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LEGISLATIVE COUNCIL.

Conclusion of the Debates, on Monday, January 31st, on the Second Reading of the First Land Claims Bill.

(Continued from the Supplement of the 9th instant.)

That portion of the bill has been found to work well, and the proceedings of the Commissioners have given general satisfaction. The anxious desire of the Government has been to give the most patient attention to the petitions to which I have drawn your attention; being fully aware that the bill could not be carried, with any view to its beneficial working, unless with the concurrence of the Council, and the good feeling of the Colonists. I have offered these observations on the general principles of the Bill, and shall reserve any further remarks for my reply.

Mr. Porter and Mr. Clendon severally asked for explanations with regard to the laying out of districts, and their extent.

The Colonial Secretary.—The quantity of land to be laid out for selection will be very large in extent. The Hon. Member on my right (Mr. Clendon) need be under no apprehension, as an ample choice will be afforded. In the northern districts the lands are generally of a varied and broken nature; it is not intended to place settlers on the tops of hills, but to lay out the best lands that can be selected; consequently, a great number of claimants will have the option of selecting their lands almost immediately.

The Governor.—There is an express proviso in the 19th clause in favour of private claimants, who have the option of retaining so much of their lands as may happen to be situate in any of the specified districts. The only thing is that

the location of settlements round the town have yet to be selected.

Mr. Porter.—This is not a satisfactory concession, for many of the settlers perceive the injury that would result to their property, if the concentration system was carried out, and at once remove. They will not be satisfied unless there be a very great alteration in the preamble of the Bill and the repealing clause. "Her Majesty's Government have declared their intention to apply to all other persons the rule to which the New Zealand Company will be subject in respect of the lands claimed by them within the Colony;" but the first clause of the Bill, which follows the preamble, declares that so much of the former Ordinance as empowers His Excellency the Governor to grant any part of the land claimed is hereby repealed." Here does appear some contradiction; and, with regard to dispersed settlements, New Zealand has mainly attained its present position from the enterprize of individuals who formed small stations in parts of the country, generally, far from each other.

The Governor.—Although I quite agree with Mr. Porter that small settlements are of use, it cannot be doubted but that much greater benefits will accrue to the community at large, and the colony advance much more rapidly by concentrating population. If, however, those located on dispersed settlements wish to remain, they have the option of part of their land and a lease.

The Colonial Secretary.—Although parts of the Ordinance to which the Hon. Member has referred, are proposed to be repealed by the first clause of the bill now before the Council, yet the succeeding clauses provide for the re-enactment

of such portions as are required. With respect to the statement that the preamble of the Bill is at variance with several of the clauses, and that the New Zealand Company are placed in a better position than other claimants, it must be remembered that the Company is incorporated by Royal Charter, which grants them certain privileges and powers, and which it is necessary to secure to them by provisions in the Bill now before the Council. It need scarcely be pointed out that such powers as have been conferred on that Chartered Body by Her Majesty's Government could not be extended to individual claimants. I can assure Mr. Porter, that it is not the intention of Government to interfere in any way, with the whaling or trading settlements. On the contrary, his Excellency wishes to hold out to them every encouragement. For this purpose long leases have been proposed, which will enable parties to pursue their occupations with success, and will ensure to the Government a proper control over the forming of townships, and the laying out of districts for colonization.

Mr. Earp, during the incidental discussion, said "If I had been sent to this country, to choose a place for the seat of Government, I should, most assuredly have selected Auckland."

The Attorney General said—The principles upon which this bill is framed have already been so fully developed in your Excellency's opening address, that, on a subject of less importance I should have contented myself by simply moving its second reading. But on a measure involving the successful colonization of this country—a measure of which I shall take my full share of responsibility, and in which I feel so strong an interest—I need scarcely offer any apology for occupying the time of the Council with a few observations. Before doing so, however, I would advert to the petition which has been presented to this Council, purporting to convey the sentiments of the landowners of Kororarika, on the subject now under our consideration. If that petition expresses the opinions of any considerable number of the landowners of the North, I cannot but express my astonishment and regret, that so large a number of persons, professing to be so deeply interested in the subject should be found in this country, possessing so little acquaintance with the views of Her Majesty's Government, in reference to the subject of its colonization. The assertions, hazarded in that petition are, that the principles on which the land in this country is claimed are unconstitutional and unjust;—that the Local Government is incompetent to legislate with a view to the settlement of the Land Claims question;—that, in acquiring the sovereignty over New Zealand the British Government were influenced, almost entirely, by a desire to promote the interests of those already settled in the country;—that they did not contemplate the founding of an extensive colony; and, consequently, the acquisition of large tracts of land by the Crown were unnecessary;—and that, granting this Council to be competent to deal with this subject, the proposed mode of settling the question is at variance with the views of her Majesty's Government. In demonstrating the utter falsity of these assertions

