

R E P O R T

OF

T H E S E L E C T C O M M I T T E E

ON

T H E O T A G O R E S E R V E S ;

TOGETHER WITH THE MINUTES OF THE PROCEEDINGS OF THE COMMITTEE.

REPORT BROUGHT UP 25TH AUGUST, 1865, AND ORDERED TO BE PRINTED.

W E L L I N G T O N .

—
1865.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives, Tuesday, the 1st day of August, 1865.

ORDERED, That a Select Committee be appointed to examine into the claims of the Provincial Government of Otago to the Reserve in Princess-street, Dunedin (Block 8); also to the Reserve in Port Chalmers, adjoining Section No. 401, with power to call for persons, maps, and papers, and to report from time to time; Committee to consist of Mr. Robert Graham, Mr. Waring Taylor, Mr. A. J. Richmond, Dr. Featherston, Mr. Wilkin, and Mr. Reynolds.

(True Extract.)

F. E. CAMPBELL,
Clerk House of Representatives.

Tuesday, the 8th day of August, 1865.

ORDERED, That Mr. Stafford be added to the Committee on the Dunedin Reserves.

(True Extract.)

F. E. CAMPBELL,
Clerk House of Representatives.

REPORT.

THE Select Committee on the Dunedin and Port Chalmers Reserves have the honor to report that their labors have chiefly been directed to the examination of documents bearing on the Dunedin Reserves, including the Report of a Select Committee of the Provincial Council of Otago, a copy of which, with such evidence as has been taken, is annexed.

From the evidence it appears that the land comprising the Otago block was purchased from the Natives, on behalf of the New Zealand Company, on the 29th July, 1844, by Captain Symonds, Government agent; Mr. Tuckett, chief surveyor to the New Zealand Company; and Messrs. Clarke and Scott; and that in the deed, certain reserves were made by the Natives, but which did not comprise any of the lands in the Towns of Dunedin or Port Chalmers; and the deed contained no provision for any further reserves on behalf of the Natives. Prior to the purchase of this block in 1844, the New Zealand Company had entered into an arrangement with the Otago Association for the colonization of the Otago Settlement, and accordingly the block of land was handed over to the Association.

On the 20th October, 1846, in a letter addressed by Mr. T. C. Harington, the principal secretary to the New Zealand Company in London, to Colonel Wakefield, the principal agent of the company in New Zealand, he (Mr. Harington) conveys the opinion of the Court with regard to water frontages in the following words:—

“With regard to water frontages, the opinion of the Court, after consultation with Mr. Cargill, is that it will conduce more to the general advantage of the Settlement if such frontages, instead of being sold to private individuals, remain in every instance the property of the public, or of the Municipality—as the representatives and trustees of the local public. The acquisition of them by private persons may, indeed, hold out an inducement for the early erection of wharves and quays, but such erections may be otherwise secured by the Municipality; and it is considered that whatever may be the extent of the first advantage, it would be dearly purchased by a greater ultimate inconvenience.”

This opinion of the Court was subsequently confirmed by the following despatch from Mr. T. C. Harington to Colonel Wakefield, dated 21st October, 1846:—

“The draft of the despatch which I had yesterday the honor of addressing to you, Otago, No. 3, 46, having been communicated to Mr. Cargill, that gentleman has addressed to me the letter of which a copy is now enclosed; and I am instructed by the Court to request that you will give effect to the several suggestions therein contained.”

The suggestions above referred to were conveyed in a letter addressed to Mr. T. C. Harington, and dated 21st October, 1846. They are as follows:—

“1st. That Colonel Wakefield, in conjunction with the Governor or officer appointed, should make the requisite appropriations for fortifications, Custom-house sites, and all other Crown purposes. 2nd. That all water frontages, from about high water mark, be reserved for public use, as at Glasgow, Bordeaux, &c., &c. Such parts of the same as could not be improved immediately, or are required by the public, will of course be let, by the Municipal authorities, upon lease and on encouraging terms, to private parties: but with due provision against anything like the permanent system on the River Thames, in London. 3rd. That Colonel Wakefield, assisted by his surveyors, be requested to appropriate sites for all the other purposes referred to in clause 12, not omitting in each principal town, and under the head of ‘Public buildings,’ a site for one Church, with school and playground for the children; and also, in the case of Dunedin, a site for a College.”

