A.—No. 10.

REPORT

ON THE

WORKING OF "THE NATIVE LANDS ACT, 1865,"

BY

THE CHIEF JUDGE, NATIVE LANDS COURT.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF HIS EXCELLENCY.

WELLINGTON.

1867.

REPORT ON THE WORKING OF THE NATIVE LANDS ACT, 1865.

No. 1.

Copy of a Letter from Mr. F. D. Fenton to the Hon. J. C. Richmond.

Sir,— Native Land Court Office, Auckland, 11th July, 1867.

In compliance with Mr. Hall's request, I have the honor to state that there will be no change, as far as I can see, in the expenditure necessary for the maintenance of this establishment. Some saving might be made if a Court could be legally constituted, with one assessor instead of two, in cases where the presiding Judge might think that one would suffice, but as this would under the existing law be illegal, no deduction can be made on this account. It should be borne in mind that the officers of this department have also discharged the functions of the Compensation Court, and that no part of the permanent expenses have been charged to that department, with the exception of one clerk. I submitted this question to the consideration of Colonel Russell, stating my own opinion that £1200 a-year would be a fair portion to be placed to the account of the Compensation Court; and I also urged this view personally upon Mr. Richmond, but it was not entertained by either of these Ministers.

I observe that you request me to include in my estimate the outlay which will be necessary on surveys, and the department organized by Mr. Heale. All the expenses of surveys are paid by the suitors, and, therefore, no provision is necessary under this head; and I am unable to state what funds will be necessary for the department organized by Mr. Heale.

That gentleman is in the North trying to establish some base or principle on which the confusion of boundaries, &c., in that part of the country may be settled; and though I wrote to him immediately on receipt of your letter, I presume that he has not received my communication, for he has neither arrived in Auckland, nor replied to it. Mr. Heale's is an independent department, charged with other duties than examining the plans sent into this Court; and I am unable, therefore, in his absence to furnish any estimate of the requirements of that establishment.

If he has received my letter I do not doubt that he will arrive in Auckland by the next vessel, when Mr. Hall's request shall be immediately complied with.

Herewith I beg to hand you a Return of the operations of this Court for the periods therein stated. Of course I have been to a great extent dependent on the clerks in the office in making out this Return, and cannot vouch for its perfect accuracy. Indeed, I believe that it would be impossible between any two given dates to furnish a return that would be absolutely perfect, for, of course, many causes are in *esse*, and can scarcely be classed under any head; but, as far as I am able to discover, I believe the Return may be implicitly relied upon in making deductions, or for any purpose for which such a return would avail. I have commenced the Return, according to your desire, with the commencement of the Act in November, 1865. The period from November, 1865, to June, 1867, is not perfect, for Courts were sitting in many parts of New Zealand in June, of whose operations I have, as yet, no knowledge.

In explanation of this Return, I desire to state that the amount of land included in "Interlocutory Orders" is necessarily unascertainable with accurate certainty, as those orders were made by the Court under the authority of clause 71, which authorized surveys in certain cases to be dispensed with. But the amounts stated will not be very wrong. Thus, in the first Return, the number of acres passed through the Court in this manner is stated at 564,000, comprised in thirteen orders. Eight of these were made at a Court held at Cambridge, at which I presided, and a surveyor produced rough trigonometrical surveys of these, which showed the blocks to contain about 560,000 acres. These lands, I may mention, were the sole property of William Thomson's tribe, Ngatihana and Natikoriki, and his subject tribe Ngatiraukawa, who suffered so severely at the attack on No. 3 Redoubt at Taranaki. For the remaining five orders I have added 4000 acres. It is probable they will amount to very much more, as it is the large blocks of land that the Native refuses to survey until his title is established.

This very sensible view was first taken by William Thompson at the Court held at Hamilton. He said that he had declined to survey land until the Court had recognized his title, for it might be, that after he had completed a survey the Court might decide in favour of another's title, and how would he then recover his expenses; but let the Court he said first decide on his title, and then he could survey with confidence. In all cases of interlocutory orders without surveys a time is limited in the order.

The orders on subdivision can only be made in case more than five names appear in the grant. In other cases the Legislature considered that subdivision was a matter for private arrangement by deed. Considering the difficulty of access to lawyers by Natives living in country parts, I think this provision might well be altered so as to allow the Natives to choose in all cases, whether they will resort to a private legal adviser to effectuate a subdivision, or whether they will return to the Court.

The production of this return has enabled me to form in my mind a system of record by which I hope in future to be able to furnish a similar and indeed a more comprehensive return without delay, and without the labour that has attended the making of this.

