

1942.
NEW ZEALAND.

THE NATIVE PURPOSES ACT, 1940.

REPORT AND RECOMMENDATION ON PETITION No. 25 OF 1938, OF RANGIRERE TE MAENAE,
PRAYING FOR AN INQUIRY INTO THE DEALINGS WITH RESPECT TO THE AWAKINO,
TAUMATAMAIRE, AND OTHER BLOCKS.

Presented to Parliament pursuant to the provisions of Section 11 of the Native Purposes Act, 1940.

Native Land Court (Chief Judge's Office),
Wellington C. 1, 7th July, 1942.

The Hon. the NATIVE MINISTER, Wellington.

CROWN PURCHASES IN THE AWAKINO DISTRICT.

I TRANSMIT to you the report of the Court, made pursuant to section 11 of the Native Purposes Act, 1940, upon Petition No. 25 of 1938, of Rangirere te Maenae, concerning the purchase by the Crown of the Awakino, Taumatamaire, and other blocks.

The Court's recommendations are to the effect—

- (1) That the descendants of the original owners of the Awakino Block, which was purchased in 1854, should, in respect of an area of 7,000 acres which was found, on survey in 1884, to be in excess of the 16,000 acres which the block was estimated to contain at the time of purchase, be compensated in the sum of £231 17s. 6d., with simple interest thereon from 1884, or in land to the value of the commuted amount :
- (2) That an area of approximately 50 acres should be set aside for the Natives at Ketekarino in satisfaction of a reserve at that place stipulated for in the Awakino deed of conveyance :
- (3) That an area of suitable land should be set aside for the Natives in satisfaction of the Piripiri Canoe Reserve for which provision was made in the Taumatamaire deed of conveyance.

On the head of compensation, while admitting the weight of the argument by which the Court has felt itself pressed, I incline to think that the aspect of the purchase from the point of view of a "walk in, walk out" purchase, with all its implications and incidents, is the aspect which is paramount. In the first place, it is to be noted that the purchase was not of an area defined with any regard to the niceties of survey, but of a tract of land lying within boundaries the lines of which were determined by natural features. The description in the deed makes no mention of acreage. It runs, according to the translation : "The boundary of the land commences at Purapura and goes along the sea side to Huikomako and goes inland to Mangakahikatea and into the river of Mangakahikatea on to Manganui and goes in the water of the Manganui river until it reaches Awakino and crosses the Awakino and goes to Omoao and thence it turns seaward and goes on to Purapura where the boundaries join." As between the parties, this description of the land is clearly dominant, the sketch of the area used being of secondary importance only ; cf. *Finlayson v. District Land Registrar of Auckland* (17 G.L.R. 793). As a matter of strict law, where there is a discrepancy between plan and description, the latter prevails unless the plan is expressly made the governing description or the description is clearly insufficient or inadequate : *Llewellyn v. Jersey* ([1843] 11 M. & W. 183). In the second place, it is to be remarked that the quantum of the purchase-price certainly had no reference to a value calculated as on an acreage basis. Taking this into consideration with the fact that the land in question was on record as being "very broken and hilly, thickly covered with wood, and extremely difficult—in many cases impossible—of access," and that the purchase was undertaken not from necessity but from motives of policy and expediency and the desire to meet the wishes of the Natives, it is gravely to be doubted that, had the area been known with greater precision, a larger price would have been offered. But whatever the position be, the simple fact remains that the Crown purchased a determinate tract of land which the Natives not only agreed to sell at a certain price, but were anxious to sell. In the face of the