it will be my duty to prove that the main object of the Government at Home, in acquiring the sovereignty of New Zealand, was on the contrary, its colonization on an extensive scale, on those principles which experience has proved to be most advantageous;—and that the course prescribed by the Secretary of State for dealing with this question, has invariably been recommended with a view to that object. In deviating from that course, from any pressure from without, or from any other cause, the Local Government would not only be disregarding the obvious views of the Government at home, but would be justly chargeable with the virtual destruction of one of the fairest possessions of the Crown. Anxious, however, for the welfare of all, the Government have prepared a measure which they confidently expect will, consistently with the prosperous settlement of the Colony, really promote the individual interests of the claimants themselves, and which, after his Excellency's explanations, will receive from the Colonists that consideration and support which a government, honestly labouring for the good of the country, has a right to expect. I think that every member of the Council will agree with me that it is now too late, and that this would not, at any time be a fitting tribunal for discussing the principles on which the Colony has been founded by the Crown. It is sufficient for us to know that Her Majesty's Government have determined to subject all claims to land in this colony to investigation;—and quoting the language of the Secretary of State, "with regard to all lands in the colony, acquired under any other title than that of Grants under the Crown;" and on behalf of her Majesty, it is proposed that the title of the claimants should be subjected to the investigation of a commission, to be constituted for that purpose. The basis of that inquiry will be "the assertion, on behalf of the Crown, of a title to all lands situate in New Zealand, which have, heretofore, been granted by the Chiefs of these Islands, in accordance with the customs of the country, and in return for some adequate consideration;"—and that it was an express instruction to yourself that you should announce, by proclamation, addressed to all the Queen's subjects in New Zealand, that "Her Majesty will not acknowledge, as valid, any title to land which either has been, or shall hereafter be acquired in that country, which is not either derived from, or confirmed by, a grant to be made in Her Majesty's name and on her behalf." The denial of the competency of this Council to deal with the subject, can only be advanced by those who are entirely ignorant of the constitution of the Colony, and the views of Her Majesty's Government. By the Royal Charter, the Legislative Council thereby appointed, is authorized "to make and ordain all such Laws and Ordinances as may be required for the peace, order, and good government" of the Colony. And, if this is not sufficient to authorize this Council to legislate on the subject, the Governor is expressly directed that, with reference to the Land question, if, "on the receipt of this dispatch, a commission appointed by the government of New South Wales shall be in force in New Zealand, you will take the

