

P A P E R S

RELATIVE TO

A CLAIM ON BEHALF OF THE PROVINCE OF WELLINGTON

FOR A REFUND OF EXPENSES

ON ACCOUNT OF

THE SURVEY OF NATIVE LANDS.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF
HIS EXCELLENCY.

WELLINGTON.

—
1869.

PAPERS RELATIVE TO REFUND OF EXPENSES ON ACCOUNT OF SURVEY OF NATIVE LANDS IN PROVINCE OF WELLINGTON.

No. 1.

MEMORANDUM for the COLONIAL TREASURER.

THE annexed *precis* of the papers connected with the claim of the Province of Wellington for payment in respect to surveys over Native lands, has been prepared with the view of showing the papers in order of their dates and in their sequence and mutual inter-dependence. A cursory inspection of this *precis* will show that these papers are so inconclusive as to any of the points at issue, that I can only respectfully suggest that the whole should be placed in the hands of some impartial person, who should be empowered to take such further evidence as he might deem necessary, and then to report what is the liability, if any, of the General Government in respect of the past, and what it ought to contribute in future to the cost of these surveys, and on what conditions such aid should be granted.

J. WOODWARD.

17th December, 1868.

Enclosure in No. 1.

PRECIS OF PAPERS.

Date.	Nature of Paper.	Writer.	To Whom Addressed.	Subject.
1867. May 20	Copy of Letter	H. Jackson, Chief Surveyor of Province	Commissioner of Crown Lands	Enclosing three Schedules of surveys over Native lands on reserves during 1866-7. Schedule No. 1.—Blocks connected by triangulation, cost at 1d. per acre, £295 14s. 8d. Schedule No. 2.—Native reserves resurveyed, cost at 6d. per acre, £283 5s. Schedule No. 3.—Copying plans under Native Lands Act, and cutting N.W. boundary of Rangitikei Block, cost stated as £272. Suggests the Province is put to heavy expenses for checking surveys under the Native Lands Act, and proposes a staff for the purpose, at a cost of £752 per annum.
May 23	Letter ...	W. Fitzherbert, Commissioner of Crown Lands	Superintendent	Encloses the above, thinks the recommendations reasonable, and presses them on the attention of the Superintendent.
June 14	Letter ...	Superintendent	Colonial Secretary	Encloses letter of Chief Surveyor, and asks for payment of expenses incurred, which it states to be £778 19s. 8d. Submits Mr. Jackson's proposal for consideration, and asks the Government to contribute "in future" to the cost of surveys referred to, £752 per annum. Suggests that letter be referred to Secretary for Crown Lands and Native Under Secretary.
June 15	Minute ... (as above.)	W. Gisborne, Under Secretary A. Domett, Secretary for Crown Lands	...	Thinks there is no conceivable ground for charge in Schedule 1. Thinks that charge in Schedule 2 is for the benefit of Natives, and that something should be paid on this account out of Native funds, if available. Considers charge in Schedule 3 "extraordinary and preposterous." The checking of plans, is considered, was offered to the Province solely for its benefit. If surveys are to be made, they should be done by Mr. Heale, or under his direction.
June 26	Minute ...	W. Rolleston, Native Under Secretary	...	Considers surveys of reserves should be paid for by Natives if done at their request, not otherwise. The General Government in no case liable. If it had required surveys it would have had them done by its own Surveyor.
June 28	Letter ...	Colonial Secretary	Superintendent ...	Acknowledges letter of 14th instant. The Government cannot admit the charges. For cost of surveys under Native Lands Act, the Government might make advances, but not absolute payments. Points out discrepancy in amount claimed, which, according to enclosures, should be £850 19s. 8d. instead of £778 19s. 8d. as stated in letter. Makes objection to charges in Schedules for reasons given in Mr. Domett's minute. The system proposed for future surveys had been partially initiated in Auckland, but, if adopted, the entire direction and management of the staff must rest with the General Government.

