

(No. 158.)



1891.

PARLIAMENT OF TASMANIA.

CROWN LANDS SELECTION BILL, 1891, [No. 76] :

REPORT OF SELECT COMMITTEE OF LEGISLATIVE
COUNCIL, WITH EVIDENCE.

Ordered by the Legislative Council to be printed, November 12, 1891.



SELECT Committee appointed, on the 6th day of November, 1891, to consider and report upon "A Bill to authorise certain Persons to select and acquire certain Areas of Crown Lands," such Committee to have power to send for persons and papers.

MEMBERS OF THE COMMITTEE.

MR. CROSBY.
MR. DOUGLAS.
MR. GELLIBRAND.

MR. PAGE.
MR. ROOKE.
MR. FYSH.

DAYS OF MEETING.

Tuesday, November 12 ; Wednesday, November 13.

WITNESS EXAMINED.

Mr. James Andrew (Immigration Agent).

MINUTES OF PROCEEDINGS.

TUESDAY, NOVEMBER 10, 1891.

The Committee met at 11 A.M.

Present—Messrs. Douglas and Gellibrand.

Mr. Douglas was elected the Chairman.

Order of the Council appointing the Committee read by the Clerk.

Mr. Andrew, Immigration Agent, was introduced and examined.

Mr. Andrew withdrew.

The Committee adjourned *sine die*.

WEDNESDAY, NOVEMBER 11, 1891.

The Committee met at 3.45 P.M.

Present—Messrs. Douglas (Chairman), Fysh, and Gellibrand.

Draft report brought up, read, and agreed to.

The Committee adjourned *sine die*.

R E P O R T.

Your Committee, having examined documentary evidence, and heard the personal explanation of the Immigration Agent in connection with the claims made and set forth in the Schedule of the Crown Lands Selection Bill, 1891, [No. 76], have come to the conclusion that the following persons are equitably entitled to their Land Grant, and would recommend that their claims be favourably considered at the hands of your Honorable Council:—

P. Callaghan, in trust for children of Susannah E. Barrett	Sixty acres.
Henry William Ferguson	Thirty ditto.
E. Austin Cooke, wife, and family	Ninety ditto.
William Manlin, wife, and family	Ninety ditto.
N. Stuart Bostock	Thirty ditto.
Rev. H. S. Anderson and wife	Fifty ditto.
R. Stuart Sanderson	Thirty ditto.
Alfred Pike	Thirty ditto.
The Legal Representatives of:—	
John Frederick Gibbs	Eighty ditto.
Henry Park	One hundred ditto.

In the case of the following, your Committee are of opinion that they are not legally or equitably entitled to any consideration:—

J. Shanahan.
 Thomas Wootton and family.
 Henry Dumaresq Windsor.
 John Carmody.
 Albert Fremlin, wife, and family.
 Major G. R. Tofft, wife, and family.
 William Langdon Harwood.
 James Stocker Scarr, and
 Edward Robert Carr.

ADYE DOUGLAS, *Chairman.*

*Committee Room, Legislative Council,
 November 11th, 1891.*

E V I D E N C E.

TUESDAY, NOVEMBER 10, 1891.

JAMES ANDREW, *called and examined:*

1. *By the Chairman.*—What is your name, Mr. Andrew? James Andrew.
2. You had charge of the Immigration Department? Yes.
3. What do you call yourself? Immigration Agent and Secretary. The Immigration Act is practically extinct, so I am the Secretary of the Immigration Department.
4. How long have you been engaged in that capacity? Not more than four years.
5. You are acquainted with the cases mentioned in the Schedule of this Bill? Some of them, Sir. I have not a personal acquaintance with all of them.
6. You investigated them? All except one or two, which were added quite recently, and of which I have only partial information.
7. Will you commence from the beginning, and tell us what you know of these cases? Many of them have reference to a Report I made in 1889. The first case on the Schedule is that of P. Callaghan, in trust for John Barrett, Margaret Barrett, and William Barrett, infant children of Susannah E. Barrett, residing at North Motton, and claiming 60 acres of land. A land certificate was issued to Susannah Barrett on the 18th April, 1879, but owing to her death the land was not selected within the time specified by the Act—31 Victoria No. 26—twelve months. The trustees applied to select on behalf of the children, but the Board of Immigration declined to sanction such an arrangement.
8. *By Mr. Gellibrand.*—If you are going to stick to the strict letter of the Act these claimants have not a show at all, but as this is a Court of Equity we can hear anything in support of their claims? Yes.

