

(No. 70.)



1878.

TASMANIA.

HOUSE OF ASSEMBLY.

MESSRS. PILLINGER:

PETITION.

Presented by Mr. Reibey, and ordered by the House to be printed, August 2, 1878.



*To the Honorable the Speaker and Members of the House of Assembly
of Tasmania, in Parliament assembled.*

The humble Petition of JAMES PILLINGER, of Millbrook, in Tasmania, ALFRED THOMAS PILLINGER, of Millbrook, aforesaid, and JAMES ROWLAND PILLINGER, of Antill Ponds, in Tasmania.

RESPECTFULLY SHOWETH AS FOLLOWS :

1. IN or about the month of January, 1876, your Petitioner (the said Alfred Thomas Pillinger) was informed by the Deputy Commissioner of Crown Lands for Tasmania that the three lots of land mentioned in the second paragraph of this Petition were open for selection and purchase, under the provisions of "The Waste Lands Act, 1876."

2. On the 26th day of April, 1876, your Petitioners severally made application to the Commissioner of Crown Lands to purchase, under the 24th Section of the said Act, one lot each of agricultural land of the crown, not exceeding 320 acres, situate in the Parish of Anstey, and County of Somerset, in Tasmania; and your Petitioners having respectively received notices from the said Deputy Commissioner of Crown Lands to pay the required fees for the survey of the said respective lots, duly paid the same.

3. At the time the said applications were made the said lots of land so applied for as aforesaid, and containing in the whole 960 acres, were occupied by the representatives of the late Robert Quayle Kermode under licence issued to the said late Robert Quayle Kermode by the Commissioner of Crown Lands, under Section 63 of the said Act.

4. On the 12th day of February, 1877, upon submission made by the said Commissioner to His Excellency F. A. Weld, Esquire, the Governor of this Colony, His Excellency authorised the said Commissioner to give the said representatives of the said Robert Quayle Kermode six months' notice of resumption of the said lots of land for the purpose of the sale of such land, under the provisions contained in the 79th Section of the said Act; and notice was accordingly given to the said representatives by or on behalf of the said Commissioner on the 14th day of February, 1877.

5. On or about the 8th day of June, 1876, Thomas Wedge, a Surveyor, was instructed to survey the said lots of land on our behalf, and the same were surveyed by the said Thomas Wedge accordingly.

6. On the 10th day of July, 1877, the Deputy Commissioner of Crown Lands requested the said Thomas Wedge to report on the character of the said lots of land, whether the said land was fit for agricultural purposes or only for pastoral purposes; and on the 15th day of July, 1877, the said Thomas Wedge reported that he had valued the said lots of land at thirty shillings an acre, and that a very considerable extent could be brought under cultivation.

7. On the 2nd day of August, 1877, the then Commissioner, by a memo. in writing under his hand endorsed upon the report of the said surveyor, decided that the said lots of land were suitable for cultivation; and that your Petitioners respectively had a right under the said 24th Section of the said Act to select and purchase the said lots respectively.

8. In or about the month of July, 1877, your Petitioner the said Alfred Thomas Pillinger was informed by the said Deputy Commissioner of Crown Lands that the said notice so given to the

said representatives of the said late Robert Quayle Kermode, as in the third paragraph of this Petition mentioned, would expire on the 14th day of August, 1877, and that your Petitioners could then take possession of the said lots of land.

9. On the 2nd or 3rd day of August, 1877, your Petitioners the said Alfred Thomas Pillinger and James Rowland Pillinger called at the Office of the said Commissioner and there saw the said Deputy Commissioner, who informed your said Petitioners that Mr. Wedge had sent in a favourable report as to the agricultural character of the said lots of land. Your said Petitioners were about to pay the first instalments of the purchase money for the said lots, in accordance with arrangements then made with the said Deputy Commissioner, when he suggested that he should send the account for the same by post, as it would give him more time to prepare the necessary papers for carrying out the said sale, to which your said Petitioners assented.

10. On the 3rd day of August, 1877, your Petitioner the said Alfred Thomas Pillinger saw the Commissioner of Crown Lands personally, and was then informed by him that he, the said Commissioner, had duly approved of the said selections, and that there was nothing further to be done in the matter except to pay the instalments when the same were duly demanded.