earliest opportunity for superseding both the Commission and the Law, by the enactment of a Local Ordinance for the same general purposes." How the petitioners can have conceived the idea that the colonization of New Zealand was undertaken merely for the purpose of promoting the interests of those who have been termed the "old settlers" it is not very easy to imagine. On this subject a very different version is given by no less an authority than Her Majesty's Colonial Secretary. In his original instructions to Captain Hobson on leaving England, the Marquis of Normanby assigns a very different reason. "The necessity for the interposition of the government," (says he,) "has, however, become too evident to admit of any further inaction. The reports which have reached this office within the last few months, establish the facts that, about the commencement of the year 1838, a body of not less than 2000 British subjects had become permanent inhabitants of New Zealand: that amongst them were many persons of bad or doubtful character—convicts who had fled from our penal settlements, or seamen who had deserted their ships—and that these people unrestrained by any law, and amenable to no tribunals, were alternately the authors and the victims of every species of crime and outrage. It further appears that extensive cessions of land have been obtained from the Natives, and that several hundred persons have recently sailed from this country to occupy and cultivate those lands. The spirit of adventure having thus been effectually roused, it can no longer be doubted that an extensive settlement of British subjects will be rapidly established in New Zealand; and that, unless restrained by necessary laws and institutions, they will repeat unchecked, in that quarter of the globe, the same process of war and spoilation, under which uncivilised tribes have almost invariably disappeared, as often as they have been brought into the immediate vicinity of emigrants from the natives of Christendom. To mitigate, and, if possible to avert these disasters, and to rescue the emigrants themselves from the evils of a lawless state of society, it has been resolved to adopt the most effective measures for establishing amongst them a settled form of civil government."—And to prove how entirely the claims of the various parties are left to the discretion of the local authorities, it is only necessary to quote the same despatch, in which you will find the following passage. After directing that the Commissioners shall not themselves decide, but report only, the Marquis of Normanby expressly directs that, on their report, *the Governor should decide "HOW FAR the claims, OR ANY OF THEM, may be entitled to confirmatory grants from the Crown, and ON WHAT CONDITIONS such confirmations ought to be made."* And, as if in direct contradiction of the assertion that the acquisition of large tracts of land formed no part of the views of the British Government, the Marquis of Normanby, in so many words, adds, "*contemplating the future growth and extension of a British Colony in New Zealand, &c., * * * it will be your duty to obtain by fair and equal contracts with the natives, the cession to the Crown of such waste lands as may be required for the occupation of settlers resorting*

to New Zealand." It is manifest, therefore, that the colonization of this country was not undertaken for the benefit of the Old Settlers, except to establish order amongst them; and that, from the first, all the measures of the Government have been taken in anticipation of its rapid and extensive colonization; and that, with a view to that object, the Local government has been intrusted with most unfettered power of dealing with the subject. Consistently with the interests of the claimants, and the future prosperity of the Colonists, the provisions of the New South Wales Bill could not be carried into effect. Seeing that there are several hundred claims, arising too in every part of the country from North Cape to Stewart's Island, to grant any considerable portion of the land claimed in every case would, I contend, have ruinously retarded the successful colonization of the country. Although they repudiate the intention of reserving to themselves the exclusive right of forming towns and villages, the government does possess, and ought to exercise, the power of prescribing the districts within which, for the interests of the country at large, settlements may, from time to time, advantageously be formed. Having sold the land, they do well in leaving to the purchasers the most profitable disposal of it; but, at the same time, they have a discretion as to the fitting periods for offering it to the public. Had the provisions of the New South Wales' Bill been carried into effect, and a portion of each claim been allowed, the government would have been deprived of the important power of prescribing the limits within which settlements should be formed. The evil is evident—a number of petty and dispersed settlements would have been formed, which, without attaining any degree of importance would, however, soon have required the appointment of several expensive Government Officers, including Police Magistrates, and thus, without really promoting the vigorous colonization of the colony, the machinery of its government would become burdensome and expensive. We should, too, have had all the evils now admitted incident to a dispersed mode of settlement. Having no access to a church or a market, or to communication with his fellows, settlers would soon have fallen into a state of half civilization;—deprived of the advantage of mutual assistance, and losing the wants, tastes, and habits which belong to an advanced state of society. To prevent the evils which would have arisen from allowing settlers to hold large tracts of land scattered throughout the country, and in order that this Colony might be founded on approved principles of colonization, Her Majesty's Government expressly declared that "*contemplating the future growth and extension of a British Colony in New Zealand, it is an object of the first importance that the alienation of the unsettled lands within its limits should be conducted, from its commencement, upon that system of sale, of which experience has proved the wisdom, and a disregard of which has been so fatal to the prosperity of other British settlements. With a view to these interests it is obviously the same thing whether large tracts of land be acquired by the mere gift of the Government, or by purchases*