In compliance with the desire expressed in the concluding paragraph of Mr. Hall's letter I caused letters to be addressed to the several Judges, requesting a report of their experiences in the working of the Act, and the general effect likely to be produced by it. The replies which I have received are enclosed in this letter, and the others will be sent on as soon as they arrive. I thought that it would be more satisfactory to the Government to have the opinion of each Judge than that of myself alone, although of course based to a great extent on the operations of all.

With respect to the point on which Mr. Hall especially desires information, viz., the tendency of the Act to cause the parties to subdivide their lands, I remark that every certificate indicates as far as it goes a subdivision of the tribal estate, and the insertion of certain names in a certificate of a block of land is almost always the result of an arrangement amongst the members of a tribe, the consideration being that the names of those now inserted are to be omitted in certain other certificates, for it must be remembered that all lands are owned by the tribe. But perhaps Mr. Hall uses the word subdivision in a more limited sense, tantamount indeed to an individualization of titles. In this point of view I think the Act has not had time to operate extensively. Mr. Manning indeed speaks of the process as having commenced in the North, and being likely soon to be in active operation; but generally speaking, I think that hitherto the Natives have only taken preliminary steps. Most of the blocks hitherto certified have been brought into Court for the purpose of enabling sales or leases to be made to Europeans, in order to raise money for the purpose of completely individualizing other blocks or some of the blocks already passed. It must be remembered that the most formidable obstacle to the rapid progress of conversion of titles is the extreme poverty of the Natives, and the great commercial depression which has existed for the last twelve months, and which is now more aggravated than ever, has rendered sales of land almost impossible.

Two years ago no one could have foreseen the price to which land has fallen in the Province of Auckland. Thus, Walter Kukutai's tribe have in vain been offering 40,000 acres, in one block, of the finest land in the Waikato at 5s. per acre cash, or 6s. 6d. deferred payments extending over five years. A block in the North, called Waitaroto, cost 9d. an acre for survey, 1d. per acre in other expenses, and was offered for sale at 1s. per acre. I do not think myself (although Mr. Manning differs, and I have the very highest respect for his opinion), that any great progress will be made amongst the Natives throughout the Island in obtaining individual holdings in the sense in which Mr. Hall uses the word, if I rightly apprehend his meaning, until the present period of appalling depression shall have passed away. Still, I should add, that a great number of the certificates already issued are in favour of individuals, and whether these are trustees put in for the purpose of sale on behalf of the tribe, or whether they are to be regarded as intelligent members of the tribe determined to possess freeholds for themselves, it is impossible to say; and it would be difficult, if not impossible, to obtain this information from the Natives, unless they are thoroughly satisfied that our motives in seeking it are not such as to excite suspicion, and to satisfy them on this, as, indeed, on any other head, must be the work of time, and an unchanging policy. That the ultimate result of the operations of the Court will be the conversion of the Maori nation into two classes,—one composed of well-to-do farmers, and the other of intemperate landlords,—I have little doubt, but I do not think that these results will be brought about as speedily as many people think. The intemperance and waste so noticeable amongst the Maori landlords of Hawke's Bay are matters much to be regretted; but, in my judgment, it is not part of our duty to stop eminently good processes because certain bad and unpreventable results may collaterally flow from them, nor can it be averred that it is the duty of the Legislature to make people careful of their property by Act of Parliament, so long as their profligacy injures no one but themselves. It is well that all the money squandered by the Maori landlords is spent in the place whence it is drawn. Education will cure the evil, for drunkenness is the vice of the uncultivated and brutish man.

I will take this opportunity of expressing my complete satisfaction with the Act of 1865. I never expected, nor, I think, did the Legislature expect, that it would have worked with the wonderful ease which has marked its operations. The preliminary notices and other cautionary processes authorized by the Act, have been long since nearly abandoned, and are now very rarely used. I am not aware that our operations in any single instance have excited apprehension in the minds of the Government, or caused them one moment's anxiety. Indeed, so regular and uninterrupted has been the course of proceeding, that I have been sometimes inclined to think that the vast change that has taken place in the history and status of Native land, and the views of the Maoris with respect to the Government on this great question would not be sufficiently appreciated.

