

# REPORT

## OF

### COMMITTEE ON PENSIONERS' PETITION

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(ORDERED TO BE PRINTED, SEPTEMBER 11, 1855.)

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1. The Committee appointed to consider the Pensioners' Petition, report as follows :—

2 Your Committee have limited their enquiry, as far as the nature of the subject would admit, to so much of the petition as relates to the civil grievance complained of, namely,—alleged breaches of agreement respecting the cottages and acres of land promised to the Petitioners to be ready for them on their arrival in the Colony.

3. They have examined certain of the Petitioners and append the evidence taken.

4. With the exception of one witness, Col. Gray, the evidence of the Petitioners has been merely *ex parte*.

5. The officer commanding the Pensioner Corps declined to take part in the investigation, on the ground that the subject of complaint concerned the military, and not the civil authorities.

6. The main fact which may be considered as established is, that the promise of a cottage and acre of land, on arrival, formed part of the contract between the Government and the Petitioners, on the strength of which they came to the Colony; and that such promise, unless in a few late and isolated cases was not, and in some instances never has been fulfilled.

7. But your Committee would observe that although the clearest breach of agreement was, the neglect to place the men in immediate possession of their cottages and acres, the most serious grievance, and that which calls the most imperatively for the interference of the Colonial Executive, is the depriving them of cottages and acres, and even placing them under stoppages to the whole amount of their passage money, for absence from parade through sickness, and notwithstanding the production of sick certificates.

8. Your Committee can recognize no conditions with the men, excepting those under which they were actually enrolled.

9. They find an engagement to confer certain advantages in requital of certain military duties.

10. They believe that absence from parade under sick certificate, cannot be construed into a non-performance of duty.

11. The reception of a sick certificate in excuse being, as they believe, so inviolable, as to have become a custom, and therefore incident to the conditions under which the men were enrolled.

12. And the Colony is bound in loyalty and good faith to carry out the Queen's engagements, in all cases where it cannot be shewn that the military duties interpreted according to the usual rules of military service, have been unfulfilled.

13. Your Committee moreover feel bound to add, that as the unanimous testimony of the witnesses examined by them, establish the fact that the Crown in the first instance failed to perform the condition under which the Pensioners were

tenrolled; it becomes a question deserving the serious consideration of the Executive Government, whether the breach of agreement on the part of the Crown, should not exempt the Pensioners from a too strict and literal interpretation of the contract in respect of the service they were required to render.

14. As to cottages and land not being provided for the Pensioners on arrival according to the terms of the contract, your Committee suggest, whether it may not be proper to enquire whether that fact has, or has not been brought to the notice of the Home Authorities, and how it has been dealt with by them.

15. Your Committee do not think that they could themselves prosecute their enquiry further with any useful result; but they are of opinion that the subject may properly be brought under the consideration of the Executive Government.

16. They would add as a final remark, their earnest hope that this investigation and report, may not have the effect of raising expectations in the minds of the Petitioners which may be disappointed.

HENRY SEWELL,  
Chairman.

# MINUTES OF EVIDENCE

TAKEN BEFORE

COMMITTEE APPOINTED TO CONSIDER THE PENSIONERS' PETITION.

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FRIDAY, AUGUST 31st, 1853.

PRESENT—

Messrs. Carleton  
Taylor

Messrs. Mackay  
Forsaith

Mr. Sewell—Chairman.

On motion of Mr. Carleton, the following Petition was read:—

Auckland, August 17th, 1853.

*To the Honorable the Speakers and Members of the Honorable the House of Representatives.*

The humble petition of Her Majesty's, the undersigned, veteran Pensioners—

Most respectfully sheweth— that they have spent the flower of their age and life in their country's service, and that in consideration thereof they were awarded a pension in proportion to their respective service, which pension they should not be deprived of unless they were convicted of felony, or guilty of gross violence or outrage towards the persons employed in paying pensioners.

Your petitioners further shew that by proclamation in the War Office Circulars in the years 1847-48-49 they were encouraged to emigrate with their families to this Colony, and certain rewards held out to them for doing so, as will be seen on reference to their printed instructions on that head, and other documents in their possession, which will prove to your Honorable House that faith has been broken with them, and that uncalled for coercive and vindictive measures have been substituted and resorted to, instead of boons as intended by their most gracious Sovereign and liberal country.

Such treatment had never a precedent in any branch of Her Majesty's service.

Punishment inflicted, pensions suspended, and not permitted to petition the higher authorities, or much less to speak in defence of their rights, or appeal to a Court of Enquiry.

Your humble petitioners now pray that the Representatives of the People in your Honorable House, will entertain the prayer of their petition, and grant them a Committee of Enquiry, in whose presence they will be permitted to vindicate their rights and satisfy the Committee of your Honorable House, that they have fulfilled on their part, as long as they were permitted, the several duties imposed on them by their respective engagements in coming to this Colony, and that they have not forfeited by any misconduct of theirs, their pensions, which have been suspended, nor the cottage and acre, which they have been expelled from.

