

1888.
NEW ZEALAND.

NATIVE AFFAIRS COMMITTEE.

REPORT ON THE PETITION OF TOHA RAHURAHU, TOGETHER WITH MINUTES OF EVIDENCE.

Brought up 24th August, 1888, and ordered to be printed.

REPORT.

No. 261.—Petition of TOHA RAHURAHU.

PETITIONERS, who claim to be the owners of the Mohaka and Waikari Blocks, pray that an Act may be passed to enable the Native Land Court to adjudicate upon those blocks with a view of including those who were left out, and striking out those whose names were admitted wrongfully.

I am directed to report as follows: That the petition be postponed until next session.
24th August, 1888.

[TRANSLATION.]

No. 261.—Whakataunga mo runga i te Pitihana a TOHA RAHURAHU.

Ko te kai-pitihana e ki nei e whai take ana ki te Mohaka me nga Waikari Poraka e inoi ana, kia paahitia tetahi Ture kia ahei ai te Kooti Whenua Maori te whakawa i aua poraka kia uru atu ai nga tangata i mahue ki waho, me te patu atu i nga ingoa o era-i whakaurua hetia.

Kua whakahaua ahau kia ki penei: Me nuku te korerotanga o tenei pitihana mo a tenei Paramete haere ake nei.

24 o Akuhata, 1888.

MINUTES OF EVIDENCE.

WEDNESDAY, 25TH JULY, 1888 (Mr. W. KELLY, Chairman).

Mr. ORMOND, M.H.R., in attendance and examined

1. *The Chairman.*] Will you be good enough to state to the Committee what you know on the matter before it?—I will state what I remember. The land referred to chiefly belonged to a tribe which was in rebellion in 1867–68: that was the tribe whose people came down on the plains of Napier to attack the Town of Napier, and who were defeated. A large number of them were killed or taken prisoners, and their lands were declared to be confiscated. The confiscated land, so far as I remember, took in those blocks that are referred to in the petition. Concerned in these lands also were a number of natives who were all through friendly to Europeans and allied to the Government, the chief of whom was Tareha, whose services to the Government at that time were very great indeed. It was to him that the Government and Europeans were largely indebted for the security of the district. Sir Donald McLean, who was then Native Minister, desired, in the settlement of these lands, to secure for those Natives to whom the colony was so indebted a portion of these lands, and especially for Tareha, who, though a great chief and the greatest man in the district, had but little land outside of those lands to which he had a claim in the blocks I am now referring to. His lands outside these were of small extent, and not sufficient for him and his people. It was then intrusted to me, as Government Agent, to have inquiry made into the claims, so far as they could be ascertained, of friendly natives under Tareha, or those concerned, with a view to some equitable partition of the land; at the same time provision was made for those Natives who had been in rebellion before, and to whom, as far as I remember, other parts were to be returned. Mr. Locke, who was at that time a Government officer in the Native Department, and well acquainted with all these people, was the officer employed to make inquiry into the whole of the circumstances and make a recommendation to the Government. He did make such inquiry. He went about among the Natives and held meetings, and, as far as I recollect, his inquiry was spread over a long time, and every Native, I must say, in that part of the country must have heard about it. To say that Toha did not know is simply nonsense; it was known all over that part of the country, and quite as well as it is now known that Parliament is sitting here. But Tareha was the principal man, and

he was looked upon as the man who had a right to be consulted on all these things ; and it was really under Tareha's advice that the whole of the partition of the land took place. He looked on the Natives concerned as his people, as well those who had gone into rebellion as those who had not. Mr. Locke, in the end, made a recommendation. Sir Donald McLean, who was also acquainted with the various hapus, examined that agreement. The outcome of it all was an agreement for partition of the land, which Parliament confirmed by the Waikari-Mohaka Act. That was the agreement which Mr. Lewis, Under-Secretary of Native Affairs, has just read. That, to my mind, settled the whole business. Toha did raise a claim after the thing was done on account of his name having been omitted, and Mr. Locke stated that, in his opinion, Toha ought to be included. Then, if I recollect right, though I cannot find it disclosed by the papers, there was some money paid. My recollection is that that money was paid with the view of settling all these claims. After this lapse of time I cannot tell who the money went to ; but there was some money (£400 was the amount, I think) paid with that object. It was given to the officer (Mr. Locke) to distribute. My recollection is that this money went to satisfy the Natives who had claims. I cannot say who got the money, or how it was paid away, but I know that the officer was very painstaking, and thoroughly acquainted with all the circumstances. It was under his advice that the money was distributed. It was then thought that the whole question was settled. This explanation gives you my recollection of the circumstances under which the Waikari Act was passed, and the reasons why it was passed. So far as I can remember the objects that were sought to be obtained by the agreement, it dealt with the whole of the land, and, in as far as the confiscated lands were concerned, in a manner that the Crown had a right to do. You must remember that these lands were lands of a people who were in rebellion, and they were taken and given back by the Crown, in the way explained, with the view of compensating partly and partly in satisfaction of the claims of those who had been friendly to us and assisted us all through the disturbances. I think it would be an unwise thing to disturb the Act. I think any Government would hesitate very much before doing so.

