

EVIDENCE

TAKEN BY

THE JOINT WASTE LANDS BILLS COMMITTEE

ON THE

PETITION OF SETTLERS OF CLUTHA DISTRICT.

REPORT BROUGHT UP 9TH OCTOBER, 1868.

WELLINGTON:

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1868.

MINUTES OF EVIDENCE.*

EVIDENCE TAKEN BY THE JOINT COMMITTEE OF BOTH HOUSES OF THE LEGISLATURE APPOINTED TO CONSIDER ALL BILLS AND PETITIONS AFFECTING WASTE LANDS OF THE CROWN, ON THE FOLLOWING PETITION.

To the Honourable the House of Representatives.

The humble Memorial of the undersigned Settlers in the Clutha District,

HUMBLY SHOWETH—

That, in the opinion of your Memorialists, it was intended by "The Waste Lands Act, 1866," that settlement should proceed in the usual way of first declaring the land into hundreds, and not by the sale of blocks outside hundreds.

That the Provincial Council at its last Session decided by a majority of two against the sale of land at 10s. per acre. The Government, however, at the close of the Session, again introduced the matter, when the sale at this reduced price was carried by a majority of one. Your Memorialists believe it was not competent for the Provincial Council to reverse the decision it had come to at an earlier period of the same Session.

That "The Waste Lands Act, 1866," as administered by the Otago Executive, is injurious to the Revenue of the Province; is detrimental to the interests of those already settled in the country; offers no inducement to settlement, and is not only fitted to drive people out of the country, but is actually producing this result.

Your Memorialists therefore pray your honorable House to appoint a Committee to inquire into the whole subject of the administration of the Waste Lands in Otago; and if possible to prevent the sale of blocks in runs, and the unsold portions of the old hundreds at the reduced price of ten-shillings per acre.

And your memorialists will ever pray.

[Here follow 78 signatures.]

James B. Bradshaw, Esq., M.H.R., was called in, and gave the following evidence:—

The grievance is, that certain blocks of land have been set aside for sale outside of hundreds. This is a new feature in the sale of land in Otago. The blocks alluded to are now advertised for sale. The hardship is, that the system of hundreds will be done away with, and that the blocks so set apart will fall into the hands of the runholder or capitalist, instead of the small holders, for whom they are apparently intended. By the agreements under which these lands have been taken out of runs, the runholder is to have the right of pasture on all the land within the block until sold and fenced; and no new hundreds are to be proclaimed on the run affected by the agreement. No man will buy out of a 15,000 acre block in the middle of a run while the runholder has the exclusive right of pasturage on all that is not fenced and bought. I believe that what has been done is illegal. A compact was entered into between the Committees of the Legislature on the Gold Fields and Waste Lands Bills, so as to enable those measures to be worked together. This compact is broken by the setting aside of these blocks. A clause was proposed by Mr. Vogel to the effect that land should be sold at 30s. an acre within Gold Fields. This was lost; and so was an amendment by Mr. Reynolds to allow the sale at 20s. an acre; yet what is now being done is just what the House refused to sanction. The understanding was that occupation should take place before sale on the Gold Fields; but the course now adopted violates this understanding, and indeed infringes the Act. As to the agreement made with the Provincial Government, every squatter I have asked has informed me that a lease was only given in exchange for a license on the express condition that they would allow blocks not exceeding 15,000 acres to be taken out of their runs without the compensation to which they would otherwise be entitled under the Gold Fields Act—the runholder retaining the exclusive right of pasturage over all the unsold portion of the block. I say that there are not sufficiently large blocks of land open for occupation and purchase under clause 16 of the Gold Fields Act. I get letters every day complaining of this, especially from the Mount Benger district.

1. *Mr. Reynolds.*] How many miners are there in the Mount Benger district?—I refer you to the Member for the district.

2. Can you tell the Committee what the amount of compensation would be if the Government gave the diggers all they want?—When I was Ministerial Agent for the Gold Fields I was in communication with the various Wardens for the purpose of opening up new blocks under clause 16 of the Act. I stated that 2s. or 2s. 6d. an acre would be sufficient compensation to the runholder, but the sum demanded was usually much higher. This, however, had to be settled by arbitration under the Act. The Government tried arbitration at Lawrence (Tuapeka) and Wakatipu, and in those cases the compensation was I think about 2s. an acre.

* For the Report, see Journals of the House of Representatives, p. 215.

3. *Hon. Mr. Domett.*] How would the Government get this money back again?—The compensation paid for the Wakatipu run amounted to £8,500 (about 300,000 acres). The town of Queenstown was included in this, and it realised £5,000. At the present time the occupiers of land there are paying 2s. 6d. an acre rent on 15,000 or 20,000 acres. This is about 12½ per cent on the price of £1 per acre. If the assessment on stock was collected, it would amount to at least from £1,000 to £1,200 a year, and this is daily growing larger. These amounts are not applied as outside Gold Fields for the benefit of the block, but become part of the general land revenue of the Province. The same results might be produced at Lawrence. The town of Arrow is also being sold. The Wakatipu district contains now about 130 farms producing grain and cattle. They have been for the last year producing sufficient flour for the whole district. Last year, £12,000 worth of wheat was grown there. The same result with respect to revenue might be applied to Lawrence.

4. *Mr. Reid.*] In disposing of the block of 15,000 acres under the private compact, have the ordinary purchasers the same privileges as the runholder?—No; of course not. The runholder has the exclusive privilege of pasture on the whole unsold portion.

5. If the best parts of the run are thus sold, will it virtually secure the remainder to the runholder for all time?—Yes, entirely; because no one will buy land in Otago for farming unless he has some run for his cattle outside of what he purchases.

6. *Hon. Mr. Domett.*] What system do you recommend?—I recommend the occupation system before purchase, as at present established by law. In order to prevent inordinate speculation, I recommend that the whole of the freehold lands of the Province should be subject to a state tax per acre—whether improved or not. I can produce papers to show the amount of revenue collected during the time I was the Agent for the Gold Fields, in the districts acquired by compensation, and which was collected under the most unfavourable circumstances, there being no Collectors of Revenue. What I recommended to the Government very strongly was that this should be done. The following shows the amount of revenue collected during the time the Gold Fields were under the control of the Colonial Government, viz., from 1st April to 31st October, 1867.

