

1882.
NEW ZEALAND.

WEST COAST ROYAL COMMISSION.

(FURTHER REPORT BY THE COMMISSIONER APPOINTED UNDER "THE WEST COAST SETTLEMENT
[NORTH ISLAND] ACT, 1880.")

[In continuation of G. 5.—1882.]

Presented to both Houses of the General Assembly by Command of His Excellency.

The WEST COAST COMMISSIONER to the Hon. the NATIVE MINISTER.

SIR,—

West Coast Commission Office, 29th June, 1882.

I have the honor to forward a report upon the claims of persons who had entered into agreements with natives, north of the Waingongoro River, for the purchase or lease of lands to be allocated under Scrip Certificates issued by the Compensation Court, established under the provisions of the New Zealand Settlements Act and amending Acts, and to request that you will lay it before His Excellency the Officer Administering the Government, for his information.

I have, &c.,

WILLIAM FOX,

West Coast Commissioner.

Hon. J. Bryce, M.H.R., Native Minister.

*Report on Claims to Compensation Scrip alleged to have been Sold or otherwise Transferred within the
Confiscated Block North of the Waingongoro River.*

1. There was a difference between the compensation awarded to loyal natives south of Waingongoro and north of that river. To the south all the awards had been allocated to specific sections of land, after which the allottees were considered by the Government to have a valid and transferable title, even before Crown grants were issued; and it was not long before the owners sold or leased (chiefly the former) nearly the whole of it, the Government being itself the principal purchaser. Beyond investigating and deciding a good many complicated questions of ownership between rival purchasers of compensation awards, I had little to do with that class of lands south of Waingongoro. To the north of that river, however, compensation had been largely awarded, and scrip certificates issued, evidencing in each case the right to a specified quantity of land; but only a small part of these had been allocated under arrangements made by Major Parris as Civil Commissioner. When I commenced operations in this part of the district I found about 27,000 acres of unallocated scrip, for fuller particulars of which I refer to the Second Report of the Commission of 1880, pages 35–37, and Appendix B., pages 17–19. It was commonly reported in the district that there had been very large and numerous dealings between Europeans and natives in this unallocated scrip. How far such transactions were valid was very questionable. But I have always held that the questions arising out of the native rebellion, and the legislation consequent upon it, ought not to be decided on narrow and intricate technicalities of English law, but that it is the duty of the Government, as far as possible, to see that the substantial advantages held out, particularly to the loyal natives, by the New Zealand Settlements Acts should not be rendered nugatory by their own imprudence, or filched away from them by the vigilant foresight of others. It was, no doubt, with a view to this obligation among others that the large powers "to make a final settlement, in such manner as he may think fit, of every claim or grievance of any nature arising out of any award, promise, or engagement," were vested in the Governor by the West Coast Settlement Act of 1880. It seems clear that it is open to the Governor, and that it is his duty, to scrutinise any intermediate transactions between the natives and Europeans who may have purchased, or affected to purchase, their incomplete rights; at least to the extent of not permitting the natives to be injured by any thoughtless acts of their own while their title was in abeyance and the market value of their claims consequently very small.

2. It was with much surprise when, after having advertised for the claims of alleging purchasers of scrip to be sent in, for nearly five months, only nine claimants appeared, claiming to have purchased, or agreed to lease, some twenty-three scrip allotments. I have made enquiry in every quarter where such transactions were likely to be known, and believe that these represent all the instances in which such have occurred. The area involved is about 3,500 acres.

3. After having carefully considered the circumstances of the several claims sent in, I invited the claimants to meet me in person, or by their authorized agents, to maintain or explain their claims, and I spent great part of three days in investigating them in the presence of the claimants or their agents. As a result, I am able to arrange the claims in four classes. First.—Where the native agreed to sell

the fee simple of his land, when allocated, and the price agreed upon was paid in full at the time of the bargain, and represented the then fair market value of the scrip. Second.—When the agreement was of the same sort as the last; but the money paid down was nominal, or did not approach the market value, at the time, and was quite incommensurate with the probable value of the land when the Crown grant should be issued. Third.—Agreements to lease for long terms, to commence when the land should be allocated or Crown granted, at a rental which might or might not be fair, but no money, or a mere nominal sum, paid at the time of the agreement, and of course from the very nature of the transaction no legal tenancy being created. Fourth.—Similar agreements to lease, but several years rent (in one case fifteen, in another seven) being paid in advance.