2. *Mr. Monk.*] It was like many cases we know of where the great leading chief acted (by their mana) for the tribe in distributing money. For instance, in the north there were the great chiefs Taurau, Kuketai, and many others ; we know that many transactions with Natives were effected through the one chief?—The difference here is that this land was confiscated land, which was taken from the Natives, and belonged to the Crown.

3. But you throw the onus on the one chief?—I say that he was really consulted ; that his wishes, as one who had rendered great services, were taken into account when distributing the land.

4. *Mr. Carroll.*] I will move for the production of all the papers in the possession of the Government bearing on this question ; they would probably disclose several things of which we are ignorant at present ; meantime, I would ask, Mr. Ormond, Do you know any of the rebel Natives who were put into these blocks as owners?—I cannot name them, but they were all provided for ; they were provided for by that agreement. They had lands given them back.

5. You cannot go into the particulars?—No.

The Chairman : If the land was confiscated the Government had a right to put whom they liked on it.

Mr. Carroll : I would draw your attention to the paragraph that it should not be alienated, but held in trust for the loyal Natives.

6. *The Chairman.*] The land was theirs?—They took it as a gift from the Government, by arrangement.

7. *Mr. Carroll.*] Did they hand it over to the Government?—The loyal Natives ceded their rights to the Crown. Tareha gave up everything he had, and included it in the confiscation, if I may so say, and had it given back to him.

8. Was not the agreement between the Government and the loyal Natives this : that, after the Government had taken certain portions for Natives who were supposed to be rebels, they should return the balance, not to whom they liked, but to the loyal Natives?—Yes, that was for Mr. Locke to ascertain who they were ; he had an absolute knowledge of all these people ; no person could have a better knowledge.

9. Dealing also with the agreement, I think it is your opinion that these blocks were made inalienable, and there was a condition that they were to be held in trust?—Yes ; the Act says lands are to be inalienable, but not in trust.

10. Are the blocks now within the meaning of the agreement?—I should think so.

11. Do you not think it is time that all the beneficiaries under the trust were declared?—If you refer to the petitioner I have already said that you can ask Mr. Lewis for the particulars. I have a recollection of a sum of money passing as satisfaction. The only claim known outside which I have a recollection of was that of Tareha. I have a recollection of a sum of money being received ; it was sent to me as Government Agent, and it was expended in satisfaction of such claim. I would not like to say that I am absolutely correct about the amount, but I think so.

12. You say that Mr. Locke's proceedings in ascertaining the names of the owners were so public, that he paid so much care and attention to this duty, that no one could have been ignorant of them?—I think so. I have no shadow of doubt about it.

13. Will you say how Toha's name was left out if he had a claim?—I think that he did not request to have it put in ; it was not till afterwards it occurred to him. But they knew all about the Waikari Act as well as the people of the colony know that Parliament is sitting in Wellington. It was well known to the whole country-side after the conquest ; the whole thing was notorious.

14. Was there any open inquiry made to investigate these blocks that you are aware of, or was it all done with the assistance of Tareha?—There were lots of meetings ; lots of travelling.

15. According to your recollection?—My recollection is that Mr. Locke went to Taupo, to Mohaka, Petane, and a great many other places, and held meetings of Natives. Meetings were also held at Tareha's place. I know the whole thing took a long time to adjust.

16. *Mr. Graham.*] Do you know whether Toha was in rebellion?—No; he was pilot at the Wairoa at that time. He was a man constantly engaged by the Government, and on very friendly terms.