For which favor your humble and obedient servants, now Her Majesty's civil subjects, electors in the Town and Suburbs of Auckland, shall ever pray.

JOHN BOLTON, formerly Serjeant in H.M. 16th Regt.  
EDWARD HYNES, late Color Serjeant 25th R.W. Fusilliers,  
MATTHEW McCORMICK, late 25th Regt. Foot,  
JOHN HOOP, late Serjeant 39th Regt.

Question put—That Dr. Bacot be called in and examined. Agreed to.

Dr. Bacot examined ;—I was Staff Assistant Surgeon in the army, attached to the Pensioner force in medical charge. I have been in New Zealand seven years, attached to the Pensioner force. I know the Regulations under which the Pensioners came out. (Regulations produced.)

Question put—That Sergeant Hoop be examined.

Agreed to.

John Hoop, late Sergeant in the 39th Regiment of foot, examined.

I came to New Zealand in 1848. At that time I was a Pensioner. I was discharged in 1843. I have my discharge. (Discharge produced, with testimonial of good character.) After I left the service I took a Public House in Liverpool, and kept it for twelve months then gave it up, removed to Belfast in Ireland and opened a shoe-making shop. There I enrolled myself in the New Zealand Fencibles. Was married and had no children, I have none. My wife came with me. When I went to receive my pension in 1847 a card was posted up for volunteers for the New Zealand Fencible Service. The conditions were posted up, one of the conditions that I should have a cottage and acre of land on my arrival, one fourth of which should be cultivated. The Regulations now produced and printed were those under which I volunteered. I have no matter of complaint on account of anything before my arrival in New Zealand. I have complaints to make after my arrival. I was not put in possession of my cottage and acre. On my arrival I applied to my Commanding Officer, Lieutenant Hickson for my cottage and acre of land (He was the Officer of the detachment.) He told me there was none for me. I applied to Lieutenant Hickson for leave to remain in Auckland to follow my business. I obtained leave. I followed my business of a shoemaker and have done so ever since. I provided my own lodgings and house room at my own cost. I preferred stopping in Town. I considered it preferable to stop in Town to going to one of the distant Pensioner Villages. Otahuhu was the Village to which I was assigned. There was no house for me there. I never had any grievance to complain of till Major Kenny came. That was about three years afterwards. I considered that the advantage of living in Town and carrying on my business was equivalent to immediate occupation of my cottage, but I looked forward to having my cottage and acre when the proper time came. Whilst I was in Auckland I did some military duties. I went out to Otahuhu, helped Sergeant McAnulty to drill a company previous to going to Onehunga to be inspected. That was the first inspection. This was annual duty.

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SATURDAY, 1st SEPTEMBER, 1855.

PRESENT—

Messrs. Carleton  
Taylor

Messrs. Forsaith  
Mackay

Mr. Sewell—Chairman

John Hoop—Examination continued :—I had still to continue my Sunday parade at Otahuhu. On the 18th September, 1850, I addressed the memorial to his Excellency praying to be excused from attending church parade at Otahuhu (produced a copy of the memorial) I forwarded the memorial through Lieutenant Hickson. He had to forward it through Major Kenny. Major Kenny refused to forward it. I never received an answer to it. I received an answer from Major Kenny that he would not forward it. He recommended me to take my discharge from the force, and that I should get off by paying 13*l*. I sent in through Lieutenant Hickson sick certificates, both before and after sending in my memorial. (Copies of certificates produced.) I was at that time suffering from rheumatic gout. I am occasionally still ; I was too unwell to walk to Otahuhu ; it is about nine miles there, and nine miles back. I was unable to perform that duty. I sent in a medical certificate which Major Kenny refused to receive. I received from my Commanding Officer intimation that I must do one of three things, either attend my duty, receive my discharge, or be dismissed. I conceived that it would be best to submit to the alternative of paying for my passage and getting my discharge, I was forced to do this. I never made a remonstrance, I waited for time. I am not aware of anything in the Regulations to prevent my appealing to the civil authorities. I signed a document giving up all claims on the Government ; I never kept a copy of it ; I do not remember its contents. It was to the effect that I gave up all claim on the Government ; I did not understand that I hereby gave up my claim to the cottage and acre. I was obliged to sign the paper, Major Kenny told me if I did not sign it that I should be dismissed from the force. That induced me to sign it. There are some advantages belonging to the service which I understood I was giving up ; I did not understand I was giving up my cottage and acre. When my seven years was up I applied to Lieutenant Hickson to be put in possession of my cottage and acre. He

told me I must apply to Head Quarters. I did so. I applied to Major Kenny, never received any reply. I made out a memorial to Governor Wynyard, requesting him to put me in possession. I remember his answer, that he could do nothing for me, that I had given up all claim. I was never put in possession of my cottage and acre. I was told off an acre, and I ditched it and paid for the part cultivation, part was done by the Government, half was uncultivated. I paid for a quarter. I paid the Sergeant 12s. for the cultivation of the extra quarter one. I never got possession of it.

