

## MINUTES OF EVIDENCE.

THURSDAY, 5TH JULY, 1883 (Mr. PYKE, Chairman).

Mr. JAMES GREEN, M.H.R., examined.

1. *The Chairman.*] You are a member of the Otago Waste Lands Board?—Yes.

1a. Will you state what you know with reference to the subject this Committee is appointed to inquire into?—Immediately after the sale of deferred-payment pastoral land, which took place on the last day of February, a person named Kimbell waited on the Land Board and stated he had reason to believe that some of the lots sold had been purchased by agents for others than those whose names had been given as the purchasers, and by that action he (Kimbell), being a *bonâ fide* bidder at the sale for Section 2, had been prevented from purchasing and becoming a settler. The Board then, by resolution, requested the auctioneer to furnish a statement of what took place at the sale. When that document was brought before the Board, with the auctioneer's remarks thereon, it was considered that there was sufficient in it to cause them to make further inquiry previous to the issue of the licenses. This Kimbell put in a written objection to the issue of licenses to the so-called purchasers. The Board gave consideration to that, and also to the notes which were placed opposite the purchasers' names on the sale-list, and considered there was a sufficient *prima facie* case made out for them to refuse to issue licenses to some purchasers, and to make further inquiry before dealing with the others. The Board declined to issue licenses to Webb, two Youngs, Fisher, Johnston, Pearsall, and McCaw. I am under the impression that the applications for Johnston and Pearsall were made by Chapman and Strode, the lawyers, after the Board had arrived at a decision in the cases of McCaw and Fisher.

2. After money had been paid in the auction-room, and application had been made for the licenses, the Board refused to issue them?—Yes; after full consideration had been given to Kimbell's statements and objections to the issue of licenses.

2a. On what grounds?—After the report had been made by the auctioneer, and personal applications had been made by McCaw and Fisher, the statements made by those two men before the Board strengthened the suspicion that they were not *bonâ fide* purchasers of the land for their own use and occupation and not for the indirect benefit of another, and the Board in the meantime declined to issue the licenses to those two men. Then Chapman and Strode applied to the Board to know on what grounds they refused to issue licenses to purchasers unless they made personal application. I think the reply of the Board was, generally, that under the powers of the Act they declined to issue them in the meantime. Then the Board was served with notice by Chapman and Strode that it was their intention, on behalf of Johnston, to apply to the Supreme Court for a mandamus to compel the Board to issue the license. Mr. Stout was then under the impression, as there was a dispute between Kimbell and Johnston before the Board, that the best course for the Board would be, under subsection (7) of clause 25 of "The Land Act, 1877," to hold an inquiry and take evidence on oath. That subsection is as follows: "Every dispute and difference relating or incident to the sale, letting, disposal, and occupation of Crown lands, or to the interpretation or meaning of any enactment relating to or in connection with Crown lands, or to any matter or thing done under any such enactment, shall be heard and determined by the Board; and for the purposes of any such hearing every Land Board shall have all the powers of a Board or Commissioners appointed by the Governor in Council under 'The Commissioners Powers Act, 1867.'" The evidence given by Fisher and McCaw was not on oath. The Board, at the instance of Mr. Stout, who is a member, did take action under this subsection. They held a meeting for the purpose of taking this evidence, which I think took place on the 7th June. A considerable number—I think the whole—of the purchasers of sections on the Cottesbrook, and their agents, namely, Messrs. E. B. Cargill, Joachim, and Bradshaw, among others, were summoned to give evidence. The only two persons who did attend were Messrs. Bradshaw (one of the agents), and Williamson, who was a purchaser of a deferred-payment section on the day of the sale, but not in the Cottesbrook Subdivision of the Strath-Taieri District.

3. Mr. Bradshaw is a member of the Board, is he not?—Yes; he was summoned at his own request. Both Mr. Bradshaw and Williamson gave evidence on oath. Mr. Bradshaw stated that he had received instructions from Gellibrand to purchase that section of Johnston's, and that he (Mr. Bradshaw) asked Gellibrand if it was for *bonâ fide* occupation by Johnston. Gellibrand replied that it was, and Mr. Bradshaw said, that being the case, and as this was a rather exceptional sale, he should prefer to have written instructions from Johnston. Those instructions were given him, signed by Johnston. All the evidence was taken down, and can be obtained by the Committee. After these two gentlemen had given their evidence, the Board then considered it was desirable to really test the question as to whether they had the powers which they thought they had under that subsection, and they instructed the Chief Commissioner to summon the whole of the witnesses who had not appeared, and first to summon Mr. James Smith, who is a lawyer, and said to be a partner in the Gellibrand firm. The Board thought, by summoning him, they would have a fair test-case, and would obtain a judicial opinion. When this case was tried in the Resident Magistrate's Court the Magistrate, Mr. Carew, held that there was no dispute, such as was contemplated by the Act, and therefore the Board had exceeded its powers. With regard to the mandamus, each member of the Board, myself among them, was served with a writ, and the Chief Commissioner was instructed to defend that case. The case has been tried since I left Dunedin, and I judge from the papers that the decision has not yet been given.