Mr. Graham: Is he the sole petitioner?

Mr. Carroll: No; on behalf of others.

The Chairman: He is the only one before the Committee.

Mr. Carroll: His petition raises the whole question.

17. *Mr. Monk.*] You say you gave back the same quantity of land?—I think Mr. Lewis will be able to produce the papers, and better qualified to give you information. Mr. Locke and Sir Donald McLean were parties to the whole thing. I was merely an officer who took charge for the Government in Napier.

18. *Mr. Carroll.*] The whole thing was intrusted to Mr. Locke?—Yes; he reported from time to time.

19. To Wellington?—He reported to me; all these matters went through the Government Agent at that time.

20. Were not names supplied to the Government here to be inserted in the certificates for these various blocks taken from Mr. Locke's book, in which he had written down the names and the result of his investigation?—Mr. Locke came to agreement with, so far as was known, all parties concerned, and they signed the agreement.

21. Then, if there be any difference between the original list of owners and the people who now are on the lists on the certificates, would you not say that that should be rectified?—I told you before that there was a sum of money for the purpose of settling Toha's claim. I should think the papers would tell you all about it; at the time I knew well enough all about it.

[There is a portion of the evidence I gave which is not included here or after the statement I made.—J. D. O.]

Mr. T. W. LEWIS, Under-Secretary of the Native Department, in attendance and examined.

22. *The Chairman.*] What do the papers say?—It will perhaps be convenient to the Committee that I should take up the history of this case from the commencement of the correspondence. The first letter bears date 18th November, 1869:—

Auckland, 18th November, 1869.—Sir,—I have the honour to request that you will carry out the settlement of the Waikare-Mohaka Block. The Government do not expect, or indeed desire, to reap any pecuniary or other advantage from the confiscation of the block, or to incur any loss in connection therewith; but it is most desirable that all questions connected with it should be finally adjusted and disposed of. You will therefore endeavour to effect as equitable a settlement with the Natives as possible, taking care that large reserves are made for their own use. The Chief Tareha, who is becoming dispossessed of most of his landed property, should have reserves secured upon him within the block. I need not supply you with more detailed instructions, as you are already acquainted with the history of this block; and I feel satisfied that you are fully competent to deal with it in such a just and equitable manner as will meet with the requirements of the case. You will, of course, in this, as in all other cases, confer with his Honour Mr. Ormond, who represents the General Government at Hawke's Bay, and act in accordance with his views in the carrying-out of these instructions.—I have, &c., DONALD McLEAN.—S. Locke, Esq., R.M., Napier, Hawke's Bay.

On the 4th July Mr. Ormond writes to the Native Minister, enclosing copy of agreement with Tareha and the Natives, also enclosing plan of the Waikari Block, and showing the portions retained by the Government and the different subdivisions:—

Wellington, 4th July, 1870.—Sir,—On the 18th November, 1869, you instructed Mr. Locke, in conjunction with myself, to effect a settlement in respect to the Waikare-Mohaka Confiscated Block with those loyal Natives who had claims there. In those instructions it was stated that the Government did not expect or desire to reap any pecuniary or other advantage from the confiscation of the block, or incur any loss in connection therewith, but expressed a desire that the question should be finally disposed of, and that, in the settlement, care should be taken to secure to the Chief Tareha and his people land for their future wants, as it was understood they were rapidly alienating their property near Napier. Acting upon the above instructions, Mr. Locke and myself opened communication with the Natives concerned, and I have now the honour to enclose the copy of a memorandum of agreement with Tareha and the other Natives having claims in the said block. Under this arrangement lands which are specified are retained by the Government, and the remainder is subdivided into blocks, as described in the schedule herewith enclosed, and for the benefit of the Natives named therein. All these arrangements have received the assent of the Natives interested, and they understand that it is the intention of the Government to make the lands so returned to them inalienable. There is also enclosed herewith a plan of the Waikare Block, showing the portions retained by the Government, and the different subdivisions as apportioned to the Natives and described in the schedule. There are two points in connection with this question which have yet to be settled: the one is a claim by Tareha for a small money-payment, which he advances for abandoning such interest as he and the other loyal Natives may have in the blocks retained by the Government. I am not of opinion that this claim is a reasonable one; but he has insisted upon its being considered, and to obtain a settlement of the question I agreed to refer the matter for your decision at Wellington. The other point is that there is a considerable sum due to surveyors who surveyed portions of the Waikare Block before it was confiscated, and who, under the Native Land Act, have a claim upon the lands surveyed. If it is decided to make these lands inalienable it will be necessary to settle in what way the surveyors' charge is to be defrayed. I think I have pointed out all the circumstances connected with the settlement of the Waikare question which require to be brought under your notice; and it is right that I should state Mr. Locke has taken much pains to make the settlement a satisfactory and clear one, and that the negotiations have been conducted by him. Before closing my report I would point out that legislative action will probably be requisite to give effect to what has been done.—I have, &c., J. D. ORMOND.—The Hon. the Native Minister, Wellington.