By Mr. Carleton :—

Q. At the time Major Kenny succeeded to the command had you any indulgence from Lieutenant Hickson? A. I had.

Q. Was that withdrawn from you by Major Kenny? A. Yes.

Q. Was it after or before you had sent in a sick certificate that you were reduced from your rank of Sergeant? A. After.

Q. Did Major Kenny threaten you that unless you put in your resignation in writing to any claim on the Government he would have you struck off the Pension-list altogether? A. He did.

Q. On What occasion was this? A. On several occasions.

Q. What was the name of the medical Officer who signed your certificate? A. Dr. Philson of the 58th Regiment.

Q. As long as you have been in the service were you ever aware of a sick certificate not being sufficient excuse for non-attendance at parade? A. Never, a Doctor's certificate is enough upon any parade. Even a review parade.

Q. Are you aware of any instructions from the War Office, to stop pensioners passage money in case of their being deprived of their cottage and acre? A. There is none in my agreement but I have heard of such.

*Copy of a letter from Lieutenant HICKSON, New Zealand Fencibles, to JOHN HOOP, New Zealand Fencible Sergeant,*

Sergeant John Hoop,

Otahuhu, July 17, 1851.

Your certificates of continued illness can no longer exempt you from the performance of military duty.

I have therefore to repeat what I have already informed you that you must select one of the following alternatives, namely, to perform your duty, as an enrolled pensioner of the New Zealand Fencibles, or to withdraw therefrom by the terms prescribed by the Secretary of War, or to incur the penalty of dismissal from the force in the event of your continuing to neglect your duty.

(Signed)

J. H. HICKSON,  
Staff Officer.

JOHN MCANULTY,

To be signed and returned by Sergeant Hoop.

(Signed)

JOHN HOOP.

#### COPY OF MEMORANDUM.

4th Division,  
1st Battalion N. Z. F.

Memorandum.

With reference to No. 2 of Battalion orders dated Onehunga, 7th August, 1851, Pensioner John Hoop is hereby requested to attend at Otahuhu with as little delay as possible, for the purpose of handing over to Lieutenant Hickson the arms, clothing, accoutrements, etc., of a Sergeant's appointments in his charge, for the use of his successor Daniel Wright, and of receiving those of a private.

This memorandum is to be forwarded by the first opportunity to private John Hoop by whom it will be signed and returned.

(Signed)

J. H. HICKSON,  
Staff Officer.

(Signed)

John Hoop,  
Otahuhu, August 12th, 1851.

To his Excellency Sir George Grey K. C. B. Governor in chief of New Zealand and its dependencies, etc., etc., etc.

The memorial of John Hoop,  
late Sergeant of the 59th Regiment.

Now belonging to Lieutenant Hickson's company, 1st battalion New Zealand pensioners.

That your memorialist on landing in the colony at Auckland obtained permission from Lieutenant Hickson to reside in town in consequence of which he purchased an allotment of ground in Queen-street, and built a house and shop on it at an expense of 500l.

That your memorialist is obliged to walk to Otahuhu every Sunday for the purpose of attending church parade (a journey of about 14 miles.)

That your memorialist most humbly begs that your Excellency may take his case into your kind consideration and have him excused from attending church parade at Otahuhu as it is a great journey on the Sabbath day.

That your memorialist never omitted attending Divine Service during the time he was allowed to parade in Auckland and will always continue so to do every Sunday if excused from going to Otahuhu.

Your memorialist most humbly prays that your Excellency will grant this his request, and your memorialist as in duty bound will ever pray.

(Signed) JOHN HOOP,  
11th September, 1830.

To his Excellency,  
Sir George Grey.

(Letter enclosing Petition to his Excellency Sir George Grey.)

Honored Sir,

I humbly beg that you will forward through the proper channel to his Excellency Sir George Grey, K. C. B., Governor of New Zealand, etc., the enclosed memorial from

Your most humble and obedient servant,  
(Signed) JOHN HOOP.

To Lieutenant Hickson,  
Otahuhu, 18th September, 1830.

Question put—That John Bolton be examined. Agreed to.

John Bolton—I served in two Regiments 20 years altogether, was last in the 16th Infantry, was discharged in the year 1831. Was a Sergeant the greater part of the time, had been reduced to a private. Was a private when discharged. Discharge produced. Character good. I landed in New Zealand, in May 1832. About November 1831, volunteered into the Fencible pensioners, under the printed regulations produced. The promise held out by the regulations induced me to come. Brought my wife and family, 5 children, one 12, a girl 8, and an infant 2 months. When I arrived in New Zealand in May 1832. Major Kenny came on board, we were mustered on deck. Major Kenny said to us, that any of us who were tradesmen might stop and see if we could get suitable employment in Auckland. I asked Captain Haultain, an Officer who came on board with Major Kenny, whether providing I was to put my name down to stop in the town if I should still be allowed to have my cottage and acre. I understood him to say yes, and that we should be assembled at Onehunga some time after.

