

1903.
NEW ZEALAND.

EAST COAST NATIVE TRUST LANDS BOARD

(INTERIM REPORT OF THE).

Presented to both Houses of the General Assembly in pursuance of Section 13 of "The East Coast Native Trust Lands Act, 1902."

REPORT OF THE EAST COAST NATIVE TRUST LANDS BOARD.

SIR,—

Gisborne, 31st October, 1903.

Herewith I have the honour to hand you an interim report of the transactions of the East Coast Native Trust Lands Board for presentation to Parliament.

I have, &c.,

J. MACFARLANE, Chairman.

The Hon. the Minister for Native Affairs, Wellington.

SIR,—

Gisborne, 29th October, 1903.

Under "The East Coast Native Trust Lands Act, 1902," the Board is required to make up as at the 31st day of March in each year a statement of the accounts and a report of the transactions of the Board for presentation to Parliament. It was not practicable to furnish such statement and report at the 31st March last, as the appointment of the Board only dated from the 19th of that month. The Board have now the honour to submit the following interim report of the transactions of the Board to this date.

The lands which passed to the Board by virtue of that Act comprise a total area of 244,985 acres, and are divisible into three classes—viz., (1) lands which (with live-stock) form the "principal security" to the bank for advances made in respect of what is known as the "general debt"; (2) lands which form the "specific securities" to the bank, with charges limited to specific amounts fixed by the Validation Court; and (3) lands not under mortgage to the bank, but which, in common with those mentioned in (1) and (2), are subject to the liabilities and claims incurred by the trustees for the general purposes of their trust.

(1.) Blocks forming the "Principal Security."

	A.	R.	P.	
Mangatu No. 5	20,075	0	0	Unoccupied and unimproved.
Mangatu No. 6	20,075	0	0	"
Motu No. 1	2,000	0	0	"
Mangaokura No. 1	2,027	0	0	"
Okahuatui No. 2	15,190	0	0	Occupied by Estates Company, partly improved.
Pakowhai (part)	5,013	2	9	Ditto.
Whataupoko E7 (part)	2	2	31	Held by Estates Company.
Matawhero B or 5 (part)	33	1	12	"
Matawhero No. 1 (part)	182	1	38	"
Whataupoko, Section 20	3	1	30	
	64,602	2	0	

In addition to these lands the bank holds live-stock valued at £22,000 to secure the "general debt."

(2.) *Blocks (held under Decrees of the Validation Court) forming the "Specific Securities," and the Amount of Debt on them secured to the Bank at the 30th September, 1902.*

	Area.			Debt.			
	A.	R.	P.	£	s.	d.	
Mangaheia No. 2D ...	5,997	0	0	9,596	11	4	Leased to Somerville and others. Partly improved.
Paremata ...	7,112	3	22	23,670	0	2	Occupied by Estates Company.
Maraetaha No. 2, Section No. 4 (Te Puru) ...	3,991	3	0	11,433	0	6	Occupied by Estates Company. Partly improved.
Moutere No. 2, Section 1 ...	194	3	0	363	19	2	Leased to Mr. Ormond.
Tawapata North No. 1, Sub- division No. 1A ...	2,096	0	0	2,545	0	11	Leased to Mr. Walker; rent not determined.
Tawapata North No. 2, Sub- division No. 1 ...	1,995	0	0	2,545	0	11	Ditto.
Tawapata South, Subdivision No. 1 ...	4,376	2	5	5,726	1	9	Occupied by Estates Company. Partly improved.
Whangawehi ...	2,184	0	19	3,485	0	9	Ditto.
Totals ...	27,948	0	6	59,364	15	6	

(3.) *Blocks not subject to Mortgages to Bank.*

	A.	R.	P.
Te Kuri ...	400	0	0
Tangotete No. 1 ...	5	0	0
Tangotete No. 2 ...	75	0	0
Maraetaha No. 2, 2A ...	16,000	0	0
Mangapoike and Mangapoiki No. 2 ...	41,955	0	0
Mangawaru ...	34,000	0	0
Tahora ...	60,000	0	0
	152,435	0	0

The total amount due to the Bank of New Zealand on the 30th September, 1902 (including that secured on the specific securities) was £156,383 7s. 6d.

In addition to the bank's claim there are a number of other debts amounting to £15,906 11s. 9d., and other outstanding claims which have not yet been rendered to the Board. These sums are chargeable against the lands in Class 3, and practically exhaust their capital value for loan purposes.