It appears that these instructions were carried into effect by Mr. Charles Kettle (the principal surveyor of the New Zealand Company in Otago, and under whose directions the Town of Dunedin was laid out), as notified by him in his letter to Colonel Wakefield, dated 18th June, 1847, and from which the following is an extract:—

“I shall also attend to the throwing up of those sections in the upper Town (Dunedin) mentioned in the postscript of your letter No. 9, 47, to meet the views of the Court.”

This is also confirmed by a letter from Mr. T. C. Harington to Captain Cargill, dated 25th November, 1847, and which runs thus:—

“In my note this evening, I forgot to mention that the instructions respecting water frontages, &c., &c., had been received and directions given to Mr. Kettle to carry them out.”

The foregoing letter is backed, in the late Captain Cargill’s handwriting, as follows:—

“Instructions as to water frontages being reserved for public uses, received by Colonel Wakefield, and sent on to Mr. Kettle. This will so far alter the position of Town allotments.”

The first body of settlers arrived in Otago in 1848, prior to which the original map of Dunedin had been altered by the authorized reservation of all sections fronting the Harbour in accordance with the above instructions, thus on the first selection of Town allotments in Dunedin the holders of land orders were precluded from selecting any of the water frontages, as is shown by the evidence of the Rev. Dr. Burns and Mr. W. H. Cutten, taken before a Select Committee of the Provincial Council of Otago at its last session. Subsequently the New Zealand Company having, in July, 1850, ceased its colonizing operations and resigned its charter, the then Governor, Sir George Grey, on the recommendation of Mr. Mantell appropriated for Native purposes that portion of these water frontages which form the subject of this enquiry. This recommendation was made in a letter dated the 18th April, 1853, from Mr. Mantell to the Civil Secretary, and on the margin of which there is a Memorandum signed by the Governor dated 3rd June by which it appears that the recommendation was adopted.

OTAGO RESERVES COMMITTEE.

No Proclamation, however, appears to have been published on the subject nor has any Crown Grant been issued up to the present time.

After a careful consideration of the above facts, as to the equity of the case, your Committee have arrived at the conclusion that the land forming the Dunedin Reserves, having been reserved from sale for a specific public purpose, was wrongfully set aside for the use of the Natives, and therefore recommend that a Crown Grant be issued in favour of the Municipality of Dunedin, as trustees and representatives of the local public, as was evidently the intention of the New Zealand Company, conveyed in the instructions of Mr. T. C. Harington to Colonel Wakefield.

In reference to the Reserve at Port Chalmers, your Committee were unable to obtain any evidence to show that any portion of the land comprised therein had been previously set aside for public purposes, and therefore see no reason to alter the present arrangement for the disposal of it.

Wellington, 25th August, 1865.

WILLIAM H. REYNOLDS.

PROCEEDINGS OF THE COMMITTEE.

FRIDAY, 4TH AUGUST, 1865.

Present :—Mr. Reynolds, Dr. Featherston, Mr. Richmond, Mr. Wilkin, Mr. R. Graham, and Mr. Taylor.

On motion of Mr. Richmond, seconded by Dr. Featherston,—Mr. Reynolds was appointed Chairman.

Committee then adjourned to 5th August, at half-past Ten a.m.

SATURDAY, 5TH AUGUST, 1865.

Present :—Mr. Reynolds, Chairman ; Mr. Wilkin, Mr. Graham, Mr. Taylor, and Mr. Richmond.

Papers read—Letter from Mr. Mantell to Attorney-General, date 3rd January, 1865. Letter from Mr. Sewell to Colonial Secretary, date 29th June, 1865. Memorandum from Postmaster-General to the Cabinet, date 15th June, 1865. Memorandum from Mr. Mantell to the Cabinet, date 19th June, 1865. Letter from Postmaster-General to Superintendent of Otago, date 14th April, 1865. Letter from Superintendent of Otago to Postmaster-General, date 13th April, 1865. Letter from Colonial Secretary to Superintendent of Otago, date 28th March, 1865. Letter from Superintendent of Otago to Colonial Secretary, date 13th April, 1865. Letter from Mr. Kettle to Mr. Mantell, date 11th January, 1854. Letter from Mr. Kettle to Colonel Wakefield, date 18th June, 1847. Letter from Mr. Harington to Captain Cargill, dated 25th November, 1847. Letter from the Superintendent of Otago to Postmaster-General, date 20th April, 1865. Report of Select Committee of Provincial Council of Otago upon Message No. 4, date 17th May, 1865. Letter from Acting Superintendent of Otago to Colonial Secretary, date 14th July, 1865. Letter from Major Richardson to Colonial Secretary, date 13th July, 1865.