By the Chairman :—

Q. Did Major Kenny promise you should not forfeit your right to your cottage and acre of land by stopping in Auckland? A. He did. I stopped in Auckland about three weeks or so. We were then ordered to attend on parade at Major Kenny's office at Onehunga. I attended. He said to me, "any of you men who put your names down to stop in town, (Auckland) I will give you another chance, you shall not lose your cottage and acre of land by stopping in the town." The practice was this. When first we landed we all of us had to draw for what settlement we should go to. Some drew for one settlement some for another. I and some others did not draw at all considering that it might be better worth while to stop in the town and follow my trade than to go to one of the settlements.

By the Chairman :—

Q. Did you understand that by not drawing for one of the settlements you gave up your right to your cottage and acre of land? A. I understood that I did not, because Major Kenny said, he would see us another day, and if we did not like the town, he would put us in possession of our cottage and acre of land.

Examination continued :—

About three weeks after the parade at Onehunga we were ordered to parade at Panmure, there to be settled and to receive parts of our pensions. I appeared there and after being settled with by Captain Haultain. I asked him in what settlement I was to have my cottage and acre of land, he said, you will go to Howick to Captain Smith, he will tell you off a cottage and acre of land, and you may thank yourself for your impertinence in addressing Major Kenny on landing or you would have had your cottage and acre of land in Onehunga. I went the following Friday to Captain Smith at

Howick. He said he was very busy that day, he could not put me in possession, that Sunday, if I would come next Sunday he would. I returned on the following Sunday, begged him again to put me in possession, he said I was a great annoyance. I should have it next Sunday. He was not prepared to tell me off my cottage and acre. I went again the third Sunday. He said you must come some other time, I am not ready. I then said, "will you give me permission to absent myself from parade for 2 or 3 Sundays as the journey was so long." He said, "I will give you no liberty from parade, but if you think proper you can parade in Auckland." I considered it a great favour. I continued to parade in Auckland some months. On hearing that Captain Smith was on the point of going to England. I spoke to him 6 or seven times, begging him to put me in possession of my cottage and acre of land. He told me I was a very troublesome character. Why did I not take my cottage and acre when I first arrived. He left me in the street and never gave me any other answer. I never got my cottage and acre. I never applied to Major Kenny. I understood it was of no use. He would give no answers to applications. I continued parading regularly at the barracks in Auckland, till within 6 months ago, when I discontinued. There was no one to parade us, no one to call over the roll, neither officer or non-commissioned officer. After Captain Smith left, Capt-McDonald got charge of the Auckland force, he came in from Howick to parade. We were not there for the first three Sundays. The 4th Sunday some of the pensioners saw him coming, and made the best of their way to the barracks. I did not happen to be one, was consequently absent the 4th Sunday. I and several others were struck off the force and put under stoppages. I afterwards saw Captain McDonald and went on parade. He told me he was sorry for me, he would recommend me to Major Kenny for reinstatement. I asked if he would require me to attend parade regularly for the future as I was struck off. He said, the report was not given to the Horse Guards yet, and if anything would soothe it down it would be my regular attendance at parade. I attended regularly till the next pension day, when I went for my pension to Captain McDonald. He said, "your pension is stopped, you'll only get half your pension for not attending at parade." I told him it was a great punishment, as there had been no parade formed for some months previous to his taking command, and if he had given a caution that we were to attend regularly, I would attend regularly. He said, I will now give the caution any of the men who are absent from this time I will report and they will be struck off. I never got my cottage and acre of land.

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Committee Meeting, September 3rd, 1835.

PRESENT:

Mr. Carleton, Mr. Taylor  
Mr. Sewell—Chairman.

The Chairman read the following copy of letter from Major Kenny.

Major Kenny presents his compliments to the Chairman of the Committee appointed by the House of Representatives to examine into and report upon certain alleged grievances contained in a Petition from Enrolled Pensioners of the New Zealand Fencibles, and, in thanking the Chairman for his courteous note of the 31st August, requests he will have the goodness to furnish him with a copy of the Petition in question, as Major Kenny is not aware of any civil rights and privileges to which the Pensioners of the New Zealand Fencibles, as such, are entitled, excepting those which are contingent upon the performance by them of certain military duties under the conditions on which they were engaged for service in New Zealand.

If the alleged grievances of Pensioners to which the Chairman has alluded in his note, are those to which reference has been made in the local newspapers, Major Kenny regrets to say that it would be inconsistent with his position to be present at an enquiry into grievances which, even on the assumption that they had any existence would fall solely under the jurisdiction of the Right Honorable the Secretary at War.

Onehunga, 1st September, 1835.

Question put,

That Major Kenny be furnished with a copy of the Petition.

Agreed to.

Question put,

That the examination be renewed, and that Joseph Symes be called in.