Lawrence and Tuapeka.

	£	s.	d.	£	s.	d.
Agricultural rents	46	6	3			
" "	26	6	0			
" "	3	2	6			
				75	14	9
Deposits which were subsequently brought to account of Revenue, being at the rate of 4s. per acre for the past six months ...				474	15	0
To assessment on stock				429	18	8
For seven months				£979	18	5

This amount was collected without the assistance of Inspectors of Licenses, and at a time when few persons were paying agricultural rents, in consequence of the non-issue of agricultural leases by Government.

Wakatipu.

	£	s.	d.
To rents on agricultural leases	89	1	3
To deposits which subsequently were brought to Revenue at the rate of 4s. per acre	929	5	6
Assessment on stock	397	10	2
	£1,415	16	11

This amount was collected during seven months without the assistance of Inspectors. Some deduction must be made from the amount of deposits when brought to Revenue Account, but then a much larger amount is due for rents which were not paid in consequence of the delay in issuing leases by Government; and a still further amount must be added for assessment on stock, which was evaded for the want of the appointment of proper officers to see that it was paid.

James Macandrew, Esq., M.H.R., Superintendent of the Province of Otago, was then examined, and gave the following evidence:—

I am not aware of any such covenant as that alluded to by Mr. Bradshaw having been made between the Government and runholders, that the runs of the latter shall not be declared into hundreds, but on the contrary, in one or two cases in which renewals of lease have been granted, with the right to the Government to reserve a given portion, an application is now before the Government to declare the whole run into hundreds. The same answer applies to blocks for agricultural leases. Whether the application to declare the run a hundred is granted or not, rests with the Colonial Executive. There is no engagement on the part of the Government which prevents it recommending that such a course be adopted. The agreements between the Government and the runholders are all the same, and are on a printed form.

7. *The Chairman.*] Do you find that persons who might be expected to buy land in blocks thus set apart, abstain from doing so in consequence of not having the right of pasturage over the unsold portion?—Fifty acres of land are of no use to persons who want to depasture stock. Many who have that object in view are deterred from leasing (with the right of purchase) on account of the want of pasturage. The engagement is that the runholder has the right of pasturage over all the unfenced portion of the block. With regard to this particular petition, I do not think that the petitioners are interested in that question. Their great complaint is, that the hundreds in which they have hitherto enjoyed the right of pasturage are being sold at ten shillings an acre. The land they allude to has been open for sale for a long time—over seven years. They complain of the law which allows this

sale. I do not say that there is not a *prima facie* grievance in their not being able to get pasturage if they buy. They feel it so, as they have had the run of the unsold land for years past, and they bought their lands at £1 an acre under the impression that the price would not be reduced. I think it right to say that with respect to the cry of "Land for the People," there is a great deal of claptrap in it. One would imagine from the language used that there was no land to be got for settlement or occupation; yet there are from 700,000 to 800,000 acres of land open for settlement, exclusive of runs. I do not of course say that this land is all good. It is good and bad together. A portion of it is already in hundreds. There are about 1,600 sections pegged off, varying from 50 to 100 acres each. These are open for selection under the Land Regulations. In addition to this, there is in the Gold Fields about 500,000 acres open for selection for agricultural leases. A great proportion of this land is accessible, and about 450,000 acres is common for depasturing purposes, at 3s. 6d. per annum per head for great cattle, and 7d. per head for sheep. The only way of removing the complaint made in the petition would be to proclaim a run in their district into hundreds; but even if this were done I don't think the land there would be found suitable for agricultural purposes.

8. *Mr. Reynolds.*] Will the reservation of blocks of land in various runs for sale preclude or encourage settlement?—I think it will decidedly encourage settlement. With respect to some blocks recently opened up in Gold Fields, there have been a good many applications for agricultural leases; and with regard to some blocks outside Gold Fields, there have been a good many purchases of freehold, and I have reason to believe, with regard to one block in Gold Fields, which is about to be taken out and put up to auction, that a great portion of it will realize £3 to £4 per acre. I cite these instances in answer to Mr. Reynolds' question, to show that settlement is being and will be carried on; at the same time, there can be no doubt that settlement would be much more encouraged if pasture land could be given with the agricultural land sold.

9. Will the Government be precluded from proclaiming hundreds because of the reservation of these blocks?—No.

10. In the sale of these blocks is it the intention of the Government to sell in large or small sections, and will the runholders be placed in a better position to purchase than the public?—It is intended to sell the land in ordinary farms of from 50 to 100 acres each. The runholder will have no better position in regard to purchasing than that which he may derive from having a longer purse than the public. When the land is of special value it is put up to auction.

11. Do you consider that taking these blocks out of the runs will destroy the value of the rest of the run for sale, or secure it to the runholder for all time coming?—If the runholder could pick out the eyes of the run, that would be the effect; but as these blocks must be from 5,000 to 15,000 acres, I say decidedly not.

12. Can you state roughly what sum might be required under the Gold Fields Act to cancel pastoral leases if the Government were to give effect to the wishes of those residing in Gold Fields districts?—To compensate for all the runs applied for within the last six months to be taken out of Gold Fields under the Act, would require at least £50,000. That is the greatest difficulty the Provincial Government has to contend with.

13. Would this sum be refunded to the Province, and when?—It would be repaid of course ultimately, but it would be a long time before it would all be refunded with the present population. I could not say how long. There is the cost of survey to be taken out of the rent of 2s. 6d. an acre, and that would run away with the first year's rent. There has not been any difficulty in collecting the rent of agricultural areas where the leases have been properly completed, as most of them are now. Within the last six months I have signed upwards of 400. I cannot say if there has been difficulty in collecting the assessment on stock, but if so it has not been the fault of the stockowners on the Gold Fields commonage, but owing to the want of a proper system of collection on the part of the Government. This will not occur again, but I believe a good deal of revenue has been lost owing to a want of proper system. The only observation I wish to volunteer, is with regard to agricultural leases on Gold Fields. I think 50 acres far too small an area for agricultural purposes, and I would recommend that the area should be 200 acres at least. This to a certain extent would obviate the complaints made at present.

