



SUPPLEMENT
TO THE
NEW ZEALAND
GOVERNMENT GAZETTE,

OF WEDNESDAY, MARCH 9, 1842.

Published by Authority.

VOL. II.] AUCKLAND, WEDNESDAY, MARCH 9, 1842. [No. 10.

LEGISLATIVE COUNCIL.

CHURCH EXTENSION BILL.

(Continued from the Supplement of 9th February, 1842.)

Saturday, February 12th, 1842.

penditure for religious purposes. Now the government is bound to contribute, in certain proportions, to the stipends of ministers. We put down in the estimates simply what we imagined we should be called upon to pay. That amount did not limit the sum we were prepared to contribute to religious purposes, but was estimated at what we supposed we might be called upon to grant. I regret that the estimate, small as it was, is much below the amount called for.

The Colonial Secretary.—The amount claimed was less by one half than that which we had estimated.

The Attorney-General.—No wonder. The laws of New South Wales were made applicable to this colony by a mere stroke of the pen; and it can create but little surprise that too much ignorance with regard to those laws, prevailed in this colony, as a great proportion of the inhabitants had been only accustomed to the law of England.

The Governor.—We are now making rapid advances towards the establishment of our own laws, more suited to the circumstances of the settlers in this colony. As a proof that many parties are ignorant of the law as it now stands, I may mention, that when in Port Nicholson, I referred Mr. McFarlane, and a respectable deputation of Presbyterians, who applied for information, to the Church Act of New South Wales.

The motion that the blank in the seventh clause be filled up with the words "one-seventh," as

regards the sum to be set apart for religious purposes, from the estimated revenue of the year was put, and carried unanimously.

On the motion of the Colonial Secretary, it was ordered, that the Bill be read a third time on Monday, January 31, 1842.

The "Licensing Bill" was read a first time, and ordered to be read a second time on Wednesday, February 2, 1842.

The Governor laid on the table, the "Harbour Regulations' Bill," which was ordered to be read a first time on Monday.

Council adjourned to Monday, January 31, 1842.

Monday, January 31, 1842.

The Council met pursuant to adjournment.

Present—All the Members; His Excellency the Governor in the Chair.

The Minutes of the previous meeting having been read and confirmed,—

Mr. Porter presented a petition from certain parties deeply interested in the settlement of the question regarding Claims to Land, and which he begged might now be received and laid on the table,

The petition having been laid on the table accordingly.—

Mr. Porter moved that it be read, prior to the discussion on the second reading of "The Land Claims' Bill."

The Attorney-General.—I now move the order of the day for the third reading of the "Church Extension Bill."—The Bill was read accordingly and passed.

The petition from certain inhabitants of Auckland, presented by Mr. Porter at the last sitting

of Council, was then read, in accordance with the orders of the day.

Mr. Porter moved that the petition which he had, a short time ago, laid on the table be now read. He would not say that he approved of the whole of it; but as the wording of it was unexceptionable, he was desirous of giving the petitioners an opportunity of speaking for themselves.

Mr. Earp seconded the motion, which was carried unanimously, and the petition was read. The concluding paragraph stated, that their sentiments had been well expressed in a letter addressed to His Excellency the Governor by Dr. Martin, and which letter, they requested, might be also read as an addenda to their own petition.

The Governor.—I have no objection to the reading of the letter, although it is irregular in Legislative Assemblies to occupy the time which ought to be otherwise employed, with long documents embodying the sentiments of private individuals, the arguments and illustrations in the petition, and those conveyed in the letter being exactly the same.

Mr. Porter.—It is a subject of very great importance, and, as the letter may, possibly, throw some additional light upon it, I cannot see any objection to its being read.

The Attorney-General.—I do not make any objection to the course proposed, but it will certainly be a waste of time to read that part of the letter which has already been read before the Council in the shape of a petition.

The letter, which was very lengthy, was then read.

The order of the day was then moved for the second reading of the "Land Claims' Bill."