Joseph Symes, examined—I am a corporal in the New Zealand Fencibles service. I came to New Zealand in 1837, in October. I was living in Ireland in that year. I signed articles to serve in the New Zealand Fencibles service, I think on the 30th June in that year, I served in the 2nd Dragoon Guards. My discharge is dated the 17th

June, 1847. Discharge produced. Character good. I then went to my business as a tailor at Limerick. Continued in that about 5 years, until the enrollment of the local force. I went into the local force, remained there till 1847, when I volunteered to come to New Zealand. I first learnt that a volunteer corps was to be formed when on parade at Limerick. The regulations were frequently read to us by the Staff Officers. Great promises were held out to us. The regulations produced are the same as those I came out under. The promise of a cottage and acre of land was one of the inducements to me—till I arrived in New Zealand, I expected this cottage and acre. When I arrived found no cottage ready. Was obliged to lie on the fern, or under a wooden shed. My family were with me, a wife and six children. I only occupied that shed for a few days.

Witness puts in a written statement. Question put, that said statement be entered on the minutes.

Agreed to.

Statement to follow.

Auckland, August 29th, 1853.

Statement put in by Joseph Symes.

On the Pensioners arriving at their respective settlements from ship board, it was my lot to be sent to Howick, some fifteen miles from Auckland.

The day after our arrival there, I applied to my Staff Officer for leave to proceed to Auckland to procure employment that would enable me to support my family as I being a tradesman, could not do so working at road making. I received for answer that no man should leave the settlement until the different roads planned out should be completed.

Within a few days after, His Excellency the Governor visited our settlement, I appealed to him for leave as on a former occasion to my Staff Officer. His Excellency granted me leave to proceed to Auckland, which I did the same day.

A few days after, an order was read to me that I was to attend Divine service parades with the troops in garrison, which order I strictly complied with.

Some short time after I was employed by a person who sent me to attend to an order from His Excellency Governor Grey relative to work required (my trade being that of a tailor), His Excellency knew me and inquired, had I got employment, I replied in the affirmative, he replied that he was pleased at it, and shewed an interest in my welfare.

I thought it a good opportunity to state that as to a certain degree I was a soldier, and as the indulgence he was kind enough to favour me with, may some day be wrested from me, I begged he would be pleased to give a written pass under his hand, which would be strong in my favour under almost any circumstances. His Excellency without the least hesitation signed a pass to the effect that I had leave to reside in Auckland to attend Divine service parades with the troops in garrison, and that I should attend the periodical drills when called on so to do and that I should be in possession of this indulgence without I should abuse it.

On the strength of this indulgence, I made it my object to select from several opportunities presenting themselves to enter into business. My first was to select respectable masters for my three eldest sons, and am glad to say I succeeded. I next entered into business of my own trade, when some months after I received from my Staff Officer an order to attend Divine service parades at Howick, and that the indulgence granted by Sir George Grey was no good, Major Kenny having cancelled all such.

The intelligence overwhelmed me, I knew not what to think, I read my pass over and over and certain that I had not abused the indulgence it conveyed, I was determined to stand to its meaning.

I was threatened by Major Kenny, by my Staff Officer, if I absented myself a certain number of parades, (I think three) I should be dismissed the force, deprived of my cottage and acre of land, besides, pay the whole amount for bringing my family to New Zealand.

I found only one alternative, to address His Excellency the Governor, a memorial to address His Excellency the Governor was got up and signed by about 14 men situated similarly to myself, but before a reply could reasonably be expected, I for one was dismissed the force and subject to all the penalties attached.

I then wrote a most respectful memorial to Sir George Grey and enclosed the pass he gave me on a former occasion, imploring him to take my case into consideration, reminding him I was in business in Auckland; and my three sons so situated that a father's eye was required to keep them from bad company and vice, and to think what a pecuniary loss I should sustain by throwing up my business then looking promising and going to reside at the settlement, or starting every Sunday morning 15 miles, and having a navigable river to cross to and from that settlement and in all weathers, my constitution could not support such exertion at my age, and waiting with great anxiety a favourable reply.



I beg to state there exists in the new regulations a clause speaks thus—

“If a Pensioner shall be dismissed the force for misconduct, and his subsequent conduct shall entitle him to be recommended, he may be reinstated.”

On the strength of this clause, I applied to my Staff Officer begging the favour to be so recommended, he complied with my request in the strongest language, as also did the officer commanding the battalion in my favour, they both recommended me to be reinstated, but Major Kenny refused the recommendation saying he would not undo anything he had done.

Some months after this I was ordered to appear at Major Kenny's residence at Onehunga, to hear some papers read relative to my dismissal, on my part I was expecting a favourable reply to my memorial to Sir George Grey. On my arrival there, I found a number of pensioners for the same purpose, we were brought into a large room, Major Kenny began with these words—

“Now men, I will not allow any one of you to say one word, and if one of you attempt to say anything I will turn him from the room and find means to punish him for such conduct.”