14. *Mr. Reid.*] Do you think the policy of the Waste Lands Act is being carried out by the setting apart of these blocks without their being proclaimed hundreds?—I should like to know what is meant as the policy of the Act.

15. I mean the general scope of the Land Act—that all lands should be proclaimed hundreds before being open for sale, and that the setting aside of these blocks for sale outside Gold Fields is the exception?—I take it that the policy of the Act is twofold, partly to secure revenue and partly to settle the country, and I say that the Act as now administered secures these objects.

16. Do you contend that there is a larger revenue collected when land is sold outside of hundreds, or that settlement would be promoted to a greater extent by such sale than if the land were proclaimed into hundreds and then sold?—My opinion is that the adoption of both courses is best.

17. *Hon. Major Richardson.*] The blocks to be taken under the engagements not being defined, will not the result be that the best portions of the country will be included in these blocks?—Practically the boundaries of the block will be decided by the Chief Surveyor, the ground of its selection being its suitability to agricultural purposes.

18. Will these blocks in every case receive the approval of the Provincial Council before being sold?—There is no law at present requiring such approval, but I have no doubt that practically the Council will have a voice in the matter.

19. Has it not invariably been the case in regard to hundreds heretofore recommended?—No hundreds have been proclaimed without such approval, it being required, I understand, before His Excellency will proclaim new hundreds.

20. *Mr. Reid.*] Assuming it to be legal, do you consider it is equitable to leave with the runholder exclusively the grazing over lands actually purchased within these blocks, and do you think that by such a course purchasers are placed on an equal footing with the runholder?—I believe the law on this

point has been already laid down. Mr. Wilson Gray, for one, has done so in a case in the Tokomairiro district. With respect to the equity of the thing, that is a matter of opinion. In blocks outside of Gold Fields, I think the purchaser would not be on an equal footing with the runholder as the law now stands, because the runholder has an anterior right.

Julius Vogel, Esq., M.H.R., Provincial Treasurer of Otago, was then examined, and gave the following evidence:—

I have to make the following remarks in response to the invitation of the Committee, regarding the working of the Otago Land Act and the Molyneux Petition:—(1.) The fairness of selling the land within hundreds after its remaining unsold a certain time, at ten shillings an acre, was open to question when the Act passed. I myself opposed it; but the Provincial Council determined on it, and moreover decided, in spite of an amendment moved, that the period should be seven years; that it should be available at the reduced price three years after its being first open to sale. The Assembly increased that period to seven years, lessening thereby the unfairness, if any. The whole object of the provision was avowedly for revenue purposes, and it is unreasonable to suppose the Province should not take advantage of it. If a revenue-raising proposal of this kind had not been inserted, some other would have had to be provided. It is to be remarked, also, that a small number only of the purchasers of land within the hundreds which have been exposed to sale at the reduced price had for some time before the various sales taken out depasturing licenses, and these only have the right to think themselves injured. (2.) Respecting hundreds, it is true the Land Act professes to set no greater restriction than what previously prevailed in the way of declaring Hundreds, but I am and was of opinion that the general scope is to some extent inconsistent with the Hundred principle; in fact that the enacting clauses do not bear out the declaration that nothing in the Act contained is to interfere with the declaration of hundreds. My reasons if stated briefly are these:—1st. It was always a question whether hundreds should contain purely agricultural land or a mixture of both agricultural and pastoral. 2nd. The practice which was adopted was to allow of the mixture of the two classes. 3rd. That speaking broadly the hundreds already declared have absorbed the best lands, and it follows, therefore, that future hundreds would have to comprise less of the agricultural and more of the pastoral lands. 4th. That under the new leases many years are added to the license tenure, and at a largely increased rental. It seems to me obviously inconsistent to suppose that under these various conditions the Hundred system is not materially crippled. To suppose otherwise is to suppose that the Legislature intended that whilst lands of a more exclusively pastoral character were to be available for transfer from the pastoral tenants to the pastoral pursuits of the purchasers within hundreds, yet the pastoral tenants were to be beguiled into accepting leases for longer terms, and to pay largely increased rents. It may be urged that these remarks do not apply to so much of the mixed lands as fairly come within the old accepted character of the lands suitable for hundreds but even admitting this it has to be remembered, as I have already stated, that most of those lands have been already taken for hundreds, and much of the remaining is included within Gold Fields. I will not enter into the consideration of the position in which the Gold Fields lands stand in reference to the declaration of hundreds. The question is a debateable one, and no doubt will be submitted some day for legal decision. In regard to the covenants entered into by the runholders with the Superintendent, they are of two classes: one set refers to runs within Gold Fields, and binds the runholders, in seeking compensation for blocks of land which may be required for agricultural lease purposes, to abide by a compensation based solely on the original license term, and irrespective of the new lease term. The runholders who have yet been affected by these covenants have, as far as I am aware, shown no disposition to complain of them—on the contrary, the arbitrations have been based upon them. The other class of covenants are undertakings on the part of the runholders to consent to the sale of blocks of land within their runs on the request of the Superintendent, in terms of clause eighty-three of the Land Act. Before the new Land Act passed, it was admitted to be desirable in some cases to have power to sell some lands within runs for revenue purposes. The new Act made such a provision even more necessary. When the Superintendent granted leases to the runholders, he had no other course open to him than that of taking covenants. The runholders would not have submitted to the absolute exclusion of large blocks from their runs, since when they took leases their licenses lapsed, and could not be renewed in respect to any portions of runs excluded from the leases. To have refused leases for some of the runs would have involved the refusal of the runholders to receive leases for others. Again, the covenants are valuable to the Province; they involve no abandonment of the rights conferred by the Act, and, with very few if any exceptions, the runholders were satisfied to give them, recognizing that the Government simply desired to adjust as far as possible very great difficulties, and to do justice to all interests concerned. In respect to complaints of the land revenue being unfairly expended, I am strongly of opinion that those who regulate the expenditure are actuated by the desire to do justice to all parts of the Province. They cannot convert a pound into twenty-five shillings, neither can they expend the same money twice over. The Province is large, many routes of communication have to be maintained, each district naturally craves for particular consideration, and is inclined to think itself neglected when any other district receives recognition. On the whole, however, I believe the feeling is rather one of healthy, vigorous, and somewhat jealous competition, than of chronic dissatisfaction. I believe the less legislative interference with the undoubted powers of self-government the people enjoy the better. Whatever legislation there is should be in the direction of making that self-government more complete, in order that those interested should understand how largely they have to depend upon themselves, their own exertions and judgment, and not upon political agitation.