Committee adjourned to Monday, 7th August, at Ten a.m.

MONDAY, 7TH AUGUST, 1865.

Present :—Mr. Reynolds, Chairman ; Mr. Taylor, Mr. R. Graham, Mr. Richmond, and Mr. Wilkin. Committee adjourned to Wednesday, 9th August, after examining Mr. Mantell.

WEDNESDAY, 9TH AUGUST, 1865.

Present :—Mr. Reynolds, Chairman ; Mr. Wilkin, Mr. Stafford, Mr. Richmond, Mr. Taylor, and Mr. R. Graham.

Committee adjourned without fixing any time for next meeting.

SATURDAY, 12TH AUGUST, 1865.

Present :—Mr. Reynolds, Chairman ; Mr. Wilkin, Mr. R. Graham, Mr. Stafford, Mr. Taylor, Mr. Richmond.

Letters from Mr. Harington, Secretary of the New Zealand Company to Colonel W. Wakefield, the Company's principal Agent in New Zealand, dated the 20th and 21st October, 1846, were read by the Chairman.

A letter from Captain W. Cargill to H. Harington, Esq., dated 21st October, 1846, and referred to in the preceding letter, was read by the Chairman.

A conversational discussion took place, and it was ultimately resolved that the meeting should adjourn until Ten o'clock, a.m., Tuesday, 15th August, and that in the meantime James Macandrew, Esq., should be summoned to attend the Committee.

TUESDAY, 15TH AUGUST, 1865.

Present:—Mr. Reynolds, Chairman; Mr. Taylor, Mr. R. Graham, and Mr. Wilkin.

The minutes of the previous meeting were read and confirmed.

Mr. Mantell's evidence in writing was read:—

1.] Were the Natives made aware that the land in question was set aside as Reserves for them?—

Yes.

2.] When you recommended this as a Native Reserve, how was it marked on the plan?—It was marked a public Reserve, generally understood as reserved for quays and wharves.

3.] Did the Natives make any use of this Reserve afterwards?—I do not remember.

4.] Were the Reserves at Port Chalmers part of the plan of the township?—Port Chalmers Reserves consist of one-quarter of an acre of public Reserve, two unselected one-quarter acre of town sections, one-quarter acre No. 401 purchased by Government to complete Reserve, and remainder, portion of town belt.

Mr. James Macandrew, in reply to questions put by Mr. Wilkin, said—I cannot give you any information as to the precise date of the Reserves referred to being officially known to the Provincial Government; but it was first made aware of it about the year 1860, when application was made for some Crown Grants for the land adjacent. I was not in Dunedin when the first selections were made. I do not remember ever having seen in the Town of Dunedin a plan with this specific object marked on it, but I was well aware that the water frontage had been reserved for public purposes subsequent to its having been laid off in one-quarter acre sections.

The Committee adjourned *sine die*.

MONDAY, 21ST AUGUST, 1865.

Present:—Mr. Reynolds, Chairman; Mr. Wilkin, Mr. Taylor, Mr. R. Graham, Mr. Richmond.

The minutes of the previous meeting were read and confirmed.

Various documents and papers having been referred to, as also the evidence previously taken, a Report was drawn up by the Committee and ordered to be submitted to the House forthwith.

The Committee adjourned *sine die*.

FRIDAY, 25TH AUGUST, 1865.

Present:—Mr. Reynolds, Chairman; Mr. Taylor, Mr. Wilkin, Mr. Richmond, and Mr. Graham.

The minutes of the previous meeting were read and confirmed.

The Report of the Committee was submitted, and on the motion of Mr. R. Graham, the words "as to the equity of the case" were inserted between the words "facts" and "your" in the last paragraph but one.

The Report was then agreed to, and having been signed by the Chairmen, was ordered to be presented to the House, and the meeting adjourned *sine die*.

APPENDIX.

MESSAGE No. 4.—(Brought up by Mr. RENNIE, May 17.)

