

PAPERS RELATIVE TO CLAIMS OF JOHN KELLY.

No. 1.

Mr. G. S. COOPER to Mr. T. BECKHAM.

SIR,— Colonial Secretary's Office, Wellington, 8th January, 1872.

I have the honor, by direction of Mr. Gisborne, to transmit to you the accompanying records noted in the margin, on the subject of the claim of John Kelly, of Auckland, for compensation for non-possession of land purchased by him, and to request that you will be good enough to inquire into the case and report thereon.

Should you prefer it, a Commission, under the Commissioners Powers Act, will be prepared and forwarded to you on your intimating that such is your wish.

Thomas Beckham, Esq., Auckland.

I have, &c.,
G. S. COOPER.

No. 2.

Mr. T. BECKHAM to the Hon. the COLONIAL SECRETARY.

SIR,— Auckland, 11th June, 1872.

Adverting to your letter of 8th January, 1872, No. 71-3,600, and its inclosures, with reference to a claim of Mr. John Kelly for compensation for non-possession of land purchased by him, and instructing me to inquire into the case and report thereon, I have the honor to state, from the evidenced adduced, that it appears Mr. John Kelly, in the year 1859, purchased land at the Waitakarei, comprising an area of 3,209 acres, with a large frontage to the river Waitakarei; that Mr. Kelly built a house and stockyard on the land, and converted it into a farm by clearing and laying down in grass about 100 acres, at a cost of £30 per acre. In the year 1870 a Mr. Brissenden made arrangements with Mr. Kelly to lease 384 acres of his land, for a period of twenty-one years, at a yearly rental of £159 for the first ten years and £318 during the last eleven years, for a mill site, mill-race, tramway, and to cut flax. Mr. Brissenden entered into possession in January, 1870, and built a mill, made a mill-race and tramway, and cleaned a portion of the river to make it navigable, at an expense of about £4,000; and after an occupation of eight months, Mr. O'Neill claimed a considerable portion of the land which he had arranged to lease, and he and his partner were obliged to abandon all further operations, and refused to sign the lease in consequence of the insecurity of the title. It further appears that Mr. O'Neill brought an action against Kelly in the Supreme Court for a part of the land which had been occupied by Mr. Brissenden, and obtained a verdict, on 23rd September, 1870, awarding him 148 acres of the land which had been included in a Crown grant to Kelly.

The land so awarded to Mr. O'Neill comprises the best portion of Kelly's grant, cutting off the flax field, about two-thirds of the tramway, the landing place and the navigable portion of the river cleared by Mr. Brissenden, with a considerable portion of the best river frontage, thereby seriously injuring Kelly's farm, and rendering the remainder of his property of little value, particularly for a cattle run, for which a large portion was used.

In the land taken by the Court from Mr. Kelly are 87 acres and 16 perches which had been cleared and laid down in grass at an expense of £30 per acre. Under the circumstances, it appears to me that Mr. Kelly has suffered a loss as follows:—

	£	s.	d.
For 148 acres taken by the verdict of the Supreme Court, which includes 87 acres 16 perches cleared and laid down in grass at an expense of £30 per acre	2,687	0	0
Cost of defending action	351	8	6
Clearing three miles of road	120	0	0
Procuring witnesses in action in Supreme Court	10	0	0
Surveyors' charges and witnesses	40	3	6
Mr. Whitaker's charges for conducting case before the Commissioner	26	5	0
First ten years' rent, at £159 per annum	1,590	0	0
	£4,824	17	0
If the Government purpose compensating for the consequences of severance, Mr. Kelly would be entitled to receive further a sum of £1,834	1,834	1	6
Loss of Mr. Brissenden's outlay, about	4,000	0	0
	£5,834	1	6

A copy of the evidence is herewith transmitted.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,
THOMAS BECKHAM.