

REPORT OF THE TRUSTS COMMISSIONER UNDER “THE NATIVE FRAUDS ACT, 1871.”

No. 1.

MR. ORMOND to the Hon. D. M'LEAN.

Napier, 10th August, 1871.

SIR,—

I have the honor to enclose reports from Mr. Turton, the Trusts Commissioner under the Native Frauds Act of last session, as these reports are a record of the Commissioner's proceedings. I would recommend that they be printed, and laid before the General Assembly, so that members may have an opportunity of judging of the usefulness of the Act.

There are two cases only treated of in the minutes enclosed in the report of the 5th June, which require comment. One is a transaction between T. K. Newton, Esq., and Te Puna, in respect to the latter's interest in the Te Wharau Block. In this case, although Mr Newton is admitted by the Commissioner to have given adequate value to the other grantees for the land purchased, he considered it his duty to see that the interest of Te Puna was also satisfied, and the strictness with which Mr. Turton has performed his duties may be gathered from his action in this case.

The other transaction has caused a good deal of comment in this district. It relates to a deed of trust, which purported to convey the whole estate and interest of the old Chief Te Hapuku to the Hon. H. R. Russell and T. P. Russell, Esq., J.P., on trust. A perusal of the Commissioner's minutes on this case shows that the deed was pressed with unusual urgency; that when the Commissioner required Te Hapuku to be brought before him for examination, a letter, purporting to be signed by Hapuku, was handed in by Mr. Wilson, the proposed trustees' solicitor; also a statutory declaration was made by Mr. T. P. Russell that the deed received the full assent of the Hapuku, and further, it was proposed by Mr. Wilson to the Commissioner that he should depute to Mr. T. P. Russell the duty of examining Te Hapuku as to his acquiescence in the deed. Mr. Turton very properly declined to accept either of these proposals, and when Te Hapuku was examined by Mr. Turton himself, he admitted his signature to the deed, but stated that he had never agreed that his property should be given to the Messrs. Russell with power to sell, &c., and that he objected thereto. It has since become known that the Hon. H. Russell is Te Hapuku's principal creditor, and has for many years been in possession of a flock of 3,000 sheep and run belonging to Te Hapuku, which were taken possession of on a bill of sale for seven hundred pounds. As bearing on this case, I enclose copies of correspondence, referred to me for report some months ago, in which the Hon. H. R. Russell made recommendations respecting lands at Te Aute, of which the Hapuku is one of the principal owners. Without commenting on this case, it will, I think, be agreed that the Native Frauds Prevention Act has been of service.

The report, dated 1st August, treats of transactions at Poverty Bay, which call for no notice.

The final report of the 3rd August contains particulars of all transactions that have been before the Commissioner from the first report to date. I notice only two cases calling for remark. One is in respect to a deed of assessment by Te Hapuku to Messrs S. Locke and E. Lyndon of his property in trust, with a view to settling with his creditors.

You will remember that, during your recent stay at Napier, you requested me officially to take steps for the protection of Te Hapuku's interests, on the grounds of the claims he has on the Government for consideration for the aid given by him in opening this district for settlement, and his long tried friendship to the Europeans. I have addressed you separately on the subject, and need only say here I found I could not give the necessary time to the matter; and ascertaining, on enquiry, that Te Hapuku's interests required looking after, I proposed to him to give over the management of his property to Messrs. Locke and Lyndon, to which he at once assented. A deed was prepared accordingly, and alterations were made therein at the instance of the Commissioner. When, however, the creditors met, a majority declined to be parties to the deed, chiefly, I understand, because the deed was made subject to the supervision of the Frauds Commissioner, who has power to reject all claims containing items for supply of spirits. An attempt is now being made by a few of the creditors to make Te Hapuku bankrupt, and so set aside this deed, but as his assets are more than sufficient to meet all claims, and most of the creditors are opposed to the action, I trust this will not be permitted. I have referred to this case as showing the scope of the Native Frauds Act, and that, as read by Mr. Turton, it embraces a large field of action.

The other case, to which I will briefly refer, related to the Awa-te-atua Block, and the point of interest involved is the decision of the Commissioner, that in the case of a deed in which two natives are interested, one of whom signed before the Frauds Act was in operation and the other afterwards, he requires evidence that both interests have been satisfied before certifying to the deed.

I think a perusal of the reports will give a great deal of valuable information as to the working of the Frauds Act, and be a guide as to the points in which amendment is desirable.