Your Committee report: That, after full enquiry into all the circumstances connected with the Reserve in question, having carefully examined all existing documents bearing upon the subject; having also taken the evidence of several of the earlier settlers in the Province,—among others, that of the Rev. Dr. Burns, W. H. Cutten, and A. C. Strode, Esquires, whose intimate acquaintance with the early affairs of the Province renders their testimony of peculiar value,—

They have unanimously arrived at the following conclusions:—

1st. That in the original survey of Dunedin by the New Zealand Company's Surveyor, the late Mr. Kettle, the land referred to in the message was laid off, in common with the rest of the water frontages, into quarter-acre sections, open for selection under the New Zealand Company's land orders.

2nd. That prior to the first party of immigrants selecting under their land orders the whole of the water frontage opposite what was expected to be the business part of the town, was withdrawn from sale with a view to the ultimate formation of a public quay or wharf, and for general public purposes—that such withdrawal was made under the direction of the late Colonel Wakefield, the principal agent of the New Zealand Company in the Colony, under instructions of the Secretary in London, Mr. Harington.

3rd. That several of the first immigrants insisted upon selecting the very spot alluded to in His Honor's message, inasmuch as it appeared open for selection upon the official map of the town exhibited in New Zealand House, before they left London, and that they were induced to waive their right of selection solely on the ground that it had been withdrawn for public purposes, and would, in fact enhance the value of the sites which they actually did select.

4th. That from the arrival of the first settlers down to the present time, the Reserve in question has been partially used as the site of various public buildings,—in the first instance, an hospital having been erected upon it by the New Zealand Company, and subsequently, immigrants' barracks and stores for luggage, constabulary depôt, &c., &c., by the Provincial Government.

5th. That in 1853, Mr. Walter Mantell, the then Commissioner of Crown Lands, recommended His Excellency to set apart the land in question as a Maori Reserve, which recommendation appears to have had His Excellency's sanction.

6th. That this recommendation was made and sanctioned without the knowledge or concurrence of the several parties interested, to wit, the Provincial Government and the land purchasers, whose rights were invaded by such Reserve.

7th. That had the circumstances been known even at the time of Mr. Mantell's retirement from office, which it was not, in consequence of that gentleman having stripped his office of all official documents,—the same action would have been taken to set the Reserve aside as was successfully adopted with respect to another public Reserve, known as Moray Place, or the Octagon, which at the instigation of Mr. Mantell, would have been granted as a site for a Church, but for the strenuous action and protest of the Provincial authorities.

8th. That the alienation of Moray Place (or the Octagon) would have been no more an act of confiscation, and an arbitrary disregard of the vested rights of the land purchasers (as those rights were defined in the terms of purchase as between themselves and the New Zealand Company, and subsequently homologated by the Imperial Government,) than would be the alienation of the Reserve now under consideration.

9th. Your Committee, therefore, recommend that the foregoing facts be communicated to the General Government, under the full assurance that not only will the Crown Grant for the Reserve in question be at once issued in terms of its original destination, but that the money which has been derived from the same will be restored to the Province as its rightful owner.

ALEX. RENNIE, Chairman.

MINUTES.—APRIL 26TH.

Committee met. Present—Messrs. Hepburn, Burns, W. H. Reynolds, and Rennie (Chairman.)

Mr. Burns read the original resolution on the subject, submitted to the Provincial Council by the Provincial Secretary.

It was then resolved,—To take the evidence of the the Rev. Dr. Burns, Minister of the first Presbyterian Church of Otago, on the subject of the original Reserve, and its subsequent alienation, if any. The Clerk was instructed to get the correspondence upon the subject that was laid on the table of the House for the information of the Committee.

Resolved—To take the evidence of W. H. Cutten, Esq., Commissioner of Crown Lands, Otago.

Resolved—To desire the attendance of Mr. A. H. Ross, of the Survey Office, to produce the original map of the City of Dunedin, signed by Mr. Chief Surveyor Kettle, and having the Reserves tinted as allocated.

APRIL 27TH.

Committee met. Present—Messrs. Rennie, Burns, Macandrew, and Hepburn.

The Rev. Dr. Burns attended, as also Mr. Ross and W. H. Cutten, Esq., and replied to questions put to them.

MAY 2ND.

Committee met. Present—Messrs. Macandrew, Hepburn, and Rennie (Chairman.)

Resolved—To take the evidence of A. C. Strode, Esq., R.M., and Native Commissioner.

MAY 4TH.

Committee met. Present—Messrs. Burns, Macandrew, and Rennie.

Mr. A. H. Ross attended with the letter book of the Survey Office, for 1854, and letters bearing on the subject were read.

