

1877.

NEW ZEALAND.

ALLEGED MALPRACTICES AT THE WAIMATE POLLING PLACE.

(FURTHER PAPERS RELATING THERETO, AND REPORT OF INQUIRY HELD BY MAJOR CLARE.)

In continuation of Parliamentary Papers H. 28, 1876.

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

COPY OF PETITION OF JOHN LONDON.

To the Honorable the HOUSE OF REPRESENTATIVES of New Zealand in Parliament assembled.

The humble petition of JOHN LONDON, of Auckland, in the Colony of New Zealand, settler, sheweth,—

That your petitioner is an elector of the Electoral District of Mongonui and Bay of Islands, in the Province of Auckland and Colony of New Zealand.

That your petitioner was a candidate for the seat representing the said district in your honorable House, rendered vacant by the resignation of John McLeod, Esquire, during the last Parliament, and was also a candidate during the recent general elections to represent the said district in your honorable House.

That, in the year 1874, about three hundred duly attested claims by persons entitled to vote in the election of a member to represent the said district in your honorable House were lodged with the Returning Officer of the said district, in the form and within the time as prescribed by the electoral law of New Zealand.

That your petitioner's brother, Mr. Patrick London, was the attesting witness to one hundred and fifty-six of the said claims.

That though the said persons were fully qualified according to the said law to have their names inserted in the list of persons entitled to vote aforesaid, yet Edward M. Williams, the Returning Officer of the said district, objected to and disallowed one hundred and fifty-five of the said one hundred and fifty-six claims so attested by the said Patrick London, on the alleged ground of insufficient qualification.

That, in the year 1875, the said Returning Officer objected to the claims of persons claiming to be entitled to vote as aforesaid, after the expiration of the period allowed by law for making such objections.

That, at the instigation and on the recommendation of the said Returning Officer, some of the polling places within the said electoral district were appointed at places in the vicinity whereof there were not twenty electors, as required by law.

That, through such recommendation, a very large number of electors were virtually disfranchised by reason of the gross inconvenience of the said polling places to electors desirous of recording their votes.

That, in the year 1874, your petitioner was an attesting witness to the claims of four persons who claimed to be entitled to have their names enrolled on the electoral roll of the said district, and that the qualification upon which the said claims were based consisted of a block of 2,700 acres of freehold land in a locality within the said district known as One, Hokianga, and that the Returning Officer of the said district, while allowing two of the said claims to be entered upon the said electoral roll, rejected the claims of the other two claimants, notwithstanding that their interest in the said land was in every respect equal to that of the successful claimants.

Your petitioner, therefore, humbly prays that your honorable House will take his petition into your favourable consideration, and grant such relief under the circumstances as to your honorable House may seem meet.

And your petitioner will ever pray, &c.

JOHN LONDON.

No. 2.

REPORT ON PETITION of JOHN LONDON.

THE petitioner states that, in 1874, 300 duly attested claims by persons entitled to vote at the election of a member to represent the district in the House were lodged with the Returning Officer within the time prescribed by law. That petitioner's brother, Mr. P. London, was the attesting witness to 156 of the said claims. That Mr. Williams, the Returning Officer of the district, objected to and disallowed 155 of the claims so attested by Mr. London.

That, in 1875, the said Returning Officer objected to the claims of persons claiming to be entitled to vote as aforesaid after the expiration of the time allowed by law for making such objection.

Petitioner prays that relief be afforded him.

I am directed to report that the Committee are of opinion that the Government should make inquiry into the truth of the allegations made by petitioner, which are of a serious character, by the appointment of some impartial and competent person, not being an officer of the Government or a resident in the district, who should make local inquiry, and report the facts to the Government.

T. KELLY,
Chairman.

27th October, 1876.

No. 3.

MINUTE by the Hon. D. POLLEN.

REFER to Mr. Williams for remark.

18th November, 1876.

DANIEL POLLEN.

No. 4.

Mr. E. M. WILLIAMS to the Hon. D. POLLEN.