21. *Mr. Reid.*] Were you a member of the Government when these covenants were entered into?—Yes.

22. Do you consider these covenants legal?—Yes.

23. Is the course now adopted in disposing of land in these blocks outside of Gold Fields before proclamation into hundreds not a practical evasion of the Land Act?—No; it is entirely in conformance with the Act.

24. Do you think that the Legislature in passing the Land Act intended that all land open for settlement and sale should first be proclaimed into hundreds?—I think that although the Act states nothing to prevent hundreds being declared, its whole tenor is in opposition to the hundred system.

25. You proposed an amendment to the Waste Land Act which was not carried?—Yes; several.

26. Under these covenants do you not practically carry out the object you had in view when proposing your amendment?—I wished to see the principle of free selection carried out; but I do not think that I am now carrying this out, as there is not under the system referred to as much free selection as under the hundred system.

The Hon. Major Richardson was examined, and gave the following evidence:—

With regard to the first paragraph of the petition before me, I say that the whole spirit and scope of the Act is unmistakably in support of the affirmation of the petition, viz., that settlement should proceed in the usual way of first declaring land into hundreds, and not by the sale of land outside of hundreds. With regard to the second paragraph of the petition, I have no means of ascertaining what the course pursued by the Provincial Council was on the occasion referred to, as I am not a member of the Council, but I am strongly of opinion that the sale of these lands is illegal on two grounds: 1st. Because the opinion of the Council should have been elicited by Ordinance confirmed or not by the Superintendent, and subject to confirmation or otherwise by the Governor; and, 2ndly, because a portion of the land sold has not been open for seven years for selection and sale; and I refer to the Proclamation of the 25th November, 1862, by which the proclamation of the old hundreds was annulled, and several new hundreds constituted from that date. These hundreds were, Waikouaiti, 40 square miles; Hawkesbury, 11 square miles; Moeraki, 103 square miles; Otepopo, 84 square miles, and Oamaru, 36 square miles.

27. *Hon. Mr. Domett.*] Do you mean that the non-fulfilment of the condition of the land being open seven years for selection and sale was caused by the annulment of the old Proclamation?—Partly so; because I have no means at present of learning whether the land which has been sold is in the original hundreds or in the amended hundreds. The policy of the Government with which I was associated as Superintendent was to preserve the land for settlement, and we did all we could legitimately do to effect this object.

28. Have you any observation to make relative to the pastoral leases?—I think the way in which they were granted is decidedly contrary to law. The Government had no power under the Act except that of granting or refusing leases. There was no power to insist on any conditions outside of the Act. Such conditions have, however, been made by covenant, and therefore I hold that the leases are invalid in point of law and should at once be covered by an Act of the Assembly without any reference to the covenants. The runholders pay 7d. per sheep for their stock, and are therefore entitled to leases. I hand in a return of reserves made when granting the leases. The total amount of reserves made by the covenants is, for sale 198,000 acres, and for agricultural leases within Gold Fields 107,000 acres. These are the approximate figures as given in a Provincial Council Paper, dated 8th May, 1868.

29. Do you not consider this a large quantity of land for settlement?—No; it will never answer that purpose, but will, on the contrary, utterly defeat it, because these lands are not declared into hundreds and are therefore without the advantages which would entice purchasers, and moreover each is a very small reserve. The result will be that the whole of these lands will fall into the hands of either capitalists or runholders—a result highly injurious to the public revenue, detrimental to the pastoral estate, and a grievous wrong to those runholders who are not in a position to purchase. Moreover it will materially interfere with the legitimate expansion of the occupation of land under agricultural leases. I have one other objection to the reserve of these lands. They have not been defined and have not therefore been submitted for approval to the Provincial Council as is always the case with new hundreds. The note appended to the return I have handed in will show this.

30. *Mr. Reynolds.*] Do you consider that if a runholder or capitalist cultivates these lands that the Province does not reap an equal advantage as if they fell into other hands?—Yes; but there is another consideration. If all the agricultural land is picked out when there are no emigrants to compete for it and no rights of pasturage attached to it, as in the case of hundreds to invite settlement, you really destroy your object, to say nothing of the depreciation in the value of the remainder of the run when the present leases fall in and a decreased rental in the meantime.

31. Do you consider that runholders and capitalists are not settlers then?—Yes, they are; but the backbone of settlement is a large population tilling the ground and yielding a revenue to the State.

32. Would not capitalists and runholders require to employ labour to cultivate their ground?—If the Committee desire it I will take this question home and answer it at length in writing.

33. *Mr. Jollie.*] Referring to the second paragraph of the petition, am I to understand that the Provincial Council has the power of determining what land shall be sold at 10s. per acre?—Yes; but I have already said that in my opinion this can only be done by Ordinance and not by resolution.

34. *Mr. Reynolds.*] What has been the custom heretofore?—The Act has only been in operation since the 8th October, 1866, since which time I hold all the action taken to have been illegal. Sales have taken place, but I hold those sales to have been illegal as they were made under resolution instead of Ordinance, and for other reasons.

35. *Mr. Bell.*] Do you remember the discussions in the Otago Provincial Council, while you were Speaker, of the resolutions upon which the Land Act of 1866 was ultimately founded?—In some measure.

