

Bill to be read in Committee

W. H. Carleton

PRE-EMPTIVE LAND CLAIMS BILL.

IN THE EIGHTEENTH YEAR OF THE REIGN OF HER MAJESTY QUEEN VICTORIA.

House of Representatives, SESSION I, No.

ANALYSIS:

<p><i>Title.</i></p> <p><i>Preamble.</i></p> <p>1. <i>Governor to appoint a Commissioner.</i></p> <p>2. <i>Commissioner to take oath of office.</i></p> <p>3. <i>Time for preferring claims.</i></p> <p>4. <i>Proceedings of former Commissioner to be transferred.</i></p> <p>5. <i>Commissioner to examine claims.</i></p> <p>6. <i>Notices of hearing.</i></p> <p>7. <i>Modes of proceeding.</i></p> <p>8. <i>Commissioner to make awards.</i></p>	<p>9. <i>Reports of former Commissioner to be adopted.</i></p> <p>10. <i>Awards to be presented to Governor.</i></p> <p>11. <i>Grant to be made.</i></p> <p>12. <i>Claimant in certain cases to receive compensation.</i></p> <p>13. <i>And his interest in the land to revert to the Crown.</i></p> <p>14. <i>Fees to be paid by claimant.</i></p> <p>15. <i>Commissioner's award to be final.</i></p> <p>16. <i>Interpretation.</i></p> <p>17. <i>Short title.</i></p>
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A BILL for appointing a Commissioner to examine certain claims Title.
to grants of land in the Colony of New Zealand and to make
awards thereon.

WHEREAS by Proclamation bearing date the 26th of March 1844 and also Preamble.

by a Proclamation bearing date the 10th day of October 1844 it was proclaimed and declared that the Queen's Right of Pre-emption would be waived over portions of land in New Zealand under certain terms and conditions in the said Proclamations set forth And whereas purchases have been made from persons of the native race of lands over which the Queen's Right of Pre-emption hath been waived And whereas it was further proclaimed that no grant would be issued to any other than the original claimant or his representative whose claims had been or might be investigated by a Commissioner and recommended by him to the Governor for a grant from the Crown And whereas a Commissioner was appointed in the year 1847 for the purpose of such investigation who did so report upon various claims referred to him And whereas some claimants have received Crown grants or compensation in lieu thereof to the full extent of the Commissioner's report and recommendation but Crown grants have been made to others not to the full extent of such Report or recommendation And whereas there are outstanding claims which have not been examined by a Commissioner but which ought to be examined: Be it therefore enacted by the General Assembly:

1. His Excellency the Governor by warrant under his hand shall within *three* Governor to
calendar months from the passing of this Act appoint a fit person to act as a Commissioner for examining and making awards upon land claims which shall be preferred in accordance with the provisions hereinafter contained who shall hold office during good behaviour or until exhaustion of the Commission Provided always that in case of death absence resignation or deprivation of the Commissioner the Government shall have power to appoint and shall immediately appoint another in his stead. *appoint a Commissioner*

2. The Commissioner shall upon his appointment take an oath binding him well and faithfully to discharge the trust in him reposed which oath any Justice of the Peace is hereby authorised to administer. *Commissioner to take oath of office.*

3. Every person whether an original claimant or his representative who shall desire to take advantage of the provisions of this Act shall prefer his claim to the Commissioner within *fifteen calendar months* from the passing hereof failing which no claim shall be entertained by the Commissioner. *Time for preferring claims*

4. The proceedings and reports of the former Commissioner shall be transferred to the Commissioner who shall have been appointed under this Act. *Proceeding of former Commissioner to be transferred.*

5. The Commissioner shall proceed with all convenient speed and in open court to examine and make award upon all claims preferred to him Provided always that the said Commissioner shall not examine any claim that shall have been already reported on by a former Commissioner unless the claimant shall show to the satisfaction of the Commissioner under this Act that such report was not in accordance with the terms of the Proclamation under which his claim shall have arisen. *Commissioner to examine claims.*

6. The Commissioner shall notify in the New Zealand Government Gazette the day appointed by him for inquiring into any claim and such notification shall be a sufficient warning to the parties interested therein. *Notice of hearing.*

Mode of proceeding.