9. *By the Chairman.*—The wife died, and an application was made in due course, but it was not granted because of the wife dying? Yes.

10. The next case is that of J. Shanahan, of North Motton, who claims 30 acres? No claim for land in this name can be traced in the records of the Immigration Office. I have also enquired from Mr. Reid, the Deputy Commissioner of Lands, but he had no evidence in that office. I may state that the name was added to the Bill when first introduced in 1887, and has been written on the Schedule since then.

11. But there was no application from the man? No. His name does not appear anywhere in the Immigration Department. I can furnish no information whatever.

12. *By Mr. Gellibrand.*—How did you get the claim? The name was added. I do not know why it was included in the Schedule.

13. *By the Chairman.*—Then we come to Thomas Wootton, 30 acres; Mary Ann Wootton, 20 acres; Arthur Wootton, 10 acres; Mary Wootton, 10 acres; Catherine Wootton, 10 acres; Eliza Wootton, 20 acres; at The Nook, East Devon—making in all a total of 100 acres? The applicant arrived in Tasmania more than three and a half years before the Act was passed under which he would have been entitled to select land. The provisions of the Act 31 Victoria, No. 26, applied only to arrivals from Europe or India. Wootton came from Natal, where he had been residing for some years, in January, 1871, and the Act extending the privileges in regard to land being given to any person arriving in Tasmania from any country or place other than Europe or India, as well as from Europe or India, did not become law until September, 1874.—*Vide* Parliamentary Paper (House of Assembly), No. 103, of 1876.

14. Then, shortly, your evidence is this:—Wootton arrived in the colony three and a half years before the Act came into operation? Yes; from Natal, Sir. The right of granting land to immigrants applied to people proceeding from Europe to Tasmania—I mean, Europe or India. The Act passed in 1874 extended that to other places. Wootton came from Natal three years before the Extension Act was passed.

15. Had his family arrived in the Colony three years before the Act was passed extending these privileges? Yes.

16. *By Mr. Page.*—He came before the extension of the Act? Yes.

17. *By the Chairman.*—Then there is the claim of Henry W. Ferguson, of Hobart; he claims 30 acres of land? The land was not applied for within twelve months after the date of the certificate. No exception appears to have been taken, either, for non-compliance with the provisions of the Act. There is the land certificate, and the stipulation attached to it that the land shall be applied for within twelve months after the applicant has been in the colony.

18. *By Mr. Gellibrand.*—How long was it after this that he applied? It may have been only a few days. The land certificate was issued on the 16th January, 1885, for 30 acres. There is no record in the Immigration Office with the particulars of the claim.

19. *By the Chairman.*—Two years and nine months after? Yes.

20. Was the application granted to him? He made his application in 1885, and was granted a certificate, but he did not apply for his land under the certificate within twelve months.

21. *By Mr. Page.*—Perhaps he was ignorant? It is printed on the certificate. His application was put in on the 25th February, 1886.

22. *By the Chairman.*—He arrived in January, and got his certificate in February. I think we may report favourably on him, as he is only gone a month after the stipulated time? Yes.

23. Shortly, Mr. Andrew, your evidence on this case is that he arrived in January, 1885, obtained his certificate of the land in February, 1886, paid his survey fee, but did not have the land granted him because he was a month over the twelve months specified in the Act? Yes.

24. The next case is that of Henry Dumaresq Windsor, of Sommerville, Westbury, who claims 30 acres? Selection was made within twelve months after the land certificate was issued, namely, the 8th March, 1878, and on the 19th March, 1879, application was made to the Board of Immigration for an extension of the time, but it was not within the power of the Board to grant this application.

25. *By Mr. Gellibrand.*—What time did he actually send in his application?—have you got that? Mr. Solly wrote to him on the 19th March, 1879. From what I remember of the correspondence he was eleven days over the time, and it was not in the power of the Board to grant his request.

26. *By the Chairman.*—He never seems to have applied again? No; his application was only for an extension of time.

27. *By Mr. Page.*—He paid no survey fees? I do not think he did, Sir. I have not had time to go afresh through these papers, and my memory is rather at fault in regard to some of them.

28. *By the Chairman.*—Then he received a reply that, inasmuch as that the Immigration Board were bound down to twelve months, he could not get it? Yes.

