

1924.

NEW ZEALAND

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1922.

REPORT AND RECOMMENDATION ON PETITIONS Nos. 252 AND 295 OF 1922, OF JANE BROWN AND ROIMATA WI TAMIHANA AND OTHERS RESPECTIVELY, RELATIVE TO NGATIMUTUNGA RESERVE.

Presented to Parliament in pursuance of Section 55 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922.

Native Department, Wellington, 30th July, 1924.

Petitions Nos. 252 and 295 of 1922, with regard to Ngatimutunga Claims.

PURSUANT to section 55 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922, I herewith transmit the report of the Native Land Court herein.

Upon examination of the report and the records and material upon which it is founded I find myself unable to wholly concur in the findings.

1. With regard to the finding that the Government definitely promised an award of a fixed area of 3,000 acres to the absentee members of Ngatimutunga Hapu, I prefer to accept the finding of Mr. Commissioner Fox on the 26th April, 1884 (see 1884, A.-5A, p. 7), that "the Government made an award in the proportion of 10 acres to every absentee, a list of whom was made out." This is borne out by a reasonable construction of the Native Minister's memorandum of the 6th July, 1867, and the notification to the Natives in 1867 (*Kahiti*, p. 59), and it is supported by the evidence given before the Bell-Fox Commission and cited in Mr. Commissioner Fox's report. Unable to trace the list he referred to and to ascertain the rightful beneficiaries, the Commissioner thought the best course to pursue was "to have reserves surveyed and allocated to each of the tribes (hapu) entitled, but not to recommend any further action till the Government may be able (if it ever is) to ascertain the proper persons to become grantees." It was further suggested that if any of the grantees turned up, their interests, being of small dimensions, might be purchased. In the meantime, if the necessity ever occurred, the land was there to be dealt with in the manner contemplated at the time the promises were made.

In another place he suggests the reason that no claims had been previously made was on account of the smallness of the interests the claimants were entitled to. It seems obvious that the Commission, in setting aside Block VIII, Waitara Survey District, to meet these claims, did not consider that the 3,000 acres was to be a fixed area for the Ngatimutunga Hapu irrespective of the number of original beneficiaries.

2. The Court, in finding that Mrs. Brown received 500 acres of the Urenui Block in satisfaction of her Mataihuka claim, has, I think, overlooked Mr. Commissioner Fox's report of the 7th June, 1882 (1882, G.-5, p. 31). That report seems to show that the 500 acres was in respect of her Ngatiawa claim, and was to be accepted in satisfaction of all their (Mrs. Brown and her sister's) outstanding claims on the Government, including the contingent one in the Waikanae Block. This latter seems to be distinct from the Mataihuka claim, which apparently was settled by a grant of 150 acres, part of Section 98, Whenuakura.

With regard to the compensation suggested—£3,000—this seems to me to be a reasonable sum, and a pretty fair measure of the damages sustained. The land was specifically cut off in 1884, and the profits (if any) of so much of it as properly belonged to the Natives since that date should be their property. It is manifest that if the Natives are entitled to the whole 3,000 acres the compensation proposed would be on the small side. The Commission of 1905 found that at least seventy-three persons were entitled, and that each of their shares was worth £10, giving a total of £730. A careful review of the evidence and lists, however, indicates that persons were apparently excluded for insufficient reason—*e.g.*, as successor to some one who had got awards in other blocks. On the other hand, some may be found to have been wrongly included. The original estimate of absentees was 188, and it is better for the Government to err on the side of liberality. I suggest a fair number of beneficiaries to take would be 100: these at £10 per share give £1,000; adding forty years' interest at 5 per cent. would bring the total amount to that suggested by the Court.

I therefore respectfully recommend that legislation be passed setting aside the sum of £3,000 for those persons (or their successors) who would have been entitled to benefit under the promise given by the Government in 1867, the names to be ascertained by the Native Land Court. I do not favour the Court being allowed to make any special awards out of the amount so allotted. If the beneficiaries think Mrs. Brown is entitled to something it can be arranged among themselves. If the Government see fit to recognize her efforts on behalf of the Natives, then something might be allowed in a way that would not disturb any award to the Natives entitled.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.