

1856.

HOUSE OF REPRESENTATIVES.

REPORT OF THE SELECT COMMITTEE
ON THE
PETITION OF CAPT. M'DONNELL, R.N.

EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE HOUSE OF
REPRESENTATIVES.

VOTES, No. 13, THURSDAY, MAY 8, 1856.

4. Petition of Thomas M'Donnell, R.N. :—Mr. Brittin, pursuant to (amended) notice, moved, That a Select Committee be appointed to take into consideration the petition of Thomas M'Donnell, Commander, R.N., with leave to confer with a Committee of the Legislative Council, appointed for a similar purpose, and with power to call for persons and papers; such Committee to consist of Major Greenwood, Mr. Domett, Mr. Elliott, Mr. Cuff, and the mover. To report this day fortnight.

Question put and passed.

VOTES, No. 24, FRIDAY, MAY 23, 1856.

12. Petition of Commander M'Donnell, R.N. :—Mr. Domett, Chairman of the Committee to which this petition had been referred, brought up the report of the Committee, which was read, and on motion of Mr. Domett, referred back to the Committee for amendment.
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VOTES, No. 34, TUESDAY, JUNE 10, 1856.

12. Petition of Commander M'Donnell :—Mr. Domett brought up an amended report of the Committee to whom this petition had been referred.
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VOTES, No. 45, TUESDAY, JUNE 24, 1856.

- Petition of Commander M'Donnell :—On motion of Mr. Domett, the report of the Committee to whom this petition had been referred was ordered to be printed.

REPORT.

THE SELECT COMMITTEE of the House of Representatives, appointed May 8, 1856, to enquire into and report upon the Petition of Captain Thomas M'Donnell, R.N., respecting certain land claims at Hokianga, have agreed to report as follows :—

It appears from the voluminous mass of documents laid before the Committee, that the Commissioner appointed to investigate Lands Claims under the Land Claims Ordinance, Session 1., No 2., (Major Richmond) determined that Captain Macdonnell had proved his purchase of two blocks of land (at Te Horehe and Motukaraka) to the extent of the maximum of 2560 acres in each case, which two blocks of 2560 acres he recommends should be reduced in the aggregate to one of the same amount of 2560 acres.

A grant for the last named amount of land at Motukaraka in favor of the claimant was prepared by Governor Fitzroy, and afterwards issued to him. This grant is defective in the description of the boundaries of the land intended to be granted.

Subsequently, on claimant's application to Sir George Grey's Government, the Executive Council recommended that a grant for a second block of 2560 acres should be issued in favour of the claimant, provided the native owners agreed to put him in possession of such land; such agreement on their part and the boundaries of the land ceded, to be distinctly ascertained by an officer sent by Government for that purpose.

It appears, however, that the Natives have uniformly refused to allow the applicant to take possession of the land in question. The condition, therefore, upon which the issue of the second grant was made to depend, rendered the offer of such grant virtually worthless. The Natives, according to the statement of the Petitioner, will only admit his right to 200 acres at Motukaraka and 300 acres at Te Horehe. Moreover, after the decision of the Privy Council in the case of the *Queen v. Clarke*, it is perhaps doubtful whether such a grant as that proposed could be legally issued.

The Committee, after careful consideration of all the facts of the case, can discover no grounds for interfering with the decision of the Commissioner who first investigated this case. It appears to have been given in accordance with the terms of the Land Claims Ordinance, Session 1., No 2.

By the 9th and 10th clauses of the Crown Titles Ordinance, Session 10., No. 4, where persons holding defective grants such as that issued to Captain Macdonnell, shall meet with any serious obstruction in the exercise of their right of selection of a portion of the land described in the grant, it is provided that other land of equal value may be selected by the claimant within the Province of New Ulster; and by the New Regulations for the sale and disposal of Waste Lands in the Province of Auckland, to come into operation on the 15th June, 1856, power is virtually given to the Governor to issue Land Scrip in lieu of the "other land," so to be selected as last mentioned, under the Crown Titles Ordinance.

The present case appears, then, to be strictly one of the class it is presumed the clause of the Auckland Land Regulations was intended to provide for. If, then, no objections on general principles (of which the Committee is unaware) be entertained by the Government against the issue of Scrip, the Committee recommend that Captain Macdonnell be allowed to give up the old grant now in his possession, and that two grants be issued to him, for such amount of land at Te Horehe and Motukaraka, respectively, as the Native claimants are now willing to put him in possession of; and further, that a block of land at Motukaraka, equal in amount of acres to the difference between the aggregate amount of acres so ceded by the Natives, and the amount of 2560 acres, originally granted to applicant, be valued in the manner provided by the Crown Titles Ordinance; and that Land Scrip of the same value be issued to him in complete satisfaction of all his claims whatever.

ALFRED DOMETT, *Chairman.*

*Committee Room, House of Representatives,
May 23, 1856.*