29. *By Mr. Gellibrand.*—Is not that proof that he did send in an application for some particular piece of land? That is what I want to find out.

30. Have you not reported upon that about whether he got the certificate? No; I have simply quoted the decision of the Board that it was not within their power to grant the land.

31. The original application ought to have been there? My recollection of the case is he did not apply for any particular block of land, but simply applied for an extension of time.

32. *By Mr. Page.*—He did not find a piece suitable? No; I expect not.

33. *By Mr. Gellibrand.*—Was he born here? No. If he had been born here he would not have been entitled to it.

34. *By the Chairman.*—This case, I expect, presents itself in this form, does it not, Mr. Andrew?—that the applicant had the right of selection, but did not exercise that right, and has not done so up to the present time? Yes.

35. The next case, Mr. Andrew, is that of John Carmody? My report on this case is that this claim has already been considered by Parliament, and a resolution passed on the 17th November, 1887, in favour of granting the applicant forty acres of land, which he had failed to select within the time allowed. The late Dr. Huston was instrumental in getting his name put on the Bill.

36. He arrived in the colony in 1874, and applied for a grant of sixty acres of land; shortly afterwards he obtained a situation in the Tasmanian Government service at New Norfolk, and remained there until lately; he now desires to secure some land. In 1887 he put in a claim to the land. When did he arrive here? In 1874, just at the time the Act was passed.

37. *By Mr. Gellibrand.*—Did he get a certificate? No, he never got one,—in fact, he did nothing.

38. *By the Chairman.*—It appears this party made no application for his land selection for thirteen years after he was in the colony, all that time? Yes.

39. *By Mr. Gellibrand.*—He did not even get a certificate? No.

40. *By the Chairman.*—The next case is that of E. Austin Cooke, wife, and family, of Launceston, who claim 90 acres? This case was decided on the definition of the term “intermediate passage.” The sum of £20 had been fixed by the Board as the minimum to be paid by an immigrant applying for land under Section 7 of the Act, whilst Cooke paid the maximum of £19 19s. for each statute adult of his family, and additional payment for excess luggage of £3 ls. 1d. made the total over the requisite sum.

41. He paid £19 19s.? Yes, he really paid more than that amount in excess of luggage.

42. This applicant paid £19 19s. as passage money, and £3 ls. 1d. excess of luggage, making a total of over the requisite? Yes, the definition of the term “intermediate passage” was decided by the Board.

43. Then we recommend that to the favourable consideration of the House? I have been unable to trace the fact of £20 being required from the intermediate passenger. He probably left England, under the impression that he would get that out, and when he arrived here he found he was a few shillings short.

44. The next case is that of William Manlin, wife, and family, Upper Piper’s River, 90 acres? The applicant in this case was refused on the same grounds as the last one. The amount actually paid for the passage of $5\frac{1}{2}$ statute adults was £94, whilst a disbursement for this purpose of £110 was necessary to meet the requirements of the Board in their interpretation of an “intermediate passage.”

45. We recommend that one also? I think it is a worthy one.

46. Well, the next is that of N. Stuart Bostock, of Springfield, 30 acres? Application for land was made in the first instance to the Lands Department, instead of to the Board of Immigration, and more than twelve months after arrival in the Colony elapsed before the claim came before the Board. Mr. Bostock paid the requisite amount for his passage, and but for the irregularity in his application would have received a land certificate.

47. *By Mr. Gellibrand.*—The Land Department never let you know anything about it? No.

48. *By the Chairman.*—The evidence shortly is this: this party arrived and only paid his passage money, and made his application for the land and paid his survey fee, but sent his certificate to the wrong office, and consequently the error arose? Yes.

49. The next is that of the Rev. H. S. Anderson and wife, of Beaconsfield—50 acres? A land certificate for 50 acres was issued on the 24th September, 1886, but the land was not selected within 12 months from that date, owing, according to the applicant’s statement, to his wife’s ill health and troubles incident to taking up Ministerial work in the district.

50. The next case is that of Albert Fremlin, wife, and family, of Glenorchy—60 acres? A land certificate for 60 acres was issued on the 26th April, 1886, and the applicant entrusted the selection of the land to another person, who for three years failed to take any action. Permission is now sought to select under this certificate.