The greatness of such a change might not be recognized, whose commencement and progress are distinguished by nothing but quiet. The entire submission of the Maoris to the decisions and orders of the Court is a feature of most encouraging promise. The first claim that William Thompson brought into Court was rejected, and an order made in favour of another, but he silently acquiesced. Indeed, I know of no case where any feeling stronger than than of temporary disappointment has been shown by suitors on the loss of a case, and occasionally we have had to resort to strong measures. In New Plymouth we sent a Maori to the gaol for twenty-four hours for prompting a witness. In Hawke's Bay Te Hapuku was forcibly ejected from the Court for disorderly behaviour; and in Auckland chiefs were handed over to the constables for contempt, but in no case was the slightest sympathy shown by their fellow countrymen, and in each case a public apology was made. I should add also that each case sprung from the same cause—drunkenness.

If any legislation takes place this session, I would suggest the following alterations in the Act, though they are not of sufficient importance to call for change on their account alone:—

Clause XII. For "two" insert "one."

Clause XLVI. Declare that the second "therein" in the fifth line applies to the grant and not to the certificate.

Clause L. For "five" substitute "two."

Clause LV. In third line erase "lessee" and insert after "vested" in the fourth line "and by every lessee," and afterwards after "by any lessee" the words "an annual sum."

Clause LXII. Add a proviso that it shall be lawful for the Chief Judge from time to time to fix additional fees, and to alter those fixed by the Act, which scales of fees when so fixed or altered and approved by the Governor in Council shall be collectable and enforceable as if inserted in the Act.

Clause LXXIV. Enact that the execution shall be sufficient if made in the presence of the Interpreter and another witness, and the declaration shall be subsequently made before a Justice of the Peace or a Judge of the Court.

The last alteration would be very advantageous, as it is very difficult and expensive to get all the grantees together in the presence of a Justice and an Interpreter, especially in remote parts of

the country. Under the clause as altered, the Interpreter could take the Deed of Conveyance round to the signers.

The Act of 1866 should, I think, be entirely repealed; but the questions involved are questions of policy into which I would not willingly enter, unless invited by the Government to do so. But perhaps I ought to state, that in my judgment the effect of this Act, so far as it has had any operation, has been of an injurious tendency, principally because both Maoris and English have seen in it a partial abandonment of the fundamental principles adopted by the Legislature in 1862, and confirmed in 1865; and I am of opinion that no law relating to Maori land or to Maoris will work well and effectually that does not command the approbation of both races. I think the Maori will progress the better the more he is exempt from protection or interference to which other citizens are not subject. I believe that in this opinion all the Judges concur.

The clause relating to an acreage fee for examination of surveys has never been brought into operation. I shall speak more fully on this question in my reply to Mr. Stafford's letter of the 15th May.

The great difficulty in the rapid conversion of the Maori titles and the individualization of holdings is the necessity and expense of surveys: some idea may be formed of the powerful character of this obstacle from the fact that the plans already in the Native Land Court Office have cost, according to Mr. Heale, nearly £40,000. This large sum has all been paid by the suitors nominally, though I presume that the greater part has been advanced by the intending purchasers. Nor can this expense be avoided, for it is obviously impossible to make a grant of lands unless there is a map of the land to be granted, except indeed in the few cases of islands or remarkable peninsulas.

In the Province of Auckland this difficulty is vastly increased by the unsatisfactory state of the Government Survey, and the very defective surveys made by Mr. W. Clarke, who was largely employed as a Surveyor in the Land Claims Court.

This gentleman's surveys are extremely unconscientious, and indeed in many cases that have come collaterally before the Court can scarcely be called more than sketches. In the country south of the Waikato confiscated blocks, the territory is untouched by surveys; and I venture to hope that Mr. Heale will be able, by the establishment of a system of triangulation in those open plains, greatly to reduce the expense attendant on furnishing maps to the Court of the land to be investigated. Our operations under the form of Interlocutory Orders have already extended nearly up to Lake Taupo from the boundary of the confiscated block southward up the Waikato Valley, and Courts are fixed which will deal with lands extending from Maketu through the Rarawa country to Taupo; and I am aware that claims are, or soon will be, in for large tracts of country surrounding the Lake on all sides except the westerly side, and perhaps on that side also. I have great hopes that all these lands, under an improved system, may be surveyed at a greatly reduced cost.

In the Province of Hawke's Bay the Government surveys seem to be in a much better state, and the work of the Court has progressed there with less difficulty and I believe with less cost than in the Province of Auckland.

In Wellington Province the Government surveys seem to have been admirably conducted, and, as far as I know, no loss or difficulty has been occasioned to suitors in that Province through the errors or defects of old surveys; but the Court has experienced singular misfortunes from the insufficiency or want of attention in some of its own licensed Surveyors there. It would be very well if some of the large number of Surveyors licensed in the Province of Auckland could be induced to remove to Wellington, for there is an abundance of claims from the latter Province, but very few surveys.