On the following pay day, I was told, my pension would be paid only in part deductions were ordered to pay for the passage of my family, to the amount of about seventy pounds sterling. I stated to my Staff Officer I doubted Major Kenny's power to stop any part of my pension, I refused to take any without all, consequently I have received no pension for the last four years.

I beg to state in conclusion, I never received any intimation that Sir George Grey replied to my last memorial containing my pass which I forwarded through the Post Office to Wellington.

JOSEPH SYMES,  
Pensioner from the 2nd Dragoon Guards.  
6d. per diem.

Wyndham-street, Auckland,

Examination continued.—About 18 months after I had been here I was put in possession of a cottage at Howick. I was put in possession of my acre about 6 months after my arrival, no part of it was cleared, I cleared it myself, some men were sent to assist me in clearing it, and were paid by the Government, that was to fulfill the contract for the Government to clear a part of the land, I subsequently cleared the whole myself. At the expiration of about a year I went to Howick to try to live there. I had not my cottage assigned to me. I got materials and built a hut for myself. When the hut was ready my family and three children were with me, three I left in town. I continued in this but till some six months afterwards, when my cottage was given me. I returned to reside in Howick about two years. I carried on my business as a tailor. I used to go to Auckland to get work and carry the work back to Howick. Sometimes I used to stop a week in Auckland at work, at last I found I could not live in the Settlement under the circumstances the work did not support my family. I got leave from my Staff Officer to proceed to Auckland again, which I did. That was about two years after I had gone to Howick. The permission was not in writing, he told me by word of mouth “Go by all means,” and to leave my address with him so that if he wanted me he might know where to find me. He told me I was to attend parade at Auckland as on the former occasion as under Sir George Grey's permission. When I left Howick I locked my cottage up. My sons assisted me in cultivating the piece of land. We used to go from Auckland to Howick to work on the land. I continued to attend parade at Auckland. I had not been in town above three weeks when I received an order by my Staff Officer requiring me to attend Divine Service parade at Howick, I relied on the liberty I had before. It was then that I state, I was overwhelmed with the intelligence and I resolved to abide by my first indulgence. I was dismissed after having served four years out of the seven. My cottage and land were taken from me. It is now occupied by another pensioner. I have applied for it, they refused to give it up.

By Mr. Carleton:—

Q. Was it part of your agreement in England that you should reside continuously on your acre of land? A. It was never pointed out to me.

Q. Are you aware of any instructions issued from the War Office to stop men's passage money in case of their being deprived of their cottage and acre? A. No.

By Mr. Taylor—

What induced you to ask Sir George Grey for indulgence? A. I believed that he, as Governor, had the power to grant indulgence.

By Mr. Mackay—

What is the amount of your pension? A. Six pence per diem.

By Mr. Taylor—

Did you believe that your agreement had been fulfilled by your being sent to

Howick, a distance of about 15 miles from Auckland? A. Certainly not, we supposed the distance would be 5 miles from Auckland.

By the Chairman—

What passage in the Regulations led you to form that belief? A. I so understood the Regulations when they were read to me.

By Mr. Carleton—

Did any pensioner officer refuse to go to his station, on the ground of his house not being ready?

Question put,

Whether the above question be put.

Noes.

Mr. Mackay,

Mr. Taylor,

The Chairman.

Ayes.

Mr. Carleton.

Question not put.

Matthew McCormick—Was private in the 25th Foot. Left the army in 1840. I was enrolled in England for the New Zealand Fencible Corps in 1847, arrived in Auckland in November of that year. Got copy of printed conditions before embarking in England. I was told off to the village of Howick. Did not get my cottage and acre of land. Was put into a weatherboarded shed with my wife and one child. After this I was told off to an acre, where I built a raupo hut at my own expense as my wife was about being confined. Continued to attend Sunday parades for 15 months. After that time I got leave from Major Gray to reside in Auckland and attend the usual parades there, which I did constantly for three years, besides the drill of 12 days each year. After that period Major Kenny got the command, when he gave an order that any man who was four Sundays absent in a quarter should forfeit his acre and cottage as well as pay for the passage of himself wife and family out to the colony. I have been deprived of my cottage and acre of land.

Edward Hynes—I was Serjeant in the 23rd Royal Welsh Fusileers, discharged in November, 1842. Volunteered into the New Zealand Fencible Service in 1849, from Penbrooke Dock, S. Wales. Was Staff Drill Serjeant to the Royal Dockyard Battalion, Pembroke. I got 2s. 4d. (two shillings and four pence) a day besides my pension. Was induced to come to New Zealand by circulars from the Horse Guards that I might make a home for myself and my children. Had a wife and three children. I expected my cottage and acre of land. Would not have come otherwise. Arrived in New Zealand in Sept. 1849. Did not get my cottage and acre. There were no cottages built for the company I belonged to, nor land set apart. Was appointed for Onehunga. I applied continually for two and a half years for my cottage and acre. Never got it. The last petition they considered was an insult and on that account they struck me off, and put me under stoppages of my pension. I lived in Auckland the whole time in my own house, at my own expense bought the land and built the house myself. I performed military duties at Onehunga. I had to walk there and back every day on drill days. Was occasionally ill. Was never absent from drill for three successive Sundays for the two and a half years. Discharge produced. Very good character.