36. Are you of opinion that the general intention of the Council was to continue the system of proclaiming hundreds before opening land for sale?—I have no doubt whatever that such was the intention and decision of the Provincial Council.

37. Was it your opinion then, and had it been so before, that in order to give fair scope to the system of hundreds, it would be necessary to discourage as far as possible the purchase of land in large

quantities by capitalists who should take up the land available for settlement?—Yes, it was, both then and before, because immigrants could not be introduced with sufficient rapidity, and because, should the seaboard agricultural land be sold to capitalists, the inducements to the ordinary immigrant would be greatly diminished.

38. Is it the case that in the hundreds north of Waikouaiti, especially these at Oamaru, the effect of proclaiming them has been to place large estates in the hands of capitalists?—I think it has, owing to circumstances which could not be controlled, but still there are a large number of well-to-do settlers of small and moderate means.

39. Do you remember the clause inserted (at Mr. Whitaker's suggestion) in the Land Act making it compulsory on Wardens to levy an assessment on cattle in every hundred?—A clause was introduced directing the Wardens to levy assessments on stock.

40. Have you examined the return now on the table showing how that duty has been performed, and what amount has been raised by way of assessment in each hundred?—I have not examined the return in question. If the Wardens neglect their duty, it was then the duty of the Waste Land Board to act (see clause 115). One-half of the proceeds of the assessment went to the District Road Board for making, repairing, and improving roads and bridges. In many of the old hundreds the land is sold, though unenclosed, and there is little or no Crown Land to depasture stock on.

41. If in one hundred the law is complied with and an assessment raised, while in another the Wardens take no steps to compel assessment, is the effect not to make the law work with inequality and injustice to those who are made to pay the tax?—Yes; but the Waste Lands Board can remedy the inequality by itself taking action, a duty which is imposed on it by law.

42. Do you remember a number of questions sent out by a Committee of the Otago Provincial Council last Session which was appointed to consider the question of the declaration of hundreds?—Yes, I do.

43. Did one of those questions refer to the proclamation of land into hundreds which was only fit for pasture?—Yes.

44. Will you state what answer you gave to that question?—The questions bearing on the subject were two in number; the answers I gave were as follows:—"I do not think it would be legal, nor do I think it would be politic, to declare country "fit only for grazing purposes" into a hundred for the purpose specified. By the 84th clause of "The Waste Lands Act, 1866," the Government had ample power "to refuse to grant leases for pastoral purposes of any Waste Lands which it may deem it inexpedient to lease." It did not avail itself of this purposely-given power by reserving any lands under license from leasing, and therefore the lessees are entitled to look for the full benefits of the Act. The land might have had on the expiry of the original licenses, which in many cases are dropping in, and might have been wisely applied to increasing existing hundreds. I have confined my reply to the limit fixed by the question as to land "fit only for grazing purposes." And again: "I do not think it would now be right or politic to declare 'purely pastoral land' into hundreds, as leases have been granted under an Act which did not contemplate and does not provide for such a proclamation."

45. Generally, will you inform the Committee whether you think that the objects of the hundreds system can be attained unless the existence of good agricultural land suitable for settlement is a condition of any hundred?—The existence of fair agricultural land I regard as a necessary element in the settlement of an agricultural population under the system of hundreds.

46. In any new hundreds should this not be insisted upon?—I think it should, unless in special cases, such as where an injustice has been done to the settlers in old hundreds, as I hold to have been the case under the 10s. clause, where the refuse of the hundreds were constantly advertised for auction sale.

47. Have you thought of any proportion that might fairly be established between agricultural and pastoral land in a new hundred?—Where circumstances will admit, I think that about two-thirds of fair agricultural land would be a desirable proportion. But the price of any portion should not be under 20s. an acre.

48. Was it not generally the spirit of the Council resolutions that land which was purely pastoral should not be proclaimed into hundreds?—Undoubtedly, as a general rule it was the spirit of the resolutions that hundreds should not consist of purely pastoral land. There might have been small pastoral freeholds or leasehold pastoral farms before the present leases were given, for there was a power to decline exchanging pastoral licenses for leases on the former terminating; but that power has now passed away, and cannot be exercised where leases have been given.

49. Would this interpretation of the Act be reasonable to be taken as a rule of action by the Executive Government?—I think it would, but it is a matter of opinion.

50. Are you aware what amount of land in Otago, not being within Gold Fields, is open to be proclaimed into new hundreds?—I cannot form any definite idea.

51. Do you remember the Joint Gold Fields Bill Committee of 1866, and were you not for some time its Chairman?—I do. I was for some time Chairman on the resignation of Mr. Haughton.

52. Are you aware that one of the principal subjects before that Committee was the repeal or amendment of the 28th clause of the then Gold Fields Act of 1862?—Yes. The Select Committee of the Legislative Council declined to deal with that clause only, as was desired in an Interim Report, at any conference between the Select Committees of the two Houses on the Gold Fields Act.

53. Will you describe what the effect of that clause was?—It enabled a runholder, on the proclamation of a Gold Field over his run to demand that his lease or license should be cancelled or suspended over a part of the whole of the land so included, and thereupon to demand compensation, as provided for in the Act.

54. Why was there so much objection to it?—Because of the amount of compensation claimed.

55. Was it a question of compensating runholders whose runs might be wanted which made an amendment of the 28th clause so material?—I believe it was.

56. Would it have been consistent with public faith to evade the operation of the 28th clause by

taking out of Gold Fields any lands which it might be found inconveniently affected by that clause, on account of the amount of compensation to be paid for it?—If the land were remuneratively auriferous it would have been a manifest injustice thus to defeat the law, and escape the payment of compensation which was due under it.

57. Was the arrangement come to, as recommended by the Gold Fields Committee, admittedly a compromise between the interests affected by the 28th clause?—It was decidedly a compromise, and only arrived at after a most care-taking examination.

