

The second Commission, consisting of Mr. FitzGerald, reported as follows:—

I do most conscientiously recommend for His Excellency's approval that grants be issued to the undermentioned parties, upon a letter of authority to that effect from Mr. Webster: Claim No. 305, William Webster, 125 acres; Claim No. 305A, William Webster, 125 acres; Claim No. 305c, William Webster, 400 acres; Claim No. 305g, William Webster, 1,944 acres; Claim No. 305i, William Webster, 1,187 acres; Claim No. 305k, William Webster, 1,219 acres; Claim No. 305b, David E. Munro, 550 acres; Claim No. 305, Henry Downing, 125 acres; Claim No. 305c, Henry Downing, 400 acres; Claim No. 305k, Henry Downing, 320 acres; Claim No. 305A, Peter Abercrombie, 125 acres; Claim No. 305k, Peter Abercrombie (one-eighth of his purchase from Webster), 5,000 acres; Claim No. 305k, Felton Mathew (one-quarter of his purchase from Webster), 2,560 acres; Claim No. 305k, John Johnson (one-quarter of his purchase from Webster), 1,280 acres; Claim No. 305k, Vincent Wanothrocht (one-quarter of his purchase from Webster), 250 acres; Claim No. 305k, John Wrenn and Jeremiah Nagle (one-quarter of their purchase from Webster), 150 acres; Claim No. 305k, Arthur Devilin (one-quarter of his purchase from Webster), 1,255 acres; Claim No. 305k, George Russell, 640 acres: amounting in the aggregate to 17,655 acres.

Land Office, Auckland, 22nd April, 1844.

ROBERT J. FITZGERALD, Commissioner.

Upon this report the memorandum of Sir Robert Stout contains the following comment: "It must ever remain a mystery how Mr. Commissioner FitzGerald could have made such recommendation."

It is thought that this mystery is completely solved by the Commissioner himself in the memorandum which he made of the reasons for his action, and which is found in the report of Sir Robert Stout, as follows:—

*Memorandum by Mr. Commissioner FitzGerald.*—Reasons for extending a grant of land to Mr. William Webster: (1.) By the accompanying synopsis of the land-claims of Mr. Webster it appears that his outlay amounts to £7,787 13s., which, according to the valuation-scale in the Land-claims Ordinance, he may be considered as having paid for 50,904 acres; and, even limiting his outlay to the mere payments to the Natives, he would be fairly entitled to 17,950 acres. (2.) Considerable sales of land having been made by him on the faith of all his valid purchases being recognised by the Crown. (3.) Should he not be enabled, by great liberality on the part of His Excellency, to meet his engagements, even partially, he is likely to be overwhelmed with lawsuits and subjected to great losses. (4.) Mr. Webster is one of the most enterprising settlers in this colony, having established a shipbuilding-yard, several whaling-stations, water-mills, and other improvements. For these reasons I do most conscientiously recommend for His Excellency's approval that grants be issued to the under-mentioned parties, upon a letter of authority to that effect from Mr. Webster.

In view of these reasons, which the memorandum of Sir Robert Stout criticizes but does not in any respect invalidate, it is not perceived why "mystery" should have been attributed to the recommendation of Mr. Commissioner FitzGerald. If the reasons stated by that official for his recommendation were not so obviously just and true, it is thought that the adoption, as stated in Sir Robert Stout's memorandum, of that recommendation by the authorities at that time would sufficiently divest it of mystery and demonstrate its propriety. Still more completely does the "mystery" vanish when it is recollected, as hereinbefore pointed out, that it appears by the documents contained in Sir Robert Stout's memorandum that the reference of the awards of the first Commission in the cases of Mr. Webster to the second Commission, consisting of Mr. Commissioner FitzGerald, was "with an instruction to recommend an extension of the grants."

In the memorandum of Sir Robert Stout it is stated that Governor Fitzroy adopted the recommendations of Commissioner FitzGerald, and on the 1st May, 1844, issued grants in accordance with them. It is not asserted that Mr. Webster ever gave the "letter of authority" which the recommendation of Commissioner FitzGerald assumed to be necessary. But the memorandum of Sir Robert Stout contains the following statement: "Webster received his grants for £5,000 acres, and within less than four months had transferred the whole of these lands to his creditors, besides the 12,655 acres granted directly to them, leaving himself without an acre of all his purchases and still a debtor to the Sydney merchants." And this statement is made the text of animadversions upon the speculative character of Mr. Webster's dealings.

This may be regarded as somewhat remarkable, when both the first and the second Commissions found that Mr. Webster had made *bonâ fide* purchases for value, before the annexation of the Islands by Great Britain, of more than 105,000 acres of land, exclusive of various large tracts upon which they did not report; when it is also considered that Mr. Webster was, by universal testimony, an industrious and meritorious settler; and when it is further observed that his conduct throughout shows that he was making every effort to deal honourably with his creditors at a time when the annexation of the Islands and the ensuing land ordinances were threatening him with the commercial disaster in which they had then partially, as they afterwards completely, involved him.

In 1845, the year after the grants above alleged, it is asserted that certain correspondence took place between Mr. Webster and the New Zealand authorities, which was as follows:—

MR. WEBSTER to MR. COMMISSIONER FITZGERALD.

SIR,—

Auckland, 8th March, 1845.

I take the liberty of writing to you to know what has been the decision on my two land-claims. I believe they are No. 305H. One is the Big Mercury Island, and the other is a piece of land near the River Tairua, in the Bay of Plenty. Both of those claims was examined before Commissioner Godfrey at Coromandel Harbour, and I have not yet heard any more of them. The Mercury Island was purchased in 1838. I paid upwards of £300 for it, and have had possession of it ever since, and have expended a deal of money on it; but the whole of the payment agreed on was not given to the Natives, and when the claims was examined they agreed to give me a part of it for what they had received. The piece of land near Tairua was also purchased in 1838, and I paid about £400 for it; and since that I have expended about £400, for which I have never received any return for whatever. I have never heard of any dispute of the title, which, I suppose, the evidence taken by the Commissioner will prove.

Your answer to this will oblige your most obedient servant,

Commissioner FitzGerald, &c.

WM. WEBSTER.

*Minute thereon by the Governor.*

Very large grants having been made to Mr. Webster, no further grant can be made until the opinion of the Secretary of State as to the former grants is made known.—R. F.—10th March, 1845.

Mr. FitzGerald: Direct Mr. Chipchase to communicate this reply to Mr. Webster, who is now in Auckland, but about to leave immediately.—R. F.—10th March, 1845.