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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 16th instant.)

savage country, is placed in a much worse position than the mere land-jobber, who has only been induced to emigrate on learning the success of the first colonists. I will not rest the case on the despatch of the Marquis of Normanby, so often alluded to, but meet it on its own merits. I am not a little surprised that persons are to be deprived of their lands without distinction, when it is admitted in the preamble of the bill that valid purchases have been made. What right, I will ask, has Government to dispossess people of lands which they admit have been validly purchased? All lands adjudged by the Commissioner will be found to be validly purchased, since no compensation in land will be allowed beyond four times the amount of money actually paid. At least government should give claimants the option of retaining their lands, and not compel them to resort to government towns.—If this be persisted in, the impression out of doors will be, that a mistake has been made as to the site of the seat of Government; that it was not sufficiently central, and that their only mode of evading this difficulty is, to force a large population from all the southern districts, to the extreme north of the Island. Such a conclusion may not probably be the correct one, but this is the natural inference. I cannot help thinking it will be generally entertained; and I cannot agree to this principle,

unless there is introduced into the clause some modification in the method of applying it. I am also rather surprised to hear honorable Members connected with the Government advocating so warmly the principle of concentration in colonisation. This is one of the first objects in the Wakefield system, as it is called; but it is folly to imagine that the same system is alike applicable to every country, without regard to the particular requirements of the country. Centralisation, as it is called, has utterly failed in South Australia, which has scarcely any available sea-board, and a hostile and useless native population; but the case is very different with New Zealand, with a seaboard as great, if not greater, than that of the United States of America, and a population of Aborigines scattered along the whole line, who are anxious to give us their produce in exchange for our manufactures to any extent we please; and how could this be effected by concentrating the population in two or three localities? It is obvious that such commerce could alone be carried on by forming dispersed settlements, instead of centralising them. Settlements ought to be as rapidly as possible spread over this immense line of coast, in order to supply the natives in different parts with European manufactures, and of which they are anxious to obtain possession. There will always be a sufficient population in the towns to afford the necessary supplies to distant settlements. The result of compelling persons resident at the trading and whaling stations to take their lands at Auckland, would be, that the natives on the coast would not be able to obtain European manufactures, and settlers

would be deprived, at least in a great measure, of the advantages to be derived from a traffic in native produce. The Government should bear in mind, in legislating on this subject, that something like one-half of our imports are consumed by the dispersed settlements amongst the natives on the coast, and thus a considerable and profitable commerce is being carried on, which, under the system of concentration would be nearly destroyed. His Excellency the Governor has observed that it is of the first importance to preserve the whaling and the trading stations; and thus admitted the necessity for dispersed settlements; but Government is, at the same time, pressing the importance of centralisation—an evident contradiction. His Excellency did not come out here to found a colony; on the contrary he found one already formed, consisting of almost innumerable settlements dispersed over the islands, and carrying on an extensive commerce with the natives. The best policy of Government was, to preserve these settlements, and not sacrifice the best interests of the colony to a mere theoretical principle. By compelling the proprietors of coast stations to come to Auckland, one-half of the commerce of the colony would be destroyed. I am sorry to have heard the intention expressed by His Excellency, of not establishing a district in the Middle Island, from which Land Claimants resident there might select their possessions. From a conversation which I had with His Excellency a short time ago, I considered this point conceded. The reason given for this alteration in the Government policy is not a little amusing. It is said that it would be unfair to the residents of Port Nicholson to establish a rival to them at Port Cooper; but I can assure His Excellency and the Government that the settlers at Port Nicholson will have no such fear; on the contrary, the establishment of such a settlement would give them satisfaction. Should this advantage not be conceded, the impression on the minds of the Port Nicholson people must be, that the reason why a district is not selected on the Middle Island, where Land Claimants may locate themselves is, that they may be compelled to break up their extensive coasting trade, and come to reside at Auckland, or in its vicinity. So far from fearing any rival, the Government will be puzzled to make Auckland a rival to Port Nicholson. I believe the settlers at Port Nicholson would feel much obliged to the Government, if it was possible, to establish Towns in all parts of the Middle Island. As to the Schedule appended to the bill, respecting the definition of lands in and around Port Nicholson, I may observe that a large additional quantity has been selected since His Excellency's visit. A considerable portion of Land has also been made choice of in the Wanganui district, and the same process is in operation at Nelson. It will be better if these settlements are included in the Schedule to the present bill, rather than have to Legislate on the subject in the next Session of the Legislative Council. Two points of the bill, as it now stands, I shall continue to oppose. I never can agree that claimants shall be dispossessed of the lands they now hold; and I do hope that Government will establish a station on

