

REPORT ON THE WORKING OF THE NATIVE LANDS ACT, 1865.

No. 1.

Copy of a Letter from Mr. F. D. FENTON to the Hon. J. C. RICHMOND.

SIR,—

Native Land Court Office, Auckland, 11th July, 1867.

In compliance with Mr. Hall's request, I have the honor to state that there will be no change, as far as I can see, in the expenditure necessary for the maintenance of this establishment. Some saving might be made if a Court could be legally constituted, with one assessor instead of two, in cases where the presiding Judge might think that one would suffice, but as this would under the existing law be illegal, no deduction can be made on this account. It should be borne in mind that the officers of this department have also discharged the functions of the Compensation Court, and that no part of the permanent expenses have been charged to that department, with the exception of one clerk. I submitted this question to the consideration of Colonel Russell, stating my own opinion that £1200 a-year would be a fair portion to be placed to the account of the Compensation Court; and I also urged this view personally upon Mr. Richmond, but it was not entertained by either of these Ministers.

I observe that you request me to include in my estimate the outlay which will be necessary on surveys, and the department organized by Mr. Heale. All the expenses of surveys are paid by the suitors, and, therefore, no provision is necessary under this head; and I am unable to state what funds will be necessary for the department organized by Mr. Heale.

That gentleman is in the North trying to establish some base or principle on which the confusion of boundaries, &c., in that part of the country may be settled; and though I wrote to him immediately on receipt of your letter, I presume that he has not received my communication, for he has neither arrived in Auckland, nor replied to it. Mr. Heale's is an independent department, charged with other duties than examining the plans sent into this Court; and I am unable, therefore, in his absence to furnish any estimate of the requirements of that establishment.

If he has received my letter I do not doubt that he will arrive in Auckland by the next vessel, when Mr. Hall's request shall be immediately complied with.

Herewith I beg to hand you a Return of the operations of this Court for the periods therein stated. Of course I have been to a great extent dependent on the clerks in the office in making out this Return, and cannot vouch for its perfect accuracy. Indeed, I believe that it would be impossible between any two given dates to furnish a return that would be absolutely perfect, for, of course, many causes are in *esse*, and can scarcely be classed under any head; but, as far as I am able to discover, I believe the Return may be implicitly relied upon in making deductions, or for any purpose for which such a return would avail. I have commenced the Return, according to your desire, with the commencement of the Act in November, 1865. The period from November, 1865, to June, 1867, is not perfect, for Courts were sitting in many parts of New Zealand in June, of whose operations I have, as yet, no knowledge.

In explanation of this Return, I desire to state that the amount of land included in "Interlocutory Orders" is necessarily unascertainable with accurate certainty, as those orders were made by the Court under the authority of clause 71, which authorized surveys in certain cases to be dispensed with. But the amounts stated will not be very wrong. Thus, in the first Return, the number of acres passed through the Court in this manner is stated at 564,000, comprised in thirteen orders. Eight of these were made at a Court held at Cambridge, at which I presided, and a surveyor produced rough trigonometrical surveys of these, which showed the blocks to contain about 560,000 acres. These lands, I may mention, were the sole property of William Thomson's tribe, Ngatihana and Natikoriki, and his subject tribe Ngatiraukawa, who suffered so severely at the attack on No. 3 Redoubt at Taranaki. For the remaining five orders I have added 4000 acres. It is probable they will amount to very much more, as it is the large blocks of land that the Native refuses to survey until his title is established.

This very sensible view was first taken by William Thompson at the Court held at Hamilton. He said that he had declined to survey land until the Court had recognized his title, for it might be, that after he had completed a survey the Court might decide in favour of another's title, and how would he then recover his expenses; but let the Court he said first decide on his title, and then he could survey with confidence. In all cases of interlocutory orders without surveys a time is limited in the order.

The orders on subdivision can only be made in case more than five names appear in the grant. In other cases the Legislature considered that subdivision was a matter for private arrangement by deed. Considering the difficulty of access to lawyers by Natives living in country parts, I think this provision might well be altered so as to allow the Natives to choose in all cases, whether they will resort to a private legal adviser to effectuate a subdivision, or whether they will return to the Court.

The production of this return has enabled me to form in my mind a system of record by which I hope in future to be able to furnish a similar and indeed a more comprehensive return without delay, and without the labour that has attended the making of this.

In compliance with the desire expressed in the concluding paragraph of Mr. Hall's letter I caused letters to be addressed to the several Judges, requesting a report of their experiences in the working of the Act, and the general effect likely to be produced by it. The replies which I have received are enclosed in this letter, and the others will be sent on as soon as they arrive. I thought that it would be more satisfactory to the Government to have the opinion of each Judge than that of myself alone, although of course based to a great extent on the operations of all.