PRECIS OF PAPERS—*continued.*

Date.	Nature of Paper.	Writer.	To Whom Addressed.	Subject.
1867. Sept. 4	Memorandum	H. Jackson ...	Commissioner of Crown Lands	Charge of £283 5s. was for surveys not done by General Government Surveyor, or done incorrectly. Charge of £295 should not be borne by the Province, because triangulation was over Native lands. Charge of £272 is made for same reason as that for surveying Native reserves. The Province derives no benefit from the plans that were copied. Seven hundred and fifty-two pounds was asked for yearly expenses, not knowing that the General Government contemplated employing a staff of surveyors. Thinks the Province could do it more economically.
Oct. 16	Circular ...	Colonial Secretary	Superintendent ...	Government had found it necessary to make provision for testing surveys under Native Lands Act. Mr. Heale had been appointed Inspector of Surveys. General triangulation had been found necessary. Asks that Chief Surveyor may be instructed to correspond direct with Inspector, and facilitate the performance of his duties.
Nov. 18	Minute ...	Superintendent ...	Commissioner of Crown Lands	Thinks that Chief Surveyor cannot be placed under the control of Mr. Heale without interfering with his other duties and entailing heavy expense on the Province.
Nov. 22	Minute ...	Commissioner of Crown Lands	H. Jackson ...	Asks how far Mr. Jackson can co-operate with Mr. Heale without interfering with his other duties, and what will be the extra cost of such special services.
Nov. 23	Memorandum	H. Jackson ...	Commissioner of Crown Lands	Circular (of 16th October) does not define the duties expected. Should General Government defray the cost of triangulation and afford his office assistance, it would cost Provincial Government about £125 per annum. Would undertake the work if only subject to such control from Inspector as would ensure accuracy.
1868. Jan. 13	Minute ...	Superintendent	Explains that he claimed £778 19s. 8d. instead of £850 19s. 8d. because he deducted the cost of cutting N.W. boundary of Rangitikei Block. Thinks however that the Province should only be charged with half of this.
Feb. 21	Letter ...	Native Minister	Superintendent ...	General Government is prepared to contribute £62 13s. 4d. per month on conditions:— 1st. One surveyor and party to be continually employed in extending triangulation over Native lands. 2nd. The Provincial Chief Surveyor to be Deputy-Inspector. 3rd. To furnish to Secretary for Crown Lands "a working copy on mounted paper" of existing triangulation, and to post additions thereon from time to time. 4th. To keep duplicate sets of record maps, one for Secretary of Crown Lands, and one for Provincial use. Arrangement to take effect from 1st of March next.
Feb. 29	Letter ...	H. Jackson ...	J. J. Holdsworth, Deputy Commissioner of Crown Lands	Has not retained copies of Minutes. Thinks there was a charge made of about £850 for "year ending 1866-7." The only expense during "the present financial year" will be for copying, "which may amount to £200." The sum (£752) named by the Native Minister is sufficient for the present. Remarks on conditions No. 1.—Did not intend that one surveyor and party should be exclusively employed, as this alone could cost £700. No. 2.—Duty proposed was contemplated by him. No. 3.—Will furnish copy of triangulation to Secretary for Crown Lands, but cannot certify to it till work is completed. No. 4.—Copies of plans are retained, but to furnish duplicates would cost £200 additional.
Sept. 10	Letter ...	Superintendent ...	Native Minister	Returns correspondence, with copy of Mr. Jackson's, in reference to letter of 21st February, and expresses hope that appropriation will be made for the service. Requests special attention to Mr. Fitzherbert's letter of 23rd May, covering memorandum from Mr. Fitzherbert (<i>sic</i>). Believes that the Commissioner regarded the terms as fair and reasonable, and also believes them to be similar to the arrangements with Hawke's Bay.
Oct. 7	Minute ...	Native Minister	Under Secretary Native Department	The conditions of the letter of 21st February will necessitate a larger cost than was contemplated, for which it is hoped the Government will provide. Desires Under Secretary to ascertain whether anything has been paid in terms of letter of 21st February. Thinks that letter was written after an interview with Mr. Jackson at the Land Office, "at any rate, the substance of the letter was agreed to by him as sufficient payment."
17	Letter ...	Provincial Secretary	Native Minister	Asking for copy of correspondence.

No. 2.

Mr. J. WOODWARD to Mr. R. PHARAZYN.

SIR,—

Treasury, Wellington, 31st December, 1868.

