

the title to it in them; that they were allowed to resume possession of it as a reserve, and then, with the consent of the Governor, to sell it to Major Wood, to whom, to save the intermediate step of a Crown grant to the natives, one was given direct. This is confirmed by the facts that on the oldest plan of the Wainui block, when sectionized for sale (by a Mr. Hughes), a 200-acre section is delineated, marked N.R. (native reserve), in the position of Mataihuka, and in an official return of native reserves laid before Parliament in 1872 Mataihuka is inserted as a reserve of 200 acres. It is quite clear, however, under any circumstances, that the land was sold by the natives, the Governor only giving the requisite technical consent; that the natives had the purchase money; that the Government gained nothing by the transaction; and that the claim to compensation as against it was altogether untenable. It would have saved very much trouble if the Under-Secretaries of the period had placed such transactions on record at the time when they occurred. An explanatory minute half a page long, added to the official file, would have saved hours of labor and investigation which have been bestowed upon this case.

The evidence taken by the Petitions Committee on Mrs. Brown's petition threw very little light on the subject, but the Committee decided that she had established some claim, and recommended that it should be referred to the favorable consideration of the Government. After obtaining the testimony of Mr. Searancke, referred to above, the Government decided to give 150 acres of land, and a clause was accordingly inserted in the "Special Powers and Contracts Act, 1878," authorising the Governor to grant to Mrs. Nicol (then dead) and her daughters the amount mentioned, to be selected "from any rural land open for sale in the Wellington District." The selection was expressly to be made by the grantees. At the request of the Government Major Brown, C.C., acting for Mrs. Nicol's daughters, selected a section in the Kairanga Block of rural land about to be offered for sale, which was approved by Mrs. Brown. The Crown Lands Department, however, took an objection, that it "was likely" that the Kairanga Block would be classified as rural land "of special value." (It was not classified as such when Major Brown proposed to select it.) It was contended that the Act only meant "rural land of ordinary value." The opinion of the Solicitor-General was taken by the department, and he supported its view as "being the meaning of the Act." With all respect for the Solicitor-General, I am at a loss to understand how he arrived at the conclusion that the Act meant anything else than it expressed in plain words. The expression is "any rural lands." What wider words could have been used? What reason could there be for restraining the meaning of "any rural lands," and limiting those words to mean "lands of the lowest value?" There was nothing in the Act to show that the claim was one to be satisfied by the poorest compensation that could be given. If I were to tell a friend that he was welcome to ride any horse in my stable, he would be surprised if he found that I kept all the sound ones for my own use, and limited his choice to the lame ones. The Solicitor-General refers to the Land Act as defining two sorts of rural land. There is no doubt of the fact; but how does that affect the Special Powers and Contracts Act, which authorises the selection of any sort of rural land? Adopting this opinion, however, a suggestion was made by the Surveyor-General that Mrs. Brown might select "somewhere in the southern half of the Seventy Mile Bush," about as unattractive a position as could possibly have been offered; and even then she was told that "if there was any other applicant for the section she might select, it would be put up to auction, and she would have to pay the difference between £1 an acre and the price bid, or go on making application after application till she got a section unopposed." (Surveyor-General, 81/488.) If all this was included in the meaning of the Special Powers and Contracts Act it should certainly have been so stated in plain terms. On learning that it was so, Mrs. Brown seems to have given over trying to get possession from the Crown Lands Department of the *damnosa hæreditas* awarded to her by Parliament, and finally laid her case before the Commission of 1880. I have already recommended a grant, where it can be satisfied out of rural lands which have not been, nor "are likely to be," proclaimed of special value.

*Note C.—On the Mimi-Urenui Claim.*

I append the statements of Mr. Sheehan, M.H.R., and Major Brown, late Civil Commissioner, on this case.

WILLIAM FOX,  
West Coast Commissioner.

#### SUB-ENCLOSURE.

MEMORANDUM for the Hon. Sir WILLIAM FOX by J. SHEEHAN, Esq., M.H.R.

You were good enough in Wellington, during last session, to refer to me papers relating to a claim of Mrs. Brown and her sister in respect of lands in the Urenui District, and with them you also handed me a very carefully prepared digest compiled by yourself of the principal points contained in the official record.

I must first of all express my regret that so long a time has elapsed before replying to your request to give you my opinion upon the whole matter. The Government records were given by me to Mary, Mrs. Brown's sister, to return to you; the digest prepared by yourself was retained by me to refresh my memory. I will now proceed to deal with the matter.

1. The claim now made by Mrs. Brown and her sister is entirely apart from the claim previously made by Mrs. Brown by petition to the House in respect of lands owned by her mother in the Otaki District. It is true the petition did refer to her Taranaki claims (a), but they were not dealt with. I was a member of the Committee myself, and took an active part in the investigation of her petition. The award made by that Commission only had reference to her claims at Otaki.

2. Subsequently Mrs. Brown interviewed me on several occasions in regard to her Taranaki claims. At New Plymouth I made careful enquiry into the matter, with the assistance of the officers

(a) This is a mistake. The petition did not refer to Taranaki claims, it omitted all allusion to them, which is the weak point.—W. F.