Following that, a Bill was introduced to give legislative sanction to what had been done; it was introduced by the Hon. Donald McLean, and passed as "The Mohaka and Waikari District Act, 1870."

23. *Mr. Carroll.*] For giving effect to the agreement?—Yes, to give effect to the agreement. I have already read the agreement, which, I presume, may be taken as read now; but if any question arises on this point I can produce it if necessary. Then, in connection with the amount of £400 referred to by Mr. Ormond, Mr. McLean authorised on the 19th October, 1870, £400 to be advanced. This sum may have been expended in settling some of the unsatisfied claims if there were such. But it appears to have been advanced to Mr. Ormond to carry out his recommendation of a payment to Tareha and his people.

Mr. Ormond : See if Toha had any connection with it.

24. *Mr. Carroll*.] Before you leave it, try if you can find the receipt to show into whose hands the money was paid?—That is not here; it will come out in my evidence as to the unsatisfied claim. I may mention to the Committee that I will read whatever is pertinent to the case. There are things here that have no bearing whatever upon it. I will glance through them to see that nothing is omitted. In a letter from Mr. Ormond of the 25th November, 1870, the following appears: "In drafting that agreement I was under the impression that it was intended the Native lands held under the trust were to be made inalienable and should not be leased for more than three years, but I see that in respect of the Waikari land a twenty-one years' lease can be entered into." There is a telegram from Mr. Ormond which bears on the £400, and dated the 10th February, 1871, and is addressed to the Under-Secretary, to the effect that Mr. McLean had authorised £400 to be paid to Tareha and other Natives in consideration of a settlement, and requesting that the money be forwarded at once to complete the transaction. There is a further telegram, which intimates that a large number of Natives had assembled in connection with that money. I read this to show that there were more Natives than Tareha concerned. The money was sent to Mr. Ormond, as an imprest, on the 13th February, 1871. On the 18th February, 1871, Mr. Locke writes as follows to Mr. Ormond:—

Napier, 18th February, 1871.—Sir,—I beg to draw your attention to the fact of Toha's name having been omitted in the schedule of names to be inserted in the grants or certificates for the following blocks of land contained in the Mohaka-Waikare Block to be returned to the Natives—namely, the Waikare, the Kuta, the Awa-o-Totara, and the Heru-o-Turei Blocks; and to suggest, if certificates or grants be not made out, that this omission be rectified. I have also the honour to request that a tracing of the plan sent to Wellington, with the original documents connected with the Mohaka-Waikare Block, be sent here, to enable the draughtsman to record it on the maps in the Provincial Survey Office.—I have, &c., S. LOCKE, R.M.—His Honour J. D. Ormond, General Government Agent, Napier.

Mr. Ormond forwarded that letter to the Native Minister, with a covering letter, recommending Mr. Locke's suggestion to favourable consideration. Mr. Halse, Assistant Under-Secretary of the Native Department, asked Mr. Sewell, who appeared to be acting as Native Minister, whether he could insert Toha's name in the schedule for the blocks named, and this was approved by Mr. Sewell. Mr. Young was instructed to insert Toha's name in the schedule for the blocks named. Mr. Young accordingly inserted Toha's name in the copy of the schedule as attached.

25. *Mr. Monk*.] What schedule?—The schedule of names I have read over to the Committee. I find that Toha's name is in Mr. Young's handwriting.

26. *Mr. Carroll*.] That was after the schedule was confirmed by the Act of 1870. It must be according to the date?—Yes, according to the date.