the Middle Island. If these concessions be not made, those differences and dissensions which have unfortunately prevailed in the minds of many settlers at Port Nicholson, as regards certain measures of Government, will be increased rather than allayed.

The Governor.—It will be seen, on reference to section 23 in the bill now before the Council, that schedule D., to which the hon. member has referred, describes the land belonging to the New Zealand Company, to which they have been deemed entitled to the fee simple and inheritance. These include several portions, consisting not only of the town of Wellington itself but also the Town and Harbour Districts, besides considerable estates at Banks's Peninsula, and in the Hutt District. Before long, Commissioners will proceed to that part of the Island, and report upon the Company's claims at Wanganui, and also in the Nelson settlement. Should their titles be found valid, the claims of the Company will be recognized. On my late visit, it was deemed an act of justice to guarantee the Company a right to those portions of land enumerated in the schedule, to restore public credit, and give confidence in the Company's transactions with settlers. I guaranteed them against any act of government, but not against native claims. To enable the Company to fulfil their pledges to the public, I assigned large tracts of land in the districts I have mentioned; and so I will at Wanganui, and at Nelson, when the proper investigations have been made. More cannot be expected. With regard to the observations of the hon. member as to the provision in the 19th clause, it was a species of special pleading to assert that the titles to lands "validly sold" to the old settlers, would not be recognized.

Mr. Clendon.—One of my objections is, that the districts from which land may be selected by the claimants, are not accurately defined.

The Colonial Secretary.—If we agree upon the general principle, the details may be settled in Committee. Taking the most confined view, the limits must be extremely extensive.

Mr. Clendon.—How is the limit of five shillings per acre to be ascertained? There may be disputes as to the actual amount given.

The Governor.—The object of the bill is to benefit the Colony, and Government is disposed to take a liberal course in regard to all matters on which disputes may arise with the claimants. So far as I can understand the present complaints of hon. members, I shall be ready to acquiesce in any remedy for their removal. Much of the land has been purchased for goods; and, I repeat, a very liberal view will be taken on any subject of difference that may arise.

The Colonial Treasurer suggested, that the discussion on details now was out of order. The alterations named might be discussed when in Committee.

The Governor said,—The proper course was now for the Colonial Secretary, who moved the order of the day, and which had been seconded by Mr. Porter, to reply.