11. On the 14th day of August, 1877, your Petitioner the said Alfred Thomas Pillinger wrote to the said Deputy Commissioner in the words and figures following :—

“DEAR SIR,

“I understood from you that to-day, the 14th, my father, brother, and myself, (meaning thereby your said Petitioners), would be placed in possession of land selected by us under “The Waste Lands Act” which had been surveyed by Mr. Wedge,—will you please to advise me as to our position, if we are to take possession, or if anything further is required to be done?

“Yours very truly,

“(Signed) ALFRED T. PILLINGER.”

And on the 28th day of September, 1877, your Petitioner the said Alfred Thomas Pillinger received from the said Deputy Commissioner a letter in the words and figures following :—

“SIR,

“REFERRING to applications made by yourself and Messrs. James and J. R. Pillinger to select 320 acres of land each in the parish of Anstey under the 24th Section of “The Waste Lands Act,” I am now desired by the Honorable the Minister of Lands and Works to acquaint you that the Honorable the Attorney-General having given an opinion that at the time you applied to purchase these lots the leased land of which they form a part was not open to selection—no notice to the Lessee having been then given—the application cannot be granted. They are refused also on the ground that the land cannot, in the Commissioner of Crown Lands’ opinion, be considered agricultural land within the meaning of the term as used in “The Waste Lands Act,” 34 Vict. No. 10. I am further to inform you that the lands in question will be sold by auction in December next at Hobart Town.

“I have the honor to be,

“Sir,

“Your very obedient Servant,

“(Signed) H. J. HULL, D.C.C.L.”

12. In the month of November, 1877, your Petitioner the said Alfred Thomas Pillinger applied to the Supreme Court of Tasmania for a Writ of Mandamus to compel the Commissioner of Crown Lands to enter into the contract prescribed by the said Act for the sale of the said lot so selected by your Petitioner as aforesaid. The application was refused upon the ground that as the Commissioner’s minute of the 2nd of August, 1877, had never left the office of the Commissioner or his clerks, and did not appear to have been acted upon or communicated to your Petitioner the said Alfred Thomas Pillinger until after the Commissioner discovered that the said minute was mistaken in its interpretation of the Surveyor’s report, and was also erroneous in fact, since from his own personal knowledge of the land the Commissioner was aware that it was unsuitable for cultivation, it was not competent for the said Commissioner, upon discovering that the said minute was mistaken in fact and erroneous, to reconsider such minute and vary or rescind it.

13. Your Petitioners are well acquainted with the three lots of land so selected as aforesaid, and to the best of their judgment and belief the greater portion of the soil is rich in quality and well suited for agricultural purposes. It is especially adapted to the growth of oats, root crops, and artificial grasses, and in a favourable season would, as your petitioners verily believe from their experience of land in the neighbourhood, produce at least 60 bushels of oats to the acre. In your Petitioners’ judgment the climate is more favourable to the growth of oats and root crops than a warmer one would be.

14. Your Petitioners have been informed and believe that a lot of land situate within a distance of three miles or thereabout from the said lands so selected by your Petitioners as aforesaid was selected for purchase as agricultural land by one Joseph M’Ewan some three or four years since under the provisions of the said Act, and that the contract for the sale and purchase of the said land was duly entered into by the Commissioner of Crown Lands for the time being and the said Joseph M’Ewan in accordance with the said Act.

15. Your Petitioners have been informed and believe that, at or about the time of selecting the said three lots as aforesaid, certain lands situate on the Western Tier, within five miles from the same selections or thereabout, and then under lease from the Crown, were selected for purchase as agricultural lands under the provisions of the said Act, and that the contract for sale and purchase thereof has been duly entered into in accordance with the requirements of the said Act.

16. Your Petitioners have always been and still are ready and willing to enter into contracts for the purchase of the said lots at the price, on the terms, and subject to the conditions contained in the said Act in relation to sales of selected land.

Your Petitioners therefore humbly pray that your Honorable House will be pleased to make enquiry into the matters aforesaid, and to cause justice to be done to your Petitioners in such manner as to your Honorable House shall seem meet.

And your Petitioners, as in duty bound, will ever pray, &c.

JAMES PILLINGER.
ALFRED T. PILLINGER.
J. R. PILLINGER.