The Hon. Dr. POLLEN,—

Petitioner's allegations are untrue. I hope that the Government, in justice to a public officer who has acted in strict compliance with the law, will cause inquiry to be made.

Waimate, 11th December, 1876.

EDWARD M. WILLIAMS.

No. 5.

Mr. JOHN LONDON to the Hon. F. WHITAKER.

SIR,—

Auckland, 24th December, 1876.

The Public Petitions Committee of the last Session of the House of Representatives having reported (in reference to my petition on the subject of improprieties by Mr. Williams in his capacity as Registration and Returning Officer of the Mongonui and Bay of Islands Electoral District), as follows:—"That the Government should make inquiries into the truth of the allegations made by the petitioner, which are of a serious character, by the appointment of some impartial and competent person, not being an officer of the Government or a resident of the district, who should make local inquiry, and report the facts to the Government," I have the honor to respectfully request that you will be pleased to make the appointment referred to in that report.

The Hon. F. Whitaker,
Attorney-General and Resident Minister, Auckland.

I have, &c.,
JOHN LONDON.

No. 6.

Mr. H. T. KEMP, C.C., Auckland, to Major CLARE.

SIR,—

Civil Commissioner's Office, Auckland, 13th February, 1877.

I am directed by the Hon. Dr. Pollen to ask you whether you will be willing to undertake an inquiry into certain charges made by Mr. John London against Mr. E. M. Williams, as Returning Officer during the last general election, recommended by the Select Committee on Public Petitions. The remuneration will be one guinea per diem, and you will be reimbursed your actual outlay for travelling. I enclose herewith the necessary papers on the subject, and shall feel obliged by your letting me know your decision as early as convenient.

Major Clare, Cambridge.

I have, &c.,
H. T. KEMP, C.C.

No. 7.

Major CLARE to Mr. H. T. KEMP, C.C.

SIR,—

Cambridge, 17th February, 1877.

I have the honor to acknowledge receipt of your letter, dated 13th instant, No. D 32, with enclosures, and to state in reply, for the information of the Hon. Dr. Pollen, that I shall be happy to undertake the duty of making the necessary inquiry into the subject therein referred to.

It will not be convenient for me to leave before the 24th instant, but I shall be ready to proceed any day thereafter, on receiving instructions from you as to the date appointed for me to be on the required spot.

H. T. Kemp, Esq., Civil Commissioner, Auckland.

I have, &c.,
WILLIAM CLARE.

No. 8.

Mr. H. T. KEMP, C.C., Auckland, to Mr. E. M. WILLIAMS, R.M., Waimate, Bay of Islands.

SIR,— Civil Commissioner's Office, Auckland, 22nd February, 1877.

Upon the recommendation of the Public Petitions Committee, an inquiry is about to take place into certain charges made against you as Returning Officer, by Mr. John Landon, during the late general election at the Bay of Islands.

I am directed by the Hon. Dr. Pollen to inform you that the gentleman named in the margin* has been appointed by the Government to conduct that inquiry, and I am at the same time instructed to request you to be good enough to render Major Clare all possible facilities, and generally to afford him that assistance which your own local knowledge of the facts will enable you to supply.

E. M. Williams, Esq., R.M., Waimate, Bay of Islands.

I have, &c.,

H. T. KEMP, C.C.

No. 9.

Mr. H. T. KEMP, C.C., Auckland, to Major CLARE.

SIR,— Civil Commissioner's Office, Auckland, 23rd February, 1877.

Referring to your communication of the 17th instant, I am directed by the Hon. Dr. Pollen to request that you will be good enough to proceed to the Bay of Islands at the earliest convenient date. I am also to inform you that Mr. E. M. Williams, R.M., has been instructed to afford you all possible facilities in conducting the inquiry upon which you are about to enter.

Major Clare, Cambridge.

I have, &c.,

H. T. KEMP, C.C.

No. 10.

Major CLARE to Mr. H. T. KEMP, C.C.

SIR,—

Auckland, 24th March, 1877.

