

ceedings in this case (pp. 68, 69) that he had only bought part of the island, and that two other men, Abercrombie and Nagle, had joined with him in the purchase of that part. The deed comprised the whole island, and, whether the offer was or was not a fraud upon the owners of the unsold portion, it was clearly a fraud upon his partners; and to offer the whole island to his Government when he owned at most a third, and actually only a sixth, was in itself a fraud upon that Government.

34. Having thus started the scheme, Webster immediately followed up his letter of November by sailing to Sydney, where he was, as Mr. Dacre, in his useful affidavit (p. 138), says, in the latter part of the year, engaged in chartering "a bark called the 'Planter' to convey a cargo of spars and other New Zealand produce he had collected there to England for sale. He intended proceeding in the barque to England, whence, I believe, he intended to go to the United States to ask protection from the Government of the United States in regard to title to land he had purchased in New Zealand from Native chiefs."

35. His creditors, however, not unnaturally, took a different view of his proceedings, and (see Mr. Dacre's affidavit, p. 139) "on the eve of the 'Planter's' sailing, Webster was arrested at the suit of Messrs. Abercrombie and Co., merchants, of Sydney, and lodged in the debtors' prison there . . . where he remained about seven weeks, until I procured bail to the amount of about £12,000 for his appearance at Court, and so released him." As Mr. William Abercrombie was partner in the Barrier Island purchase, and as this was probably the firm which had advanced him cash and goods to make his land purchases, and as it is equally probable that the firm was looking to this land to save them from eventual loss on Webster's account, it may be concluded that, as he told Mr. Dacre, the cause of his arrest arose in connection with New Zealand land titles. If he had managed to reach America the firm's chance of being repaid would doubtless have vanished; they arrested him in self-defence, and no doubt thereby saved part of their £12,000. He appears (p. 73) to have never entirely cleared himself.

36. The arrest was effected under the provisions of the New South Wales Act passed in October, 1839, 3 Vict., No. 15 (commonly known as the Absconding Debtors Act), by which, if a Judge of the Supreme Court is satisfied that the defendant in an action is about to remove, or is making preparations to remove, out of the jurisdiction of the Court—and that the action will be defeated unless he is forthwith apprehended—such Judge may by special order direct that he be held to bail for such sum as the Judge shall think fit, not exceeding the amount of the debt or damages. It will therefore be seen that Mr. Dacre (p. 139), by naming the bail as about £12,000, supplies the exact measure of the Abercrombies' claim against Webster, and shows that this amount was an actual claim, not a penal sum fixed, as is common in security bonds, at twice the amount of the claim.

37. Webster arrived in Sydney at the end of 1840—it would have taken some little time to charter and fit out the "Planter"; he was arrested on the eve of her sailing, and lay in prison seven weeks, so that he must have obtained his release towards the end of February, 1841. He then, or before, but evidently under pressure (p. 52), came to some arrangement with the Abercrombies, for on the 9th March, 1841 (see p. 9 of Sir R. Stout's minute inclosed herein), the New South Wales Government *Gazette* contained notices that certain claims, numbered 28, 29, 29A, 29B, 29D, 30, 31, 32, had been referred to the Commissioners under the Act 4 Vict., No. 7, and the *Gazette* of the 23rd March contained similar notices in regard to claims 80, 83, 93. Peter Abercrombie claimed under 29, 29A, 29B, 29D, to have bought lands from Webster, which are the same as the latter's claims 305A (in part), 305D, 305F. Under 32 claim is made by the three partners to Barrier Island, 305E; the other notices related to a sale to Peter Abercrombie of 40,000 acres, part of 305K, and sub-purchases from him.

38. These notices are material only as showing that even at that early date Webster had parted with large portions of the land for which he is now seeking to be compensated. Immediately on these notices appearing (March, 1841) he entered a caveat (p. 52) against the whole of these claims, which caveat he renewed on reaching New Zealand in May, 1841, but withdrew when he came before the Commission on the 1st July, 1843. The purchasers established their title, and they or their assigns eventually obtained allotments (see p. 72).

39. The arrest put an end to Webster's voyage to America, and by the 1st May, 1841, he was (p. 52) again in New Zealand. In October, 1841, he (p. 53) elected to go before the Commission. The *Gazette* of the 5th April, 1843, contains a notice that the Commissioners would investigate the claims 28–32, 80, 83, 93, 305–305L. These claims, with 305M, were all subsequently dealt with in 1843 and 1844. On the 8th March, 1845 (p. 35), he wrote to Commissioner FitzGerald inquiring as to the decision on "my two land-claims," 305H (which had been disallowed) and 305J, Mercury Island (which has shrunk from 6,000 acres to two small pieces of land). This letter refers to two claims only, and it disposes of Webster's assertion (p. 31) that after the 23rd June, 1843, he never saw any Commission then or afterwards appointed, and that all proceedings subsequent to that date in respect to his titles were *ex parte* and without notice to him and without his knowledge; for Mr. FitzGerald was not appointed till the 15th January, 1844 (see *New Zealand Government Gazette* of the 20th January, 1844).

40. On the 21st April, 1844 (p. 72), Mr. FitzGerald awarded 12,655 acres to Webster's assigns, and 5,000 acres to Webster himself. Of these, by deed (p. 84) dated the 15th August, 1844, Webster conveyed four parcels to John Campbell in consideration of £4,000. These parcels were conveyed on the 28th April, 1854, by Campbell to Ranulph Dacre in consideration of £350. They contained 4,750 acres, and were the lands allotted to Webster in respect of 305C, G, I, K (p. 72). (Compare Dacre's affidavit, p. 139.)

41. In reply to this letter, the Private Secretary, 10th March, 1845, tells him that the Governor cannot authorise any further grant at present; and in a postscript he adds (p. 35), "The Governor directs me to say that the land which you now hold in undisturbed possession will probably be granted to you eventually." It has been seen that on the 22nd April, 1844, Commissioner