51. No application was made in this case for three years? For three years.

52. Major G. R. Tofft, wife, and family, New Town—100 acres? The applicant, who arrived in Tasmania from India, received a land certificate for 100 acres on the 24th September, 1877, but owing to ill health failed to select his land before he had to return to India, his wife and family remaining in the colony. Upon his final settlement here, in 1882, permission was sought to acquire the land to which he had been previously entitled, but the Board of Immigration had not the power to grant his request.

53. *By Mr. Gellibrand.*—You have the original application, I suppose? No, I have not all the papers here.

54. Where is his original application? I have not got it.

55. Where would those papers be? I could get them.

56. *By the Chairman.*—He came out in 1886? Yes.

57. *By Mr. Gellibrand.*—He only came out on leave, didn’t he? I do not know.

58. *By the Chairman.*—Have you any other papers? There was a lengthy correspondence about this case, which I could produce.

59. *By Mr. Gellibrand.*—What are the rules about obtaining a certificate on furlough?—Can anyone obtain a certificate if he is down here only on furlough? I do not know; his wife and family remained here.

60. *By the Chairman.*—Perhaps he came down, and said it was his intention to remain here. I know the case of Colonel Fulton; he came down and took up land, and then went back to India in order to serve another twelve months, which would entitle him to his pension. I think this is a similar case. Major Tofft was up at Castra, and left there for India to complete his term? Of course, nobody could get an absolute grant until they had resided five years in the colony. They merely held the land during that time.

61. *By Mr. Gellibrand.*—You have this original certificate, of course? Yes.

62. *By the Chairman.*—William Langdon Harwood, of Launceston, 70 acres? The applicant arrived in Melbourne, from India, in October, 1877, and reached Launceston in February, 1879. When he first applied for a land certificate he stated that his detention in Melbourne was occasioned by his wife's ill-health, who, after her confinement, was not able to undertake a sea voyage, and by the sickness of a child. Medical certificates were furnished to the Board of Immigration, but were not considered sufficient to warrant the Immigration Agent in recommending the application. The Board decided that, under the circumstances, they had no power to comply with the request.

63. He arrived in Melbourne in 1877, and reached Launceston in 1879? Yes.

64. *By Mr. Gellibrand.*—Oh! two years after? Yes.

65. It was an afterthought that he came over here? I could not say.

66. *By the Chairman.*—The next case is that of R. Stuart Sanderson, of Emu Bay, 30 acres? Lengthy correspondence gives the point on which this man lost his land, and it states that at the time he made his application he was not 21 years of age. He made his application within the proper time, but it was claimed that the land could not be granted to an infant. By the time he was 21 the specified 12 months had elapsed.

67. It appears he was 19 years of age at the time he took his passage; the ship he came out by was the *George Thompson*, in October, 1879, and he is described as Randolph Stuart Sanderson, having paid some £21 for his passage, and 19 years of age. He himself then makes a declaration stating that he came from London, and reached Emu Bay in January, 1880. He goes on further to state—"I came from London to the Colony as a second-class passenger, and I hereby make application for a land order, empowering me to select 30 acres of land;" that is dated November, 1880, and he was 20 years of age on the 5th October? He lost his claim because he was not of age.

68. *By Mr. Gellibrand.*—Why did they not give it to him? The Solicitor-General ruled that, being an infant, he was not entitled to it; there was no definition in the Waste Lands Act in regard to the matter.

69. *By the Chairman.*—The next on the list is James Stocker Scarr, of Launceston, 30 acres? That case only cropped up when the Bill was printed. The first I heard of it was when I saw the copy of the Bill on Thursday. I looked this morning to trace this man's claim, and I found James S. Scarr received a land certificate on the 3rd September, 1880, for 30 acres. I know nothing more about it than that.

70. Is that all you know? That is all, Sir.

71. *By Mr. Gellibrand.*—I do not think he has any right at all, do you? No.

72. *By the Chairman.*—Edward Robert Carr, of Zeehan, 30 acres? That was a case I had no opportunity of investigating. I have the papers, but the name is only Edward Carr. I got a statement from Mr. Wise to the effect that he arrived in the Colony in 1884, and claimed under the old Immigration Act the right to select 30 acres. He was told to produce a certificate from the agents of the ship he arrived in as to payment of his passage money. Through a mistake on the part of the shipping agent, delay was made until after the Act was repealed. He was then told it was too late. He now claims that his name should be included in the schedule.

73. What particulars were given about the claim to the House of Assembly? I do not know. The particulars I have given you are as I have heard them.

