

REPORT

BY

MR. A. MACKAY

ON THE

SITTINGS OF THE NATIVE LANDS COURT

HELD AT DUNEDIN.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF
HIS EXCELLENCY.

WELLINGTON.

—
1868.

REPORT ON THE SITTINGS OF THE NATIVE LANDS COURT HELD AT DUNEDIN.

A.—No. 7.

Copy of a Letter from Mr. A. MACKAY to the UNDER SECRETARY, Native Department, Wellington.
SIR,—

Dunedin, 29th May, 1868.

I have the honor to inform you that the sitting of the Native Lands Court here, came to a close yesterday. Certificates of title have been ordered by the Court to be issued to the respective claimants to the following Reserves on production of proper plans, viz., the Punaomaru Moeraki, Waikouaiti and Purakaunui, within the boundaries of Kemp's purchase and Otakou Heads, Taieri, and the Reserve near the Molyneux in Captain Symonds's purchase.

The claims to the several Reserves within the Murihiku purchase, with the exception of Tukurau and Omaui, have been unavoidably adjourned *sine die*, owing to the absence of the majority of the claimants; this will therefore necessitate another sitting of the Court at some future time at Southland to hear and determine the claims to these Reserves.

It will be as well perhaps, now that another sitting of the Court will be necessary, that the time of sitting should be deferred until the whole of the Reserves in Southland, including those also made by Mr. Clarke in Stewart's Island, shall have been accurately surveyed and plans prepared in conformity with the existing Regulations under the Native Lands Act, or otherwise a double expense will be incurred in preparing two sets of maps, one for the use of the Court, and one after the survey is completed. There is no immediate hurry that the claims to these Reserves should be heard at once as they are not a matter of dispute, and can be very well deferred for a twelvemonth or even longer; in fact it would be much better now that an adjournment has been made, to postpone the hearing of these cases until such time as the survey and other preliminary work in connection with them is in such a state of advancement as will enable the Court to proceed with and complete the whole of the business that is likely to be brought before it at its future sitting.

With respect to the Port Chalmers Reserve, the Court has ordered that Sections 401, 403, and 404, should be vested in Horomona Pohio, Hoani Wetere Korako, Hori Kerei Tairaroa, and Hone Topi Patuki, and their successors, in trust for all the members of the Ngaitahu tribe who are now or may be hereafter resident South of, and including Kaiapoi in the Province of Canterbury. The claim to a portion of the reserve comprised in Section No. 402 was opposed by the Presbyterian Church, and the case was adjourned *sine die*, on application by Mr. H. Harris, who appeared as counsel for the opponents. With regard to the other portion of the Reserve alleged to be within the Town Belt, the Court has not given a final decision, but has left it open for the opponents or claimants respectively, after three days' notice to the other side, to move the Court at a future sitting to dismiss the case on production of deficient evidence or to order a grant in default of such evidence being produced.

The application of the Natives to land in Princes Street was dismissed, the land in question being held under Crown Grant, and the applicants were instructed that they would have to go to the Supreme Court.

With regard to the claim made by the Natives to Pukekura (Lighthouse Reserve at Tairaroa Head) the boundary of the Native reserve has been fixed by the Court at the line of fence erected by the Provincial Government, the Natives getting a grant to one acre within the Government Reserve at the spot mentioned in the Deed of Sale as having been excepted for them;—this will secure seventeen acres to the Government, which is ample for all purposes in connection with the Lighthouse. The landing place to the Pilot Station, the only place suitable for the purpose, has been decided by the Court to be within the boundaries of the Native Reserve; the land however has been made inalienable excepting to Her Majesty; an arrangement will have to be entered into with the Native owners to secure the permanent use of it to the Government. There is an existing agreement at present between the Provincial Government and the Natives, whereby the former pay the reputed owners a rental of two pounds ten shillings per annum for a right to use the beach as a landing.

The Court has ordered in final extinguishment of all claims and engagements created under Kemp's Deed, that land to the extent of two thousand and ninety-four acres should be awarded to the Natives out of Crown Lands within the Province of Otago; out of which one thousand acres has been allotted in satisfaction of the claim of those Natives who signed the deed, and to the immediate descendants of those who were parties to the sale, but never received any share of the land reserved for Native purposes within the boundaries of that purchase as stipulated by the deed.

Four hundred and ninety acres of the award, including land comprised in a fishery easement, has been allotted to the Moeraki residents in satisfaction of their claim under the deed, and four hundred and ninety-four acres to the Purakaunui residents. It was considered that the claim of the Waikouaiti Natives under the deed for additional land, had been satisfied by the extension of five hundred and ninety-three acres made to the Reserve by Sir George Grey, and the Court merely awarded two small pieces of land as fishery easements.

The award of four hundred and ninety-four acres made to the Purakaunui residents is rather in excess of the quantity they were entitled to at an average of fourteen acres per soul calculated on the original Census; but as it was found very difficult to secure anything like a minimum of good land in the neighbourhood of their Reserve, the Natives expressed themselves willing in consideration of the various advantages they would acquire, to accept land of an inferior character in greater quantity, as the place selected gave them access to shellfish and secured to them an old eel fishery which they were anxious to possess.

Enclosed, I beg to hand you copies of correspondence addressed to His Honor the Superintendent and to the Commissioners of Crown Lands here relative to the setting apart of Crown Lands in the Province, awarded by the Court to the Natives in final extinguishment of all claims under Kemp's deed of purchase, together with a Schedule of the lands selected. In conclusion, I have much pleasure in reporting that the whole of the cases dealt with by the Court have been finally and satisfactorily concluded; and to tender the Government my sincere thanks for the honor conferred in appointing me to the important post of Crown Agent on this occasion.