Included in this sum of £15,906 11s. 9d. is an amount of £2,500, being amount of a mortgage on the Tahora Block, which is being foreclosed: the sale is advertised to take place under the conduct of the Registrar of the Supreme Court on the 30th January next, and as matters stand the Board is powerless to intervene.

For reasons which are stated hereafter there has been no realisation of any portion of the lands, and as the Board has received no revenue from rents or other sources the Board have no statement of accounts to submit.

The position of the Board is anomalous and extremely unsatisfactory. It is understood that the intention of the Act was to set up a strong executive, untrammelled by vexatious restrictions and technicalities. And the Act clothes the Board with what would be ample powers were it not for the restrictions imposed under section 12, which reads: "The terms and conditions of management, and of selling, leasing, mortgaging, improving, or otherwise dealing with the said lands, and of all properties by this Act vested or hereafter to be vested in the Board, shall be agreed upon between the trustees or beneficiaries and the Board by deed, but, so far as relates to securities and lands vested in the trustees either alone or with others, by decrees of the Validation Court, they shall have no force or effect until approved of by the Chief Judge of the Native Land Court: Provided that the bank shall retain the control and management of any lands, stock, and properties heretofore controlled and managed by the bank." To the proviso of this section, which reserves to the bank the management of the properties now in its hands, there can be no objection. Nor can exception be taken to the preceding provision, that the approval of the Chief Judge of the Native Land Court shall be obtained to the terms of management to be agreed upon in respect of the lands which were vested in the trustees by decrees of the Validation Court, unless indeed it were to suggest that the matters might be more conveniently dealt with by the local Judge of the Native Land Court. The effect, however, of the first part of the above section has been fatal to the objects sought to be obtained by the Act. In fact, the provision that "the terms of management and of selling, leasing, mortgaging, improving, or otherwise dealing with the said lands and of all properties by this Act vested or hereafter to be vested in the Board shall be agreed upon between the trustees or beneficiaries and the Board by deed," has reduced the Act to a dead-letter.

On the 18th April draft model deeds providing for the management and realisation of the lands were signed by one of the trustees (Mr. Carroll). The deeds contained some provisions to which the Board strongly objected, but in view of what the Board considered the urgent necessity for prompt action in dealing with the various properties, all minor matters were waived, in the hope that once the realisation had begun, the points on which the trustees and the Board were not in accord would adjust themselves. On the 2nd May the draft model deeds were signed by the other

trustee (Mr. Wi Pere) and, provisionally, by the Board. Although these deeds set out the terms of management to be observed, they were fatally incomplete in one respect, and, notwithstanding the repeated urgent remonstrances in the matter addressed by the Board to the trustees, they remain so to the present time. Attached to the respective deeds are schedules in blank, in which it was proposed to set out the names of the blocks, their acreage and location, and the reserves to be made in them by the trustees for the Native owners; such reserves to be replaced by unencumbered lands in other blocks, of at least equal value, which the trustees undertook to have brought into the trust. These particulars have not yet been inserted in the schedules, which are still in blank, nor have other unencumbered lands of equal value to the reserves required been allocated to the Board. It was further provided that until these schedules were completed the deeds should be inoperative. The Board have repeatedly urged upon the trustees, both by personal interview and by written communication, the urgent necessity of prompt completion of the schedules, but without avail.

Failing to obtain an agreement regarding the whole of the blocks, the Board approached the trustees with the view of obtaining separate deeds giving it power to deal with the Paremata, Mangaheia, and Maraetaha No. 2 Blocks (included in the specific securities) as the time for realising them was most opportune. The trustees declined, in the meantime, to agree to the sale of Mangaheia, but consented to the sale of 3,000 acres of Paremata and to the leasing of the remainder of the block, the whole of which is admirably adapted for close settlement. The sale of the 3,000 acres should go far towards liquidating the bank's claim on the property, and would enable the Board to conserve a considerable portion of the remainder for the benefit of the Native owners. The trustees also consented to the sale of the whole of Maraetaha No. 2. This property, though not suitable for subdivision into small areas, is of considerable value, and should realise to the advantage of the owners. The necessary deeds in connection with Paremata and Maraetaha were executed by the trustees on the 20th instant, and by the Board on the 24th, and as the surveys were well advanced the Board then thought themselves in a position to put the properties on the market, and it was their intention to advertise the sale for January next. It was therefore with a feeling of keen disappointment that the Board learned, on application being made to register the deeds relating to the properties, that Mr. W. L. Rees, the solicitor for the trustees, had on the 21st instant lodged a caveat against both the Paremata and Maraetaha No. 2 Blocks to protect his claim against the trustees for costs, charges, and expenses. By this action the position is again completely blocked.