74. Can you find some other evidence? I cannot trace the name, Sir.

75. Alfred Pike, Parish of Anglesea, County of Buckingham, 30 acres? That is rather a complicated case, Sir; it hardly comes within the terms of the Immigration Act. Pike and a man named Whitely took up land adjoining each other in the Ellendale District. Whitely left the Colony and transferred his land to Pike. It was contended that Whitely had not remained here for the five years necessary to get him the grant entitling him to the land.

76. Was Pike an immigrant? Yes, and he got his own land; and his application now is for Whitely's land.

77. *By Mr. Page.*—Was he a partner? Hardly; but Whitely transferred the land to Pike on the 9th June, 1884. Pike was given a statutory declaration for Whitely to sign to the effect that he (Whitely) had resided for 5 years in the Colony from the date of the location order. Pike was informed that no declaration from himself or residents in the locality would be accepted in lieu of one signed by Whitely. Pike undertook to get Whitely's signature to the declaration. On the 30th June, 1884, the Deputy Surveyor-General wrote to Pike requiring him to give up possession of Whitely's land, but giving him permission to continue in occupation for 6 months on payment of £1 for occupation licence. Mr. Sprent further stated that the Department had reason to believe that Whitely did not comply with the terms required, and that unless conclusive evidence to the contrary was produced the land would be resumed by the Crown at the expiration of the licence then offered. On the 29th August, 1886, Pike intimated his intention of appealing to Parliament *re* Whitely's land, and the Crown suspended action. On the 18th August, 1887, the Minister of Lands was interviewed by Pike, who asked that Whitely's grant be transferred to him. He was not in possession of either Whitely's declaration as to evidence or the transfer under which he (Pike) claims to hold this grant. In January, 1889, Pike again addressed the Minister, and stated that Whitely's

transfer was drawn up by Mr. Langdon, of Montacute, but made no explanation as to the failure to produce the declaration of Whitely's residence, or the documents of transfer. On the 24th October, 1889, Pike addressed Mr. Reibey begging for his intercession to get the grant deeds. Mr. Reibey communicated with the Premier, who moved the Minister to withdraw the lot in question from sale until time was given to Pike to produce evidence. Pike exhibits one certificate from William Langdon, of Montacute, that the land in question was transferred as stated, he having drawn up a document on the 23rd November, 1889; (2) certificate from J. Cleland, of Hamilton, that Whitely resided in Tasmania until after August, 1880; (3) certificate from W. E. Shoobridge that certain documents of Pike's relating to Whitely's land were handed by him to his father, by whom they were mislaid. In September, 1890, Pike again interviewed Mr. Reibey, who wrote to the Premier that such a class of settlers as Pike deserved all the aid and protection any Government could give. There were several applications to purchase Whitely's land from residents in the vicinity, and promises were made that the selection should be put up for sale by auction. Pike stated that he handed all the papers to Mr. Shoobridge, who lost them.

78. Where does Whitely live? He has left the colony, and cannot be traced.

79. *By Mr. Gellibrand.*—Mr. Shoobridge lost the documents? Yes.

80. *By the Chairman.*—When did he arrive? In the month of April, 1875.

81. *By Mr. Gellibrand.*—What has become of the land? Pike is in occupation.

82. Is he an old man? Yes.

83. He has the adjoining piece? Yes; he has been living on this land for years, and spending money on it.

84. *By the Chairman.*—The next case is—"Personal representatives, heir-at-law, or devisee of John Frederick Gibbs, deceased, vicinity of Mole Creek, 80 acres." Gibbs obtained a certificate on the 23rd May, 1882, and selected land, which was surveyed for him, but he died in 1886, before he had been in the colony five years.

85. *By Mr. Gellibrand.*—There has been no improvement? No; that is, there was none before the man died.

86. *By Mr. Page.*—Has anything been paid? They have been in occupation of the land.

87. *By the Chairman.*—Where are all the papers? These are all I have got. This is a case which has come up recently, Sir, but I could easily produce any others that are obtainable.

88. I do not think we can deal with the devisee, as it applies to a person who draws up a will. Did he make a will? I do not know Mr. Reid could give you information as to that.

89. Well, "Personal representatives, heir-at-law, or devisee of Henry Park, Boat Harbour, 100 acres." There is a large amount of correspondence in connection with this.

90. I do not think we can deal with this case. We have no evidence before us that the man made a will.