

SESS. II.—1879.
NEW ZEALAND.

PRE-EMPTIVE RIGHTS, PROVINCIAL DISTRICT OF CANTERBURY

(RETURN SHOWING ACREAGE PURCHASED AND ACREAGE STILL UNPURCHASED).

Laid on the Table of the House of Representatives with the leave of the House.

MEMORANDUM by Mr. J. MARSHMAN, Commissioner of Crown Lands, Christchurch, for the
SECRETARY for CROWN LANDS.

Land Office, Christchurch, 4th October, 1879.

I ENCLOSE a return, as requested by your telegram, 19th ultimo, of pre-emptive rights purchased and unpurchased. It has taken a little longer time to put it together than I at first thought it would.

It would not be possible, without a report founded on detailed inspection, to give an estimate of the value of improvements for which these pre-emptive rights are respectively claimed, and the point is perhaps not of much importance.

The homestead pre-emptive right is practically indefeasible. The argument for this view may be thus stated: The right is a statutory creation, and the statute which creates it does not make the continuance of it dependent on conditions; nor does it—and this point is a very important one—provide any means of extinguishing it. The Land Board of the day being satisfied—as it must be assumed they were—that the qualification indicated by the statute then existed, and having under its authority issued an instrument investing the licensee of the pasturage runs with the right of pre-emption over the land described in it, cannot recall the instrument, or divest him of that right, except under authority equivalent to that which created it. In other words, being a statutory right, or a right resting on a statutory contract, it can be extinguished only by statutory process or pursuant to statutory provision, and no such provision exists.

As to the improvement pre-emptive rights, it is open to any applicant to question the holder's claim to it, on the ground that improvements of the required value do not exist. This has been done occasionally in past times—perhaps three times in a twelvemonth; and, whenever it is done, notice is given to the runholder that his right is disputed. If the insufficiency of value is admitted, there is, of course, an end of the case. If he claims that the objection is groundless, and the value sufficient, and that he is entitled to pre-emption, a time is appointed for a hearing. Notice is given to both parties, and the question is decided upon evidence.

I believe that of the comparatively small number of pre-emptive rights now existing, very few will be purchased. They lie chiefly in the hill country, covering fencing; and the runholder would not, in a general way, be disposed to pay £2 an acre for such land as this is, for the sake of securing about half a mile of fence. (This is about the length of fence covered by each 50 acres.) Moreover, he would, if the land were purchased by somebody else, be able under "The Canterbury Waste Lands Act, 1867," which is still operative as respects all pasturage licenses current when "The Land Act, 1877," came into operation, to remove the fence at any time within three months after notice of the purchase.

I have, &c.,

JOHN MARSHMAN.