I am instructed by the Colonial Treasurer to inform you that a claim has been made by His Honor the Superintendent of Wellington, on behalf of the Province, for refund of certain expenses alleged to have been incurred for surveys over Native lands. The General Government is not at present prepared to admit this claim, but, being desirous that the matter should be settled, has proposed that the whole case should be submitted to some impartial person, who should decide as to what amount, if any, the Province is fairly entitled. The Superintendent has assented to this, and Mr. Stafford now directs me to ask whether you will act as referee. Should you consent, the whole of the papers shall be sent you, with a synopsis that has been prepared, from which you will learn what the state of the question is, and be able to decide as to what further evidence may be required.

I may add that the Provincial Government has expressed its willingness to afford any assistance in its power, and to direct any of its officers to attend you, whose evidence or opinion you may wish to take.

I have, &c.,

J. WOODWARD,

Assistant Treasurer.

R. Pharazyn, Esq., Wellington.

No. 3.

Mr. R. PHARAZYN to the Hon. the COLONIAL TREASURER.

SIR,—

Thorndon, Wellington, January 23rd, 1869.

Having carefully read and considered the papers submitted to me by the General Government, together with others forwarded by His Honor the Superintendent of Wellington (noted in margin), and having made such further inquiries as I deemed necessary, I beg to offer the following opinion upon the whole question in dispute between the General and Provincial Governments, on which I have undertaken to act as referee. I understand from a memorandum of Mr. H. Jackson's (Chief Surveyor of this Province) that the claim made by his department against the General Government, on account of the survey of Native lands, amounted on the 31st December, 1868, to the sum of £1,912 19s. 8d., but I gather from other documents that of this sum only £850 19s. 8d. was originally claimed, and that this is the amount objected to by the Colonial Secretary of the 28th June, 1867 (number in margin), and it is with this that I have dealt more particularly, though my decision must be taken as a whole. Taking the first of the items of which the claim for £850 19s. 8d. is composed, it appears that the Provincial Government ask for £295 14s. 8d. for connecting runs and other blocks of land belonging to the Natives by trigonometrical survey.

Although certain indirect advantages may accrue to the Colony, as distinguished from the Province, from this work having been done, for which it may fairly be asked to contribute something in the manner I shall presently suggest, yet I do not think that, viewing the subject as one involving a general principle, the claim ought to be admitted. It is clear to my mind that the triangulation of this Province was undertaken for its own benefit, and that the cost would have been much the same had there been no Native reserves and no Native land adjoining that of the Crown.

It is true that the Native owners are benefited, but only incidentally, and as a necessary consequence of the scientific and technical operations required in order to ensure accuracy in any extreme system of surveying, and the Colony cannot be expected to pay for what merely adds to the value of private property.

The second item is a claim for £283 5s. for surveying Native reserves. I find that the whole of these reserves were made at the time the land was acquired by the Land Purchase Commissioners, virtually for the Province, and the survey of such reserves appears to me to have been part of the payment made to the Native owners. It may also be said that the land belonging to the Province was surveyed round the margin of these reserves, as a necessary part of the system under which these lands are sold, and though the Natives are unquestionably benefited, it is only as private persons, and I do not think the Colony ought to accede to this demand, any more than it ought to recoup to the Province any other portion of the money expended from time to time in the purchase of Native lands for which no adequate return has been made to the Province.

The last item is £272 for copying plans required under the Native Lands Act (200), and for surveying the inland boundary of the Rangitikei block (72). I think this claim may be fairly admitted. So far as the £200 is concerned, the Province has been put to this expense entirely in consequence of the operation of the Native Lands Act. It is indeed true that these plans are required chiefly in order to protect the interests of the Province, and to prevent the Native Lands Court from granting away in error either lands belonging to the Province or to private persons, but then such safeguards were rendered necessary in consequence of the existence of the Native Lands Court, and that Court was constituted of a general and political nature, affecting the well-being of the Colony as a whole.

Practically the original plans are useless to this Province, as they are sent to Auckland as soon as executed. The remaining part of the items being small in amount, £72, ought, I think, to be paid with the above as a portion of the "set-off" to which I have already referred, and also because the work in the execution of which this money was expended is likely to facilitate the working of the Native Lands Act.

