

On the 8th July, 1867, His Excellency the Governor, Sir George Grey, added a minute as follows:—

The Governor has received the memorandum of his Responsible Advisers on the subject of the claims of Natives to lands at Taranaki, which were rejected by the Compensation Court in consequence of the long absence of the claimants from that place. On this subject the Governor wishes to state that, many years ago, when William King and his followers were returning to Taranaki to take possession of the lands on the Waitara River, the Governor became exceedingly anxious at the large influx of Natives which appeared likely to be poured into that district, and used all the influence in his power to prevent the well-disposed Natives from returning there. Many influential Natives then objected that if they did not return to Taranaki to take possession of their lands they would, in any settlement of the land question which might be made in that district, be very probably regarded as having forfeited their claims. Thereupon the Governor assured them that those who obeyed his orders and did not proceed to Taranaki should, in any future settlement of the land question at that place, have their claims adjusted upon at least as favourable a footing as those who, by proceeding to Taranaki, have greatly increased the embarrassments and difficulties of the Government. The Governor will acquiesce in any arrangement made by his Responsible Advisers for the settlement of this question, if he understands from them that they have considered and made allowance for the promise thus given by the Governor.

The Hon. Mr. Richmond then (on the 9th July, 1867) reported to Cabinet that, for the reasons mentioned by the Governor, the promise made at the meeting on the 6th July, 1867, should be effectuated by Order in Council. A draft Order in Council was accordingly prepared, and it recited, *inter alia*, that—

His Excellency the Governor doth hereby award unto persons of the several hapus or tribes named in the schedule hereto (including Ngatimutunga), being absentees to whom the Compensation Court has refused to award compensation, land within the several districts lately occupied by members of the said hapus or tribes respectively, to the extent set opposite the names of the said hapus or tribes severally, to be held jointly by such persons in each hapu or tribe respectively, subject to such subdivision as they may hereafter agree upon.

This Order in Council does not appear to have ever actually issued.

The promise made by the Government of the day is made even more clear by the following extract from the precis of notes of the meeting of Native absentee claimants, 6th July, 1867 (see Schedule A to this report):—

Mr. Richmond said that, as another Court [*i.e.*, the Wanganui Court] had allowed land to some Ngatiruanui absentees, the Government would do as much for the Taranaki absentees; and therefore pains had been taken to ascertain the number of claimants, and the hapus to which they belonged. The amount of land to be given to the five principal hapus—Ngatitama, Ngatimutunga, Ngatiawa, Puketapu, and Taranaki—was read, and a promise given that it would be laid off in blocks to suit their convenience. Bush land was to be given to all except the Taranaki, who were to get land partly bush and partly open. The parties interested were to be allowed to subdivide their land as they pleased without Government interference.

The evidence of Mr. Parris, former Civil Commissioner, given before the Fox-Bell Commission on the 6th March, 1880 (see parliamentary paper G.-2, year 1880, p. 27), bears on the same point. At clause 363 Mr. Parris says,—

At the time when Mr. Richmond investigated the claims of absentees for lands which had been excluded by the Court we did our best to ascertain the number of claimants who would probably come forward as absentees. We obtained this information from the elders of the tribes, and were thus enabled to decide the number, and the Government made an award accordingly. But that award has never been given effect to, nor the allocations made.

It is abundantly clear from the records already quoted that the Government in 1867 definitely promised to award to the absentee members of the Ngatimutunga Hapu an area of 3,000 acres, and that this area for the absentees was fixed after the Government had taken pains to ascertain the number of claimants. Mr. Parris says that the necessary information as to the number of probable claimants was obtained from the elders. The only point upon which there may be some conflict of opinion is as to whether the Government in 1867 promised a definite award of 3,000 acres to the Ngatimutunga absentees, or merely promised 16 acres to each absentee who could prove his or her claim. The Mackay Commission in 1905 (the Court will deal more fully with its findings later) assumed that the Government only promised 16 acres to each absentee.

The Court now reporting on this case is emphatically of the opinion that the Government in 1867 promised an award of 3,000 acres of bush land to the group of persons known as the absentee members of the Ngatimutunga Hapu. The Government in 1867 took pains to ascertain the probable number of claimants, and then fixed the area for the Ngatimutunga absentees at 3,000 acres. The Natives are entitled to expect that the Government will not at this late stage say that it made a mistake in 1867 (when it had the facts and the people, as it were, before it) in the number of claimants, and that the area should now be considerably reduced. If the promises had been carried out shortly after 1867, as, it is submitted, they should have been, there would have been no question about the matter—the 3,000 acres would have been awarded to the absentees and divided up by them as they saw fit without any interference from the Government.

It is true that in fixing the area at 3,000 acres the Government worked on the basis of an award of 16 acres for each absentee, but the actual award was of 3,000 acres to the group of absentees, and not of 16 acres to each absentee. The Government must, it is submitted, take the responsibility for fixing the award at 3,000 acres for the group of absentees, and should now leave it to the Native Land Court to decide definitely which absentees are entitled to share in the 3,000 acres or in its equivalent in value. The Court will show later how exceedingly undesirable it is that any award to individual absentees should be limited to 16 acres by following on the lines of the unbelievably fantastic scheme adopted by the Compensation Court in the Ngatiruanui case at Wanganui in December, 1866. The comments of the Fox-Bell Commission on this Ngatiruanui case will appear later.

2. The Court will now deal with the report of the Fox-Bell Commission (parliamentary paper G.-2, year 1880), and will submit that the emphatic views of two such eminent men as Sir William Fox and Sir Francis Dillon Bell, in strongly supporting the claims of the Ngatimutunga absentee, must carry the utmost weight.