Referring to your letters C.C. 77-84 and C.C. 77-249, dated respectively 13th and 23rd February ultimo, I have the honor to report, for the information of the Hon. Dr. Pollen, that under the instructions therein contained I left Waikato on the 2nd instant *en route* for the Bay of Islands, and arrived at Russell on the 6th, having there ascertained that Mr. John Landon would probably be found at Hokianga. I succeeded in communicating with him by wire through Mr. Von Sturmer, the Resident Magistrate in that district, and at Mr. Landon's request, with consent of Mr. Williams, Monday, the 12th March, was fixed upon as the day for entering upon the inquiry which I had been deputed to make into the charges preferred by the first against the last named gentleman as Returning Officer of the Mongonui and Bay of Islands Electoral District. In the interim heavy rains had fallen; the rivers had swollen, and the country had become difficult for travellers to pass over. In consequence neither of the parties could reach Russell on the day appointed: Mr. Williams arrived in the forenoon and Mr. Landon late in the evening of Tuesday. Mr. Williams's magisterial duties demanded his presence elsewhere on the following morning, and the inquiry was therefore postponed and fixed for Friday; and again, at Mr. Landon's request, who stated that he required certain papers from Auckland, it was further adjourned until Wednesday, the 21st instant. On that day both parties met in the Court House at Russell; the inquiry was entered and brought to completion in about two hours and a half.

I now beg to enclose my report upon the case.

H. T. Kemp, Esq.,
Civil Commissioner, Auckland.

I have, &c.,

WILLIAM CLARE.

The documents received with your letter of instructions are also inclosed.—W. C.

Enclosure in No. 10.

REPORT by Major WILLIAM CLARE, J.P., upon an inquiry made by him at Russell, under instructions received in letters dated respectively 13th and 23rd February, 1877, from H. T. Kemp, Esq., Civil Commissioner, into certain charges brought against the Registration Officer of the Mongonui and Bay of Islands Electoral District, in a petition presented to the House of Representatives, during the Session of 1876, by Mr. John Landon.

At 10 o'clock in the forenoon of Wednesday, the 21st of March, 1877, Mr. John Landon, the petitioner, and Mr. E. M. Williams, the Returning Officer, being present, I opened the proceedings by reading the instructions I have received authorizing me to enter upon the inquiry; also the petition presented to the honorable House of Representatives by Mr. John Landon, and the report made thereon by the Select Committee on Public Petitions.

Mr. Landon, in his petition, brings forward four charges against Mr. Williams, each charge relating to a separate and distinct act alleged to have been done by him. It was agreed in preliminary conversation that these four charges should be taken up one by one in the order they appear in the petition, and that the inquiry into the first should be completed and closed before entering upon the second, and so on to the end.

Mr. Landon requested that all evidence should be taken upon oath, and this request I declined to accede to.

* Major Clare.

The first charge in Mr. Lndon's petition, as summarized in the report of the Select Committee, was then read :—

"The petitioner states that, in 1874, 300 duly attested claims by persons entitled to vote at the election of a member to represent the district in the House were lodged with the Returning Officer within the time prescribed by law. That petitioner's brother, Mr. P. Lndon, was the attesting witness to 156 of the said claims. That Mr. Williams, the Returning Officer of the district, objected to and disallowed 155 of the claims so attested by Mr. Lndon."

Mr. Lndon, in support of this charge, produced a copy of the list of names of persons who, in the year 1874, had lodged their claims to be placed upon the electoral roll with Mr. Williams, as Registration Officer of the district. He said that the list would show that upwards of 300 claims had been thus lodged; that 141 of them had been attested by his brother, Patrick Lndon; and that of the number so attested the Registration Officer had objected to 140. Mr. Lndon then admitted that in his petition he should not have charged Mr. Williams with having "disallowed" these claims, stating that he knew it was not in the power of the Registration Officer to do so under the law, and he knew that it was competent to the Revising Officer only to "disallow" claims to vote, and that he was aware that the whole of the claims, as shown in the list he had produced, had fallen through from the fact that no Court of Revision had been held in the district in that year.

Mr. Lndon had no witnesses to bring forward for examination, and nothing further to advance.