I now come to the remaining items, about which there is no difficulty as regards principle, as the Native Minister has assented to the proposal of the Provincial Government that an annual subsidy should be granted to the Province for the purpose of carrying on the surveys required under the Native Lands Act, so far as these are of a general character.

I think, however, in order to compensate the Province for that loss to itself which has become a gain to the Colony now that the Native Lands Act is in full operation, by lessening the expense of checking the surveys required under that Act, that the sum of £1,000 instead of £752 should be

paid to the Province for the year ending December 31st, 1868, and that for the future an annual subsidy of £1,000 should be granted for the trigonometrical survey, &c., of Native lands, as proposed by Mr. Jackson in his memorandum on Mr. Heale's letters, a communication to which I beg particularly to call the attention of the Government.

I am not sure if any such suggestions and recommendations as I have made come within the scope of my duties as referee, but as the whole question has been placed before me in a general manner, I have thought it proper to make them.

Practically my decision will remain unaffected, whether the Government adopt the course I propose or not, so far as the past is concerned, provided the total amount awarded is paid over to the Provincial Government.

Amount claimed by Province:—

	£	s.	d.
To December 31st, 1866	850	19	8
Copying plans, 67	200	0	0
Part Salary of Chief Surveyor	100	0	0
Stationery, &c.	10	0	0
Expenses allowed, 1868	752	0	0
	£1,912	19	8

Amount awarded to end of last year, 31st December, 1868, being the total sum to which I think the Province is entitled, taking all the circumstances into consideration	£1,482	0	0
---	--------	---	---

The effect of my award is to strike off the sum of £430 19s. 8d. from the amount claimed by the Province, and I am of opinion that the balance, being £1,482, should be paid over to the Provincial Government of Wellington, in full of all demands for survey work performed for the Colony up to the 31st December, 1868.

To the Honorable the Colonial Treasurer,
Wellington.

I have, &c.,
ROBERT PHARAZYN.

MEMORANDUM.

THIS award is defective in one particular: it does not say anything as to the costs of reference.
25th January, 1869.

J. WOODWARD.

I have no remarks to make. The award goes beyond the commission, but it does not appear desirable to take exception. The charges were last year made local.

19th February, 1869.

J. C. RICHMOND.

No. 4.

The Hon. E. W. STAFFORD to His Honor I. E. FEATHERSTON.

Colonial Secretary's Office,
Wellington, 2nd March, 1869.

SIR,—

I have the honor to enclose a copy of the award of Mr. Robert Pharazyn on the claims (submitted to him) of the Provincial Government of Wellington on account of certain surveys of Native lands in that Province.

As expenses of this kind are paid in other Provinces as provincial charges, and as the General Assembly has provided no other funds out of which such payments can be made, the amount awarded, £1,482, can only be now paid on the understanding that the question will be submitted to the Legislature next Session, with whom it will rest to decide whether this charge shall ultimately be borne by the Colony or the Province concerned.

His Honor the Superintendent, Wellington.

I have, &c.,
E. W. STAFFORD.

No. 5.

His Honor I. E. FEATHERSTON to the Hon. E. W. STAFFORD.

Superintendent's Office,
Wellington, 3rd March, 1869.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 2nd instant, enclosing a copy of the award of Mr. Robert Pharazyn on the claims (submitted to him) of the Provincial Government of Wellington on account of certain surveys of Native lands, and intimating that the amount awarded, £1,482, can only be now paid on the understanding that the question will be submitted to the Legislature next Session, with whom it will rest to decide whether this charge shall ultimately be borne by the Colony or the Province.

After this intimation of the intention of the Government, I presume the amount will be paid to the Provincial Treasurer without further delay.

The Hon. E. W. Stafford.

I have, &c.,
I. E. FEATHERSTON, Superintendent.

THE award in question to be paid to the Provincial Government of Wellington so soon as the Superintendent signs a receipt, specifying that the General Legislature is to determine whether the amount is to be charged provincially or otherwise.

E. W. STAFFORD.

Mr. Batkin will present the receipt in the above form when the Superintendent applies for the money.

10th May, 1869.

E. W. S.