The Colonial Secretary then rose and said—I am very glad to find that, in the discussion of the general principles of the bill, there have arisen so very few points of difference. The objections of Mr. Porter and Mr. Clendon are, for the most part, met by clauses in the bill itself, or may be obviated by modifications when in Committee. The other hon. member, (Mr. Earp), has expressed his opinion, that the best possible plan of colonizing New Zealand, is by means of scattered settlements. He states, that the plan of concentration on the Wakefield system has been tried in South Australia, and has proved to be a failure. I cannot agree with this assertion. The embarrassed state of that Colony can be accounted for, from the settlers having had to struggle against severe commercial losses, arising from over-speculation. The New Zealand Company have commenced the colonization of New Zealand on a similar principle. The system adopted by them has been found to answer well, and I hope and trust will eventually prove to have realized their most sanguine expectations. I has been asserted that, by the bill before the Council, the early claimants will be greatly injured—that an unfair advantage is given to the recent purchaser over the old settler—the latter having paid a much smaller sum per acre than the former. By referring to the 14th clause you will observe, that the early settlers are offered a priority of choice in the districts appointed for selection, by which they will obtain land of the best quality, and in the most desirable situations, which, it is hoped, will fully counterbalance any advantage given to the recent speculator in regard to quantity. The propriety of forming a settlement at Port Cooper might be passed over without observation, as the question is not now before the Council; but the honorable member has, in my opinion, furnished an unanswerable argument against the adoption of such a course. He tells us that, at Port Nelson, a settlement is in the actual course of formation by the New Zealand Company. That enterprising body has now a large amount of capital invested, and it would be manifestly unjust for Government to take any step which might injuriously interfere with their operations now in progress. A Government town at Port Cooper could only be formed by abstracting capital and labour from the settlements already formed by the Company. Mr. Earp has asserted that the refusal to establish a Government settlement on the Middle Island will cause dissatisfaction to the inhabitants of Port Nicholson, but I will hazard an opinion that a contrary feeling will be entertained;—the settlers there will see clearly that their interest could not be advanced by the establishment of a rival town under the auspices of Government; neither do I think that they will ascribe to the Government a desire to break up their coasting-trade, particularly as the lands of the greater number of the claimants proposed to be removed, are situated in the neighbourhood of Cook's Straits, in the midst of the blocks already granted or guaranteed to the New Zealand Company by the Government.

The Governor said:—With regard to the Southern Island there are not many claimants.

Those who occupy whaling and trading stations, as has been pointed out in a letter which has been read, stand in a different position to other settlers. Whaling and trading stations are like factories, and those establishments shall be secured to the proprietors by lease.

Mr. Earp, with regard to what had fallen from the Colonial Secretary, begged to explain that he had not, himself, accused the Government of any desire to promote the prosperity of Auckland, at the expense of the other settlements by the provisions of this bill, but had merely expressed an opinion that such feelings might be entertained out of doors:—For himself, he gave the Government every credit for an anxious desire to settle this question in the best way possible, but he disapproved of the plan they had adopted for effecting that object.

The Colonial Secretary said—The Government had no intention to raise up any one town to the disadvantage of another. They could have only one object in view, and that was to promote the general good of all. Any attempt of that nature must meet with the signal failure which it would so greatly merit.

The bill was then read a second time, without a dissentient voice; and it was ordered to be considered in Committee on Wednesday, the second of February, to which day the Council adjourned.

FEBRUARY 2ND, 1842.

Present all the Members.

The minutes of Council were then read and confirmed.

LICENSING BILL.

The Attorney General moved the order of the day for the second reading of the Licensing Bill, which was read accordingly: but in consequence of several members not having received the Bill in time to make their amendments, it was on the motion of Mr. Clendon, ordered, that the time for giving notice of amendments be extended to the following day.

The Colonial Secretary then moved that the Bill be considered in Committee on Friday the 4th February: carried.

HARBOUR REGULATIONS' BILL.

On the motion of the Colonial Secretary, seconded by the Colonial Treasurer, that the first reading of this Bill be postponed till 3rd February, 1842: carried.

LAND CLAIMS' BILL.

Mr. Earp presented a petition, numerously signed by the inhabitants of Auckland, and other Claimants of Land in New Zealand, praying that this Council would not proceed with the consideration of the "Land Claims' Bill," until the amendments, which Government were about to

propose, should be publicly known. Petition received and read.

The following notices of motion were then given by the Attorney-General:—

1. That, in Committee on the Land Claims' Bill, he would move the following amendments, viz.: in the 62nd line, after the word "claimed," insert "except as herein provided."

2. After the word "Ordinance," in the 91st line, insert, "all lands reported to have been so cultivated or built upon, between the said day of January, 1840, and the passing of this Ordinance, may be so granted, if to His Excellency, in Council, it shall seem meet. The land so to be granted absolutely, shall be taken in part satisfaction of the claim of the grantee thereof."

