

The Natives must sign a deed of release of their claims under the clauses, and no person refusing to sign the general release to be entitled to any interest in the above orders. On a subsequent day, I intimated that on reconsideration I did not think it necessary that a release should be signed of claims under the deed, as the orders of the Court are evidence of the satisfaction of their rights, *i.e.*, under both the clause of reservation, and the further reserve clause containing the promise of the Governor, though I will leave the order standing as it is, but it need not be acted on.

THURSDAY, 7TH MAY.

*Mr. Williams* read order in order of reference. Ordered that the order be settled in chambers.

*Mr. Williams* applied to the Court for an expression of opinion as to who should pay the costs of survey under order of reference.

141. *By the Court.*] I think these expenses should be paid by the Crown under the latter clause certainly; for the Crown undertook in the Ngaitahu deed to mark these reserves off, and it is now merely doing what it has covenanted to do. As to the first clause, the Crown has consulted its own convenience by consolidating the kaingas and residences; and I think that they should bear the cost of the surveys.

*Extracts of Minutes of a Court held at Dunedin on the 15th May, 1868. Present: F. D. Fenton, Esq., Chief Judge; and Henare Pukuatua, Assessor.*

WALTER BALDOCK DURANT MANTELL SWORN.

142. I was Commissioner of Crown Lands once here, previously Commissioner for Extinguishing Native Title. I came here to the southern district of the Province of New Munster in 1848. I was sent by the Government under instructions to complete an incomplete transaction of Mr. Kemp (the Ngaitahu deed). Those were my original instructions. I have seen this deed. This was given to me by the Government as the instrument by which Kemp's purchase was effected. When I came the money had not all been paid. I was brought into contact with these signers, and with others of greater importance who had not signed. It was always recognised by the Natives. The remaining instalments have all been paid.

143. In either of your capacities did you set apart land under that deed?—As Commissioner for Extinguishing Native Claims I set out several reserves; I set reserves at Purakaunui under my instructions. I set them out in December, 1848. I recognise my handwriting on the map dated 9th December, 1848. It is the map handed by me to the Natives signed by me "for the people belonging to Ngaitahu tribe." The people for whom it was intended are written in my census [Names read]. I found a certain number of Natives resident at Purakaunui, and then fixed the reserve at the smallest number I could induce the Natives to accept. There were 45 Natives, men, women, and children, just 6 acres a head. I came on to Otakou. I do not consider this a liberal allowance. I thought it ought to be at least 10 acres, not to exceed 10 acres if I could help it. I know this country. I recognise the land on this tracing; I think the land is absolutely worthless. The piece in the middle was excepted, I have no doubt to reduce the amount. As Crown Commissioner I subsequently made this piece a reserve. I hope my evidence has not led the Court to believe that I was dealing liberally. If I had followed my theoretical rule, the quantity would have been 450 acres. In other districts I allowed more than my theoretical rule.

144. *By the Court.*] The map was attached to the deed when I got it. Lieutenant Bull's seal and signature were there then. He was lieutenant in the "Fly," in which I was taken to Akaroa. When I paid the instalments, I got as many additional signatures as I could to the receipts. These receipts I handed to the Government; one is on the deed [Read in Maori and English], dated 27th February, 1849, "Mantell, Commissioner for Extinguishing Native Title."

145. Under which clause was this reserve made?—I should like to refer to my instructions, which will explain better than I can. [Instructions read. 1. 2nd August, 1848, signed "J. D. Ormond, for Private Sec." 2. 4th October, 1848, signed "Eyre, Lieut.-Governor."] This reserve would comprise more than the actual amount of their cultivations at the time at this place—I am speaking of land under crop, principally potatoes. The land under crop would be one-third, probably nearly one-sixth, of the land under cultivation.

146. There were other places cultivated or deserted besides Purakaunui?—I scarcely know how to answer these questions. What I did was to get the Natives to agree to as small amount as I could. The reserve at Purakaunui was sufficient for their immediate wants; I left their future wants to be provided for. I was not then able to make an estimate, and I took McCleverty's opinion. He said 10 acres, and I gladly embraced that standard. The reserve was made, not so much as fulfilling either clause of the deed, as the smallest quantity I could get the Natives to agree to. I believe half of the people there when I went are dead.

147. *By Mr. Macassey.*] I was authorised to make a promise—and I told them that the Government would make schools, build hospitals, and appoint officers to communicate between them and the Government. I found these promises of great weight in inducing the Natives to come in—but these promises have not yet been fulfilled. [Clause of instructions read: "Thirdly, you are only to mark out reserves around and including pas, residences, or cultivations to the extent that may be necessary for the resident Natives; but you may inform them that the Crown will hereafter mark out for them such additional reserves as may be considered necessary for their future wants."] I was not engaged to carry out the terms of Kemp's deed, but was preparing for the execution of a new deed.

148. Did you make this promise?—I took refuge under this promise with the Natives. The reserves may be looked upon as the result of a struggle, in which I got the land reduced as much as possible. I used to tell the people that if they were dissatisfied they must appeal to the Governor, and in one case (Waikouaiti) this was done, and they got an immediate increase.

149. Did the Natives believe in your promise, and come to terms upon the strength of it?—Certainly.