I have refrained as much as possible in this reply from entering on questions of policy, as I do not understand that Mr. Hall desires any expression of my views on the principles of the legislation affecting Native lands. But I may be pardoned for saying, that in my judgment, nothing that has yet been tried has so largely tended to produce in the mind of the Maori peaceful desires and a grateful confidence in the Legislature as "The Native Lands Act, 1865."

I have, &c.,

F. D. Fenton
Chief Judge.

The Hon. the Native Minister,
Wellington.

Enclosure in No. 1.

RETURN of Proceedings of the Native Land Court of New Zealand,

From 1st November, 1865, to 1st November, 1866, inclusive.

Province.	Claims to Land received.	Cases heard and disposed of.	Cases adjourned.	Cases still pending.	Certificates ordered and not yet issued on account of alteration in Plans.		Certificates issued to the Governor under Clause 29.		Certificates issued to Parties under Clause 43.		Interlocutory Orders under Clauses 27 and 71.		Total Number of Acres to which Title ordered by the Court.	Testamentary Orders.		Definition of Tribal Boundaries.	References from Supreme Court.	Orders on Sub-division.		Surveyors licensed.	Appeals.	Fees.		
					No.	Estimated area.	No.	Area.	No.	Area.	No.	Estimated area.		Applied for.	Issued.			Applied for.	Issued.			Unpaid and charged under Section 63.	Paid.	Total.
						A. R. P.		A. R. P.		A. R. P.		A. R. P.	A. R. P.									£ s. d.	£ s. d.	£ s. d.
Auckland ...	701	298	68	335	3	10274 0 0	178	129303 3 13	2	25919 0 0	13	564000 0 0	729496 3 13	3	...	...	...	1	...	102	2	230 10 0	173 0 0	403 10 0
Wellington ...	109	42	9	58	2	500 0 0	19	3903 0 8½	...	...	...	...	4403 0 8½	...	...	...	...	...	...	5	...	2 0 0	22 2 0	24 2 0
Hawke's Bay ...	143	34	28	81	2	4000 0 0	22	40750 0 0	...	...	...	...	44750 0 0	1	...	...	...	...	...	3	...	3 10 0	97 0 0	100 10 0
Taranaki ...	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...	...
Nelson ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Marlborough ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...
Canterbury ...	...	...	...	...	...	...	...	...	...	...	...	...	...	5	...	...	...	...	...	...	...	...	...	...
Otago ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Totals ...	956	374	105	477	7	14774 0 0	219	173956 3 21½	...	25919 0 0	13	564000 0 0	778649 3 21½	9	...	...	...	1	...	113	2	236 0 0	292 2 0	528 2 0

From 1st November, 1866, to 30th June, 1867.

						A. R. P.		A. R. P.		A. R. P.		A. R. P.	A. R. P.									£ s. d.	£ s. d.	£ s. d.
Auckland ...	631	128	52	451	13	40860 0 0	96	95589 3 37	1	11828 0 0	16	80000 0 0	228277 3 37	7	4	...	...	...	...	10	2	217 0 0	163 10 0	380 10 0
Wellington ...	227	24	7	196	2	10005 0 0	7	8920 3 36	...	...	...	...	18925 3 36	3	...	...	...	...	...	...	...	5 0 0	19 0 0	24 0 0
Hawke's Bay ...	161	86	18	57	8	40000 0 0	42	154624 0 0	...	...	...	...	194624 0 0	...	...	...	...	...	...	...	...	5 0 0	105 0 0	110 0 0
Taranaki ...	5	...	...	5	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...
Nelson ...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...
Marlborough ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Canterbury ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Otago ...	4	...	...	4	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Totals ...	1028	238	77	713	23	90865 0 0	145	259134 3 33	1	11828 0 0	16	80000 0 0	441827 3 36	12	4	...	...	...	...	...	2	227 0 0	287 10 0	514 10 0

F. D. Fenton,
Chief Judge.

No. 2.

Copy of a Letter from Mr. MANNING to Mr. FENTON.

SIR,— Office of Native Lands Court, Hokianga, 24th June, 1867.

In compliance with your request I have the honor to report on the working of "The Native Lands Act, 1865," in this district.

I shall first remark on those points to which you have called my attention, namely, the difficulties encountered, the state of the surveys, and the effect produced by the working of the Act; and shall add any remarks which I may think pertinent or likely to elucidate any part of the subject, though, from the great increase and pressure of business in this office, and the necessity of preparing for a Court to be held here in a few days, I scarcely have time to give the subject the full consideration I could wish before writing.