By Mr. Carleton—

Q. Were you sometimes absent from parade at Onehunga? A. I was sometimes sick absent.

Q. Had you a sick certificate? A. Yes, I had one signed by Dr. Fox, P. M. O. another from Dr. Matthew.

Q. Were you ever aware of a sick certificate not being sufficient excuse for non-attendance at parade? A. It was always a sufficient excuse.

By Mr. Taylor—

Q. Were you ever offered to be put in possession of your cottage and acre? A. At the end of about two years, on a pension day, Capt. Haultain told me that my cottage was now put up at Onehunga, and that any day I chose to take my family out, I might get the key. Neither flooring nor chimney were in. I told him as soon as the floor and chimney were in I would come. It was never offered me again. I enquired after it, afterwards, but was soon afterwards dismissed.

Question put,

That Col. Gray's evidence be taken.

Lieut.-Col. Gray examined,—I came out in command of the Pensioner Force. I am aware of the Regulations, and that it was one of the conditions that the pensioners should have a cottage and acre of land on arrival, that condition was not fulfilled for a considerable time after their arrival—in no instance. The earliest date at which any of the pensioners received their cottage was about 5 or 6 months after arrival. During the intermediate time they were housed in sheds erected at the expense of Government, weather boarded not shingled, neither wind nor watertight. Their wives

and families were all in the same place. They were so bad that I applied for native raupo whares to be built for them instead, which was done by the men themselves, with some native assistance, the men receiving usual wages. They suffered great discomfort. There was an understanding with the men that they should not be placed at a greater distance than five miles from a place where they could obtain employment, that the opportunity of employment should be placed within their reach within a distance of five miles. At the distant settlements there was no such opportunity of employment many of the pensioners came into Auckland in consequence to obtain employment. I decided that the men in Auckland should attend Divine Service there, that was considered to be in lieu of their attendance at their respective villages.

William Butcher—Was discharged from the Grenadier Guards in 1844. Discharge exhibited. Character very good. Joined the New Zealand Fencible Corps at Tilbury Fort, in August, 1844, and arrived in Auckland in November of that year, was told off to the village of Howick with Major Gray's Company. I got my cottage and acre in June or July the following year. I was one of the first who got their cottages. I have attended all the parades up to the month of November, 1848. I was dismissed the force in December of that year owing to a trifling dispute about the sum of 1s. 6d. (one shilling and six-pence) between me and one of the Sergeants who was an overseer over the road party. In consequence of this I lost my cottage and acre, and was put under stoppages for myself and wife to pay for our passage out.

John Hardy.—I was a private in the 1st Royals for seventeen years, and discharged in 1844. Was enrolled a private in the New Zealand Fencible Corps, at Glasgow, in May of the same year. (Character very good and possessed of two good conduct badges.) When I arrived at Auckland, was posted to the pensioner village at Howick, and had to live with my wife and five daughters for several weeks in a weather-boarded shed. I got my acre in about five weeks after reaching Howick, and then got a raupo whare my share of which cost 4l. 8s. in which I lived with my family for nearly two years. After that time I got into my cottage. I never missed a parade in Howick when living there. I lived there for about four years. After that I got leave to come to Auckland because I could not get bread for my family at Howick. Wet and dry, when able from my state of health, I went to Howick from Auckland to attend parade and Divine Service. I attended regularly until within 6 months of the period of my service being up. During part of this time I was laid up with Rheumatism and Dysentery. I was fully seven weeks ill of these complaints. I got a sick certificate from Dr. Thompson of the 38th Regt., which I expected would have excused me from attending parades. Capt. Smith the commanding officer at Howick refused taking the certificate, because Dr. Thomson did not belong to the force. I then walked out to Howick to get a certificate from Staff Surgeon Bacot which was not refused, but Major Kenny sent for me to Onehunga. When I went there, seeing that I was not fit for duty, he told me I would not be required any more and I will invalid you myself, this was said in the presence of Capt. Smith. I was then ordered to give up the key of my cottage, arms and accoutrements, and clothing. I gave up these things accordingly. I was excused the payment of the passage money for myself and family. A few weeks after I was invalided Major Kenny sent word by Captain Smith to me, that I might have the key of my cottage to go and live in, if I found the rents too high in Auckland. When I went to Howick to get the key it was refused me by Captain Smith until he could see Major Kenny again. When I saw the Major he would not listen to me, so I came away and have so lost my cottage and acre.

Moved by Mr. Carleton, and carried,

That the evidence be now closed, and the Committee do adjourn to 11 o'clock to-morrow.

FRIDAY, SEPTEMBER 7TH, 1855.

PRESENT—

Messrs. Sewell  
Carleton

Messrs. Forsaith  
Mackay

Moved by Mr. Carleton—

That the evidence be re-opened.