It was resolved to send a series of questions on the subject to A. C. Strode, Esq., for his reply.

MAY 11TH.

Mr. Strode having forwarded his replies, as desired, the Committee considered and adopted their report.

EVIDENCE.

The Rev. Dr. BURNS, examined:—

- 1.] You were officiating as Minister to the first body of settlers arriving in Otago? I was.
- 2.] In what year did you arrive? In 1848.
- 3.] Have you any knowledge of a Reserve being laid off in the Town of Dunedin, fronting the water, from Jetty Street southwards, by Captain Cargill, as the Resident Agent of the New Zealand Company? There was such a Reserve laid off for wharfiges. Instructions were given to Mr. Kettle the Chief Surveyor, to strike out the whole of the sections fronting the water, and I have reason to know that this was done. It was done by orders of the Resident Agent of the New Zealand Company. The parties selecting under the first ballot were exceedingly sorry that the whole of the town sections fronting the water had been thus cut off and reserved, so that they could not select them. The map that was submitted to the first selectors had these frontage sections simply colored pink, and Captain Cargill informed them that these sections were reserved. The only special Reserves then were for the Church, the Manse, and the School.

4.] Do you know why these frontages were reserved? There had been some discussion about thus reserving the water frontage, and the Chief Surveyor had instanced the case of London, in which city the not following such a course had been found extremely inconvenient.

5.] Have you any documents that would give the Committee any information on the subject of that Reserve? No; but I recollect when the Ordinance for reclaiming the harbour was sent to the Governor at Auckland for his sanction, it was returned on the ground that the parties owning the water frontages had not been dealt with; when it was stated that the three Reserves before mentioned were all that existed having such frontage.

6.] When did that occur? During the Superintendency of Major Richardson.

7.] Have you heard of any alienation of that Reserve? No.

8.] Then you have never heard of any such Reserve as one for Native purposes having been made there? No; this is the first I have heard of it. (Initialed) T. B.

Mr. A. H. Ross, Survey Office, examined:—

1.] What is your occupation? I am Chief Draughtsman in the Survey Office.

2.] You produce two maps—what are they? One is the original map of the Town of Dunedin, south end, showing blocks and sections as originally laid off by the surveyor. The other is a map of the south end of Dunedin, showing areas having water frontages as “Reserves for Public Purposes.”

3.] Are these maps kept in strict custody? They are; they are kept in the safe at the Survey Office, and are never allowed out of the office except in charge of an officer of the department.

(Initialed) A. H. R.

W. H. CUTTEN, Esquire, examined:—

1.] Have you any knowledge of a Reserve being laid off fronting the water in the Town of Dunedin southward from Jetty Street, by Captain Cargill, as Resident Agent of the New Zealand Company? Yes.

2.] If so, when was this Reserve made, and for what purpose? The first I knew of the Reserve being made was upon my landing in the Province, in March, 1848. I was one of the early purchasers of land under the New Zealand Company, and was desirous of selecting one of the sections that had been laid out fronting the water. Captain Cargill, the New Zealand Company's Agent, declined to allow me to make such selection, and stated that none of the water frontages would be sold, as they would be reserved for a quay fronting the water, and the selection of any of them by any private person would interfere with any future improvement of the harbour. Consequently, I selected elsewhere. I was one of the first purchasers, and the only available spot that I could then secure was in Stuart Street. The whole frontage was reserved as far as Pelichet Bay.

3.] Do you know of any Reserve for Native purposes in Princes Street? As Commissioner of Crown Lands, I know of such a Reserve. I never was aware of this land being reserved for Native purposes, until I became a Crown Lands Commissioner, in the year 1858.

4.] Are you aware by whose orders it was alienated, and upon what grounds? Mr. Mantell, as Crown Lands Commissioner, recommended by letter to the Governor, that a portion of the water frontage, the piece of land in question, be reserved for the Maoris, as a place on which to draw up their boats, &c, and also a piece at Port Chalmers for the same purpose; and the Governor authorized him to make a Reserve for that purpose. The land is not yet alienated; the fee simple is still in the Crown.

5.] Is there any portion of this frontage let? As Crown Lands Commissioner, I found that parties were continually squatting upon this frontage reserve, and I wrote requesting that I might be allowed to let it for short periods, and received permission to do so. This was accordingly done, and the land yields a revenue of about £2000 a-year; at present about one-third of the Reserve is occupied by Provincial Government Buildings and is consequently unlet.