The Governor.—Before the Bill comes under your consideration for a second reading, I deem it desirable to offer a few remarks upon it. If we had consulted our own ease, we should not have imposed upon ourselves the labor of devising the measure now under your consideration for settling the very difficult question of the Claims to Land in this country. It was evident, however, to every member of the Government, that, consistently with the interests of the claimants themselves, no less than with the successful colonization of the country, that the provisions of the New South Wales' Bill could not be carried into operation, and that, if no other means were adopted, years must elapse before the termination of the inquiry. Under the operation of that Bill, perhaps the children of the present claimants might get their land. It must be remembered that, to investigate a claim to 100 acres will occupy as much time as an inquiry into the right of a claimant to 20,000 acres. The plan now proposed for your consideration in lieu of the New South Wales Bill has been adopted after the most mature consideration of it by every member of the Government. In some of its details it will be found to differ from the plan originally proposed in my opening Address. Instead of granting leases to the claimants of so much of the land so cultivated or built upon by them, it is now proposed that the land should be granted to them absolutely. This will be received by the settlers as a modification of the original plan; while, at

the same time, the alteration will not interfere with the principle of the bill—the quantity cultivated not being, in any case, I believe so great as to enable the settlers to form townships. My attention has been called, by one of the petitions read before the Council, to the circumstance that no provision has been made in the bill for the guidance of Commissioners, in conducting their enquiries. It will be necessary for the Members of Council to bear in mind, that it was never intended to interfere with the principles on which the investigation of Land Claims has been conducted. These principles have received the approval of Her Majesty's Government, and will continue to guide the Commissioners in deciding upon the claims remaining to be heard. As to the quantity of land to be granted in each case, nothing is more obvious than that it is utterly impossible to comply with all the demands of the settlers, many of whom have alleged that they have purchased tracts of land so extensive as, if confirmed, would be exceedingly detrimental to the community. On this point, however, this Government had no option. I was instructed to apply the same rule to private claimants, as was agreed to by the Home Government, in regard to lands purchased by the New Zealand Company. The rule is, that where the purchases of land are proved, before the Commissioners of Claims, to be valid, four acres are to be awarded for every pound sterling expended in such purchase.—As regards the rights of individual claimants, there are provisions in the bill before the Council, which cannot apply to the New Zealand Company. Many of the lands claimed are so situated as, if left in the hands of private individuals, would interfere with the successful colonization of these islands. It is deemed essential, also, that, as much as possible, the formation of very small settlements, and the dispersion of the population, shall be prevented. With this view it is proposed that, under certain regulations, and with exceptions provided for in the bill, claimants shall not remain in permanent possession of the lands now occupied by them; but that the number of acres to which they are entitled shall be selected in certain districts, viz.—the Bay of Islands, Hokianga, and on the banks of the Tamaki. A choice will also be given for selection in the suburbs of towns. The boundaries of these several districts are set forth in schedules annexed to the bill. Provision is further made for Native reserves, to be chosen by the Protector of Aborigines, or some person appointed by that gentleman, the object being to provide a fund for the civilization and improvement of the Natives. With regard to lands on which sawing and whaling stations have been established, or where considerable money and labour has been expended in cultivation, I am willing to prevent, as far as possible, dissatisfaction and injury, by acquiescing in the introduction of a clause for granting leases to such parties, for a term that may be deemed equitable, taking into consideration, at the same time, the peculiar position of the Government. In addition to the three districts which the Government have determined to set apart for satisfying the land claimants, it has been proposed to

me, by Mr. Earp, that a fourth settlement should be formed at Port Cooper, for the claimants of land in the Middle Island. At first the plan appeared feasible; but, after giving the subject much consideration, and viewing it in all its bearings, I decline to comply with the suggestion. I deem that the course suggested would not be an honourable one to pursue. Port Cooper contains in its vicinity, a large quantity of the best land to be found in the colony, and to form a settlement there would not be fair either to the New Zealand Company, who are colonizing that part of the country, under the sanction of Her Majesty's Government, or to the colonists themselves at Port Nicholson or Blind Bay. To those settlements, in their present infant state, I think it would not be fair to set up a rival settlement, which would be the case if the Government were at present to form a settlement at Port Cooper. There is, also, this further objection to the adoption of the suggestion of forming a settlement at Port Cooper. Even if I were disposed to accede to it, I am not by any means sure that that district has been validly sold to the claimants by the natives, or that they are willing to sell it to the Government. I shall now leave the consideration of the bill to the Council. In the situation in which I am placed, it would not become me to enter into debate on the subject. I might make remarks which the other Members of the Council might not feel themselves at liberty to answer with the same freedom, as they would do if proceeding from any other member. I shall, therefore, now leave any discussion that may arise upon the bill, to the other members of the Government.

