

1876.

NEW ZEALAND.

THAMES ELECTION.

(REPORT OF THE SELECT COMMITTEE ON; TOGETHER WITH MINUTES OF PROCEEDINGS.)

Report brought up and ordered to be printed, 7th July, 1876.

REPORT.

THE Committee to whom the petition of James Mackay against the return of Sir George Grey, K.C.B., as member for the District of Thames, in the Province of Auckland, was referred, beg to report as follows :—

1. That His Excellency the Governor, by Proclamation, fixed the 2nd day of February, 1876, as the day for the return of all writs, and for the meeting of Parliament, and in the writs issued the Returning Officers were required to return the said writs to the Clerk of the Writs on or before the said 2nd day of February.

2. That on the 6th day of December, 1875, a writ was issued for the election of two members for the Electoral District of Auckland City West, and made returnable on or before the 2nd day of February, 1876.

3. That the nomination of candidates was appointed by the Returning Officer to take place on the 22nd day of December, 1875, and at such nomination Sir George Grey was declared to be duly elected as one of the members of the said district.

4. That the 23rd section of "The Regulation of Elections Act, 1870," provides that the names of the persons so declared to be elected shall be indorsed on the writ by the Returning Officer as the persons duly elected in pursuance thereof, and he shall make a return accordingly.

5. That on the said 22nd day of December the Returning Officer indorsed on the said writ the name of Sir George Grey as one of the persons duly elected, and returned the same to the Clerk of the Writs, who received the same on the 6th day of January, 1876.

6. That in pursuance of a writ dated the 6th day of December, duly issued, an election for the Thames Electoral District took place on the 11th day of January, 1876, and Sir George Grey was declared to be elected.

7. That on the 11th day of January, 1876, the Returning Officer indorsed the name of Sir George Grey on the said writ, and returned the same to the Clerk of the Writs, who received the same on the 17th day of January, 1876.

8. The Committee have satisfied themselves by careful inquiry, that by the law and practice of England a person who has, during a general election, been elected a member of the House of Commons by one constituency is nevertheless eligible for election by another constituency until the date fixed for the return of the writs. There does not appear to the Committee to be anything in the law of New Zealand which differs from that of England to such an extent as to debar two or more constituencies from electing the same person during a general election.

The Committee are therefore of opinion that Sir George Grey, K.C.B., was eligible as a candidate for the District of the Thames, and that his election for that district was in all respects valid and in accordance with law.

7th July, 1876.

A. DE B. BRANDON,
Chairman.

MINUTES OF PROCEEDINGS.

WEDNESDAY, 5TH JULY, 1876.

The Committee met, pursuant to order, at 10 o'clock a.m.

PRESENT :

Mr. Curtis,
Mr. Johnston,
Mr. Stevens,

Mr. Stout,
Mr. Teschemaker,
Mr. Whitaker.

Mr. Brandon in the Chair.

The petition was read.

The Committee adjourned till 10 o'clock a.m. to-morrow.

THURSDAY, 6TH JULY, 1876.

The Committee met, pursuant to adjournment, at 10 o'clock a.m.

PRESENT :

Mr. Curtis,
Mr. Johnston,
Mr. Stevens,

Mr. Stout,
Mr. Teschemaker,
Mr. Whitaker.

Mr. Brandon in the Chair.

Sir George Grey attended.

Mr. Cooper, Clerk of the Writs, handed to the Chairman, by request, the returned writs notifying the election of Sir George Grey, K.C.B.—one as member for Auckland City West, and one as member for the Thames District.

The petitioner's agent, Mr. Stafford, not appearing in answer to a notice sent to him informing him that the Committee would meet this day at 10 o'clock a.m.,

Frederick James Dawes, being sworn, said : I am a messenger of the House of Representatives. I received yesterday a letter for Mr. Stafford, solicitor. I delivered it at his office to a boy at about twenty-five minutes to 5 p.m. I am not aware of the contents of the letter. It was sealed.

Mr. Stafford here attended, and argued the case for the petitioner.

The Committee, after deliberating, then adjourned till to-morrow morning, at 10 o'clock.

FRIDAY, 7TH JULY, 1876.

The Committee met pursuant to adjournment.

