

1856.

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## House of Representatives.

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### PETITION OF THOMAS M'DONNELL.

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*Presented to the House of Representatives April 28, 1856, and ordered to be printed.*

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TO THE HONORABLE THE SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES OF  
THE COLONY OF NEW ZEALAND.

The Petition of THOMAS M'DONNELL, a Commander in the Royal Navy, will show—

That your Petitioner, when at Sydney, New South Wales, in 1830, did purchase of Messrs. Jones and Walker, the trustees of Messrs. Raine, Ramsay, and Brown, then bankrupts, all their landed and other property in New Zealand, consisting principally of “Te Horihe” and “Rau Rau,” in the Hokianga district, with the buildings thereupon, a quantity of timber, and a new ship of 400 tons, built at the “Horihe.”

That Petitioner despatched Mr. George F. Russell by a vessel bound to Hokianga, with power-of-attorney, to take possession and to retain charge of the property purchased, and which was recognised by Natives and Europeans, and delivered up to Mr. Russell, as Petitioner's agent.

Your Petitioner coppered, laid a 'tween-decks, and otherwise fitted out the “Sir George Murray,” at an expense of £2,000, independent of putting on board a cargo of goods, and proceeded, with his wife, family, and servants, to Hokianga, where he was put in possession of the purchased property, which he retained undisputed for thirteen years.

That your Petitioner extended his purchase, made roads, cleared the land, erected buildings, formed extensive docks, and expended about £5,000 in so doing, under the conviction that his right and title could never be impugned, or even questioned.

That in 1835 your Petitioner took to New Zealand, at his own cost, twelve Europeans, independent of those that he carried with him in 1830.

The boundaries of the property known by the name of “Te Horihe” not being clearly defined in the deeds conveyed to Petitioner by the trustees of Raine, Ramsay, and Brown, Petitioner called a general meeting of the natives in 1836, when the boundaries were settled, and an addition made to the property; a deed drawn out, the nature of which was clearly pointed out and explained to the natives by two interpreters, and attested by European and native witnesses; a considerable payment was made, and the chiefs expressed themselves fully satisfied. (The nature of the payment is specified in the deed). The natives, indeed, never questioned his right, until they were informed that the Commissioners had instructions from the Queen to reinstate them in the land formerly sold to Europeans; when (urged on by certain European settlers living amongst them, and adopting the worst of native customs), they sought, by every device that their natural subtlety could suggest, to ignore and repudiate the sale, though attested by respectable European witnesses, who sealed their testimony with their oaths.

Your Petitioner further declares, that a number of the principal native chiefs, subsequently to their appearing before Major Richmond, Commissioner of Land Claims, landed at his homestead, and stated that they came for the express purpose of speaking the truth for the last time, namely, “that the land belonged to your Petitioner,” and actually wrote a letter to that effect to the Commissioner.

Your Petitioner respectfully refers the Honorable Members to that officer, who will no doubt corroborate the truthfulness of this statement—an unequivocal proof of Petitioner's right being admitted.

The losses that your Petitioner has sustained in his attempt to carry out the legitimate operations of a colonist, including those losses caused by the destruction of his premises and property by fire, amount to upwards of thirteen thousand pounds. The goods advanced to Europeans and natives from time to time involve a heavy outlay of capital and their debts remain unpaid to this moment amounting to £3,090. Petitioner is prepared to prove that this estimate of capital sacrificed, irrespective of that expended on the land, is correct.

In Petitioner's letter to the Under Secretary of State for the Colonies, R. W. Hay, dated 3rd June, 1834, it was clearly stated that Petitioner possessed several establishments, also a considerable quantity of land in New Zealand, obtained by purchase from the native chiefs. The shadow of an objection was not then made by the Secretary of State, to raise a doubt on the mind of Petitioner that his right to the property purchased would ever be called in question by the Government, whether the country was colonised or not. On the contrary, Mr. Secretary Spring Rice, the then Secretary of State for the Colonies, was pleased to confer on Petitioner the appointment of "Additional British Resident" at New Zealand, to enable him the more effectually to protect his acquired property in conjunction with his official duties, thus recognizing Petitioner's right to his purchase. But he submits a stronger and a more conclusive proof of the Government's recognition of his claims to his New Zealand property. The letter of Mr. Secretary Spring Rice to Major-General Bourke, Governor of New South Wales, dated as per margin, states:—

July 8, 1834.

"Mr. Thomas McDonnell, a Lieutenant in the Royal Navy, who has been residing for some years in New Zealand, upon property acquired by him there, has represented to me the advantages which would result to him personally, as well as to other Europeans who have settled in the same district, by his being invested with a corresponding appointment to that lately conferred upon Mr. James Busby, as British Resident," &c. &c.

And, with reference to Major-General Bourke's confirming the Secretary of State's appointment, the General, while he takes care to impress upon Petitioner that he is not to make any claim on his Majesty's Government, in the way of pension or otherwise, for services, expressly states that the appointment is principally conferred upon your Petitioner with the view to protect him in his property, in conjunction with his official duties.