58. Would the chief distinction between “The Waste Lands Act, 1866,” and “The Gold Fields Act, 1866,” be correctly described by saying that under the one law the Waste Lands were intended to be sold and occupied under the hundred system, and under the other law land was intended to be occupied under agricultural leases, but was not to be sold except to the lessees?—Under “The Waste Lands Act, 1866,” the land was designed to be sold for settlement or to be leased for pastoral purposes, and under “The Gold Fields Act, 1866,” the land was not intended to be sold except in towns, and outside towns to the holders of agricultural leases. These were the great fundamental principles which unmistakably pervaded the Acts in question. The proceeds of the sale of land for agricultural settlement—the rents from agricultural leases on Gold Fields—and the largely increased rents from pastoral lessees, having been multiplied about fifteenfold, were looked for as furnishing the land revenues for many years to come.

59. If it would have been an evasion of the Act of 1862 to defeat the 28th clause by taking land affected by that clause out of Gold Fields so as to avoid paying compensation, would it not be a similar evasion of the existing Act to take land out of Gold Fields for the purpose of avoiding compensation that is payable under the compromise for which the 28th clause was repealed?—Most certainly it would, if taken out for the purpose of evading the action of the law.

60. Practically, does the question as to proclamation of hundreds over land within Gold Fields stand thus: that as land wanted for agricultural leases (if the land be retained in a Gold Field) must be compensated for, the same land if wanted for hundreds must also be compensated for?—Not exactly so; because in the latter case there are under “The Waste Lands Act, 1866,” certain restrictions respecting the unexpired period of the licenses (82); and also the nature and extent of the compensation is fixed in the cases of runs being required for hundreds when under lease (82); the Waste Lands Act does not contemplate any settlement in Gold Fields except under “The Gold Fields Act, 1866.”

61. In point of fact, will the Act according to its true intent allow land to be taken out of Gold Fields for proclamation into hundreds without the same compensation being payable as if the same land were wanted for agricultural leases?—I have answered this above.

62. If otherwise, would the runholders be getting anything in return for their increased rental; I mean anything substantially equivalent?—The equivalent offered for increased rental is ten years extension to the period unexpired under the license.

63. Have you seen the deed of covenant which the Provincial Government required to be executed by the runholders before the issue of leases?—I saw one, but it was stated to be incorrect.

64. Are you aware that one of the covenants imposed on the runholder was that he should give up certain areas (either for agricultural leases or for sale, as the case might be) without demanding the compensation to which he would have been entitled under the Gold Fields Act?—I understood that to be the case.

65. Have you heard that it is contended, that notwithstanding these deeds of covenant, if the Government require land outside the quantity covenanted to be given up without compensation, such land can be still taken, compensation being paid for the same?—Yes; I have heard it so stated.

66. But if this be the case, where would be the *quid pro quo* to induce runholders to give up any land without compensation?—I do not see any; but I suppose there must have been some good reason to induce the runholder to accept a condition not imposed by law.

67. If it be agreed that the *quid pro quo* is the issue of the lease (the execution of the deed of covenant being made a condition of such issue), and that such issue closes the matter as against the runholder, how do you propose to treat a runholder who holds the opinion that his surrender of the covenanted land is, under the deed of covenant, all that can be required of him during his lease?—The only treatment which equity and good faith demand is, that the lease should be validated and the covenant annulled.

68. If this opinion is held by nearly all the runholders affected, does not such a question arise as to their position and that of the Province, as makes an inquiry necessary, with a view, while preserving the public interest, to prevent any breach of good faith?—Undoubtedly.

69. Do you think that pending such an inquiry it would be expedient that anything should be done by the Government either to create a precedent that might have bad effects on the public interest, or to determine a question which involves private interests to so large an amount as this, no less than the public interest?—No precedent should be established. The law of the case should be at once ascertained and acted on.

70. But would you see any objection to arrangements being made between the runholder and the Government in the meanwhile for bringing land into the market if required by the latter, provided that this was done under the operation of the 83rd clause of the Waste Lands Act?—Every possible objection, as I have more fully stated in my evidence. I believe that the Provincial Landed Estate would be most seriously damaged by the abstraction of choice blocks—immigration be virtually stopped, owing to the difficulty in obtaining suitable land—the pastoral rentals decreased (see 74, 75, 83)—and a wrong inflicted on those runholders who may be unable to compete with the Australian capitalists for the choice spots commanding their runs.

F. D. Bell, Esq., M.H.R., was examined, and gave the following evidence:—

71. *Hon. Major Richardson.*] Are you the lessee or joint lessee of any runs in the Province of Otago?—I am.

72. Have you taken leases in exchange for licenses to depasture stock on these runs?—I have.

73. Will you state approximately the acreage of the runs, the rent you pay annually, and the rent which was paid under the licenses?—Altogether about 250,000 acres in the various runs leased. The annual rent depends under the new Act upon the quantity of stock on the runs. Last year the rent I paid was about £2,200; in previous years it would have been one-seventh of that sum.

74. Did you enter into any covenant or covenants with the Provincial Government before leases were given you in exchange for the licenses, and as a condition preliminary to the leases being issued?—I entered into two deeds of covenant with the Superintendent of Otago before any leases were issued. My execution of these deeds was made a condition of the leases being granted; and at an Executive Council, when a remonstrance of mine against the penalties imposed by the deeds was considered, a minute was made that unless I executed the deeds leases would not be issued.

75. Will you state what were the chief points of these covenants, expressed or implied?—There were two kinds of deed. One class referred to agricultural leases, the other to blocks of land to be opened for sale. I covenanted in the one case to give up 5,000 acres at Ida Valley for agricultural leases, without claiming compensation, except for the unexpired term of the original license. In the other I covenanted to give up not exceeding 15,000 acres at Shag Valley for sale without compensation at all; but by a special agreement with the Provincial Government, in consequence of their taking a long narrow block up the Valley, the amount to be taken for sale was reduced to 10,000 acres.

