

## REPORT.

To His Excellency the Governor of the Colony of New Zealand.

MAY IT PLEASE YOUR EXCELLENCY,—

We, the undersigned, being the Commissioners appointed by Your Excellency's Commission, bearing date the 1st day of February, 1904, under and by virtue of the provisions of "The Commissioners Act, 1903," to be a Commission for the purpose of investigating the matters referred to in the petitions of Honana Maioha and Tuaiwa Ngatipare respectively, complaining of the decision of the Native Appellate Court in respect of the block of land known as Te Akau, situated in the Provincial District of Auckland, have the honour to report as follows, viz. :—

1. We held sittings at Mercer from the 6th to the 13th April, 1904, and at Ngaruawahia from the 14th to the 28th April, 1904, inclusively, to hear the evidence and arguments of the parties to the said petitions, and of the opponents to such petitions, or of any other persons claiming to be interested in Te Akau Block.

2. We have had before us the records of the proceedings in the Compensation Court held at Port Waikato (Putataka) in 1866; also those of the Native Land Court held at Raglan in 1891, and those of the Appellate Court held at Raglan in 1894; and the further proceedings in respect of the Akau No. 3 Block in the subdivision of that part of Te Akau Block into Nos. 3A and 3B at the sitting of the Native Land Court held at Ngaruawahia in 1897. We have also had access to a large number of other official records bearing on the question.

3. In order to arrive at a clear understanding of the case, we deem it to be advisable to give the history of Te Akau Block, as from the end of the year 1865. The Akau Block now contains 90,360 acres. It is situated on the west coast of the Provincial District of Auckland, between the mouth of the Waikato River and Raglan Harbour. It was included in the Waikato District, as taken by His Excellency the Governor in Council under the authority of "The New Zealand Settlements Act, 1863." In accordance with the provisions of the said Act, a Compensation Court was held at Port Waikato (Putataka), in February, 1866. The Court was presided over by Messrs. Fenton, Rogan, and Monro, as judges (the latter being one of the present Commissioners); Mr. James Mackay (the other of the present Commissioners), to whom had been delegated the powers conferred on the Colonial Secretary by "The New Zealand Settlements Act, 1863," representing the Crown in the said Court. A map, showing about 158,600 acres (extending inland as far as the Whangape Lake) claimed by the Ngatitahinga and Tainui Tribes, was produced in the Court. The case was heard on the claims of Hohua te Moanaroa, Mita Karaka, Manahi Kiwi, Tohi, Tihi, Horomona, Honana Maioha, Renata, Manahi, Wetini Mahikai, Perihita Hauri, and Mohi, on behalf of themselves and other members of the Ngatitahinga and Tainui Tribes—with the exception of Honana Maioha, who appeared on his own behalf as a member of the Ngatimahuta Tribes of Waikato. The external boundaries, ground of claim, and the names of the loyal and rebel owners respectively were thoroughly investigated. It was ascertained that there were seventy-seven loyal and forty-four rebel persons who were interested in the block. The Crown Agent arranged with the claimants that they should receive 94,668 acres, and that 63,932 acres should be retained by the Crown. This arrangement was submitted to the Court, and confirmed by it, an order being made accordingly on the 24th February, 1866, copy whereof is annexed [Appendix A]. No claims of females were either made or investigated. On an accurate survey of the land being made, and some deductions allowed for Government advances in respect of the preliminary survey of the block, the exact area for the loyal Natives was found to amount to 90,360 acres. With respect to the claim of Honana Maioha, the Crown Agent requested that it should be defined. The Chief Judge declined to do so, and added a rather ambiguous paragraph to the order of the Court: "That Honana Maioha's claim is not affected, the land included therein having been confirmed to the Natives." A list of the seventy-seven loyal owners was made at the time, and the Crown Agent would, as in other cases, have caused a Crown grant to be prepared in their favour. The Natives, however, desired to lease the land to Europeans, and, in order to save trouble in executing deeds, wished to have a Crown grant issued to fourteen of their number in trust to divide the land among themselves and the other owners, and with power to lease it for a term not exceeding thirty years. In March, 1868, the Crown Agent instructed his assistant, Mr. Charles Marshall, to proceed to Rangikahu, on the Akau Block, and ascertain the views of the Natives on the question. Owing to the absence of Honana Maioha from the meeting, nothing was accomplished. In July, 1868, Mr. H. C. Young leased the Akau Block for twenty-seven years, at a rental of £800 per annum. A grant, with the names of fourteen trustees, was prepared, but was objected to by the Attorney-General. The Crown Agent had resigned his appointment and left the service of the Government, but in reply to a letter from the Hon. Dr. Pollen, in 1872, he recommended that "the best manner of arranging the difficulty would be for the Native Land Court to investigate the case, and subdivide the land among the various owners, when Crown grants might issue to them." Chief Judge Fenton then requested Mr. R. S. Bush, Clerk of the Resident Magistrate's Court at Raglan, to call a meeting of the Natives interested in the Akau Block, and prepare a list of the loyal Natives whose names were entitled to be inserted in the Crown grant of it. This was done, and some fifteen additional names were added to the list which had been made at the Port Waikato Court in 1866. A copy of Mr. Bush's report is annexed [Appendix B]. Considerable correspondence passed in reference to the issue of the grant; but eventually, on the 23rd October, 1874, a grant was made by His Excellency the Governor in favour of eighty-seven persons of the Ngatitahinga and Tainui Tribes, and Honana Maioha, of the Ngatimahuta Tribe, being eighty-eight persons in all.

In 1891, Judge Trimble held a sitting of the Native Land Court at Raglan for the purpose of subdividing the Akau Block. This resulted in the land being cut up into nineteen pieces, and the relative interests of the respective owners were ascertained. An enormous amount of work was