The protective advantages that such an appointment would necessarily confer was considered an equivalent for absence of salary. For your Petitioner felt that the British Government had admitted his New Zealand purchases as an unattachable and exclusive right, by placing him in a commanding position to secure it.

Your Petitioner, resting implicitly on the good faith of his Government, was induced fearlessly to embark his all in carrying out his New Zealand operations within the limits of his purchase, for the benefit of his family, and he naturally looked to and relied upon that Power to protect him against any innovations, whether on the part of Europeans or Natives.

Your Petitioner submits, that, under all the circumstances stated in this document, his case will be viewed as one totally differing from other parties, who (unauthorized by the Government) have purchased land in New Zealand previously to its becoming an appendage to the Crown; for *his* land was purchased with the cognizance and sanction of the Government, as is shown by the documents he has quoted from and forwarded with the petition; and he therefore feels justified in claiming exemption from the stringent rules laid down to regulate the quantity of land which each purchaser should be allowed to retain from the aggregate quantity purchased from the Natives.

If the deeds of Petitioner be correct and legal; if the purchases have been sanctioned by the Secretary of State; if the natives, previously to the disposal of their land, had the nature of the transaction clearly explained to them; if they received the payment as a just equivalent for land sold; if they were fully satisfied therewith, and then signed the deeds of conveyance in the presence of respectable English witnesses, who attested the act with their signatures, and subsequently on oath; and lastly, if the purchase of the land was not, at the time of purchase, repugnant to British law, (which the Secretary of State has virtually admitted in the case of Petitioner, by the unmistakeable manner in which assistance was rendered by the Colonial Office to Petitioner, to enable him to secure and protect his acquired property) then, Petitioner submits that he has a clear and irresistible case, to throw himself upon your consideration for inquiry and justice; and this he claims as a British subject, and also as one who has materially assisted in placing New Zealand in its present prosperous and healthy condition as a British Colony.

Petitioner holds thirteen leases from parties, European and Native, who were located on his property at different times.

If further evidence be required to establish Petitioner's right to the land recently disputed, he may mention that when the late Colonel Wakefield arrived at Hokianga, in the ship "Tory," as agent for the New Zealand Company, with the deeds of Petitioner, that he, Colonel Wakefield, was put in possession of Petitioner's land by the natives without a murmur. This fact is attested in Colonel Wakefield's despatch to the New Zealand Company, a printed copy of which your Petitioner holds.

The deeds of your Petitioner had formerly been transferred to the New Zealand Company on stipulated conditions. The Company failed to perform their agreement, and the deeds were returned to Petitioner through Mr. W. S. Grahame, of Auckland.

In conclusion, your Petitioner respectfully but confidently appeals to your Honourable House for a calm and dispassionate consideration of his case—the decision of which will materially influence the fortunes of a large family. On public, as well as individual grounds, Petitioner feels that he has some, and not small claims for the favourable consideration of his prayer; but he waives this plea, and is content to rely upon his right to participate in the privileges and protection granted to the humblest class of Her Majesty's subjects at Hokianga.

Your Petitioner begs leave to state a few out of the many grievances under which he has suffered loss. A number of spars, sufficient to have loaded three large ships,—reserved as the last remnant of his property for the benefit of his children,—were felled and taken from Motu Karaka by the Popa-hudi-hea and his people, at the instigation of unprincipled Europeans; the spars were for contract purposes, and would have realized, at Admiralty prices, about £15,000.

The Popa-hudi-hea was the principal instigator in promoting the Heke war. Extensive encroachments have been, and still continue to be, made on the Motu Karaka property, for which a Crown grant was given, on Petitioner's application for it, on behalf of *his children* (nine); and with reference to the land contiguous to his homestead (Te Horihe), the deed of which Petitioner holds, encroachments on a similar scale as those committed at Motu Karaka are made from time to time by the natives. A chief, Te Whare-pupa, on the plea that the ground belonged to him, hewed down a strong poridi post-and-railing fence, in consequence of which a valuable collection of trees, shrubs, and plants were destroyed by the cattle, and the gardens of Petitioner laid waste. To render the work of destruction more vexatious, the chief alluded to selected three Sabbaths in succession to gratify his malicious propensities.

It would occupy too much of the Honorable Members' time to enter into further details of the galling grievances that your Petitioner has been subject to. He deferentially suggests that the Government should take his claims into its own hands, and give Petitioner, who individually is powerless to struggle against the difficulties so likely to be created by the natives, a fair equivalent, either of land, or right of selection by scrip, elsewhere, within the limits of Crown territory.

Your Petitioner therefore humbly prays that your Honorable House will take the subject of this his petition into your consideration; and after enquiry made, in such manner as to you may seem best, that your Honorable House will recommend to his Excellency the Governor to grant to your Petitioner such satisfaction as you may deem your Petitioner, in equity and justice, to be entitled to.

And your Petitioner will ever pray, &c.

(Signed)

THOMAS M'DONNELL, *Commander R.N.*