Although the preamble of the Act sets out that it was passed for the purpose of facilitating the dealing with the trust lands, and for the prevention of all future litigation in respect of the titles of the same and other matters dealt with in the Act, yet the Board has been unable to prevent legal charges in connection therewith steadily increasing through the invidious position in which they are placed by the trustees.

The members of the Board have, moreover, so acutely felt their extremely unsatisfactory position that they had an amending Bill drafted, the principal object of which was to remedy the impracticability of section 12 of the Act. A copy of the Bill has already been forwarded to the Government for consideration.

In the circumstances the Board respectfully ask that such relief may be afforded as may be fit. Any amendment of the Act to this end should, the Board respectfully submit, provide, *inter alia*, for: (1) the repeal of section 12; (2) the appointment of a Commissioner, having the power of a Judge of the Native Land Court, charged with the duty of making the inquiries and orders directed by the Act; (3) the repeal of section 10, and that it be enacted in lieu thereof that the Commissioner shall, on his own initiative, make the inquiries referred to therein; (4) the bringing into the trust of Native lands other than those secured to the bank for the purpose of enabling the Board to raise temporary loans to discharge the liens and charges created by decrees of the Validation Court subsequently to the mortgages to the bank which, as the Board is at present advised, would take precedence over any fresh securities that the Board could now execute for the purpose of subdividing and selling the properties or for other purposes. Such temporary loans to be also available for the general purposes of the Board and, on realisation of the properties for the relief of which they are obtained, to be paid off out of the proceeds of such realisation.

The Board do not see how any satisfactory finance can be arranged in the absence of borrowing-powers such as those indicated in the latter part of the preceding paragraph. There is absolutely no borrowing margin in the principal security, and in their present comparatively unproductive state there is not sufficient margin in the specific securities unless supported by other properties. The lands in Class 3 are of large area, but, as by far the larger part are unimproved, they are of comparatively small value for loan purposes. The trustees inform the Board that other very large areas of land belonging practically to the same Native owners as those beneficially interested in the trust lands are also held in trust, and that the trustees and the beneficiaries of these lands have for a considerable time been anxious to include them in the general trust, but until the passing of the Act were unable to do so for want of legal power. The area of these lands is stated at 135,000 acres; and if brought in for the general purposes of the trust and to replace the areas which, as stated above, the trustees wish to have reserved out of the principal and specific securities for the Native owners, the aggregate value of the lands should then be sufficient to admit of the finance of the trust being put on a proper basis. If the third amendment suggested above were adopted, it would be within the scope of the Commissioner's duty to take the necessary steps for bringing in these further areas and to safeguard the interests of the beneficiaries. At the present time, however, whatever the value of any of the trust lands, or of those proposed to be brought in, the failure of the trustees to effect any agreement for the management of the trust effectually precludes the Board from exercising any of their borrowing-powers, except to the limited extent provided in the separate agreements in regard to the Paremata and Maraetaha Blocks.

The delay that has occurred in putting the affairs of the trust lands in such form as to admit of their being dealt with in a businesslike and efficient manner is regrettable. The present is an advantageous time for disposing of the properties either by sale or lease, and the delay, while it steadily adds to the liabilities with which the lands are already encumbered, in no way benefits any one of the parties who have any beneficial interest in the trust.

We have, &c.,

J. MACFARLANE, Chairman.
J. A. HARDING, } Members.
W. SHRIMPTON, }

The Hon. the Minister for Native Affairs, Wellington.

SIR,—

Wellington, 13th November, 1903.

As an addendum to the above report I would like to add the following:—

In addition to the amendments to the present Act suggested in the report, a further one which is absolutely necessary for the more expeditious carrying out of the business of the Board is an amendment to section 11 by adding the words "majority of" before the word "trustees" where it first occurs in such section.

Since the report was written an agreement has been entered into between the trustees and the Board, whereby the trustees undertake to transfer the Mangapoike and Tahora Blocks on such terms as to sale, mortgage, and leasing as, when carried out, will go far towards improving the finances of the Board and facilitating the payment of debts due by the trustees on the part of the trust estate. In accordance with this agreement the caveats lodged by Mr. Rees, referred to in the above report, have been withdrawn.

I have, &c.,

J. MACFARLANE, Chairman.

The Hon. the Minister for Native Affairs, Wellington.

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