HAWKE'S BAY NATIVE LANDS ALIENATION COMMISSION.

GENERAL REPORT BY MR. COMMISSIONER MANING.

THREE hundred and one complaints have been sent in to the Commissioners, and published in the Hawke's Bay Government *Gazette*. By far the greater number of these complaints are directed against the validity of the titles of European landholders in the Hawke's Bay district, who have either purchased or leased lands from Native owners who had received grants from the Crown. Over seventy of these complaints are nearly *verbatim* as follows :—

"Dispute validity of all alleged alienations. Request inquiry. Call for production of all documents, and particulars of all alleged considerations paid. Require settlement of past rents."

This class of complaints does not set forth any particular wrong or injury suffered, and seems to indicate a purpose of general repudiation more than a desire for the redress of any particular or definite grievance.

Another very numerous class of complaints is by persons who claim to still have rights over the land, or rights to a share of the proceeds of the sales, or to have been consulted as to the sales, notwithstanding that the lands respecting which these claims are made have been granted exclusively to other persons, after the ownership, according to Maori usage, having been investigated by the Native Land Court, at which investigation the complainants had full opportunity of attending, and, as I believe, did, in the great majority of cases, attend, or were represented.

It is to be remarked, that this class of complaints is almost invariably made against the Native grantees or sellers, sometimes, however, including the European purchasers, and that in the whole 301 complaints there is not one impugning directly the decisions of the Native Land Court as to the ownership of the lands, and only one, so far as the investigation has gone, in which one owner, having apparently a very trifling interest, has, by the action of the Court, suffered tort, not in consequence of her interest being overlooked or undeclared by the Native Land Court, but from having been left in a false position, wherein she could not recover the value of that interest when the land was leased. That such has been the case, it will be seen, is attributable to an imperfection in the law itself, as much as to any other cause.*

Supposing, however, this class of complaints to be founded on any general principle, it cannot be doubted that that principle must involve the theory that the decisions of the Native Land Court are in no case to be considered final, and that Crown grants founded on such decisions do not confer exclusive ownership on the grantees, or perfectly extinguish Native title. I do not, however, from anything I have seen, believe that the Native claimants act on any such idea, and the absence of complaints against the decisions of the Native Land Courts, seems to support this opinion. One witness, who had two very serious complaints of not having received the payment agreed upon for his land,† acknowledged in Court that he was in fact merely making an experiment, to see what he could get; and I observed, as I think, indications of a very common expectation amongst the Native complainants, that the Commission would order lands to be returned to them, or award money payments to be made to them, without any very rigid examination of the nature of their claims. I think that some of the complainants in this class of complaints have equitable claims, in general of small value, as against the Native grantees who have sold the land;‡ but I believe, most of the others will be seen to be "experiments," founded on the idea that the Commission would be predisposed to entertain the complaints, without too severe a criticism.

It may not be out of place here to remark, on the subject of this class of complaints, that I believe the whole value and utility of the Native Lands Acts depend on this position—that the issue of a Crown grant founded on a decision of the Native Land Court is final and decisive as to the ownership of the land, and confers a perfectly exclusive title on the grantees; any other theory than this, which would acknowledge the possibility of any rights of ownership founded on Maori custom remaining unextinguished, and vested in any persons other than the grantees, would not only encourage, but create, a general attack on the validity of the titles to all lands which have been purchased by Europeans from Native grant-holders, and finally against all titles to all lands held by Europeans all over the North Island.

It not unfrequently happens that when a portion of the land held by a tribe is sold, there are members of the tribe who, although neither having the right to sell those lands nor to prevent the sale, have notwithstanding, by custom long exercised, derived, without opposition, certain minor advantages from the land, which advantages they lose when the land is sold. These advantages are of more or less value according to circumstances, but seldom amount to more than the taking material for building houses, running pigs on the land, or taking shell-fish from the beaches. To fell timber for sale, or take even one prime tree for the construction of a large canoe, or to cultivate on the land, would in most cases require the express permission of the owners of the land; that is to say, the persons having the right to sell. These advantages or easements enjoyed by such persons are equally accorded to

* See Report on Case No. IX. (Onepu East.)
† Ahere Te Koare—Complaints 48 and 49, Cases Nos. XI. and XIV.
‡ See my Report on Case No. XIII., Part 1 (Heretaunga).