3. After the words "country lands," in the 168th line, erase the remainder of 19th clause, and insert as follows: "such claimant shall be entitled to make such selection, as aforesaid, out of the land so validly sold to him."

4. After the foregoing clause insert clauses 20 and 21, to the following effect: "all claimants to whom land shall have been validly sold by the Aboriginal natives, and who shall be reported to have actually cultivated any part of such land, shall be entitled at their option to select the land to be granted to them in manner hereinbefore provided, or to receive a lease at a nominal rent, for _____ years, of so many acres as they shall be found entitled to, adjoining the land so cultivated, and lying within the limits of the land so validly sold to such claimant."

5. Clause 6: "In case the land to be comprised in any such lease shall fall within any district which shall be opened for settlement during the currency of such lease, the lessee thereof shall receive a free grant of the land therein comprised in fee simple."

6. After the 24th clause insert clause as follows: "If any part of the land comprised in the said Schedule C shall be found not to have been validly sold by the Aboriginal inhabitants, compensation for the same shall be made to such inhabitants by the New Zealand Company. The amount of such compensation shall be settled by the Protector of Aborigines and the principal agent of the Company, or, in case of difference, by an umpire to be named by them."

7. In the 62nd line, after the word "claimed," insert, "except as herein provided."

On the motion of Mr. Earp, seconded by the Colonial Treasurer, the further consideration of the Land Claim's Bill in Committee, was adjourned to Friday, February 4, to enable members to prepare further amendments.

The Council then adjourned to Thursday, February 3.

THURSDAY, 3rd FEBRUARY, 1842.

All the Members were present, except Mr. Earp; and the minutes were read, without alteration, and agreed to.

LICENSING BILL.

The Colonial Secretary moved the order of the day, for receiving notices of amendments on the Bill.

Mr. Clendon then gave notice, that on the second reading of the said Bill, he would move the following amendments, viz.—

In clause 12 in 73rd line, after word "recognizances," expunge the remainder, and insert to "to the Registrar of Deeds of the District to be filed in his office."

That the 13th clause be expunged.

Between the 19th and 20th clauses, insert "the Governor shall have power to grant a License at any period of the year, upon petition signed by two Justices as aforesaid, subject to the provisions herein contained."

In clause 20, in the 123rd line, after the word "day," expunge the remainder of the clause.

In clause 21, in the 129th line, after the word "Innkeeper," insert "they may think proper," and erase the words "not exceeding three."

Between the 26th and 27th clause, insert "constables may demand entrance into licensed houses at any hour, upon information that this Ordinance is contravened; and any unnecessary delay in giving admission to said constable, may, upon the hearing of the case by the Police Magistrate, subject the party or parties to the penalties herein contained, or a forfeiture of license."

After 28th clause insert, "licensed persons shall not sell or supply any spirituous liquors, or allow the same to be sold or supplied to any confirmed drunkard, of whom he may have been notified in writing by order of the Police Magistrate."

In clause 21st, after 171st line, after the word "imprisoned," insert "and kept to hard labour."

In same clause, in 175th line, after the words "a term of," insert "not less than seven days, nor more than thirty days."

The Attorney-General gave notice that he would move, on the second reading of the "Licensing Bill," the following amendment:—after 29th clause, insert the words, "Provisional Licenses," and the following clause, "Whereas, by reason of the formation of new settlements within the Colony, it may be desirable that Licenses should be granted otherwise than at the time and in the manner hereinbefore provided, be it enacted, that it shall be lawful for any two Justices of the Peace for the district, at any time or times, to grant any number of Licenses, to be in force until the 1st day of July next but one, following the arrival of the first body of immigrants at such settlement. The sum to be paid for any such License being after the rate of £30 a year."

On motion of the Colonial Secretary, the order of the day for the first reading of "Harbour Regulations' Bill" proceeded with. The Bill was read.

On motion of the Treasurer, seconded by the Attorney General, ordered, that the said Bill be read a second time on Thursday, the 10th of February, 1842.

Council then adjourned to 12 o'clock on Friday, 4th February, 1842.