

1892.

NEW ZEALAND.

## WEBSTER'S LAND-CLAIMS.

[Continuation of A.-4, Session II., 1891.]

*Presented to both Houses of the General Assembly by Command of His Excellency.*

No. 1.

The AGENT-GENERAL to the PREMIER.

SIR,— Westminster Chambers, 13, Victoria Street, London, S.W., 21st July, 1891.

In further reference to the land-claims of Mr. William Webster, I beg to enclose copy of a letter from the Colonial Office, covering one from the Foreign Office, with other papers, which are annexed, with the exception of the Law Officers' report, which I was requested to return. Copy of my reply to the Colonial Office is also enclosed.

I have, &amp;c.,

The Hon. the Premier, Wellington.

F. D. BELL.

Enclosure 1.

The COLONIAL OFFICE to the AGENT-GENERAL.

SIR,— Colonial Office, Downing Street, 3rd July, 1891.

With reference to the letter from this department of the 26th of January last, and to previous correspondence, respecting Mr. W. Webster's claims in respect of land in New Zealand, I am directed by Lord Knutsford to transmit to you copies of the correspondence noted in the margin\* on the subject.

His Lordship proposes to observe, in reply to the Foreign Office letter of the 27th June, that the reference to the colonial law of 1856 in the note to Mr. Lincoln of January 16th was obviously a mistake, and Lord Knutsford regrets that it was not observed at the time, for it was in 1841 that Mr. Webster submitted his claims to the Commissioners, under the Act of 1841, with full notice that if he adopted this course he must be held to claim as a British subject; as will be seen on reference to page 6 of the colonial parliamentary paper, a copy of which was transmitted to the Foreign Office in the letter from this department of the 2nd December, 1887. The Act of 1856 appointed a different Commissioner, with further powers, but the machinery so constituted was in continuation of the provisions of the Act of 1841. It is therefore, it would appear, immaterial whether Mr. Webster formally laid his claims before the Commissioner under the Act of 1856; and, indeed, it would seem that the claims were then submitted not by him personally or directly, but by persons to whom he had resigned whatever interest he had under any purchases of land from Natives.

I am to request that you would be so good as to state whether, so far as your experience of Mr. Webster's case enables you to say, the proposed reply is accurate and sufficient.

I am to request that the copy of the Law Officers' opinion may be returned, as it is a confidential paper.

I am, &amp;c.,

Sir F. D. Bell, K.C.M.G., C.B.

JOHN BRAMSTON.

Sub-enclosure 1.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,— Downing Street, 22nd December, 1890.

With reference to your letter of the 22nd ultimo, and to previous correspondence in connection with Mr. Webster's claims in respect of land in New Zealand, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of the report which has been received from the Law Officers on the case. His Lordship would propose to forward for the information of the Government of New Zealand and for that of Sir F. D. Bell copies of any communication to the United States Minister at this Court which Lord Salisbury may think fit to found on the Law Officers' opinion.

I am, &amp;c.,

The Under-Secretary of State, Foreign Office.

R. H. MEADE.

\* Law Officers, 15th Dec., 1890; C.O. to F.O., 22nd Dec., 1890; F.O. to C.O., 10th Jan., 1891; C.O. to F.O., 15th Jan., 1891; F.O. to C.O., 27th June, 1891.

## Sub-enclosure 2.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,—

Foreign Office, 10th January, 1891.

With reference to your letter of the 22nd ultimo, I am directed by the Marquis of Salisbury to transmit to you the draft of a note which his Lordship proposes, with the concurrence of Lord Knutsford, to address to the United States Chargé d'Affaires in London, based on the Law Officers' report, in regard to Mr. Webster's land-claim in New Zealand.

Lord Salisbury has no objection to the communication to the Government of New Zealand and Sir F. Dillon Bell of copies of this note.

The Under-Secretary of State, Colonial Office.

I am, &amp;c.,

T. H. SANDERSON.

## Sub-enclosure 3.

SIR,—

Foreign Office, 16th January, 1891.

In his note of the 11th October last Mr. Lincoln forwarded for the consideration of Her Majesty's Government a memorandum in regard to the claim of Mr. William Webster for further compensation on account of certain lands purchased by him from Native chiefs in New Zealand before the annexation of that country by Great Britain.

I have now the honour to state that, in pursuance of the assurance given in my reply of the 21st of the same month, this memorandum and all the previous papers and circumstances of the case have been most carefully examined in consultation with the Law Officers of the Crown.

The result of that examination has, however, been unfavourable to the claim, as it is clearly shown that Mr. Webster, in the first instance, when bringing his case before the Commissioners under the Colonial Land Claims Act of 1856, waived his right to be treated as an alien, and so debarred himself from the right to claim anything beyond what was awarded to him by those Commissioners.

Under these circumstances Her Majesty's Government regret that they are unable to reopen the case, or to entertain Mr. Webster's claim for further compensation.

I am, &amp;c.,

SALISBURY.

## Sub-enclosure 4.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,—

Downing Street, 15th January, 1891.

In reply to your letter of the 10th instant, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that he concurs in the draft note which it is proposed to address to the United States Chargé d'Affaires in London on the subject of Mr. Webster's land-claims in New Zealand.

Lord Knutsford will cause copies of the note to be communicated to the Government of New Zealand and the Agent-General on learning the date when it is despatched.