I have, &c.,

The Under Secretary, Native Department,
Wellington.

ALEXANDER MACKAY,
Native Commissioner.

REPORT ON NATIVE LANDS COURT, DUNEDIN.

No. 2.

Copy of a Letter from Mr. A. MACKAY to His Honor J. MACANDREW.

Dunedin, 29th May, 1868.

SIR,—

I have the honor to inform you that it having been proved to the General Government that certain stipulations contained in Kemp's deed of purchase, or the Ngaitahu Deed, to the effect that the Governor should set apart other lands for the Native vendors, upon the land being surveyed by the surveyors, had never been satisfactorily fulfilled, the matter was referred to the Native Lands Court to determine and finally conclude the agreement. By an Order of Reference under the hand of the Honorable John Hall, a Member of the Executive Council of New Zealand, the Court therefore, by the powers conferred on it by the eighty-third section of "The Native Lands Act, 1865," satisfactory evidence of the nonfulfilment of these stipulations having been adduced before it during its recent sitting here, has awarded, by orders under the hand of the Senior Judge, bearing date the 28th May, to such Natives who are entitled to participate in any benefits accruing under the reservations contained in the aforesaid deed, land to the extent of two thousand and ninety-four acres out of the Crown Lands of this Province, a large proportion of which is included within the boundaries of the original purchase, in final extinguishment of all claims or demands contained in or created by the said deed.

The following are the several localities in which the land has been selected:—

One thousand acres at the mouth of the Tautuku River, on the western bank.

One hundred acres inland, on the shores of Lake Hawea, as a general Fishery Reserve for the whole of the Natives resident South of Waitaki, and extending to and including Purakaunui.

Four hundred and ninety acres at the mouth of the River Waitaki, including a fishery easement.

Four hundred and ninety-four acres in North Harbour and Blueskin District, and sundry small pieces in various localities as fishery easements, making in all a total area as above quoted.

The Commissioner of Crown Lands has been furnished with a schedule containing a description of the lands selected, with a request that he will be pleased to take the necessary steps to withhold the same from sale.

In conclusion, I would beg to express a hope that your Honor will be pleased, under the exigency of the case, to concur in the aforesaid arrangement.

I have, &c.,

ALEXANDER MACKAY,

Crown Agent.

His Honor the Superintendent, Dunedin.

No. 3.

Copy of a Letter from Mr. A. MACKAY to COMMISSIONER OF CROWN LANDS, Dunedin.

Dunedin, 29th May, 1868.

SIR,—

I have the honor to enclose herewith for your information a Schedule of the lands awarded by the Native Lands Court at its recent sitting at Dunedin, to sundry Natives, in final extinguishment of all claims or demands contained in or created by a certain deed of purchase of the 12th day of June, 1848, and referred to the Court by an Order of Reference under the hand of the Honorable John Hall, a Member of the Executive Council of New Zealand; and to request that you will be pleased to take the necessary steps to withhold the land, included in the aforesaid Schedule, from sale.

Enclosed, I beg to hand you copies of the Orders of the Court respecting the said lands.

I have, &c.,

ALEXANDER MACKAY,

Crown Agent,

W. H. Cutten, Esq.,

Commissioner Crown Lands, Dunedin.

Enclosure in No. 3.

SCHEDULE OF LANDS awarded by the Native Lands Court sitting at Dunedin, on the 13th day of May, 1868, and following days, in final extinguishment of all claims, demands, and engagements contained in or created by a certain Deed of Purchase of the twelfth day of June, 1848, commonly known as Kemp's Deed, entered into and between the chiefs and people of the Ngaitahu tribe of Aboriginal Natives of New Zealand, and officers duly authorized to enter into the same on behalf of Her Majesty, namely:—

Sections Nos. 13 and 14 of Block VIII., in the Papakaio District (near the Waitaki), containing 355 acres 2 roods 33 perches, more or less.

Also, section No. 12 of Block VIII., in the same district, as a fishery easement, containing 133 acres 3 roods 18 perches, more or less.

Also, ten acres, part of Section No. 6. Block IV., Waikouaiti District, as a fishery easement.

Also, two acres three roods twenty perches, on the Matainaka Lagoon, in the Waikouaiti District, as a fishery easement.

Also, sections Nos. 1, 2, 3, and 1 of 4, Block V., North Harbour and Blueskin District, containing 305 acres 0 rood 13 perches, more or less.

Also, reserve No. 49 of Block IV., North Harbour and Blueskin District, containing 101 acres 2 roods 36 perches, more or less.

Also, section No. 2 of 3 of Block IV., same district, containing 31 acres 1 rood 10 perches, more or less.

Also, section No. 4 of Block IV., same district, containing 26 acres 1 rood 13 perches, more or less.

Also, one thousand acres situated in the Tautuku District, Province of Otago, at the mouth of the River Tautuku.

Memo.—The land comprised in this award is in satisfaction of all demands under Kemp's Deed, and is set apart for those Natives who signed the deed, but who never received any share of the land reserved for Native purposes within the boundaries of that purchase.

Also, one hundred acres at Lake Hawea as a fishery easement. This is a special reserve, made for the benefit of the whole of the Natives resident South of the Waitaki, and extending to and including Purakaunui,

ALEXANDER MACKAY,

Crown Agent.

29th May, 1868.