

1882.

NEW ZEALAND.

WEST COAST COMMISSIONERS' REPORTS.

(REPLY BY HON. SIR W. FOX TO CHARGES AGAINST THE COMMISSIONERS BY
HON. R. HART, M.L.C.)*Presented to both Houses of the General Assembly by Command of His Excellency.*

SIR,—

Rangitikei, 1st July, 1882.

The Hon. R. Hart, M.L.C., on the 6th June, addressed a speech to the Legislative Council, in which he not only criticised severely the reports of the West Coast Commissioners of 1880, but charged them (particularly myself by name) with disingenuousness and misrepresentation, by which we had misled the Government and the country. He expressly challenged me to explain how I had been induced to be guilty of the misconduct imputed, a charge which, of course, includes my late colleague, Sir Dillon Bell, who, equally with myself, is responsible for the contents of our reports made to the Governor, and presented to Parliament.

I have now the honor to enclose a memorandum, in which I have, I hope successfully, replied to the very grave accusations made against Sir Dillon Bell and myself; and I have to request that you will lay it before His Excellency the Governor, and request his permission to place it on the tables of the Legislative Council and House of Representatives.

I have, &c.,

WILLIAM FOX,

West Coast Commissioner.

The Hon. F. Whitaker, M.L.C., Premier, &c.

MEMORANDUM by Sir WILLIAM FOX, West Coast Commissioner, upon a Speech delivered by the Hon. R. HART, M.L.C., in the Legislative Council, on the 6th June, 1882.

WHEN the West Coast Commissioners' reports were presented to Parliament, in August, 1880, the Hon. Mr. Hart, in the Legislative Council, criticised them in a speech which fills nine columns of *Hansard*. He was briefly replied to by Sir F. Dillon Bell. After two years, he has spoken again on the same subject, but Sir Dillon Bell is out of the colony, and his co-Commissioner is no longer in Parliament. Mr. Hart has the double advantage of speaking in the absence of those whom he attacks, and of having his speech recorded in *Hansard*, where it occupies fifteen columns, and in which any reply on their behalf will not appear. In his speech in 1880, Mr. Hart spoke in very respectful terms of the Commissioners, and commended their reports as "a work, which for the great industry bestowed upon it, and the results as far as practical effects are concerned, is second to none brought forward by any Commissioners." In his recent speech, he describes the Commissioners as men who had altogether lost their heads, suffering under "a mesmeric exaltation, causing them to put judgment and memory in the background, and let imagination have its sway," the result being that they suppressed or overlooked materials at their hand, gave a false complexion to their reports, were led into errors, and did almost everything which Commissioners ought not to do. In support of this indictment, Mr. Hart relies on three points, and only three, though he has elaborated these at such length that his speech is said to have taken an hour and a-half in delivery. I venture to hope that they can be disposed of much more briefly.

1. The first point relied on by Mr. Hart is, that in their second report, page 13, the Commissioners stated, "At the end of the war in 1865, the whole coast from Wanganui to the White Cliffs was confiscated under the powers of the West Coast Settlements Acts." Mr. Hart remarks on this, that "the statement was very questionable, and that if Te Whiti and Tohu were brought to trial to-morrow, it would be denied in Court;" and he proceeds to argue at great length, that on technical grounds the confiscation was invalid, and complains that the Commissioners did not tell the Governor that it was so. The answer to this is, that the Commissioners, in this part of their report, were giving a brief historical *resumé* of the facts which had led up to the state of events on the West Coast, and, speaking of it simply as a fact, they said the country in question had been confiscated. What were the facts? Four Orders in Council had been issued, declaring the limits of the districts, and setting them apart for purposes of settlement under the Acts of Parliament: they had been taken possession of, and great part of them surveyed, sold, given away to military settlers and others; extensive public works, roads, and bridges had been

constructed on them; villages and towns had grown up upon them; and a population of 10,000 Europeans put upon them, when the Commissioners wrote their reports. If this was not confiscation, what would be? But, because the Commissioners did not break the thread of their narrative, and tell the Governor that there was a lawyer in Wellington prepared to deny the validity of it all, they were labouring under “mesmeric exaltation of mind,” and open to the severe censure which Mr. Hart bestows upon them. When, however, they approached the subject from a practical point of view at the commencement of their third report, they did (as Mr. Hart is obliged to acknowledge, though it does not qualify his censure) call the attention of the Governor, at considerable length, to the discrepancy between the first and latter part of one of the Orders in Council on which Mr. Hart’s argument is based, and they showed how the discrepancy could be reconciled logically, and had been actually reconciled in fact. It is probable that the Commissioners had never heard of Mr. Hart’s technical objection, or not thinking it of any weight did not allude to it, considering their own solution of the difficulty as quite sufficient, and consistent with the realities with which their business was to deal. The question, however, is not here whether they or Mr. Hart were right on the technical point, but whether they are censurable for having given the Governor what they believed to be the correct account of the position, and which it appears was not the account which Mr. Hart would have given if he had been Commissioner. That is all which this charge amounts to. It is not necessary to discuss it further, but simply to refer to the passages in the reports already quoted as sufficient justification of the Commissioners.