76. Can you give the Committee a copy of these covenants?—I will give the Committee a copy of the deeds I signed as soon as I get them up from Otago. In the meantime the blank forms of the deeds received by the Committee from the Commissioner of Crown Lands will show what the covenants are. As I have said, there are two classes of deeds.—The first class applies to land required and taken for agricultural leases in Gold Fields. It recites the pastoral lease, and the provisions of the Gold Fields Act on the subject of compensation for land so taken, and then stipulates that the pastoral lessee shall, in claiming compensation for land so taken, only claim compensation for the unexpired term of the original license, and not for the extended term granted by the lease. This makes a very great difference in the amount of compensation that would be payable to the pastoral lessee, and therefore saves a very large amount of money to the Province.—The second class of deeds applies to land wanted in runs for purposes of sale. After reciting that the Superintendent was empowered to refuse to grant the lease applied for by the pastoral lessee—and reciting the provisions of the 83rd section of the Waste Lands Act—and reciting that the Superintendent had agreed to the lease being granted in consideration of the lessee entering into the covenant—and reciting the pastoral lease so granted, the deed provides that the lessee shall agree to allow part of the land comprised in the lease, not exceeding

acres, to be sold without claiming any compensation whatever, provided that the land so to be sold not exceeding acres shall not be selected in more than three blocks. Then follow some provisions as to the lessee consenting to let the land be surveyed, and to give quiet possession when sold, under a penalty of as many thousand pounds as there are thousands of acres to be sold; and then as to a reduction of rent in proportion to the land sold. Lastly, the deed reserves the rights and powers of the Superintendent, and in some deeds of the Governor, under the Gold Fields and Waste Lands Acts, “unless such rights and powers are contrary to the deed of covenant.”

77. Did you object to these covenants, and if so on what grounds?—I objected to the penalties imposed by the deed of covenant, as being illegal. I did not object to the principle on which the covenants were proposed. Their effect was, as I have said in my last answer, to reduce the amount of compensation payable by the Province very largely, and to give (in exchange for the surrender of large rights of compensation for the land taken for agricultural leases and for sale) an additional security of tenure to the runholder. Thus an advantage was secured to both sides. The great objection I had was, that the Provincial Executive decided the areas to be given up without, as I thought, any system that was either made publicly known or would secure equality in application. The effect was necessarily unequal: for instance, a neighbour of mine at Ida Valley had the area to be given up by him for agricultural leases reduced to 2,500 acres while my area was fixed at 5,000 acres. I know that it is contended that no additional security of tenure is given to the runholder, and that after taking the land for sale under the deed, the residue of his run may still be taken for hundreds, he receiving compensation for that residue. But this is clearly not the case. The deed expressly limits the quantity of land that may be taken for sale within the run; and the right to proclaim hundreds (upon which proclamation the land immediately becomes open for sale), being contrary to that limitation, there can be no land taken in excess. I say this, of course, on the presumption that the deeds themselves are legal. I need not say that their validity in law has been often questioned. It is said they are waste paper. So they may be; but at any rate they cannot be claimed to-day by the Government in order to enforce consent of the lessee to the sale of the land, and then repudiated to-morrow by them in order to evade the limitation of the quantity to be opened for sale. Indeed, there is no doubt that the limitation was the inducement to a number of runholders to come in under the Act, and pay the increased rental; who certainly would not have done so if they had supposed that after giving up the land for sale and giving up any claim to compensation, they were still liable to have the rest of their runs taken for hundreds.

78. What result attended your objections?—The objections I made were overruled by the decision of the Executive, that unless I entered into covenants my leases would not be granted. It is right to add that the Provincial Government made several attempts, through their solicitor, to meet my views so far as they could do so consistently with the public interests; but as the proposals we discussed involved (as I thought) more or less illegality, I declined them successively, and in the end was obliged to execute the deeds.

79. What is the general opinion of these covenants among runholders with respect to the legal powers to demand them?—I don't think the runholders generally have very decided opinions about the legal power of the Government to demand these covenants. An impression certainly exists that the deeds are not authorized by law, and that the penalties could not be enforced. But the covenants being demanded in good faith, the runholders rely on their being executed in good faith also, as there is nothing in the land law to prohibit them.

80. What would be the effect as regards the Provincial Revenues, present and future, in allowing the sale of choice blocks throughout the runs generally?—The result of the Provincial Revenue can hardly be foreseen with any clearness. It may be taken for granted that if the choicest blocks throughout the runs were now to be sold, the rest would not be saleable for many years. But in Otago nature has pointed out with remarkable distinctness the two classes of land respectively fitted for agricultural and pastoral pursuits. There are millions of acres which, on account of soil and climate, can never be cultivated, but must of necessity remain occupied in depasturing stock. On the other hand there is only a small extent of land suited for agriculture, and under whatever system the latter is brought into the market, it is sure to be sold very rapidly; for the tendency has been, is now, and will necessarily continue, to make whatever land is open for sale fall into the hands of persons of capital. In all the Northern hundreds there are now large estates, and these will become more numerous as fresh land is open for sale. It must be remembered that by far the greater portion of the pastoral land is included within the Gold Fields, and cannot therefore be proclaimed into hundreds at all. The Waste Lands Act has no operation there; and the Committee will no doubt have observed the evidence of Major Richardson as to evading the Gold Fields Act by taking land out of Gold Fields in order to escape the payment of compensation. It has been contended in Otago that if the Province desires to evade payment of any compensation under the Gold Fields Act for land required for settlement, it has only to get the land taken out of the Gold Fields (which can only be done by the General Government, for this power cannot be delegated), and then proclaimed into a hundred under the Waste Lands Act, so that the compensation clauses in the Gold Fields Act should cease to operate in respect to that land. I need not say such an argument is not worth a moment's consideration. I pointed out repeatedly to the House, when the Gold Fields Act was passing through, that by the compromise made with regard to the twenty-eighth clause of the Act of 1862, and the final determination of the principles of compensation to be adopted in future, the Assembly were settling, for the term of the pastoral leases at any rate, the mode in which land within Gold Fields was to be taken, and that no alteration could in good faith be afterwards made except with the runholder's consent in each case. Immediately after "The Gold Fields Act, 1866," was passed, the Gold Fields boundaries were settled by Proclamation.