The Colonial Secretary.—I now move the Order of the Day for the second reading of the "Land Claims' Bill." I beg, at the same time, to offer a few observations on its general principles, and to explain briefly some points, which do not appear to have been generally understood. When the subject was first brought before the Council at the commencement of the present session, and the main objects of the Bill were stated in the speech of His Excellency the Governor, they appeared to give general satisfaction; but since the bill itself has been made public, some mistrust, the cause of which it is not easy to divine, has prevailed as to the ultimate intentions of Government. Before entering on the question, I would beg of Hon. Members to divest their minds of any prejudice which may have been created by statements they have heard elsewhere, and to give the Government credit for being actuated only by a desire to promote the general good, in their endeavours to bring to a close this difficult question. There is no wish to urge the premature adoption of this bill, either upon Members of Council or upon the Colonists. On the contrary, an opportunity of explaining it fully is desired, and time will be given for its deliberate consideration. The Government is conscious that, upon your right decision mainly depends the future prosperity of the colony; unless, however, the bill meets with your support, or that of the colonists generally, it is not intended to persist in carrying it out. The object of the measure proposed is to establish a sound system of colonization on a fixed principle,

without which it is clear that this colony can never attain that high position, which, from its geographical situation, and advantages of soil and climate, it is in the opinion of all persons who have written or spoken on the subject, destined to reach. In establishing this principle, it has been the aim to effect as much public good, and to inflict as small an amount of individual injury, as the question, from its complicated nature, admits of. It was to be supposed that persons, who had speculated extensively in lands, and had formed extravagant expectations, would experience some disappointment; but it was hoped that all persons would be satisfied who would be contented with a fair return for the outlay of their capital. It is necessary to bear in mind that this question ought not only to be considered in reference to any immediate benefit it may confer, but to the ultimate advantage to be derived by each individual settler, from the permanent prosperity of the entire colony. The bill passed by the Governor and Legislative Council of New South Wales, during the period when New Zealand was a mere dependency of that colony, was prepared with all the talent that so eminently distinguishes Sir George Gipps. His Excellency, however, from being so far removed from those who were best able to advise on this question, could not have had an intimate knowledge of the various and conflicting interests to be provided for; which indeed could only be acquired by residing amongst its colonists. The principal evil of the New South Wales' Bill is, that under its provisions many years must elapse before claimants can be placed in possession of their lands, and that consequently no exchangeable value can, for the present, be attached to them. In the absence, however, of any instructions from England, the bill was re-enacted at the first session of the Council of New Zealand; but, upon mature reflection, principally from the consideration that the Ordinance could not be carried out without causing great delay in the settlement of the numerous claims, it has been proposed to substitute the present bill. It is an admitted truth that the waste lands of the colony are scarcely of value, until occupied by settlers. It is population which brings those lands into the market; and, had it not been for the arrival of immigrants, the lands of the old settlers, in nearly every instance, would have remained at a merely nominal value, and scarcely an individual would have been found who would have deemed himself safe in re-purchasing from them. On the subject of the bill now before the Council, three petitions have been presented to His Excellency the Governor. The one from Kororarika cannot but have created feelings of surprise. I know that many of the gentlemen by whom it is signed, are of the highest respectability, and, consequently, their petition, from being published before even it was laid before the Council, must have had a mischievous effect on the public mind. It is very deeply to be regretted that those gentlemen should have taken so hostile a position to the measure now proposed by the Government, before having obtained a knowledge of its details. The assertions they hazard appear to have been founded on the general outline of the plan, set forth in

