

The Tiroa Native Land Emergency Regulations 1942.

C. L. N. NEWALL, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 18th day of March, 1942.

Present:

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL.

WHEREAS disputes have arisen between certain persons claiming to be the owners of or enjoying certain rights of property in parcels of land comprising parts of the Rangitoto-Tuhua and Maraeroa Blocks and other blocks, at or near Mangapehi of the one part, and Ellis and Burnand, Limited, a body corporate claiming to enjoy certain leases, licenses, profits, easements, agreements, or other rights over the same and other parcels of land of the other part:

And whereas disputes between the same parties as aforesaid have also arisen in connection with the use and occupation of certain lines of tramway from Mangapehi to and over the said lands, and in connection with the rights, powers, claims, and obligations of the said parties in respect thereof, authority having been given to the Council of the County of Waitomo by Order in Council bearing date the nineteenth day of March, one thousand nine hundred and forty-one, purporting to be made under the authority of the Tramways Act, 1908, and its amendments, to constitute, maintain, and use the said tramway and branches thereof upon and subject to the terms set forth in such Order in Council, and in respect of which authority by deed dated the tenth day of October, one thousand nine hundred and forty-one, the County of Waitomo delegated to the said Ellis and Burnand, Limited, solely and exclusively the powers vested in or conferred upon the said county by the said Order in Council:

And whereas the lines of tramway, tramway, and branches thereof hereinbefore referred to have for a considerable time past and both prior to and after the constitution thereof as a tramway under the Tramways Act, 1908, and its amendments, been used and employed by the said Ellis and Burnand, Limited, not only for the carriage of timber but also for maintaining certain essential supplies and services:

And whereas the existence of such disputes may interfere with the winning and transport of timber required for purposes connected with the war in which His Majesty is engaged, and may also interfere with the future adequate maintenance of the supplies and services hereinbefore mentioned, and their final settlement in the premises becomes necessary and expedient:

And whereas owing to the nature and complexity of the questions involved it is uncertain whether in actions before either the Supreme Court or the Native Land Court a complete and speedy decision could be reached sufficient to settle all the matters in dispute so as to enable the winning and transport of timber from the lands of the parties or any other lands and the adequate maintenance of the supplies and services hereinbefore mentioned to proceed immediately and to continue without fear of recurrent disputes:

Now, therefore, pursuant to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations:—

1. These regulations may be cited as the Tiroa Native Land Emergency Regulations 1942.

2. In these regulations, if not inconsistent with the context,—

“The said Act” means the Native Land Act, 1931:

“The Court” means the Native Land Court:

“The company” means and includes Ellis and Burnand, Limited, its successors and assigns:

“Parties” includes the company and the other parties referred to in the preamble to these regulations and all other persons (including the Waikato-Maniapoto District Maori Land Board) having any estate or interest in the lands hereinbefore referred to or claiming to be affected by any proceedings instituted under these regulations.

3. The matters in dispute between the parties hereinbefore named and referred to, or between any one or more of the said parties and the company particularly set out in the next succeeding regulation, shall stand referred to the Native Land Court in like manner as if there had been power to confer jurisdiction therein upon the Court under section thirty-four of the said Act, and as if such power had been exercised notwithstanding that the rights of persons other than Natives are in question or affected.

4. The matters in dispute referred as aforesaid are the matters following, namely:—

(a) A dispute as to the interpretation of the provisions of an agreement dated the seventeenth day of December, one thousand nine hundred and thirty-seven, between the parties or some of them and others having reference to a proper determination and limitation of the areas therein mentioned as “cutover” areas:

(b) A dispute as to Te Waretini's claim against the company for timber removed from Rangitoto-Tuhua 36A 2C 4A, being her “kainga” land and as to the trespass (if any) by the company thereon:

(c) A dispute as to what compensation, damages, or other consideration (if any) is payable to the Native owners or any of them for the breach or breaches (if any) by the company of its rights of user, whether under agreement or Native Land Act order or otherwise, of the tramway from Mangapehi to and over the said lands:

(d) A dispute as to the rights, privileges, and powers of the Native owners or any of them in respect of the free carriage of goods or user of the said tramway or otherwise as from and prior to the date of the said Order in Council of date the nineteenth day of March, one thousand nine hundred and forty-one:

(e) A dispute as to the rights of Purutanga te Ringitanga in reference to his participation (if any) in Tiroa timber royalties, and as to his rights as sole owner of Rangitoto-Tuhua 36A 2A 2A through which the said tram-line passes:

(f) A dispute as to the lands of the Wehi family at Mangapehi leased to the said company:

(g) A dispute as to the amount of compensation or other consideration (if any) which should be paid by the company upon its own account or as indemnifier of the Waitomo County Council to the Native owners or any of them as consideration for the future operation of the said tramway:

(h) A dispute as to the amount of compensation (if any) payable to the company in respect of the alleged wrongful interference and stoppages of the tramway and milling operations by the Native owners or any one of them:

(j) All other disputes (if any) between the said parties arising out of the user by the company of the said lands for tramway purposes the settlement of which disputes may be deemed by the Court to be necessary to give effect to the purposes of these regulations.

5. Subject to the express provisions of these regulations the Court shall have in respect of the matters hereby referred all incidental and ancillary powers conferred upon the Court by the said Act, and generally all such authority and jurisdiction as the Court enjoys in any matter within its ordinary jurisdiction, together with the powers of the Supreme Court to admit evidence by affidavit, and to order evidence to be furnished by affidavit and by means of interrogatories and by the production and admission of documents.

6. The Court may direct to what extent any party shall be regarded as standing in the position of plaintiff and defendant respectively, and to what extent any proceedings shall be conducted on the footing of a representative action so as to bind all persons whether parties thereto or not having like interests to those of parties before the Court.

7. The Court shall have power to make in favour of any party such interim and final declaratory vesting or other orders as regards land or interests in land, tramway or interests therein, or rights or powers connected with lands or tramway, and also as regards damages, compensation, rents, profits, royalties, wayleave, or other consideration accrued or to accrue in respect of any lands or tramway or interests, rights, or powers as aforesaid as the Court thinks necessary, just, or expedient for the settlement of the said disputes so that the winning and transport of timber from the lands of the parties or any other land and the adequate maintenance of the supplies and services hereinbefore mentioned may proceed immediately and thereafter continue without delay, interruption, or dispute.

8. The Court may make any such order aforesaid for such term of years as the Court may think necessary, just, or expedient for the more effectual and final settlement, and determination of all or any of the disputes aforesaid.

9. Any order made by the Court affecting land or interests in land or rights connected with land may, on the direction of the Court and on production thereof to the District Land Registrar for the land registration district in which the land affected by such order is situated, and on payment of a fee of £1, be registered in the Register-book or Provisional Register-book without production of the duplicate certificate or other instrument of title.

10. If in consequence of the effect or expected effect of any order made under any of the powers conferred by the three last preceding regulations, or if in consequence of any judgment or decision upon any such dispute as aforesaid the Court deems it just and equitable so to do, the Court may order payment by any party to any person of any moneys by way of damages, compensation, costs, or other consideration either in a lump sum or by periodical payments, or as royalty or wayleave or upon any other basis of computation or by way of set-off or deduction from any moneys otherwise payable. In any case in which the Court makes a vesting order regarding land or any interest in or rights connected with land and awards compensation to be paid in respect thereof by the party or person in whose favour or on whose behalf or for whose benefit such order is made, then if such party or person might have acquired the land or interest in land or rights connected with land, the subject of such order by appropriate steps or proceedings commenced by such party or person or by some other persons on his behalf under the said Act or under the Tramways Act, 1908, or the Public Works Act, 1928, or under any other Act, the compensation awarded by the Court shall be deemed to be in lieu of and in full satisfaction of all claims for compensation which might otherwise have been made under the said Act or under any other Act by the party or person in whose favour the Court shall have awarded compensation as aforesaid.