27. *The Chairman*.] Was Toha's name admitted to it?—Yes, it was admitted. Mr. Halse instructed Mr. Young to put it in. The grant had not been issued then. On the 10th March, 1871, Mr. Ormond sent the following telegram to Mr. Halse:—

Napier, 10th March, 1871.—To Halse, Esq., Wellington.—No other name but Toha's omitted, so Mr. Locke informs me. Toha's name should have been included in the following blocks: Waikare Block, the Awa-o-Totara Block, the Kuta Block, and the Heru-o-Turei Block.—ORMOND.

At that time inquiry had been made, and it was found that no other name than Toha's had been omitted.

28. What was the date of that telegram?—10th March, 1871. Mr. Turton, the Trust Commissioner, writes in 1871 asking whether the Crown grant for one of the blocks had been issued, and requesting to be furnished with the date of grant and the names of the grantees. In December, 1879, there is a petition from Tareha and eleven others, praying that the grants under the Act might be issued. The Committee reported on the 5th December, 1879, that if such a promise was made the Committee would recommend that Parliament should give effect to the prayer of the petition and that a Crown grant should be issued. The surveys of these blocks were afterwards completed, and notice was issued by the Minister of Lands to that effect. The notice was published in the *Gazette* on the 27th July, 1880. In 1881 the Native Land Court Act contained the following clauses. [Clauses 7 and 8 cited.] This Act was necessary, because the Mohaka-Waikari District, before the grants were issued, had been included in a number of repealed Acts. In 1881, after the passing of the Native Land Act, and in pursuance of it, application was made by the Hon. Mr. Rolleston, Native Minister, to the Native Land Court "to inquire and determine" who were the persons entitled to portions of these lands mentioned in the agreement. The Court was appointed to sit at Wairoa on the 1st May, 1882, to complete adjudication. Mr. Brookfield was the presiding Judge. Captain Preece attended the Court as Crown Agent. There is an important telegram from the Judge *re* Mohaka-Waikari lands addressed to the Native Minister, and dated the 6th July:—

Napier, 6th July, 1882.—Hon. Native Minister, Wellington.—*Re* Mohaka Waikare: Natives refuse to take part in investigation unless original agreement is ignored and fresh inquiry made as to parties entitled, and have left Court. Such inquiry is contrary to Act. Under these circumstances, do you wish inquiry to proceed? Court adjourned pending reply.—F. BROOKFIELD, Judge Native Land Court.

Mr. Bryce, who was at the time Native Minister, minuted upon this telegram: "The course which the Court should adopt is prescribed by law, and I do not feel at liberty to interfere with its action." The next document, stating the action taken by the Court, is a letter from the Judge to the Native Minister, dated the 15th July, 1882:—

Native Land Court Office, Wairoa, 15th July, 1882.—Sir,—I have the honour to forward you the following report of the proceedings of the Native Land Court, which was held in reference to the Mohaka-Waikare District inquiry on the 6th, 7th, and 10th day of July instant, and I am induced to do so in view of the action which I am informed the Natives are advised to take in the matter. On the opening of the Court on the 6th July the chief Manaena, who is largely interested in the district, asked whether any Natives, other than those mentioned as loyal Natives in the agreement of the 13th June, 1870, would be allowed to bring forward claims to the land, stating as his reason that in the schedule attached to that agreement would be found the names of many persons who, at the time of the confiscation of the block, were known to be in open rebellion, while the names of others who had always been loyal to the Government were, for some reason or other, omitted. I informed him, in reply, that that agreement was

