

Native houses, including the ground in cultivation or occupation around the adjoining houses without the fence, and the cultivations are those tracts of country which are now used by the Natives for vegetable productions, or which have been used by the aboriginal Natives of New Zealand since the establishment of the colony; and also except the thirty-nine Native reserves of 100 acres each and the 110 town acres, which said Native reserves are also set forth in the said schedule, and delineated upon the said plan except the two Native reserves of 100 acres marked upon the said schedule as Native reserves reserved."

In May, 1844, the Court adjourned to New Plymouth, and eventually awarded the Company 60,000 acres, subject to a reservation of one-tenth as Native reserves. In Petrie, or Wanganui, an area of 40,000 acres was awarded, subject to a similar reservation, and at Porirua the Company's claims were disallowed.

On the 19th August, 1844, the Spain Commission commenced its proceedings at Nelson to investigate the Company's claims to land in that district. In his report to Governor FitzRoy, dated the 31st March, 1845, Mr. Spain stated that—

"The first witnesses examined were called by Colonel Wakefield for the purpose of proving the fact that various presents were made soon after the arrival of the Nelson preliminary expedition, by the late Captain Wakefield, the then Resident Agent, to the Natives of Wakapuaka, Motueka, and Massacre Bay. A schedule enclosed, showing the appropriation of goods of various descriptions to the amount of £980 15s. to the Natives of the above districts⁽¹⁾, was put in and proved on this occasion, and substantiated by the concurrent testimony of several gentlemen who witnessed the transaction with the Natives, and was subsequently verified by a reference to the books of the Company's storekeeper. From the testimony it appeared that the late Captain Wakefield, immediately on his arrival with the preliminary expedition, assembled the resident Natives of the several districts in the immediate vicinity of Nelson and informed them that he was about to take possession of the land by virtue of a purchase made by Colonel Wakefield, at Kapiti, of Rauparaha, Hiko, and others; but that, as it was customary on such occasions to make presents to the resident Natives, he was ready to give them certain articles of merchandise, which they were to receive on the distinct understanding that such goods were not to be regarded in the light of a further payment for the land, but merely as presents."

Soon after the sittings had commenced Colonel Wakefield announced that he was prepared to arrange for the final alienation of the Natives' claims by the payment of a few hundred pounds, and the sum of £800 was ultimately agreed upon as a further payment, and was appropriated by Mr. Clarke under the Commissioner's sanction and superintendence.⁽²⁾

The claims of the Natives residing in the vicinity of Nelson having thus been satisfactorily disposed of, Mr. Spain proceeded to adjudicate upon the alleged Wairau purchase. In his report bearing on this district he stated,—

"I am now come to speak on the subject of the Wairau. This district is mentioned in the deeds already referred to, but, your Excellency has seen by what I have said concerning Rauparaha's evidence, was never admitted by that chief to have been sold to Colonel Wakefield, nor was any particular testimony given on the subject before me at Port Nicholson. I was naturally very anxious on this subject when I opened my Court at Nelson, and certainly did not anticipate that it would be passed over entirely without any evidence being offered on the subject. Such, however, was the case; and although the Principal Agent put into Court a plan showing the land surveyed and required there, he attempted no proof of its purchase, and made no reference to the subject when Mr. Clarke asked £800 as the amount of compensation to be paid to the Natives, exclusive of the district of Wairau.

"Reporting, then, upon this case under these circumstances, considering the positive denial of Rauparaha and Rangihaeata of the sale, the absence of any proof by Colonel Wakefield of its purchase, or of Captain Wakefield having, on his arrival, made any other bargain with the resident Natives or proprietors of it, as he did with those of the other districts comprising the Nelson settlement, I am compelled to state that I am not prepared to recommend that the district of Wairau be included in the Crown grant to be made to the New Zealand Company of the land in the Middle Island.⁽³⁾

In referring to the Wairau massacre, Mr. Spain expressed relief that he was not called upon to express an opinion, far less a decision, on that fearful catastrophe. Nevertheless he felt it his duty to remark upon the extraordinary fact that the evidence concerning Rauparaha's denial of the sale of the Wairau lands should have been in his Court nearly two months before that tragedy occurred.⁽⁴⁾

The Commissioner appears to have dealt very fully with the claims of the Ngatitaoa Tribe upon the Middle Island, which arose entirely from conquest, followed up in some instances by occupation and partial cultivation.

(¹) The list included blankets, axes, tobacco, pipes, flour, sugar, more guns and powder, clothing, &c.

(²) To the Natives of Motueka, £200; to the Natives of Wakatu, £200; to the Ngatiawas, £100; to Ngapiko for his claim and for services rendered to the Commission, £10: total, £510. The balance of £290 was to be appropriated to the resident Natives at Massacre Bay, who had not attended the Court.

(³) See final award: Wairau district was not included.

(⁴) This point seems to have been lost sight of by some writers.