4. The request of the claimants generally was, that I would confirm the transactions. I told them that I had no power to do so, but could only recommend to His Excellency a method by which he might protect their transactions, if he thought proper to do so, to a certain extent. The first duty of the Governor, as it appeared to me, would be to issue a Crown grant for the land to which the particular scrip was allocated. This grant must be in favour of the allottee to whom the pledge of the Government had been given, and it could not be incumbered on the face of it by any obligation to convey or lease the land to another person. The only course which I can suggest, in any case in which the Governor might think that a claimant was entitled to protection, would be that he should withhold the issue of the Crown grant till the allottee should fulfil the agreement into which he had entered, and for which he had been fairly paid. In three of the classes of cases which I have specified above, I think such a course might be justifiable; first, when the transaction being in all respects *bonâ fide*, the purchaser actually paid down at the time the full market value; secondly, in the case of an agreement for a future lease, the rental reserved was fair, and a bonus, or several years' rent, were paid in advance. In these cases I think the grant might fairly be withheld till the allottee carried out the arrangement into which he had entered. Thirdly, when the claimant had advanced a considerable sum at the time of the transaction, but one altogether inadequate to the probable value after the land should be allocated, I would recommend that the grant should be withheld till the amount paid, with simple interest at legal rate, had been refunded. In all other cases I think the Governor should simply ignore the transaction, and issue the grant to the allottee as if the claim had never existed or been brought under his notice.

In almost every case in which I intimated any doubt of the fairness of the transaction towards the natives, I was assured that they were quite satisfied and willing to confirm it. In two cases they were brought forward to say so; but on my explaining the nature of the transaction, they appeared to hesitate as to whether they had not made an improvident bargain. If, however, it be as the claimants allege, that the selling natives perfectly understood the nature of the bargain at the time of the agreement, and would confirm it if the Crown grants were in their hands, it is clear that the claimant requires no protection at the hands of the Governor, and will lose nothing by not having his approval. He has only to wait till the native is put in possession of his land, when he will, no doubt, fulfil his agreement.

In conformity with the above suggestions I annex a Schedule, in which I have dealt with each case separately, and now respectfully submit my recommendations for His Excellency's consideration.

WILLIAM FOX,

West Coast Commissioner.

29th June, 1882.

Schedule.

CLAIMS laid before the West Coast Commissioner on the 19th, 20th, and 21st June, 1882.

1. *Mary Lenehan*.—No evidence of any valuable consideration. The original awardee, Honehira te Rangihamate, dead. Recommended that grant issue to his heirs, on proving succession. (Award 55. G.-2., 1880. Appendix B., p. 17.)

2. *John Purdie*.—Original agreement for 21 years' lease from Te Rakatau to J. W. Wilkinson, of 200 acres. Fair rent, increasing every seven years. Wilkinson sold his right to Bishop, who resold to Purdie and Dugdale, and the latter to Purdie. The whole amount paid by Purdie was £165. He is a hard working farmer, of very good character, with a very large family. Under all the circumstances, I recommend that the Crown grant be withheld, till a lease is granted to Purdie, in conformity with the terms to Wilkinson. Te Rakatau is dead, but his son (of same name,) concurs in the transaction. (Award 52. Appendix B., p. 17.)

3. *John Purdie*.—Agreement with Hoera for 21 years' lease of 150 acres. No money paid. I recommend that the grant be issued to the native awardee, without notice of lease, on production of order of succession, to his brother and sister. (Awards 96, 90, and 76. Appendix B., p. 17.)

4. *George Stockman*.—Conveyance in fee of 50 acres, from Hariata Ihaia. Consideration £50, paid in full, at date 27th August, 1880. Recommended that grant be issued to Hariata Ihaia, and handed to Stockman. (Award 73. Appendix B., p. 17.)

5. *George Stockman*.—Conveyance in fee of 50 acres, by Honi Pumipi. Consideration £50, paid at date 26th August, 1880. Recommended grant to Pumipi, to be handed to Stockman. (Award 94. Appendix B., p. 17.)

6. *George Stockman*.—Conveyance in fee of 50 acres, by Teieti Kotuku. Consideration £75, paid at date 24th August, 1880. Recommended grant to Teieti, to be handed to Stockman. (Award 89. Appendix B., p. 17.)

7. *George Stockman*.—Conveyance in fee of 100 acres (moiety of scrip for 200), by Wi te Arei. Consideration £125, paid at date 24th August, 1880. Recommended grant to be issued to Wi te Arei, to be handed to Stockman. (Award 97. Appendix B., p. 17.)

8. *George Stockman*.—Conveyance of 50 acres, from Wi te Arei. This claim is between Te Hoe and Omuturangi, within which district all scrip merges in the reserves. Stockman must take his chance whenever the tribe individualizes. No grant to issue except to the hapu. (Award 313. Appendix B., p. 19.)

9. *George Stockman*.—Conveyance in fee of 50 acres, from Kaaro Hotene and Ani Hotene (representatives of Katene Hotene). Consideration £50, paid at date 26th August, 1880. Recommended grant to be issued to representatives of Katene Hotene, on order of succession procured, to be handed to Stockman. (Award 72. Appendix B., p. 17.)

10. *George Stockman*.—Conveyance in fee of 50 acres, from Rakapa. Consideration, £50, paid at date 26th August, 1880. (Award 77. Appendix B., p. 17.)