entered into between the Government of the colony and the Natives named in it, and that it had twice been declared to be valid by Acts of Parliament, and that the Court could not now go behind it so as to inquire whether any error had crept into it, and that the only persons who could now be recognised as having interest in the land were those named in the agreement, or the successors of any who might now be dead. Manaena then, as I informed you in my telegram of the 6th July instant, objected to the Court proceeding with the investigation, in which he was supported by Apirana and others, and they and their followers then left the Court and refused to give any information whatever. Later in the day the Court proceeded to inquire who are the persons entitled to that subdivision of the block called Te Kuta, and received much assistance from another chief named Toha, who stated who of those named in the schedule to that block were dead and who were their successors, and an order was made accordingly. On the 9th July Toha called upon me and stated that his people were very angry with him for having adopted that course, and that consequently he should refuse any further assistance. I explained to him fully that their refusal to state who were the successors of any deceased person could do no good, and that if they still declined to assist the Court on the following morning, all I could do would be to have all the original names read over, and if no information was given that any of the persons mentioned were dead orders would be made in their favour, as per original agreement, and it would then remain for the successors to come forward and assert their claims, thus entailing much trouble and expense. The only reply was that they had made up their minds, and would not assist. On the following day Manaena, Toha, and other chiefs appeared in Court and protested against the proceedings, and said they should go home, which they did; but prior to their doing so I again pointed out to them the state of the case, and requested them to render assistance, and told them they could afterwards petition Parliament in the matter if they were advised to do so. They, however, still refused, and left the Court. The names were then read over in each subdivision, and orders made for certificates of title to issue according to original agreement, the estate being antevested from the 12th September, 1870, the date of "The Mohaka-Waikare District Act, 1870," coming into operation. There was no antevesting order for Te Kuta. I have since been informed that the Natives have determined to petition Parliament, praying that the order made be annulled; that the agreement of the 13th June, 1870, may be declared void, and a new investigation as to the loyalty or otherwise of the Natives named in that agreement entered upon, but that existing leases may not be interfered with; and it is in view of such action that I have ventured to trouble you with this report. Of course, it is unnecessary for me to point out to you the difficulties which would arise if the prayer of any petition to the above effect should be granted.—I have, &c., F. W. BROOKFIELD, Judge Native Land Court.—The Hon. the Native Minister, Wellington.

29. *Mr. Carroll.*] Could you inform the Committee on what information the Court proceeded after the names were withdrawn to fix the original names; did they go on the agreements or on the books—which were known to be Locke's books?—I am not able say. I can only say that the Court was in possession of the agreement and all the Government papers on the subject; whether they were in possession of Mr. Locke's books or not I am not aware.

30. Is it not a strange thing that since then his name does not appear?

31. *Mr. Graham.*] But did it appear before?—Toha's name was inserted in the schedule after 1870 by order of the Native Minister, Hon. Mr. Sewell. The Court possibly excluded his name, but I have no information on this point. That decision of the Court is the present legal position of the matter, and brings it up to date.

32. *Mr. Carroll.*] Can you tell me whether the Native Land Act Amendment Act was passed because of applications or petitions to have these lands reinvestigated?—The reason the amendment was necessary in the Act of 1881 was that grants ordered by the Act of 1870 could not issue, the Act of 1870 having been repealed with a number of other temporary measures before the action to be taken under it was complete.

33. Why was it necessary for the Court to investigate and ascertain who the owners were if that question had already been settled under the agreement under the Act of 1870?—Because, if the grants had issued to the persons named in the schedule to the agreement, a number of these persons being dead, the Court would have to declare who were their successors. The Act of 1881 enabled the Court to make one complete work of the whole title. That is pointed out by Mr. Brookfield. The Court, as decided by the Judge, had no authority to go outside the schedule.

34. But you are aware that several petitions and applications had been made by the Natives to the Government prior to the passing of this Act with a view to the object of getting the claims reinvestigated and the ownership properly adjusted?—I am not aware of that, and I do not find that there are any applications of the sort on record; there have been applications since the Court sat.

35. No petitions?—No; I think it is very unlikely there would be, because the petitions of the Natives probably arose out of the action of the Court.

36. With reference to this £400, did you ever get a receipt for that?—There must have been a receipt. I could get you the receipt at any time from the Treasury.

37. I wish you would; it might be useful to know who the money was paid to?—I will do so.

38. There is another question I want to ask: whether Locke's books in reference to this Mohaka-Waikare Block and the list of names are official books of the Government department?—They are the property of the Native Office. All books of that sort are official records, but whether they are here or in Napier I am not able to say; but, if they are here, I fear they are not available immediately, because they would be among very old records, for which there is no room available, or in the vaults of the Government Buildings.

39. But they would be in use since 1870?—Yes; I will ascertain whether they are in Napier or here. If they are here, and you wish me to produce them, I will do so.

Mr. Carroll: Yes; I shall be glad if you will do so.

40. *Mr. Graham.*] I want to know whether Tareha appeared before Mr. Brookfield in 1882?—He was dead before that date.

41. When were the Crown grants issued?—I do not know. I do not know that they are issued yet. The issue of grants is in another department.

42. Are you aware whether Toha's name is included?—I shall obtain copies of the orders of the Court in which the grants would have been made, or copies of the grant.

