

After sanctioning certain exchanges in Motueka and paying a tribute to the memory of the late Captain Arthur Wakefield, Mr. Spain made the following award for Nelson :-

" I, William Spain, Her Majesty's Commissioner for investigating and determining titles and claims to land in New Zealand, do hereby determine and award that the directors of the New Zealand Company and their successors are entitled to a Crown grant of 151,000 acres of land situate, lying, and being in the several districts of the settlement of Nelson, in the southern division of New Zealand, which said districts are divided as follows, that is to say: Wakatu or Nelson district, 11,000 acres, already surveyed; Waimea district, 38,000 acres, already surveyed; Moutere district, 15,000 acres, already surveyed; Motueka district 42,000 acres, partly surveyed--the remaining quantity required to be selected from the portions of land coloured red in the plan No. 1, hereunto annexed, and hereinafter more particularly referred to; and Massacre Bay district, 45,000 acres, partly surveyed; the remaining quantity to be selected from the portions of land coloured red on the said plans; which said several districts and the quantity of land contained in each particularly described and referred to in the enclosed schedule of the land required for the settlement of Nelson, as put into my Court at Nelson by the Agent to the New Zealand Company, and which said lands are more particularly delineated and described upon the accompanying plans, marked No. 7, saving and always excepting as follows: All the pas, burying-places, and grounds actually in cultivation by the Natives, situate within any of the before-described lands hereby awarded to the New Zealand Company as aforesaid, the limits of the pas to be the ground fenced in around their Native houses, including the ground in cultivation or occupation around the adjoining houses without the fence, and cultivations as those tracts of country which are now used by the Natives for vegetable productions, or which have been so used by the aboriginal Natives of New Zealand and since the establishment of the colony; and also excepting all the Native reserves upon the plans hereunto annexed, marked No. 1A, No. 1B, coloured green, the entire quantity of land so reserved for the Natives being one-tenth of the 151,000 acres hereby awarded to the said Company; and also excepting any portions of land within any of the lands hereinbefore described to which private claimants have already or may hereafter prove before the Commissioner of Land Claims a title prior to the purchase of the New Zealand Land Company."⁽¹⁾

During Mr. Spain's inquiry at Nelson the Sub-Protector, Mr. George Clarke, jun., recommended the exchange of a number of the sections selected as Native reserves in Motueka in lieu of an equal number of suburban sections in the same district which were found to be in the occupation of the Natives. This recommendation was subsequently acted on, and eight Native reserve sections--viz., Nos. 7, 8, 10, 11, 16, 28, 256, and 252--were exchanged for suburban sections Nos. 162, 163, 164, 182, 188, 212, 219, and 220. The whole of these sections had been previously awarded to the Natives by Mr. Commissioner Spain, together with eight other sections--sixteen in all--in fulfilment of the arrangement made between Captain Wakefield and the Natives, shortly after the arrival of the preliminary expedition at Nelson, to the effect that they should retain a considerable portion of the Big Wood at Motueka, then in cultivation by them. The following are the sixteen sections awarded to the Natives of Motueka by Mr. Spain: Nos. 157, 159, 160, 161, 162, 163, 164, 182, 183, 187, 188, 212, 219, 220, 241, and 242.⁽²⁾

Before his investigations were completed Spain crossed swords with the irascible Captain FitzRoy, who quashed the Taranaki award.

" The Governor accused the Land Commissioner of unreasonable delay in adjudicating upon land claims and in presenting his reports. On the 1st April, 1845, the Legislative Council, with the Governor's consent, struck Spain's salary out of the estimates, and on the 24th September passed a resolution suspending him from his office. But on the 7th October the Governor informed Spain that he would proceed no further in his case, so that the latter was never formally suspended. In the meantime, however, drastic steps of a more practical nature had been taken. The Governor wished Spain to quit his office, but the latter, not having finished the task allotted to him by Her Majesty's Government, refused to go. Thereupon, early one morning, FitzRoy sent Spain word that unless he had departed by evening he would send his Commissioner of Public Works to force his door and eject him. To such an argument there was no reply, and Spain yielded. He handed over the unheard land claims, upon some of which FitzRoy proceeded to adjudicate himself. The Colonial Office characterized the whole proceedings as 'entirely irregular.'⁽³⁾

5. THE FIRST NATIVE TRUST ACT.

On the 27th February, 1844, Bishop Selwyn renounced all connection with the trust in consequence of Governor FitzRoy informing His Lordship that " he did not recognize any trustees of the Native reserves." In the same year the Governor introduced the Native Trust Bill, an Ordinance for appointing a Board of Trustees for the management of property to be set apart for the education

(1) The earlier portions of the Spain reports and voluminous correspondence in connection therewith are published in the House of Commons Report on New Zealand, 1844. Further correspondence, and the final awards, which deal also with Wanganui, New Plymouth, Manawatu, and Porirua, are contained in despatches from Governor FitzRoy to Lord Stanley, ordered by the House of Commons to be printed, 8th April, 1846.

(2) Mackay's Compendium, Vol. 2, pp. 265 and 301. NOTE.--In the reports of the Spain awards published in parliamentary papers there is only a general reference to the stipulation by the Natives for the retention of a certain portion of a large wood at Motueka. The actual sections awarded are not given, nor is there any record of the eight sections exchanged at the instance of Mr. Clarke, beyond the mention that " one or two exchanges of the reserves for their use and benefit were effected by Mr. Clarke." It is probable that the late Judge Mackay when he compiled his Compendium in 1871 had access to the original Spain awards, and that the printed reports have been condensed. The original awards do not appear to be in existence at the present time.

(3) " Colonization of New Zealand," by Dr. J. S. Marais, p. 236.