Carried.

Private Henry Ashurst examined—Discharged September, 1842. Character very good. Arrived in New Zealand in 1847. Belonged to Captain Smith's Company. Was not put in possession of cottage and acre on arrival. Was put in possession of cottage and acre at Howick in the latter part of the year, 1848. The cottage and acre were subsequently taken from me. He refused to give up the key, consequently the door was broken open. Was in the sick report, and unable to attend parade. Had sick certificates from Dr. Thompson of the 38th Regt. and from Dr. Matthew attached

to that Regt. Sent these certificates to Howick. Was fined for non-attendance at parade. Dr. Thompson's certificates were received for a time, for five years and upwards; after that time Major Kenny would not allow Dr. Thompson's certificates to be received. The cottage and acre was taken away because I was unable to attend parade through sickness. I was placed under stoppages to the amount of 43*l*. for passage money.

Moved by Mr. Mackay,  
That the evidence be closed.  
Question put and carried.  
Committee adjourned.

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SATURDAY, 8TH SEPTEMBER, 1855.

PRESENT—

|                      |                  |
|----------------------|------------------|
| Messrs. Carleton     | Messrs. Forsaith |
| Taylor               | Mackay           |
| Mr. Sewell—Chairman. |                  |

Question put,  
That the minutes of evidence be read *in extenso*. Agreed.  
Evidence was then read by the Chairman.  
The Chairman then read draft of a report.  
Question put,  
That the draft be adopted as the report.  
Debate ensued.

On motion of Mr. Forsaith, the Committee adjourned for further consideration of the report until 10 o'clock on Monday.

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MONDAY, 8TH SEPTEMBER, 1855.

PRESENT—

|                      |                |
|----------------------|----------------|
| Messrs. Carleton     | Messrs. Taylor |
| Forsaith             | Mackay         |
| Mr. Sewell—Chairman. |                |

Question put, that the draft report be re-considered. Agreed to.  
Paragraphs 1, 2, 3, 4, and 6, as amended. Agreed to.

Question put by the Chairman that the following paragraph be agreed to.

"In some instances pensioners who had obtained their cottage and land were subsequently deprived of them, for alleged breaches of military discipline, such as non-attendance at parade. It would, in the opinion of your Committee, be dangerous to re-open questions of this nature, decided by the proper military authorities, even were it competent to the House to do so."

Committee divided.

Ayes.  
The Chairman  
Mr. Mackay

Noes.  
Messrs. Carleton  
Forsaith  
Taylor

Paragraph expunged.

Mr. Carleton moved—that the following paragraphs be inserted.

7. But your Committee would observe, that although the clearest breach of agreement was the neglect to place the men in immediate possession of their cottages and acres, the most serious grievance, and that which calls the most imperatively for the interference of the Colonial Executive, is the depriving them of cottages and acres, and even placing them under stoppages to the whole amount of their passage money, for absence from parade through sickness, and notwithstanding the production of sick certificates.

8. Your Committee can recognise no conditions with the men, excepting those under which they are actually enrolled.

9. They find an engagement to confer certain advantages in requital of certain military duties.

10. They believe that absence from parade under sick certificate, cannot be construed into a non-performance of duty.

11. The reception of a sick certificate in excuse being, as they believe, so invariable, as to have become a custom, and therefore incident to the conditions under which the men were enrolled.

12. And the Colony is bound in loyalty and good faith to carry out the Queen's engagements, in all cases where it cannot be shewn that the military duties interpreted according to the usual rules of military service, have been unfulfilled.

Question put—that the paragraphs proposed be inserted.

Ayes.

Messrs. Forsaith,  
Carleton,  
Taylor

Noes.

Mr. Mackay,  
The Chairman.

Paragraphs inserted accordingly, and numbered 7, 8, 9, 10, 11, and 12.

Moved by Mr. Forsaith—that the following paragraph be inserted.

13. Your Committee moreover feel bound to add, that as the unanimous testimony of the witnesses examined by them, establish the fact that the Crown in the first instance failed to perform the condition under which the Pensioners were enrolled; it becomes a question deserving the serious consideration of the Executive Government, whether the breach of agreement on the part of the Crown, should not exempt the Pensioners from a too strict and literal interpretation of the contract in respect of the service they were required to render.

Question put—that the above paragraph be inserted, and numbered 13.

Ayes.

Messrs. Forsaith,  
Carleton,  
Taylor.

Noes.

Mr. Mackay,  
The Chairman.

Paragraph inserted, and numbered 13.

Paragraphs 14 and 15 agreed to.

Question put by the Chairman—that the following paragraph be inserted:—

They would add as a final remark their earnest hope, that this investigation and report, may not have the effect of raising undue expectations in the minds of the petitioners, which may be disappointed.

Ayes.

Messrs. Mackay,  
Taylor,  
The Chairman

Noes.

Messrs. Forsaith,  
Carleton.

Paragraph inserted, numbered 16.

Committee then adjourned.

