

REPORT ON EVIDENCE ADDUCED BEFORE

Mr. de Hirsch.
31st August, 1869.

In the first instance, when I leased the block, I leased it for the surface rights only. I asked Mr. Mackay if, in doing so, I should interfere in any way with any arrangement the Government had made about these lands. He said, certainly not; the Government only claimed the right of supervision for the construction of roads, and that the people living there should be compelled to take out business licenses and not have the excuse that they were living on Native lands, and generally that they should come under the rules of the Gold Fields. I leased these lands consequently on Mr. Mackay giving his sanction that I should do so, and Mr. Mackay assisted in negotiating with the Natives for me. Further, I must acknowledge that when I leased the land I never thought of mining on it; but some time after, when the land became a very valuable property, through the Golden Crown having struck a reef which was said to run right through the ground, I then asked my solicitors what to do, whether to take it up under a miner's right, or whether the first lease I got gave me the right to the land generally and all that was in it. Messrs. Whitaker and Macdonald, acting as my solicitors, I believe went to Mr. Mackay, and searched the various agreements between the Government and the Natives. They told me that if I was going to Auckland I should consult Mr. Frederick Whitaker, as they were not quite sure. Mr. Frederick Whitaker distinctly advised me to get the lease of the 15th February, 1869, telling me that it was no use my taking the land up under miners' rights: that anybody could get a lease from the Natives and then turn me out. I acted on that advice, and went back to Shortland and instructed Mr. Frederick Alexander Whitaker to draw this deed out, which bears his endorsement and signature as an attesting witness. Almost within a fortnight after I obtained this lease, Mr. Frederick Alexander Whitaker, one Eicke, and others, took up this very same land under miners' rights. Then I went back to Auckland and asked Mr. Frederick Whitaker's advice, and he told me he was very sorry he could not advise me because he was retained on the other side. If I had taken up the ground under miners' rights I could have held it.

JAMES DE HIRSCH.

WEDNESDAY, 1ST SEPTEMBER, 1869.

PRESENT:

Mr. Creighton,

Mr. Wells,

Mr. J. Cracroft Wilson, C.B.

On the Petition of Mr. James de Hirsch being considered, the Chairman was directed to report that the Petition should be referred to the Joint Committee on the Native Lands Bill.

The following Draft Report was then read and agreed to:—

“This is a complaint against the effects of the Gold Fields Proclamation Validation Act, passed during the present Session. The Committee direct me to report that as there is a Joint Committee of both Houses on the Native Lands Bill now sitting, to which the consideration of the whole question connected with the subject matter of this Petition has been referred, they are of opinion that the case of the Petitioner, with all papers connected therewith, should be remitted to that Committee.”

In the matter of “The Auckland Gold Fields Proclamation Validation Act, 1869,” and the Petition of James de Hirsch,

I, James de Hirsch, of Shortland, Thames Gold Fields, in the Province of Auckland, make oath and say,—

1. That I have caused a Petition to be presented to the Honorable House of Representatives respecting the said Act, and that all matters of fact contained in such Petition are, to the best of my knowledge and belief, true.
2. That the lands on the flat at Waiotahi, now called Graham's Town, were not included in the original Proclamation of the gold fields.
3. The said lands were afterwards proclaimed to be within the limits, on the sixteenth day of April, one thousand eight hundred and sixty-eight.
4. This Proclamation was, I verily believe, issued in order to give the Government the right to construct roads, but the Natives had not conceded the right to mine.
5. The Native owners of this land obtained a certificate of title to the said lands from the Native Land Court, on or about the thirteenth day of October, one thousand eight hundred and sixty-eight, without any restriction.
6. That I, this deponent, leased by deed dated the thirtieth day of June, one thousand eight hundred and sixty-eight, certain lands at Waiotahi aforesaid, known as Kauaeranga, number twenty-four (24) by which the surface rights only were demised, the said lands being portion of the lands referred to in paragraph five of this my affidavit.
7. On the fifteenth day of February, one thousand eight hundred and sixty-nine, the mining right on the said lands, with the residue of the surface, was demised to me, the Native owners not having conceded any rights whatever to the Government.
8. The proceedings with respect to these leases were conducted on my behalf by Frederick Alexander Whitaker and John Edwin Macdonald, solicitors, carrying on business as Whitaker and Macdonald. I consulted Mr. Frederick Whitaker, of Auckland, solicitor, of Auckland, upon the steps I should take to secure the rights which the said leases purport to create, and he advised the course which was subsequently taken. The said Frederick Alexander Whitaker is a son of the said Frederick Whitaker.
9. On the twenty-third day of April, one thousand eight hundred and sixty-nine, the said Frederick Alexander Whitaker, of Shortland, and one James Lundon, obtained a lease on their own behalf from the same Natives, demising the surface, the same parties occupying the ground under the Proclamation of the sixteenth day of April, one thousand eight hundred and sixty-eight by miners' rights.
10. I might myself have taken up the right of mining by miners' rights, but acting under the advice of the said Frederick Alexander Whitaker and John Edwin Macdonald, and of the said Frederick Whitaker, of Auckland, obtained such lease as aforesaid.