Mr. Williams, on being asked to reply, said that he had been charged by Mr. Lndon with having contravened the law by "disallowing" the claims in question, but now he had withdrawn that charge, admitting that it should not have been made, there was nothing left for him to reply to. Mr. Williams further said that, as Registration Officer, he had in the discharge of his duties notified his intention to object to many claims, and amongst them to a large number bearing the signature of P. Lndon as attesting witness; that he would have been prepared to uphold his objections in the Court of Revision at the proper time, but the Revising Officer did not hold a Court in the Bay of Islands District in the year 1874, and the consequence followed that the whole of the claims which had been lodged with him fell through.

Mr. Williams handed into Court a copy of a letter addressed to him by the Revising Officer, dated June, 1874, explaining the circumstances under which he had been unable to attend at Russell for the purpose of holding his Court on the day appointed (this copy is marked A, and appended).

This closed the inquiry into the first charge.

The second charge, as summarized in the report of the Select Committee, was then read :—

"That, in 1875, the said Returning Officer objected to the claims of persons claiming to be entitled to vote as aforesaid after the expiration of the time allowed by law for making such objection."

Mr. Lndon would not do so in as many words, but virtually withdrew this charge altogether. He said that he had been misled upon the subject, and that it was only within the last few days he had been made aware of the limit of time allowed by law for the Registration Officer to make objections to claims.

Mr. Lndon had nothing further to say, and there was nothing for Mr. Williams to reply to.

The third charge appears in Mr. Lndon's petition in the following words :—

"That, at the instigation and on the recommendation of the said Returning Officer, some of the polling places within the said electoral district were appointed at places in the vicinity whereof there were not twenty electors, as required by law.

"That, through such recommendation, a very large number of electors were virtually disfranchised by reason of the gross inconvenience of the said polling places to electors desirous of recording their votes."

Mr. Lndon said at the last general election there was a new polling place gazetted at Haruru, in the vicinity of three other polling places—Russell, Kawakawa, and Waimate, all easy of access. There are only eight electors on the roll at Haruru, and only six votes were recorded there at the last election.

Mr. Lndon then cited another instance of what he said he considered a misplaced polling station, by the substitution of the mill at Whangaroa for that which had been formerly at Kaeo.

Mr. Lndon said: I consider Whangape and Parengarenga should each have polling stations; that the electors in those places are virtually disfranchised for want of them, having to travel forty miles from the former place to Herd's Point, and seventy from Parengarenga to Kaitaia, to record their votes. I do not know how many electors there are at the places I have named, but there are more at Parengarenga than at Haruru.

Mr. Lndon had not any witnesses to bring forward for examination.

Mr. Williams handed into Court copies of a circular letter received by him from the Under Colonial Secretary, dated 25th August, 1873, and of his reply thereto, relating to the subject of polling places generally (this correspondence is marked B, and appended), in which is explained the circumstances under which Haruru was recommended by him to be gazetted as a polling station.

Mr. Williams said: I had nothing to do with the removal of the polling station from Kaeo to the mill at Whangaroa. That was done in Wellington. The sitting member for the district recommended that the latter place should be appointed as a polling station; and when that was being done, it was, I believe under mistake that the polling station which had been formerly at Kaeo was at the same time abolished.

This closed the inquiry into the third charge; and with reference to Mr. Lndon's opinion that Whangape and Parengarenga should be appointed to be polling stations, I would observe that upon reference to the electoral roll for the district at present in force, I find the number on the roll for the first-named place to be four, and for Parengarenga five, only.

The fourth charge in Mr. Lndon's petition can only be considered as included in the first charge; it has reference to four of the three hundred claims there mentioned. These four had been attested by Mr. John Lndon himself, and the Registration Officer had challenged one of them, and Mr. Lndon suggested that he should have objected to the whole or none.

The inquiry was then brought to a conclusion, and it now remains for me to record my opinion.