W. H. CUTTEN.

SELECT COMMITTEE UPON MESSAGE NO. 4.

SIR,—

Provincial Council Chambers, Dunedin, 26th April, 1865.

You are requested to attend a meeting of the above Committee, at ten o'clock to-morrow morning, for the purpose of giving evidence relative to the reserve of the water frontage of Dunedin, and to bring with you the original map of Dunedin, and signed by Mr. Kettle, the late Chief Surveyor, tinted to show the Reserves.

A. H. Ross, Esq.,
Survey Office.

I have, &c.,

A. RENNIE, Chairman.

REVEREND SIR,—

Provincial Council Chambers, Dunedin, 26th April, 1865.

In accordance with the wishes of a Select Committee of the Provincial Council, I have the honor to request that you would attend at the office of the Secretary for Public Works at ten o'clock a.m. to-morrow, to give evidence relative to a reserve of the water frontage of the City of Dunedin, and any alienation of the said frontage; and to bring with you any documents that may throw light upon the subject of such Reserve, or such alienation, if made, that you may have.

I have, &c.,

Rev. Thomas Burns, D.D., Dunedin.

A. RENNIE, Chairman of Committee.

OTAGO RESERVES COMMITTEE.

SIR,—

Provincial Council Chambers, Dunedin, 26th April, 1865.

I am desired by the Select Committee of the Provincial Council upon Message No. 4, relative to a Reserve, Dunedin, to request that you would be so good as to attend at the office of the Secretary for Public Works, at half-past ten o'clock to-morrow morning, to give evidence relative to the reserve of the water frontage of the City of Dunedin, and any alienation of the said frontage, and to bring with you any documents that you may have that may throw light upon the subject of such Reserve, or of such alienation, if made.

I have, &c.,

W. H. Cutten, Esq., Dunedin.

A. RENNIE,
Chairman of Committee.

SIR,—

Provincial Council Chambers, Dunedin, 4th May, 1865.

In accordance with the wishes of the Select Committee of the Provincial Council on Message No. 4, I have the honor to request that you would be so good as to furnish written replies to the enclosed questions relative to a reserve for public purposes in the City of Dunedin.

I have, &c.,

A. C. Strode, Esq., R.M.,
Native Commissioner for Otago, &c., &c.A. RENNIE,
Chairman of Committee.

QUESTIONS proposed by the Select Committee of the Provincial Council upon Message No. 4, relative to a Reserve for public purposes in Dunedin, to A. C. Strode, Esq., R.M., &c., &c.—

- 1.] You are the Resident Magistrate for Dunedin, and Native Commissioner for the Province of Otago?
- 2.] When did you arrive in the Province?
- 3.] Have you any knowledge of a Reserve being laid off for public purposes fronting the water, and running southward from Jetty Street, Dunedin?
- 4.] If so, do you remember when the said Reserve was laid off, and by whose authority?
- 5.] Are you aware of any steps having been taken subsequently with the view of diverting the said Reserve to any other purpose than that of a public Reserve?
- 6.] If so, by whose authority was such diversion proposed to be made?

REPLIES to Queries proposed by the Select Committee of the Provincial Council upon Message No. 4.

- 1.] I am the Resident Magistrate of Dunedin, and Commissioner for Native Reserves for the Province of Otago.
- 2.] I first arrived in this Province in the month of April, 1848.
- 3.] I have no knowledge of the purpose for which the piece of land referred to was originally laid off. As one of the general public, I was always led to understand it was a public Reserve.
- 4.] I do not know when the Reserve was originally laid off, nor by whose authority it was so done.
- 5 and 6.] I recollect being informed, I think in the year 1853, by Mr. Mantell, the then Commissioner of Crown Lands for this Province, that he had recommended for the consideration of the Governor-in-chief, that the piece of land indicated should be appropriated as a Native Reserve; and I also recollect Mr. Mantell subsequently informing me that his suggestion had been approved of, and that the land was consequently set apart for the purposes of a Native Reserve.

Dunedin, 4th May, 1865.

A. CHETHAM STRODE.

Copy of LETTER by W. CARGILL, Esq., to the COLONIAL SECRETARY, and mentioning Reserve in question.

SIR,—

Dunedin, 6th March, 1857.