2. The second point on which Mr. Hart relies in support of his theory of “mesmeric exaltation,” is a short passage in the second report, in which the Commissioners, while describing with great care and much minuteness the course of events, and accounting for apparent changes of opinion in the mind of Sir D. McLean, wind up by stating “that there were but three courses open to him: to drive off the Natives by force, to insist on their returning to defined reserves, or to yield a tacit consent and bide his time.” Mr. Hart says that the manner in which the Commissioners express themselves “leaves an impression” on the mind of the reader that they consider that Sir Donald might have driven the Natives off, and that in this sense it was “open for him” to do so. The answer is, that such an “impression” could only exist in the mind of a very careless or a very uncandid reader; because, on the very same page on which the remark occurs, no less than fourteen reasons are given by the Commissioners why such a course was not practically open, concluding with the words that the attempt to drive the Natives away “would have been to undo all that had been gained in the previous two years.” Nothing can be more clear to the reader of pages 18 and 19 of the report, than that the Commissioners intended exactly the reverse of what Mr. Hart attributes to them; and, this being so, what becomes of his laboured attempt to prove inconsistency between the reports and certain passages in speeches of my own, delivered in Parliament in 1872, from which he quotes at great length? If the meaning of the report really was that it was not practically open to Sir Donald McLean to drive off the Natives, all these long extracts, in which I cautioned the Government against rash or violent courses, only go to prove my entire consistency, when I concurred in the reasons given in the report to show that Sir Donald did wisely in abstaining from the attempt forcibly to expel the Natives. What the Commissioners thought he was wrong in was, his not treating them as he had previously treated Taurua and his people, that is, settling them on defined reserves, and which they thought might have been done if properly gone about, instead of allowing them to creep back without authority, and so scatter their occupation as to give them a colourable excuse for contending that we had never taken possession of the confiscated territory. The time to have done it would have been when, on resuming office in 1873, he went to Wanganui, accompanied by the Hon. Wi Tako Ngatata and other friendly chiefs, relations of Titikowaru, and announced distinctly, at a large meeting of Natives, that the confiscated land had not been abandoned, “no, none of it has.” Had he followed this up by visiting the Waimate and Parihaka Natives, and offering them reserves similar to those which satisfied Taurua and his people, it could probably have been arranged; and to this it was that the Commissioners referred when they used another expression complained of by Mr. Hart, “that at any time in all these years the trouble would have vanished if, instead of talking about doing the right thing, the Minister had set himself to do it:” a censure in which they not very ungenerously included themselves, so far as responsible while they had held ministerial office.

3. The third point on which Mr. Hart relies is a very remarkable one. He quotes at great length, from *Hansard*, passages from Sir Donald McLean’s speeches, to show that he entertained very generous purposes towards the Natives; the last passage quoted being one in which Sir Donald emphatically says that “arrangements would be made to secure for the Natives all land required for their own use, for which they would receive titles, and, for the remainder, compensation would be given to them.” “It is singular to remark,” says Mr. Hart, “that in this second report of the Commissioners, and *that* a report in which they were directed to inquire into all promises which had been made to the Natives, they have overlooked the promise then made in the House of Representatives. There is no question that this report, so far as it contains no reference to that promise, is absolutely misleading to the Government and the country. On these grounds, I challenge the fairness of this report, and I think it is only fair to Sir William Fox himself that he should have the opportunity of explaining how completely he was misled into the belief which induced him to put such statements into the report, and the influence which that mistake had in the preparation of the report.” These are “brave words,” but Sir William Fox accepts the challenge. The Commissioners overlooked nothing: the overlooking is Mr. Hart’s own. In page xx. of the report, they have given an abstract of the debate in which Sir Donald made the promise, and they have actually printed, in its 23rd to 27th lines, in full-sized type, the very extract from Sir Donald’s speech which Mr. Hart himself has quoted, and charged them with having entirely overlooked. It is difficult to understand how any gentleman supposed to have the habits of accuracy of a lawyer, and who has sat in the Legislature for so many years, could have been guilty of such an unfortunate blunder as Mr. Hart has here committed. But, further, the reports are full of references to the subject. There is no lack of evidence in the reports of not only Sir Donald’s intention and promises, but of Sir George Grey’s and Sir William Fox’s also when in office, to

compensate the Natives for lands taken from them. The instructions given by Sir Donald to Commissioners Brown and Parris to give "takoha" to the extent of five shillings, and afterwards seven shillings and sixpence, an acre for all lands relinquished by the Natives; passages on passages in the evidence appended to the reports; and a whole chapter on "Takoha" in the second report, showing the manner in which the compensation promised by Sir Donald had been paid over a series of transactions, amounting on the West Coast alone to a very large sum—all these are given at length in the reports and the appendices, affording the fullest refutation of Mr. Hart's accusation that the country and the Governor had been misled by the suppression of all allusion to Sir Donald's promises. It would really seem as if Mr. Hart could never have read the reports which he has so unjustly criticised, and, to use his own expression, "misrepresented."

Mr. Hart is entitled to respect for his desire to protect the memory of his relative and friend; but before he censured the Commissioners so severely he should have satisfied himself that the imputations which he alleges them to have made really existed. I can confidently and conscientiously declare that both Sir Dillon Bell and myself were as anxious to protect the memory of our former colleague and friend of many years, as Mr. Hart could be; and that with that object we examined a vast mass of official documents, and many memoranda in his handwriting, and brought to mind many things only known to ourselves as his colleagues in office, to enable us to justify particular lines of action on his part, which, unexplained, might have provoked unfavourable criticism.

WILLIAM FOX,
West Coast Commissioner.

Rangitikei, 1st July, 1882.