43. It appears to me he found that his name had been inserted when he came before the Court?—Yes.

44. He was under the impression that it was inserted. This £400 was paid to the loyal Natives for land; it was not in connection with anything else?—I only know what appears in the papers. It would appear from Mr. Ormond's telegram that it was probably paid to Tareha and a large number of Natives. The receipt would probably show the persons having claims who were paid.

THURSDAY, 26TH JULY, 1888.

Mr. T. W. LEWIS, Under-Secretary Native Department, in attendance and further examined.

45. *The Chairman.*] You said in your examination yesterday that you could furnish some further information to the Committee?—I was requested by the Committee yesterday to produce the receipt for the £400 which Mr. Ormond referred to in his evidence: I produce the original receipt:—

Voucher No. 1.—Whereas it was agreed on by the Government to give to certain claimants in the block known as the Mohaka-Waikari Block the sum of four hundred pounds (£400) as a full and final settlement for the said block, as set forth in deed of agreement dated the thirteenth day of June, one thousand eight hundred and seventy. Now we the undersigned hereby acknowledge to have received, this tenth day of February, one thousand eight hundred and seventy-one (1871), by the hand of Samuel Locke, Esq., Resident Magistrate, the said sum of four hundred pounds (£400), being a full and final payment of the same.—Tareha, Renata Kawepo, Te Waka Kawatini (his x mark), Na te Retimana, Te Kapui (his x mark), Pahira te Paea, Anaru Kune, Werahiko, Piripi (his x mark), Ko te Nakatahari, Aperahama te Ruakowhai (his x mark), Hoera te Paretutu (his x mark), Whakarite (her x mark), Ratimati Akitai, Epanaia, Perahama te Iwiwhati (his x mark), Maihi Tarapuhi, Manaena Tini, Moanaroo, Te Wirihana Ponomai (his x mark), Rahira (her x mark), Hemi Puna, Watarore, Toha, Ripeka Poporo (her x mark), Apirana, Horiana Hinehou (her x mark), Tame Tuki (his x mark), Hemi Taka (his x mark).—Witness, H. M. Hamlin, Licensed Interpreter, Clive. Karaitiana Takamoana (his x mark).

46. *Mr. Ormond.*] Are any of these signatures Toha's?—Yes; Toha's name is here.

Mr. Carroll: That is his signature; there is no doubt about it.

Mr. Lewis: I will give the Committee the other information that I have. I find that the Crown grants have not issued, but the orders for them were made by the Court. I have received a telegram from Mr. Brooking stating that orders were made in July, 1882.

Telegram (Urgent), 25th July, 1888.—John Brooking, Registrar Native Land Court, Gisborne to Under-Secretary, Native Department, Wellington.—Orders made in July, 1882, affecting lands in Mohaka-Waikare District, as follows: For certificates under Act, 1880, and "Native Land Act Amendment Act, 1881;" for Te Kuta, Tangoio South, Pakuratahu, Aropaoanui, Tutira, Tataroatara, Purahotangihia, Awa-o-Totara, Waikare, Tatarakina, Tarawera, Kaiwaka, and Heru-o-Turei. Toha's name appears in orders for Tekuta, Awaototara, Waikari, Tangoio South, and Tatarakina. No records of orders having been sent you, but list of them was included in my report of May, 1887.—JOHN BROOKING, Registrar.

47. *Mr. Ormond.*] Would you compare, and see in what blocks of those named by Mr. Locke in his letter of the 18th February, 1871, Toha's name appears, and in what blocks it does not?—I have done so. Mr. Locke, in his letter, states that Toha's name should be inserted in the certificates for the following blocks, viz.: Te Waikare, the Kuta, the Awa-o-Totara, and the Heru-o-Turei. Mr. Brooking informs me his name appears in orders for Te Kuta, Awa-o-Totara, Waikari, Tangoio South, and Tatarakina.

Mr. Carroll (addressing Mr. Ormond): Heru-o-Turei is a distinct block; he is left out of that. He is put into one that you do not name, and he is left out of one that you do name.

Mr. Ormond: One block was specially given to Tareha as a recognition of the great services he had rendered to the colony.

48. *Mr. Graham.*] The Crown grants you say are not issued?—No.

Mr. Carroll: The Court could not go outside of the agreement; they had simply to decide who were the successors to the deceased owners.

Mr. Ormond: That is the whole case.