[NOTE.—George Stockman is an Englishman, and an early settler, and has a half-caste family grown up and themselves married and with families. The recent date of these transactions is in consequence of his having had regular deeds prepared at that time, but they were all in pursuance of much earlier agreements, which were produced to me, and at the dates of which the consideration was really paid, when it represented the market value or more.]

11. *William Shera*.—Lease (24th March, 1881) from Wirihana Piro, Rahira Kaaro, and Erea Ngamuku for 21 years from time of land being allotted of 500 acres, 300 acres, and 50 acres respectively, at rent of £63 the first seven years, £106 the second seven years, and £250 the third seven years. No money has passed. This is one of the transactions which in my report I have referred to as in Class 3, which I think ought to be left to themselves, and no interference by the Governor. The grants should issue to the native awardees, and they should be left to confirm or decline the transaction as they think best. (Awards 30, 28, and 22. Appendix B., p. 17.)

12. *J. C. Davies as Trustee of Thomas Leedom, an Insolvent, and William Henry Buck and others*.—Agreement for a lease for 21 years from Crown grant, from Makarita Retimana of 100 acres on her own account, and on account of Hariata Ngaraka, her mother, deceased, 300 acres. Rent, £20, £30, and £50 for first, second, and third terms of seven years each. £20 paid down. I had evidence that Makarita Retimana was not competent to transact business in 1876, the date of the transaction, and that she was a minor at the time; and from statements made by herself in my presence, corroborated by another witness, I am satisfied that the transaction is one which ought not to be supported. Grants to be issued to Makarita Retimana (on production as to 300 acres on her mother's account of orders of succession) and handed to Mrs. Jane Brown and Mrs. Naera, her cousins, who hold a power of attorney from her to select land in respect of her scrip, granted by her shortly after the transaction with Leedom. (Awards 17 and 35. Appendix B., p. 17.)

13. *Nevill S. Walker*.—Agreement with Miriama Tarewa, date 27th February, 1879, to sell 251 acres for £125, of which £25 was paid down; £20, at her request, to H. Brown; balance of £80 to be paid on execution of conveyance after selection of land. Miriama is the wife of Wiae te Poepa. I think price inadequate, and only a portion of it being paid in advance, I recommend that the grant be made to Miriama, but withheld till the amount paid, £45, with legal interest, is refunded. (Award 6. Appendix B., p. 17.)

14. *Nevill S. Walker*.—Conveyance in fee, from Rehera Hemi (otherwise R. Puanu), daughter of Hemi Puanu, deceased, 200 acres in her own right, and 200 as successor of her father. £20 only paid, date 5th October, 1878. Price £1 to £1 10s. per acre on condition as to latter, that land selected where her father lived, to be paid after selection. I recommend that the grant be made to Rehera Puanu for 200 acres on her own account, and 200 acres as successor of her father, on her obtaining a succession order. The grant to be withheld till she refunds £20 and legal simple interest. (Awards 16 and 29. Appendix B., p. 17.)

15. *C. W. Hursthouse*.—Conveyance in fee, from Heta te Kauri of 50 acres. Price £40, paid down at date 22nd December, 1877. Recommended that grant be made to Heta, and handed to Mr. Hursthouse. (Award 83. Appendix B., p. 17.)

16. *C. W. Hursthouse*.—Conveyance from Ihaka te Kauri, date 28th March, 1878, of 50 acres. Price £40, paid down at date. Recommended that grant be made to Ihaka, and handed to Mr. Hursthouse. (Award 81. Appendix B., p. 17.)

17, 18, 19, 20, 21, and 22. *C. W. Hursthouse*.—Leases agreed for 21 years each, from Ropiha Haungenge, 300 acres; Matiu Wharematangi, 50 acres; Ani Heta, 50 acres; Karo te Rapu, 50 acres; Heta Heke, 50 acres; Harahone, 50 acres. These appear to be fair transactions, at reasonable rents, and in every case, except that of Ani Heta, several years' rent, varying from three years to fifteen, have been paid in advance. The scrip, however, was, in all these cases, awarded to be selected between Te Hoe and Omuturangi, in the whole of which district reserves have either been made for the tribe, as in Parihaka and Waimate, or the confiscation has been waived, as in Opunake and Stony River. The liability of the Government is, therefore, satisfied by the issue of grants to the hapus, and the scrip is merged. If, however, the natives should hereafter individualize, as is most probable, Mr. Hursthouse may be able to secure his leases from the individual owners, and I recommend that any assistance towards that object which, consistently with the law, can be given to him by the Government, should be so given. (Awards 397, 398, 394, 395, 345, and 348. Appendix B., pp. 19 and 20.)

23. *S. W. Wilkinson and William Henry Buck*, agreement for a lease of 200 acres for twenty-one years from Henare Punaruku, date 4th July, 1876. £1 only paid down. I recommend that the grant be made and issued to Henare Punaruku without reference to the agreement for lease. (Award 40. Appendix B., p. 17.)

WILLIAM FOX.

