 33 in the Act of 1856.

Moved by Mr. Chairman,

That the Minutes of proceedings be laid on the table of the House when the Report is brought up.

Resolved in the Affirmative.

Mr. Chairman read a draft Report, which was adopted, and

Ordered to be presented to the House.

The Committee then adjourned *siné die*.

HUGH CARLETON,
Chairman.