

Government, and give them an opportunity of availing themselves of the power given to the Colonial Secretary by the ninth clause of the Act of 1865.

We accordingly postponed our decision, and Mr. Rogan went to Wellington; whilst Mr. Monro and I proceeded with the case of Waitara South.

Mr. Rogan returned with the Hon. Colonel Russell, the Minister for Native Affairs, who effected an arrangement with the claimants, and ultimately all the claimants except one, that of Rawiri Motutere, were withdrawn to our satisfaction.

What the terms of Colonel Russell's arrangement were, the Court did not think it their duty to inquire.

In consequence of this agreement having been come to, no adjudication was made by the Court, as our jurisdiction was gone.

In the case of Rawiri Motutere, who had returned home to Waihanāe, the Court accepted the undertaking of the resident owners to admit him as one of themselves.

#### WAITARA BLOCK.

A large amount of evidence was taken on behalf of the claimants.

Mr. Lewthwaite preferred a claim to compensation on account of the defeat of "The Land Orders and Script Act, 1858," under which he held valuable rights, and the Court gave the following judgment.

I beg to remark that in a case of this importance and intricacy, it would have been a great relief to the Court if the Crown had afforded to the Court the assistance of counsel in arguing the Crown side; a matter involving such large interests, and of so intricate character, in our opinion justified the Court in expecting this assistance.

After our decision numerous other claims of a like character were not persisted in.

The claim of this gentleman is as follows:—

1. "That early in the year 1841 I purchased several sections of land from the Plymouth Company of New Zealand, and amongst them were four sections of land in the Waitara District, numbered respectively on the surveyor's plan 431, 432, 451, and 360, each containing 50 acres, together with two sections situated in the Mangoraka District, also containing 50 acres each.

2. "That in March of the same year I left England for the purpose of selecting and occupying the said sections of land.

3. "That early in 1842 I selected the said sections, and held quiet possession of the same until Captain Fitzroy, as Governor, paid a visit to New Plymouth, ignored the award of Mr. Commissioner Spain, and gave notice to all who held lands in the aforesaid districts that they were trespassers upon the said lands.

4. "That not being able to make use of these lands, I left the Colony for England in 1845.

5. "That in 1847 the New Zealand Company awarded compensation to the resident and absentee land owners who had been unable to possess their lands to that date.

6. "That on my return to the Colony in 1854 the committee appointed to settle this compensation awarded me resident or preferential scrip to the amount of 75 acres for each allotment.

7. "That I still hold this scrip, never having had an opportunity of exercising it upon available land such as it purported to secure.

8. "That 'The Land Order or Scrip Act, 1858,' purporting to deal equitably with these claims, omits to recognize this preferential scrip, and also to provide for claimants repossessing their original sections where no interference is made with any general scheme of land settlement.

9. "That in addition to the several sections to which I am entitled, I beg also to claim 1000 acres as compensation for non-possession of my original sections to the present time, as the market value of each Waitara section being in 1842, £300, would now amount to £3000, and that if each Mangoraka section being then value, £200, would now amount to £2000; or altogether £16,000.

10. "That having waited nearly twenty-five years for these lands, in the expectation of settling my family upon them permanently, I have the confidence to hope that I shall be awarded the full amount of my claim.

"JNO. LEWTHWAITE."

The circumstances of this case, admitted for the purpose of deciding the legal questions, are as follows:—

In 1841 the claimant purchased from the Plymouth Company of New Zealand, orders for or contracts for the purchase of sections of land in the Settlement of New Plymouth. In 1842 he made his selections at Waitara and Mangoraka, and held quiet possession of his lots until he was ejected by Governor Fitzroy. Subsequently to this ejection, the Plymouth Company of New Zealand became amalgamated with the New Zealand Company. In 1847 an Act was passed by the Imperial Parliament (X. and XI. Viet. cap. 112), by which the company was authorized upon the terms and in manner therein mentioned, to relinquish their undertaking, and surrender to Her Majesty all their claims and title to lands in the Colony; and on notice being given by the company of their intention to exercise the power thus conferred—all such lands were to become demesne lands of the Crown, subject nevertheless to any contract which should be then subsisting in regard to any such lands. On the 4th of May, 1849, an agreement was entered into between the company through Mr. Fox, their principal agent, and the holders of land orders, which contained the following terms, hereafter called the terms of compromise:—

To enable resident purchasers to select the land to be given for the compensation hereinafter mentioned, the company will, after providing for the existing claims of purchasers, offer for the purpose the land already at its disposal in this district, as well as such districts as may hereafter be purchased by the Government on its account in the settlement of New Plymouth, or in immediate connexion therewith.

That resident purchasers shall be declared entitled to receive, as the maximum of compensation, 75 acres of land for every 50 acres of land purchased; the amount of such compensation in each case to be determined on its individual merits with reference to any circumstances which may distinguish it from any other purchases.