Mr. Carroll: The petition applies for a declaration of the trust.

The Chairman: Might that not be done in respect of the blocks that he is in?

Mr. Carroll: But he asks for a decision upon the whole.

Mr. Graham: But he accepted that money at the time.

Mr. Carroll: That was for a different purpose; the money was paid for their claims to the lands that were retained by the Government.

Mr. Ormond: It was a final settlement of all claims in these blocks.

49. *The Chairman.*] What does the certificate of the Court say; would it say they are to be held in trust?—That is in the office of the Court at Gisborne. It would not say "to be held in trust," because no certificates are issued for lands "to be held in trust." Inconvenience has arisen from every order where the words "in trust" have been used; they have been of no use, and have given a good deal of trouble.

The Chairman: It appears to me that for the names in this schedule the lands are to be held in trust.

50. *Mr. Carroll.*] The paragraph which Mr. Lewis read puts that, as it appears to me, beyond doubt, namely, "That the whole of the land should be made inalienable both as to sale and mortgage, and held in trust in the manner provided, or hereinafter to be provided, by the General Assembly, for the Natives under the trust." Have you heard, Mr. Lewis, the whereabouts of Mr. Locke's books?—They are in Napier, in possession of Captain Preece.

51. Were the books before the Court?—There is a minute of Mr. Preece's which would lead me to suppose that the books were before the Court. I will read it:—

Copy of minute on No. 88/1207, by Captain Preece, R.M.—For the Under-Secretary.—The name of Apirana Tukotahi was not in the list of owners who were put in the Purahotangihia Block, in accordance with the agreement between Mr. Locke, R.M., and the loyal Natives, dated the 13th June, 1870, *vide* Mohaka and Waikare papers, but I found his name marked in pencil in Mr. Locke's Mohaka: Waikare book containing a copy of the original list; and when the Native Land Court sat in Napier in July, 1882, under the provisions of the 7th section of "The Native Land Act Amendment Act, 1881," I brought the matter under the notice of Judge Brookfield, but he would not allow Apirana Tukotahi's name to be included, because it was not in the original list.—GEORGE PREECE, R.M., 10th July, 1888.

52. Will you refer to something that you read yesterday to Mr. Ormond about that £400?— You mean from the letter of the 4th July. I will read the portion :—

Extract from letter of the 4th July, 1870, addressed to the Hon. the Native Minister by Mr. Ormond.—There are two points in connection with this question which have yet to be settled: the one is a claim by Tareha for a small money-payment which he advances for abandoning such interest as he and the other loyal Natives may have in the blocks retained by the Government. I am not of opinion that this claim is a reasonable one, but he has insisted upon its being considered, and to obtain a settlement of the question I agreed to refer the matter for your decision at Wellington.

Mr. Ormond: I would like to add something to my evidence, given yesterday, if the Committee will allow me: I understand Toha and these others to say that their object is to get their names inserted on the ground that they had been omitted. I further understand their object is to upset these deeds altogether, and to assert that these lands are only held in trust for the people. I give the Committee my recollection of the action of the Government at that time. In the case of Tareha they were specially desirous, as was stated to me over and over again by the then Native Minister, that, in the settlement of the Waikari Blocks, provision should be made for the Chief Tareha; for his services the Government deemed him entitled to that consideration; and there was also the ground that he had not for himself and his people, without such award being made, sufficient land for their maintenance. That was distinctly one of the objects in the settlement of the Waikari-Mohaka Block. I further say that the awards made were for the benefit of the people named in the memorandum of agreement, and the orders for the Crown grants have been made by the Native Land Court; any interference with these objects would be virtually upsetting the whole transaction. I wish this to appear on record in the report of my evidence given in this case.

Mr. Parata (to Mr. Lewis).] Were the shares given?—The shares in the respective blocks are not defined. In Tareha's case, there a block was given in his name only.

Mr. Carroll: Has Mr. Ormond looked over the papers, or is his statement an expression of his opinion?

Mr. Ormond: It is no opinion, it is knowledge; my acquaintance with the facts of the case at the time.

Mr. Carroll: You are acquainted with the Equitable Owners Act?

Mr. Ormond: Yes.

Mr. Carroll: That is to the reinvestigation of land that has been awarded since 1865; here the land is to be "inalienable, and to be held in trust as hereinafter provided for the benefit of the loyal Natives."

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