7. In the examining and making awards on any such claims the said Commissioner shall be guided by the real justice and good conscience of the case and shall direct himself by the best evidence which shall be laid before him or which he shall be able to procure.

Commissioner to make awards.

8. As soon as conveniently may be after examining any such claim the said Commissioner shall make an award thereon in writing setting forth the name of the Claimant the situation and extent of the land claimed the evidence adduced in reference to the claim and should he find that the land so claimed has been duly purchased shall recommend that a Crown Grant be made and issued accordingly: Provided always that the said Commissioner shall not have power in any case to award or recommend a Grant for any number of acres in excess of the number specified in the certificate by which the Crown's right of pre-emption was waived: Provided further that when a portion only of a claim shall be awarded the claimant shall select the portion but in such manner as not unfairly to impair the value of the unselected portion of the land: and should any difference of opinion arise as to the fairness or unfairness of such selection the matter shall be referred to two arbitrators the one to be appointed by the Governor and the other by the claimant who shall agree before proceeding to arbitrate in the nomination of an umpire who shall be hereby empowered in case of disagreement of the arbitrators to decide thereon.

Reports of former Commissioner to be adopted.

9. The said Commissioner shall adopt as his own subject to the exceptions provided for by the fifth clause of this Act the reports made on any such Pre-emption claims by the former Commissioner: that is to say in those cases where Crown grants have not been already issued in accordance with the terms of those reports and shall recommend that grants or supplementary grants be made and issued in such manner as will carry out the terms of such reports.

Grant to be made

10. The Commissioner shall present his award together with the grounds thereof and recommendation to the governor and shall upon application of the claimant furnish the claimant with a certified copy of the same on payment of the sum of per folio

Awards to be presented to the Governor, together with the grounds thereof.

11. Whenever any grant shall have been recommended by a Commissioner under the provisions of this Act a Crown grant of the land comprised in such recommendation shall be made and issued to the person in whose favour such recommendation shall have been made as soon as conveniently may be after he shall have furnished a survey of such land to the Surveyor General and that officer shall have certified that he is satisfied with the correctness of the survey.

Claimant in certain cases to receive compensation

12. Should the land to which the claimant shall have been found entitled have been already alienated by the Crown or be required for public purposes the claimant shall be compensated by a land credit on the Treasury representing the sum that shall have been received by the Government for the land in question should it have been disposed of by sale and where the land shall not have been so disposed of the compensation shall be made by a land credit on the Treasury representing the market value of the land to be estimated by the Commissioner at the date of his award.

And interest in the land to revert to the Crown,

13. Upon receipt of such land credit all right title and interest of the claimant or his assigns to the land in respect of which credit shall have been issued, shall be deemed to be extinguished and the land itself, together with so much of the land purchased by any claimant or representative of a claimant who shall have preferred a claim under this Act and for which the Commissioner shall recommend that no grant be made shall be deemed and taken to be part of the demesne lands of the Crown.

Fees to be paid by claimant.

14. In order to defray the expences of carrying out this Act every person taking the benefit of the provisions thereof shall for every Pre-emption claim under the same pay to the Commissioner the sum of £5 and upon the issue of the Crown grant or receipt of credit on the Treasury as aforesaid following upon the award of said Commissioner or under this Act a further sum of *two shillings* shall be paid upon every acre or part of an acre so awarded.

Commissioner's award to be final.

15. Every claim adjudicated upon under this Act shall be held by such adjudication to be finally settled and the claimant shall not be entitled to reopen the same. And having submitted his claim to the Commissioner the claimant shall be afterwards precluded from withdrawing it from the cognizance and adjudication of the Commissioner who is hereby authorized to take the best evidence in his power and proceed to adjudication in like manner as if the claimant had prosecuted his claim to a decision.

Interpretation

16. The term Governor throughout this Act shall be held to include the Officer administering the Government for the time being.

Short title.

17. This Act shall be entitled the Pre-emption Land Claims Act and may be recited and referred to by that title.