

That the petitioner has expended in the completion of the works the sum of £14,080 13s. 8d., and during the progress thereof received on account of the same works the sum of £6,805 5s. 3d., and upon the completion thereof applied to the Government for payment of the sum of £7,275 8s. 5d., being the difference between the amount received by him as aforesaid, and the actual cost of the work, the petitioner being willing to submit to a deduction of £1,000 in respect of the said bond; and

That the Government refused to pay the petitioner the amount claimed by him as aforesaid, and thereupon the solicitor for the petitioner had a correspondence with the Government in relation to the said claim—a copy of which correspondence is set forth in the said petition; and the petition further stated,

That the petitioner, by reason of the refusal of the Government to adopt either of the courses proposed to them for settlement of his claim, and the absence of any tribunal competent to entertain the petitioner's claim, was entirely without redress, and thereupon did petition the House of Representatives; and by the said petition, the petitioner prayed that the House would take his case into consideration, in order that he might obtain redress of the grievance of which he complained.

And whereas the said petition was referred to a Committee of the said House, which, on the fourth day of October, 1871, reported to the said House in the words following; that is to say—

“That the Committee are of opinion, from the evidence adduced, that Mr. Martin has no claim against the Government, but desires to record their opinion that there is no reason why the Government should not consent to be sued by Mr. Martin in the Supreme Court, if he thinks fit.

“The Committee especially recommends that the Government should not consent to refer the case to arbitration.”

And whereas, on the said report being brought up, the said petition was referred to a Select Committee of the said House to report thereon, which reported to the said House as follows:—

“1. Mr. B. Smith contracted for the erection of Government House for the sum of £10,583, besides receiving the old buildings.

“2. The petitioner became surety for the contractor under a penalty of £1,000, but was not bound to complete the work.

“3. The contractor having become insolvent, the Government could have enforced the penalty of £1,000, and would then have had to finish the work at their own cost.

“4. The petitioner might, on the contractor having become insolvent, have paid the £1,000 penalty, which would then have been his total loss on the transaction.

“5. The petitioner, instead of so doing, was induced to carry on and complete the work, in the belief that he might thereby avoid the whole or a portion of that loss.

“6. The value of the work done, according to the statement of the Colonial Architect, is £16,245 12s. 9d.

“7. The petitioner and the Government respectively ought to be placed in the same position as if the petitioner had forfeited his penalty and the Government had been obliged to carry out the work on their own account.

“That the Committee do recommend that the Government, in carrying out the principles of the above resolutions, do refer the whole question between the Government and petitioner to arbitration.”

And whereas, after the bringing up of the said report, the said House resolved as follows:—

“That there is not sufficient evidence before the House to enable it to concur in the report of the Select Committee on the petition of John Martin, especially as the reports of the two Committees who have reported on the petition are in direct opposition; and that the Government should, during the recess, appoint a committee to inquire into the case, and examine witnesses on oath, and report to the House next Session.”

Now know ye, that, reposing especial trust and confidence in your ability, I, Sir George Ferguson Bowen, the Governor of the said Colony, with the advice and consent of the Executive Council thereof, do by these presents authorize and appoint you, HENRY JOHN TANCRED, of Christchurch, to be Commissioner to inquire into the case alleged in the said petition, and to report your proceedings and opinion touching the premises; and with the like advice and consent, I do enjoin you, within three calendar months after the date of this Commission, or so much sooner as the same can conveniently be done (using all diligence), to certify to me under your hand and seal your proceedings and your opinion touching the premises; and I do, with the like advice and consent, order that the Commission shall continue in force, and that you, the said Commissioner, may proceed in the execution thereof from time to time, and at any place or places, although the same be not continued by adjournment.

Given under the hand of His Excellency Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same; and issued under the Seal of the said Colony, at Wellington, this twenty-eighth day of March, in the year of our Lord one thousand eight hundred and seventy-two.

W. GISBORNE.

Approved in Council.

FORSTER GORING,
Clerk of the Executive Council.

No. 2.

REPORT on the PETITION of JOHN MARTIN, presented to the House of Representatives on the 31st day of August, 1871.

IN virtue of the Commission issued by His Excellency the Governor, which, as will be seen by the evidence, was opened on the second day of April, I proceeded to take evidence on the facts connected with the contract for the building of Government House, Wellington, out of which the claim made by John Martin arises.