

4. The Court will refer briefly to the proceedings before it at New Plymouth in 1923.

The Court, on the evidence put before it, was satisfied on the following points:—

- (a.) That the promises made by the Government to the Ngatimutunga absentees in July, 1867, have never been fulfilled, and that no grants have ever been made to the Ngatimutunga absentees as such.
- (b.) That, in the absence of any evidence of grants to any Ngatimutunga absentees, it should be assumed that no grants have been made, and that the Ngatimutunga absentees are still entitled to their 3,000 acres, or its equivalent in value.
- (c.) That the value of the land set aside for the Ngatimutunga absentees was at least 12s. per acre as far back as 1890, and that allowance should be made for the fact that the land has been withheld all these years, and that the Natives have had no benefit from it.
- (d.) That the other hapus who were made promises at the same time (1867) have received their awards either in land or in cash, and that the fulfilment of the promises made to the Ngatimutunga absentees should no longer be delayed.
- (e.) That it is advisable to make a cash award to the Ngatimutunga absentees in lieu of the 3,000-acres award. Having regard to the long delay, and the fact that the land was worth at least 12s. an acre in 1890, the Court considers it would be fair to the Natives to award them the sum of £3,000, or at the rate of £1 an acre. This sum, however, should cover such special awards to Mrs. Jane Brown or others as may be recommended later.
- (f.) The Court found it quite impossible to say what persons are entitled to share in any award as Ngatimutunga absentees. Mrs. Jane Brown's party was the only party adequately represented before the Court, and an attempt was made to show that she and her people were the parties entitled to at least the greater part of the award. The Court is of the opinion, however, that other groups of Ngatimutunga absentees should have an opportunity of pressing their claims. Probably there are absentees in the Waikato, in the Motueka district, and in the Chatham Islands as well as in the Waikanae district. The case has not yet been sufficiently advertised. The Court will make a recommendation.
- (g.) The Court is satisfied that Mrs. Jane Brown has not yet received a grant in satisfaction of her claims as a Ngatimutunga absentee. She has been put to a great deal of trouble and expense in pressing the claims of the Ngatimutunga absentees, and the Court thinks she should be made a special award out of any grant that may be made, to compensate her to some extent for the expense she has been put to. She should also be put into any award as an absentee.
- (h.) The Court recognizes that Mr. Richmond, in 1867, promised that the Ngatimutunga absentees could divide up the 3,000 acres as they pleased, but this is impracticable now. The Court is the proper tribunal for settling the list of participants and their respective shares.
- (i.) The Court sees no prospect of this very troublesome matter being settled unless it be got rid of now by an award that will meet the legitimate claims of the Ngatimutunga absentees under the promises made in 1867.

The Court accordingly begs to recommend as follows:—

- (1.) That the Government see its way to agree to a definite award of £3,000 or thereabouts to such members of the Ngatimutunga Hapu (or their successors) as may be found by the Native Land Court to have been "Ngatimutunga absentees" at the time of the promises made by the Hon. Mr. Richmond in July, 1867.
- (2.) That the Native Land Court be authorized and directed to hold an inquiry (at New Plymouth) and to ascertain the names of the absentees entitled, with full power to fix their relative shares. Ample notice should be given to Natives in the Waikato, Motueka, and Waikanae districts, and in the Chatham Islands, by special notices in the *Kahiti*, so as to ensure that all parties claiming to share in the award will have time to be reasonably represented at the hearing.
- (3.) It is recommended that the Court be authorized to make a special award to Mrs. Jane Brown (or others) if upon fuller inquiry it be found that she has been put to considerable expense on behalf of the general body of Ngatimutunga absentees, and that they have benefited from her efforts.
- (4.) The Court begs specially to recommend that definite action be taken one way or the other. It will be a great pity if this report meets the same fate as the report of the Mackay Commission. Each year it will become more and more difficult to say who are the Ngatimutunga absentees entitled. These absentees are, in the opinion of the Court, entitled to generous treatment. Following the usual rule on an investigation of title or definition of relative interests, the survivors of a hapu or tribe are the proper persons entitled. The Court feels sure that there will be no desire on the part of the Government to take advantage of the fact that since 1867 many of the absentees will have disappeared leaving no issue. In such cases the next-of-kin or the whole hapu will fall heir to the shares originally set aside for such absentees. The Native Land Court, with the various parties represented before it, will be quite capable of dividing up any award that may be made, and then, after the time for appeals shall have expired, this very troublesome matter will be settled for ever.
- (5.) The Court begs respectfully to recommend that, if approved, the necessary legislation be enacted during the coming session of Parliament.

F. O. V. ACHESON, Judge.