I think it is a pity that Mr. Lndon's petition should have received the degree of consideration extended to it, and the stamp of notoriety always attached to a public inquiry. It is to be deeply regretted that a valuable public officer of Mr. Williams's long standing in the colonial service should, as a consequence, have been subjected to the indignity of having to defend his official character against charges which I can only think of as frivolous and puerile to an extreme; it is a pity also that time and public money should have been wasted upon such an inquiry.

Mr. Lndon failed to adduce any testimony whatever in support of, or from which to obtain even a colouring of justification for his rashness in advancing charges of this serious nature, violently attacking the character of an officer who, in the conscientious fulfilment of his duties as guardian of the public interests, was endeavouring to preserve the purity and integrity of the electoral roll of his district, and who acted throughout in strict compliance with the requirements of the law.

WILLIAM CLARE,
Major.

Russell, Bay of Islands, 23rd March, 1877.

Sub-Enclosure 1 to Enclosure in No. 10.

(A.)—Mr. H. C. LAWLOR to the REGISTRATION OFFICER, Russell.

SIR,—

Auckland, June, 1874.

I have the honor to state, for your information, that previous to my starting for Whangarei to hold a Revision Court there on the 10th instant, I entered into a special arrangement with Captain McGregor, of the steamer "Rowena," to take me there on his way to the Bay of Islands, and to call for me at Whangarei Heads either on his return from the Bay or from Auckland, which he agreed to do, wind and weather permitting. Unfortunately he did not do so either way, as the weather was very tempestuous and risky for his vessel. I however have obtained from him a letter explaining his reasons for not calling, so as to enable me to satisfy the Government that it was from no fault of mine that I did not hold my Court at Russell. Under all these circumstances, you will perceive that I have no choice in the matter, but had to submit to circumstances over which I had no control. Accordingly, the law in such cases as the present requires that the existing roll for the Electoral District of Mongonui and the Bay of Islands shall be in force for the year for which a roll has not been made out and completed. I herewith return the electoral roll for Mongonui and Bay of Islands, along with the registration papers. In conclusion, I have to inform you that it is my intention to report to the Government about my not having held my Court in your district, for the reasons already stated, when I have concluded my work.

I have, &c.,

H. CHARLES LAWLOR,
Revising Officer for the Electoral District of Mongonui
and Bay of Islands.

The Registration Officer, Russell.

Sub-Enclosure 2 to Enclosure in No. 10.

(B.)—Mr. G. S. COOPER to the RETURNING OFFICER, Mongonui.

SIR,—

Colonial Secretary's Office, Wellington, 25th August, 1875.

I am requested by Dr. Pollen to request that you will have the goodness to consider and report to the Government as to whether, in your opinion, it would be advisable to appoint, in the electoral district for which you are Returning Officer, any additional polling places for the election of members of the House of Representatives, of Superintendent, or of members of the Provincial Council, naming such places as you may consider it advisable to appoint, and the buildings which can be used for the purpose.

In making recommendations in pursuance of this circular, you will of course take care that the requirements of the 7th section of "The Regulations of Elections Act, 1870," are strictly complied with in each case. I am also to request that you will recommend the abolition of any polling places in your district which may fail to come within those requirements.

I have, &c.,

G. S. COOPER,
Under Secretary.

The Returning Officer for Mongonui and Bay of Islands.

Sub-Enclosure 3 to Enclosure in No. 10.

Mr. E. WILLIAMS to Mr. G. S. COOPER.

SIR,—

Resident Magistrate's Office, Waimate, 10th October, 1873.

In acknowledging your circular, number and date as per margin,* requesting me to report to the Government the advisability of appointing additional polling places, I have the honor to offer the following remarks:—

For the convenience of electors I would recommend the appointment of two additional polling places in this district—namely, the school-house at Okaihau, and a cottage at Haruru, Bay of Islands, the property of Mr. J. W. Williams, at present occupied as a dwelling by Mr. Walter Irving.

The re-division of the district for provincial elections under "The Auckland Representation Act, 1872," which places Okaihau in the Hokianga District, necessitates the appointment of a polling place in that locality, otherwise the electors in that neighbourhood wishing to take part in a provincial election would be compelled to vote either at Kaeo, in Whangaroa, or at Herd's Point, in Hokianga, the only two polling stations within the Hokianga District, and each distant thirty miles from Okaihau.