PRESENT :

Mr. Curtis,
Mr. Johnston,
Mr. Stevens,

Mr. Stout,
Mr. Teschemaker,
Mr. Whitaker.

Mr. Brandon in the Chair.

The Committee deliberated.

Resolved, on motion of Mr. Stout, That His Excellency the Governor by Proclamation fixed the 2nd day of February as the day for the return of all writs, and for the meeting of Parliament, and in the writs issued the Returning Officers were required to return the said writs to the Clerk of the Writs on or before the said 2nd day of February.

Mr. Whitaker moved,—

1. That on the 6th day of December, 1875, a writ was issued for the election of two members for the Electoral District of Auckland City West, and made returnable on or before the 2nd day of February, 1876.

2. That the nomination of candidates was appointed by the Returning Officer to take place on the 22nd day of December, 1875, and at such nomination, Sir George Grey, K.C.B., was declared to be duly elected as one of the members for the said district.

3. That the 23rd section of "The Regulation of Elections Act, 1870," provides that the names of the persons so declared to be elected shall be indorsed on the writ by the Returning Officers, as the persons duly elected in pursuance thereof, and he shall make a return accordingly.

4. That on the said 22nd day of December, the Returning Officer indorsed on the said writ the name of Sir George Grey, K.C.B., as one of the persons duly elected, and returned the same to the Clerk of the Writs, who received the same on the 6th day of January, 1876.

5. That in pursuance of a writ dated the 6th day of December, 1875, duly issued, an election for the Thames Electoral District took place on the 10th day of January, 1876, and Sir George Grey was declared to be elected.

6. That on the 11th day of January, 1876, the Returning Officer indorsed the name of Sir George Grey, K.C.B., on the said writ, and returned the same to the Clerk of the Writs, who received the same on the 17th day of January, 1876.

7. That it appears by the law of Parliament that a person having been duly returned as a member for one district is ineligible for another district until his seat is vacated.

8. That the law of New Zealand makes no provision by which a member duly returned can after a General Election resign his seat before a Speaker of the House of Representatives has been chosen.

9. That, according to the law of the Imperial Parliament, a person may be returned at a General Election for two places, and has the option of choosing for which place he will sit.

10. That the reason for such law appears to be, that the writs for the Imperial Parliament are made returnable on a future and by law a distinct and certain day (being the day on which Parliament is appointed to meet); and therefore within that time, though the Returning Officer may transmit the writ to the Crown Office, he is not obliged to do so, nor will the law take notice of its being returned till the day on which it is made returnable.

11. That, by the law of New Zealand, the writs on a General Election are made returnable not on a certain day, but on or before a certain day; and the Returning Officers are required by law, after indorsing them with the names of the persons elected, to return the writs.

12. That the Returning Officer having, on the 22nd day of December, 1875, indorsed on the writ for the District of Auckland City West the name of Sir George Grey, K.C.B., as the person duly elected in pursuance thereof, and the writ with such indorsement having been returned to and received by the Clerk of the Writs on the 6th day of January, 1876, Sir George Grey then became a member duly returned, and, not having vacated his seat, there being no law enabling him to do so, was ineligible for the District of the Thames on the 11th day of January, 1876, and therefore that his election and return for that district was void.

Clauses 1 to 6 inclusive of Mr. Whitaker's motion were agreed to.

Mr. Curtis proposed the following as an amendment, in lieu of clauses 7 to 12 inclusive:—

The Committee have satisfied themselves by careful inquiry, that, by the law and practice of England, a person who has during a general election been elected a member of the House of Commons by one constituency is nevertheless eligible for election by another constituency until the date fixed for the return of the writs. There does not appear to the Committee to be anything in the law of New Zealand which differs from that of England to such an extent as to debar two or more constituencies from electing the same person during a general election.

The Committee are therefore of opinion that Sir George Grey, K.C.B., was eligible as a candidate for the District of the Thames, and that his election for that district was in all respects valid and in accordance with law.

The amendment being put, the Committee divided.

Ayes, 6.
Mr. Brandon,
Mr. Curtis,
Mr. Johnston,
Mr. Stevens,
Mr. Stout,
Mr. Teschemaker.

Noes 1.
Mr. Whitaker.

The amendment was therefore carried.

Resolved, That the resolutions passed this day be reported to the House.

The Committee then adjourned.