With reference to your despatch No. 39, 11th February, 1856, on the subject of my letter of 26th June, 1855, transmitting a map of Dunedin, showing the public Reserves that had been made by the New Zealand Company for the general purposes declared in Section 12 of the "Terms of Purchase," and of my further letter of 15th September following, enclosing duplicate of the same map in parchment, and requesting that these reserves might be granted in *cumulo* to the Superintendent as a corporation, in order to be applied to the purposes as set forth in the "Terms of Purchase."

In your said despatch you state, "That His Excellency is advised that he would not be justified in granting land upon trust for the public service generally, but that the particular objects for which the grant is made, as, for instance, for the site of a church, or chapel, or cemetery, &c., should be specified."

I have therefore the honor to transmit a series of maps (eleven in number), in order that the lands may be severally granted as specified in the Schedule.

And with respect to the last paragraph of your despatch, I have to observe that the Reserves for fortifications, as shown on the original map of town and harbour, are, the island at Port Chalmers, and the commanding position, Tairoa's Head, at the mouth of the harbour.

With respect to the annexed Schedule, I have the honor to propose that Nos. 4, 5, and 10 be granted to the Reverend Thomas Burns and William Cargill, as trustees on behalf of the Presbytery of Otago; and each of Nos. 1, 2, 3, 6, 7, 9, and 11, to the Superintendent as a corporation; and No. 8 either to the same or such other party as may be named by the Governor.

I have, &c.,

To the Hon. the Colonial Secretary,
Auckland.

W. CARGILL.

SCHEDULE.

1. Hospital Reserve (occupied).
2. Octagon Reserve (for public gardens).
3. Gaol Reserve (occupied).
4. Church Reserve, Church Hill (assigned by the Company for the first church of Otago, now about to be erected).
5. Church and School site (occupied by the Presbytery.)
6. Mechanics' Institute (occupied.)
7. Provincial Government, for buildings, &c.
8. General Government, for buildings, &c.
9. Reserve for buildings, &c., connected with public jetty.
10. Manse, first church (occupied).
11. Reserve for general purposes, Provincial Government.

W. C.

SIR,—

Survey Office, Dunedin, 11th January, 1854.

In reply to your letter of yesterday's date, I have the honor to inform you that by some oversight a list of the Reserves does not appear to have been made as proposed by Mr. Secretary Harington in his letter of 20th October, No. 346. You will see by the map that Special Reserves were made for a town belt, cattle market, cemetery, and public gardens.

From the documents relating to the survey of the Otago Block, which I lent you the other day, you will also perceive that the Reserves near the shore of the harbour were made for public wharves, in order that the public might have free access to the water. There was also a Reserve set apart especially for Custom House and Post Office at the landing place at Port Chalmers, although no note appears to have been made of the proposed appropriation. The other Reserves were made for public purposes without being intended (so far as I now remember) for any particular purpose.

I have, &c.,

W. Mantell, Esq., J.P.,
Commissioner Crown Lands, Dunedin.

C. H. KETTLE,
Government Surveyor.

EXTRACT from Letter of W. H. CUTTEN, Esq., Chief Commissioner.

Waste Land Board Office, Dunedin, 14th April, 1858.

* * * * *

Besides the above Reserves, which may be said to be the whole coming strictly within that description, a Reserve was made at Port Chalmers of nearly an acre in extent—it consists of Sections 403 and 404, and a portion of unsurveyed land; it is not shown on the record plan.

This Reserve was recommended by Mr. Mantell, and was sanctioned by the Governor in 1854-5. A quarter of an acre adjoining Section 401 was purchased by Mr. Mantell from Mr. R. Williams, with the sanction of the Governor. The Reserve was made under pretence of its being required for the use of the Natives landing at Port Chalmers, but for that purpose it is entirely useless, as it has a steep frontage to the beach of considerable elevation. It has never been used by the Natives.

A Reserve for a similar object was made at Dunedin. Its exact extent is not defined, but comprises all the land between the shore of the harbour and the east side of Princes Street, and abuts upon the land upon which the Manse has been built. This Reserve was made upon the authority of the Governor, but it appears to me that His Excellency the Governor exceeded the powers vested in him in this latter case, the land in question having been already set apart as a public Reserve under the Otago terms of purchase.

It will however be the especial duty of the Commissioners under "The Native Reserves Act" to ascertain the correct legal position of both these latter Reserves, if Reserves at all; they are lands over which the Native Title has been extinguished. As Reserves for the object contemplated they are utterly useless.

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