The necessity also for a polling station at Haruru was clearly manifested at the last election of a member to serve in the House of Representatives, when, in consequence of a heavy north-easterly gale, boats attempting to reach Russell were compelled to return, several electors being thereby prevented from recording their votes. In one boat two electors, after a perilous voyage, did succeed in landing at Russell; but in another boat eleven electors, after four hours' pulling against wind and rain, were compelled to give up the attempt to reach the poll.

The Bay of Islands is a broad sheet of water which in boisterous weather is dangerous and at times utterly impossible to cross; I would therefore recommend that a polling station be appointed on its western as well as its eastern shore, and suggest Haruru as being the most central position.

I consider the requirements of the 7th section of "The Regulation of Elections Act, 1870," are sufficiently met in both these cases, for although twenty electors do not reside on the immediate spot, there are within a radius of five or six miles that number who would avail themselves of the opportunity afforded for polling at these places.

The absence of a polling station at Okaihau for provincial purposes would virtually disfranchise the electors of that settlement, who could scarcely be expected to undertake a journey of sixty miles for the purpose of recording their votes. The appointment also of a polling place at Haruru would give the electors residing on the western side of the Bay an opportunity of recording their votes without the necessity of crossing over to Russell; others, also, who at present are compelled to vote at Waimate would at times find it more convenient to vote at Haruru, at which place there is a house of accommodation for travellers. I trust, therefore, the recommendations I have made may meet the approval of the Government.

The only polling station which I consider might be abolished is that at Oruru; there are only twelve electors on the roll for that place, and the number polled at an election has always been small. It is only five miles distant from Mongonui, with a good connecting road, and there are no other polling stations in the district so closely stationed to each other.

I have, &c.,

EDWARD M. WILLIAMS.

The Under Secretary, Colonial Secretary's Office, Wellington.

No. 11.

Major CLARE to Mr. H. T. KEMP, C.C.

SIR,—

Auckland, 27th March, 1877.

In connection with my report upon the inquiry conducted by me at Russell *re* Landon *v.* Williams, I take the liberty of requesting that you will be good enough to call the attention of the Hon. Dr. Pollen to a point wherein "The Registration of Electors Act, 1866," seems to require amendment

During the inquiry it transpired that in the year 1874 the Revising Officer for the Mongonui and Bay of Islands Electoral District was, from untoward circumstances, unable to attend at Russell on the day appointed for holding his annual Court of Revision there. The Act mentioned does not supply any machinery for giving life to and sustaining the Court by opening and adjourning under such a contingency. On that occasion, the consequences followed that there was no Court held in the district for that year, no revision of the electoral roll, and upwards of three hundred claims to vote which had been duly registered remained unheard. About one hundred and fifty unopposed, and therefore presumably *bond fide* claimants were thus deprived of their right to be enrolled as voters owing to the defective condition of the law.

The safest and readiest remedy for correction of the defect pointed to would I think be to give the Revising Officer power to appoint the Magistrate's Clerk at the place where he is to hold his Court of Revision to be his deputy for the special purpose only of opening and adjourning the Court under like circumstances.

H. T. Kemp, Esq., Civil Commissioner, Auckland.

I have, &c.,

WILLIAM CLARE.

No. 12.

The UNDER SECRETARY, Native Department, to Major CLARE.

SIR,—

Native Office, Wellington, 6th April, 1877.

I have the honor, by direction of the Hon. the Native Minister, to acknowledge the receipt of your letters of the 24th and 27th ultimo, forwarding your report on the inquiry held by you into charges made by Mr. J. Landon against Mr. E. M. Williams, R.M.

In reply, Dr. Pollen desires me to thank you for your prompt attention in the matter of the inquiry, and to inform you that your letter and report, with the other papers relating to the inquiry, will be printed and laid before Parliament.

I have, &c.,

H. T. CLARKE,

Under Secretary.

Major Clare, Cambridge.