I am, &amp;c.,

R. H. MEADE.

## Sub-enclosure 5.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,—

Foreign Office, 27th June, 1891.

With reference to your letter of the 15th January, I am directed by the Marquis of Salisbury to transmit for Secretary Lord Knutsford's information a copy of a further letter from the United States Minister in London, expressing the hope of his Government that, for the reasons therein given, Her Majesty's Government will reconsider the decision they have taken in regard to Mr. Webster's claim against the Government of New Zealand.

I am to request that you will move Lord Knutsford to inform Lord Salisbury what reply should, in his opinion, be returned to Mr. Lincoln's representations.

The Under-Secretary of State, Colonial Office.

I am, &amp;c.,

T. H. SANDERSON.

## Sub-enclosure 6.

MY LORD,—

United States Legation, London, 23rd June, 1891.

With reference to your note of the 16th January last, relative to the claims of Mr. Webster against the Government of New Zealand, arising from his alleged wrongful deprivation of lands belonging to him in that colony, I have the honour to acquaint your Lordship that my Government regrets to ascertain that an unfavourable view has been taken of the claims in question by Her Majesty's Government after consultation with the Law Officers of the Crown; and the more so as this view appears to the Department of State to be the result of a misapprehension of the facts of the case.

It has been the understanding of my Government that Mr. Webster was in reality deprived of his lands and of his claims to land by the Commissioners under the Colonial Land Claims Act of 1856. This view of the case is set forth in the memorandum on the subject which I had the honour to communicate to your Lordship on the 11th October, 1890, and is confirmed by your note of the

16th January last; but Her Majesty's Government appear to me to be in error in stating in the same note that it is clearly shown that Mr. Webster in the first instance, when bringing his case before the Land Commissioners under the colonial Act of 1856, waived his right to be treated as an alien, and so debarred himself from the right to claim anything beyond what was awarded to him by the Commission.

An examination not only of the memorandum, but also of the evidence heretofore presented in opposition to Mr. Webster's claims by the authorities of New Zealand, shows that he never brought his claim before the Commissioners under the colonial Act of 1856. He was at that time in the United States, and was pressing his claims upon my Government, having then been absent from New Zealand for nearly two years, during which period the Department of State fails to find that he had any correspondence with the local authorities, or was in any way aware of or countenanced what they did under the Land Act of 1856.

I am instructed to bring these facts to the attention of your Lordship, and to express the hope that, as my Government is of the opinion that the reply of Her Majesty's Government to the representations set forth in the memorandum transmitted with my note of the 11th October, 1890, is based upon a misconception of the essential facts, and cannot therefore be considered as satisfactory or conclusive, Her Majesty's Government will readily reconsider its view upon the subject.

The Marquis of Salisbury, K.G., &c.

I have, &c.,

HERBERT T. LINCOLN.

## Enclosure 2.

The AGENT-GENERAL to the COLONIAL OFFICE.

SIR,—

13, Victoria Street, 15th July, 1891.

I have to acknowledge the receipt of your letter of the 3rd instant, covering further correspondence on Mr. Webster's land-claims in New Zealand.

I am sorry I did not see the Law Officers' report at the time, because it evidently was the cause of the mistaken reference to the Act of 1856 instead of the ordinance of 1841 in the Foreign Office note of the 19th [? 16th] January last. Nevertheless, the tenor of that note plainly indicated which colonial law was meant, and the United States Government could not have been under any real misapprehension on the subject.

I think it is essential not to let the Act of 1856 come into the question, because it has nothing to do with the point that is really at issue. The whole contention of the United States Government is that Her Majesty's Government ought to grant redress to Mr. Webster as an American citizen, on the ground that every proceeding under the colonial legislation was "in derogation of the principle conceded to Mr. Everest by Lord Aberdeen in 1844;" whereas the stronghold of the Foreign Office is that when Mr. Webster submitted to Governor Fitzroy's condition in 1841 he debarred himself from coming in afterwards as an American citizen at all.

This is perfectly safe ground, and it would be unwise to step outside of it. The United States authorities know very well that protests against the proceedings of the Colonial Government and Legislature will do nothing for Mr. Webster unless he can be brought in as an American citizen under Lord Aberdeen's note, and therefore it is only on this point that Her Majesty's Government need take their stand in answering Mr. Lincoln's fresh representation.

I would therefore recommend that, while expressing regret for the mistaken reference to the Act of 1856 instead of the ordinance of 1841, the American Minister should be informed that the mistake was really immaterial, because, Mr. Webster having voluntarily accepted the condition imposed on him by Governor Fitzroy, and having submitted his claims as a British subject under the colonial ordinance of 1841, Her Majesty's Government are unable to admit that he could at any time afterwards bring in a fresh claim as an American citizen under Lord Aberdeen's note to Mr. Everest of the 10th February, 1844.

I beg to return, as desired, the papers noted in the margin.\*

I am, &c.,

The Under-Secretary of State for the Colonies, Downing Street.

F. D. BELL.

\* Law Officers' report; memorandum sent in by Mr. Lincoln; New Zealand Parliamentary Paper, 1887, A.—4; letter from Mr. Lincoln to Lord Salisbury; letter from Sir F. D. Bell to Colonial Office.

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