effected on removal consideration from the Aborigines. On either supposition the Land Revenue must be wasted; the introduction of emigrants delayed or prevented; and the country parcelled out amongst large land-holders whose possessions would long remain an unprofitable, or rather, a pernicious waste." At first sight it may, perhaps, appear hard that the quantity of land to be granted under the new rule, should not, with the exceptions named in the Bill, form part of the land claimed. But by this means, the advantage of the claimant, no less than that of the colony at large will be promoted. Suppose a claimant of a tract of land in the valley of the Thames, or any other remote district, to have expended in its purchase £25, according to the terms of the arrangement with the New Zealand Company, he would be entitled to a grant of 100 acres. Now, waste land in a country where law and order have never been established, or in an unpeopled district, remote from any regular settlement, has scarcely any appreciable value. But, bring the settlers together; select a locality recommended by its natural advantages; and direct to it a continued stream of emigration, and the land allotted to them will at once, attain a considerable value, and become immediately available as marketable property. By this means, I believe that the interests of the claimants may be promoted, without at the same time, endangering the future prosperity of the Colony, and that, too, in accordance with the official instructions of Her Majesty's Government. To that part of the Bill which vests in the New Zealand Company, an immediate and absolute title to the Town of Wellington, and the land in its immediate neighbourhood, I cannot anticipate any opposition. Whatever may be their title to the large tracts of country claimed by them, they have received a guarantee from Her Majesty's Government, that they shall receive four times as many acres as they have expended pounds in promoting the colonization of the country. That district having been sold by the Company, and his Excellency having ascertained, without waiting for the report of the Land Commissioners, that by compensation to a very few counter-claimants, the district may be granted to the Company without injustice, it is proposed to take this, the earliest and only means, of vesting in them an indefeasible title to the land in question. The New Zealand Company have rendered important service to this Colony. But for that Company, I believe that New Zealand would not, at this moment, be a British Colony. By their instrumentality, four thousand British subjects have been introduced into New Zealand. In promoting the general objects of its colonization they have, I believe, expended upwards of two hundred thousand pounds, and they are now a chartered body, and recognized by the British Government as an active and effective colonizing instrument. In the language of Her Majesty's Colonial Minister, "It is because I think their efforts, their exertions, their future prosperity, will be the means of benefiting the community at large it seems to me desirable to give the aid of the Government, and the support of the Crown, to these objects." I should deem myself greatly

wanting in courtesy, were I to pass unnoticed the Petition presented by Mr. Clewson, from the Ladies of the Northern part of this Island. It would seem that the Government had some intuitive sense of the wishes of Her Majesty's female subjects, for it will be found that, by the provisions of the bill most of their wishes have been anticipated, and that they will be left in peaceable possession of "the scenes of their domestic duties and pleasures."—I think, Sir, it must now be sufficiently obvious, that Her Majesty's Government were driven, by the numerous and extravagant claims to land in this country, as the only means of its successful colonization, to disregard all titles to lands which should not be confirmed by a grant from the Crown; and that this Council possesses competent authority to legislate on the subject; and that the plan now proposed for its final settlement, is calculated to give effect to the views of Her Majesty's Government. I rejoice that the people of the North, no less than their countrymen of the South, have not forgotten the ancient British privilege of petitioning for the redress of any supposed or real grievance; but if, on any future occasion, the Land Owners of the North should cause their opinions to be brought under the consideration of this Council, I trust those opinions will be formed on a more accurate acquaintance with the subject, and that they will be couched in language more becoming to the Crown.

Mr. Earp.—It does not appear to me that any very essential alteration is intended with regard of the main features of the bill. Much has been said respecting the petitions which have been laid before the Council, but very little that is satisfactory about the bill itself. I can scarcely agree with His Excellency that the 19th clause provides for many of the objections set forth in those petitions. With regard to many claimants the clause will remain a dead letter. It provides that every person who shall prove the payment of not less than five shillings an acre, may, if he thinks fit, retain his lands; but the fact is, very few purchasers have paid that amount. In one sense this clause will act as an additional hardship to the original settlers, whom it deprives of the recompense due to them, after encountering the risk of colonising an uncivilised country, long before any permanent colonisation was thought of by the British Government. The settler of twenty years ago, who paid only one shilling an acre for his land, gave more than it was worth, since it only acquired any real value from his labour. In a few years another settler would find it more profitable to give three shillings an acre for land in the vicinity of that occupied by the first comer, who would, doubtless, have formed a small establishment, and effected many improvements. After these came a third settler, who gave five shillings an acre for his land, and he alone could participate in the benefit which the 19th clause was intended to confer, whilst those who had paved the way for him were altogether excluded. Thus the industrious colonist who had staked his all years ago, upon the laudable experiment of forming a settlement in a