His Excellency's speech, and if the bill has since reached them, they will have learnt that many of their complaints have been anticipated, and that, consequently, much of their opposition had no just grounds. There is one part of this petition, however, to which I wish to draw your attention more particularly, because it exhibits so limited a view of the question. The petitioners seem to consider that the Governor of New Zealand has not been sent out to advance the general benefit of the settlers—not to carry out a great system of colonization—but merely to take care of the natives and the old settlers, who should be allowed to retain possession of the very large tracts of country to which some of them lay claim. It is really matter of regret that the petitioners should have been so blinded by feelings of self-interest as to hazard opinions so much at variance with the fact, and I may safely leave it to the public to determine what weight or consideration is due to their judgment. In further confirmation of the view they take, the petitioners have cited a passage from a despatch of Lord Normanby, when Colonial Secretary. It is very difficult to conceive how the petitioners could imagine that the document to which they refer could be applied in favor of their views. A careful reading of the whole of that despatch would prove to the old settlers that they were therein described in terms not very flattering to themselves. It stated that there were amongst them about 2000 individuals who were either runaway sailors, or convicts who had absconded from penal settlements. Another petition is, if possible, still more mischievous than the one to which I have already adverted, and the propagation of such an opinion through the medium of the press, must have caused general regret. An attempt is made to impress upon the minds of members of this Council, and upon the public at large, that the native population is not only strongly dissatisfied with the proceedings of government, but entertain an idea, very generally, since the introduction of this measure for settling claims to land, that they are to be deprived of their own possessions. Than this nothing can possibly be either more erroneous or mischievous, and I revert to this portion of the petition with very deep regret, particularly as on a former occasion, shortly after the arrival of the governor in this country, an attempt was made by several Europeans to instil into the native mind feelings of the same nature. Those parties were known; and, I had hoped that the injurious and mischievous tendency of the attempt had been made so fully apparent, that it would never have been revived. I take this opportunity of denying, in the most unqualified terms, the truth of any such reports. They have not the slightest foundation. The natives are, on the contrary, perfectly satisfied that no such intention, on the part of Government, ever existed. All the communications which the Government has received from the natives themselves, and from persons best qualified to form a correct opinion on the subject, fully disprove the assertion of the petitioners. The natives do not now, and never did, entertain an opinion, so far as regards the Government, of distrust. They have, on the contrary, shown unbounded confidence in the

justice and fair dealing with which they have hitherto been treated, and know that they can rely on being similarly dealt with for the future. With regard to the petition of certain inhabitants of Auckland, read to day, I was glad to learn from its concluding paragraph, that nearly all the petitioners require, is provided for in the 19th clause:

"Whenever the lands validly sold to any claimant, shall be within any of the districts to be laid out for the selection of Country Lands, and where the outlay in respect of such lands, in accordance with the foregoing rule, shall have amounted to not less than five shillings an acre, such lands, at the option of the claimant, shall be confirmed by a grant from the Crown to the claimant thereof, which part shall be a full satisfaction to the grantee, of all claims arising out of the purchase of the lands therein comprised."

This clause, it is satisfactory to reflect, if considered impartially, provides for most of the objections of the petitioners. Then, again, the wishes of the petitioners are, in a great measure, met by the seventh clause, respecting the limitation of lands to be granted absolutely:—

"All lands which shall be reported to have been in actual cultivation, or whereon any substantial building shall have been erected on or before the fifth day of January, 1840, shall be granted absolutely to the persons who shall be found entitled thereto, according to the provisions of the said recited Ordinance: Provided that no grant to be made under the foregoing provision, shall comprise any land situate upon the sea shore, within one hundred feet of high water mark, unless such grant shall be specially authorized by His Excellency the Governor, with the advice of the Executive Council. Provided also, that no Grant so to be made shall in any case comprise any headland, promontory, bay, or island, which may be required for any purpose of public utility, or any land which may be required for the site of any town, or part thereof."

The Council, and the public, could not fail to see that the clause, in spirit, was so framed, as to prevent the Governor from refusing to grant water frontages, or head-lands, bays, and other eligible sites, unless such were imperatively required "for any purpose of public utility, or the site of any town." It was the wish of Government to give to this part of Her Majesty's instructions as liberal an interpretation as possible;—no place would be reserved, unless obviously required for the public benefit. With respect, also, to the districts to be open for selection by claimants whose lands might be thus required, it was not intended to substitute property of little value, as an equivalent but the stipulated quantity in rich and fertile districts, avoiding the tops of hills, and other uneligible situations. The third petition presented, has certainly been drawn up with great ability. It admits the general principle of the bill, but finds fault with some of the details, which appear to have been misunderstood. It complains that no adequate instructions have been made for the guidance of the Commissioners; but on reference to the bill itself it will be perceived that a part only of the present Ordinance is proposed to be repealed. The first clause—the repealing clause—expressly enacts, that only "so much of the said Ordinance as relates to the rule by which the quantity of land to be granted is to be determined, and so much thereof as empowers His Excellency the Governor to grant any part of the particular land claimed, is to be repealed." The details of the present Bill, for hearing and reporting on claims to land are, therefore, still in force.