

Your Committee have now again to report,—

That, in the opinion of this Committee, the petitioners should be repaid the costs incurred by them in defending their rights in a Court of law, and that it be a recommendation to the Government that the sum of £500 be placed on the Estimates to defray such costs, subject to the Government being satisfied that the costs have been duly expended.

C. A. DE LAUTOUR,
Chairman.

15th October, 1877.

REPORT ON PETITION of W. KNOX and OTHERS.

I AM instructed to report that the petition appears to be unintentionally so worded as to ask for a redress of grievance against the Westland County Council, inasmuch as the said Council did not give, by way of reward, a sum of money to the petitioners.

The facts of the case, however, appear to be that on the 10th April, 1877, a resolution was proposed,—

“That this Council vote James Robinson the sum of £200 as a reward for his perseverance in prospecting the Kumara Gold Field, and giving public notification of the discovery after proving it payable; and, further, that, in the opinion of this Council, James Robinson would have been entitled to the sum previously offered by the General Government for the discovery of a new gold field had such reward not lapsed. That the Council, under the circumstances, would respectfully recommend the General Government to place on the Estimates a sum of money for James Robinson equal (in conjunction with the vote of this Council) to that previously offered by the Government for the discovery of new gold fields; and that the Council would respectfully urge upon the Government the advisability of again offering rewards for the discovery of new gold fields.”

Subsequently, in accordance with an amendment upon the above resolution, a Select Committee was appointed to inquire into all claims, and reported on the 10th May:—

“Your Committee have the honor to report, having met at Kumara on the 2nd instant, and again this day. On the first-mentioned date, all the applicants for reward, together with their witnesses, were examined before your Committee. We have given the evidence so taken careful consideration this day, and beg to recommend as follows:—

- “1. That James Robinson be recognized as the prospector whose labour and exertions led to the development of the gold fields of Kumara.
- “2. That the General Government be requested to make a special case of the Kumara Gold Fields, on account of the special circumstances attending that discovery, and to grant a suitable reward to James Robinson and his two mates, William Costello and Wm. Knox, for the discoveries made by them; the result of this action leading, in the opinion of your Committee, to the Kumara Gold Fields attaining its present position as the most important and extensive gold field now in existence in New Zealand.”

This report was adopted without amendment, on the 17th May.

The Committee have to report that, on the ground of the informality above stated, the petition is inadmissible.

C. A. DE LAUTOUR,
Chairman.

15th October, 1877.

REPORT ON the PETITION of J. NEALE.

THE Committee instruct me to report as follows:—

That the facts as set out in the petition appear generally to be correct.

That the decision in *Borton v. Howe*, if accurate in law, gives the settlers upon the banks of the Maerewhenua River, below the gold field, water rights superior to those held by others under license from the Crown for mining purposes above.

That the Legislature of the colony, having hitherto declined to define the rights and privileges of those engaged in an orderly manner in mining for gold under license, the Judges of the Appeal Court had to decide the case upon the maxims and traditions of common law, many of which are inapplicable to the circumstances of a new country, and are directly antagonistic to the prosperity of many industries that might be prosecuted with benefit to the colony and without serious detriment to any holder of freehold land. Mr. Justice Chapman, in his judgment read by Mr. Justice Johnston, states: “It seems, therefore, that inasmuch as the defendants owe their status as miners to the Gold Fields Act, unless they can establish their right to foul the water of streams under the express provisions of that Act, or by necessary implication from its provisions, they can have no defence; the plaintiffs having a good cause of action at common law.”

I am also directed to report that the decision of the case does not appear to the Committee to have been at all satisfactory, especially in consideration of the fact that the case was submitted to the Court avowedly as a “test case.” The decision was given a long time after the hearing of the case. One of the Judges was then out of the colony. Mr. Justice Johnston appears to have been content to have read the judgment of Mr. Justice Chapman, then in Dunedin, while expressing a general concurrence; but subsequently, in the case of *Glassford v. Reid*, admitting that the manner in which the decision of *Borton v. Howe* had been arrived at was not very satisfactory, and that in its consideration the regulations had been overlooked. It therefore appears to the Committee that the decision in *Borton v. Howe* by no means sets at rest the question at issue as to the actual legal position of the miners and landowners in gold-mining districts, as it was hoped it would do when the case was submitted for trial.