81. What would be the effect on the runholders who might be unable to compete successfully for the purchase of the blocks?—The result to the runholder of opening blocks for sale on his run which he would be unable to compete successfully for, would of course be to inflict injury upon him; but every owner of a run not situate within Gold Fields, who has good agricultural land on his country, knows that at some time such land will be open for sale; and every runholder within Gold Fields knows that he is liable to have some of his country taken for agricultural leases. Moreover, under the system of blocks opened for sale he retains the pasturage right over the remainder, whereas under the hundred system he loses it.

82. Do you think the Provincial Council in its resolutions, or the General Assembly in its enactments, ever contemplated that nearly 200,000 acres of the choicest lands would be abstracted, as is proposed, from the land under pastoral leases?—I don't think either the Provincial Council or the General Assembly thought this. But, while the Provincial Council proposed resolutions for the Waste Lands Act, it was no party to the Gold Fields Act. The answers of Major Richardson prove that this latter Act was a compromise, and this compromise affected millions of acres with respect to which the Provincial Council were never consulted, nor their wishes or opinions considered. The result of this is that inasmuch as by far the greater part of the Province is within the Gold Fields, and of the residue all the finest portions have already been proclaimed into hundreds, the area of good land over which the opinions of the Provincial Council have to be borne in mind is very limited. In two successive Sessions, however, the question has been raised whether the Provincial Government was right in adopting the system of blocks in lieu of the hundred system, and in both Sessions the party opposed to the Government which adopted this system has failed to obtain a majority. The runholders therefore consider the matter settled, and in many cases have made financial arrangements depending upon the system being maintained. It would obviously be unfair to relegate now to the decision of the Provincial authorities questions on which their opinion was not even sought when the Gold Fields Act was passed. Interests to the extent of hundreds of thousands of pounds have sprung up under that Act. It was in the option of the Superintendent to refuse to grant pastoral leases, but the Provincial Government chose not to refuse, and two years' rents have been actually paid by the squatters. The runholders contend that, during the term of their leases, the mode of occupying land within Gold Fields cannot in good faith be changed without their consent. It would be as just, after issuing the Nelson leases by which the squatters have an unconditional lease for fourteen years, to pass some Act now limiting their term. It would be monstrous, after the Otago runholder had been subjected for years to the operation of the Gold Fields Act, to take land out of the Gold Fields, and proclaim it into hundreds for the mere purpose of evading the payment of compensation to him for it. It was to enable land to be sold, whether in Gold Fields or not, that I moved very careful words in the Act authorizing sales to be made, with the consent of the runholder, in the same way as if such land were within hundreds.

83. Supposing the present lessees were to throw up their runs because the selected blocks did not fall into their hands, would the runs fetch anywhere near the same rental as before?—The runs would not fetch the same amount. The difference in each case would be proportional to the effect upon the working of the run caused by the selected blocks falling into other hands than the existing lessees.

84. What would be the effect as regards rental when the leases expired, and the choice commanding blocks were in the hands of the former lessees?—At the expiration of the leases the result would, as in the preceding question, depend upon the extent to which the working of the run had been affected by the sale of the particular block. If the carrying capacity and working capability of the run had not been materially reduced (beyond, of course, the reduction of the acreage sold), then no great depreciation in the rental would be found; but if the block so affected the working of the run as to alter greatly its carrying power, as in mountainous country would be the case, the rental after the present leases would necessarily be reduced by so much as the carrying power had been diminished.

85. Supposing the covenanted blocks were taken, or a portion of them, what would you do, supposing it was intended to proclaim the remainder of the runs into hundreds?—I should resist it. The Provincial Government is not at all bound to take any part of the land; but if it does so, then the covenants on my part being fulfilled, the covenants on theirs also operate, and it would be entirely contrary to good faith that any land outside should be proclaimed into a hundred. If this were not so, I should not only have given up my claim under both Waste Lands and Gold Fields Acts for nothing, but I should (1st) have been obliged to buy a quantity of land which I don't desire to own as freehold, and (2nd) the value of the residue would have been reduced for compensation, by reason of the best part of the country being gone. I must however observe that I have consented to the sale, and the block reserved from my run has been surveyed.

86. Would you, supposing you did not purchase the selected blocks, demand a reduction of rent for the abstracted portion, and also for the reduced value of the remainder of the run?—I can hardly say what I should do in that case. In a case like mine, the runholder must buy the land.

87. Have you had an opportunity of purchasing any lands you have fancied in the Northern hundreds within the last seven years; if not, state what prevented you?—I have not had that opportunity. When I left the Government in 1863, I wanted very much to buy a block of land in Shag Valley; but I could not do so, as the land was not open for sale or selection while I was at Otago in December, 1863, nor until (I think) March, 1864. Being obliged to be in Auckland at that time I lost my chance, and have since had to purchase a quantity of the land I then wanted to get at enhanced prices, and to take other parts on lease at a high rent. In one case I could not get a purchasing clause under six times the Crown price.

88. Do you consider that these lands have been open for selection and sale for the time which sanctions the reduction of price from 20s. to 10s.?—This is a legal question on which I do not pretend to give a reliable opinion. But I feel convinced that in some at least of the recent sales the requirement of the law as to time has not been fulfilled, and I expressed that opinion to the Superintendent, advising him at the same time to seek the Attorney-General's advice before making sales.

89. *Hon. Mr. Domett.*] Is it not a most extraordinary proceeding that a Superintendent of a Province should enter into a covenant with a runholder the effect of which is to abridge, limit, and interfere with the rights and powers of the Governor of New Zealand, as is the case in the last proviso of the Deed of Covenant marked A, and annexed to Mr. Cutten's letter?—I know of no precedent for it. But though any words abridging the Governor's powers are of course inoperative (he not being a party to the deed), and may even be inoperative in law to restrict the Superintendent's powers, the words which the Hon. Chairman quotes (namely, "unless such rights and powers are contrary hereto") are binding in good faith. The Provincial Government has by these deeds saved large sums of money to the Province, that would otherwise have been paid for compensation, and they will no doubt deal in good faith with the runholders who gave up their claims to such compensation when they signed these deeds.