The chief difficulties which have had to be encountered in bringing the Act to work arise from the fact that this, the Bay of Islands District, including Hokianga, is the district which was first settled in by Europeans—the European population in Hokianga thirty years ago having been double what it is now, and at the Bay of Islands at least equal to the present; and the difficulties, therefore, which have arisen from this cause are to a great extent peculiar to this district, and may be stated as follows:—

1. The Natives in former times having sold great numbers of blocks of land in every part of the district, many or most of which passed subsequently into the hands of the Government. This would, under the most favourable circumstances, give rise sometimes to questions and disputes respecting boundaries; but it appears evident that the Government surveys, or oftener the representation of the position of the land surveyed made on the survey plans, are in many cases incorrect, and the difficulties, disputes, and suspicions arising from this cause alone have been most serious and obstructive to progress. The Natives, after the experience they have had of the working of the Act, do not suspect any deliberate intention to dispossess them of any part of their lands; but the difficulties arising from intermingled claims of the settler, the Government, and the Natives, still remain. Every Court, however, that is held will reduce this difficulty in some degree, by ascertaining and finally settling the respective boundaries of Native and European claims.

2. Not a few families and individuals having sold in former times fully as much land as they could well spare, and being now particularly desirous to raise funds to pay for the survey and fees necessary to the procuring Crown Grants for land which they have retained (which lands, I may remark, are as a rule, almost without exception, of a far more valuable description than those which have been sold), have, being without any surplus lands to sell, endeavoured to raise the requisite funds by either bringing unfounded claims into Court, or by opposing the more legitimate claims of others, with the intention of selling the land which they hoped to obtain by these means. This, together with the old Maori feuds and jealousies not unfrequently existing between the parties, led frequently to a fierce spirit of contention, making the most extreme caution consistent with progress necessary in the procedure of the Court, to avert violence and bloodshed. This danger had however to be deliberately undergone for several months. It is now much lessened in consequence of parties making false oppositions to claims finding that their pretensions are subjected to a searching investigation, and if false exposed; whereas it had been at first their belief that the mere fact of the opposition being made would cause the claim to be dismissed, and therefore that at the least they could obtain a bribe from the true owners of the land for withdrawing the opposition, so that the claim could be entertained. At the first Courts, more than half of the Native claims were opposed in this way.

3. The other difficulties in the first working of the Act are chiefly such as are common to other districts, and chiefly arising from the desire of Natives to secure as much land as possible, under grant from the Crown, without much regard for the rights of others.

Altogether the difficulties and danger in the first operations of the Land Courts were such, at least in this district, as would have been insurmountable, were it not that the Natives perceive that "The Native Lands Act, 1865," satisfies a great want and vital necessity of the Maori people, by offering them a means of extricating themselves from the Maori tenure, and obtaining individual and exclusive titles for land. That most of the middle-aged and younger Natives take this view of the matter is beyond a doubt, as is proved by many circumstances, some of which I shall notice further on, and it is to this that we owe the very marked and increasing authority which the Native Lands Court has obtained in this district and, I believe, generally in the country.

That disputes, and even cases of violence, may occur about the division of lands is not at all unlikely amongst a people who value land now more than ever, and who, like the Ngapuhi, are ready to take arms on a small occasion. Every Court, however, which is held, and every block of land which is adjudicated upon, will render the recurrence of these land disputes more and more unlikely, merely by defining precisely and finally the boundaries of the lands of tribes and individuals, and thereby removing the causes for contention.

I think it may not be irrelevant here to remark that a very erroneous idea has been prevalent amongst Europeans as to the wishes and feelings of Natives in reference to the tenure of land. It has been thought that because previous to the arrival of Europeans in this country the Natives did not hold their lands by individualized and exclusive titles, according to our ideas of what such titles should be, that they neither wished to do so, nor could understand the benefit of holding land in that manner, but the Natives are, in fact, remarkable for their fondness of appropriating individually every kind of property, land included, and the reason why they have not hitherto held their lands by exclusive individual titles is, that before the arrival of the Europeans in this country it was impossible to do so.

In reference to the state of the surveys, I have only to say that I believe the surveys made under the Act are very correct, every possible precaution having been taken to ensure their being so previous to their being accepted as such by the Courts, and all lands which have been adjudicated upon in this district have been surveyed. There are also a number of blocks of land surveyed which will before long be claimed in the Native Lands Court.

The first sitting of the Native Lands Court in this district took place on the 6th of March, 1866, or fifteen months ago. Since that time I have put on record two hundred and twenty-three claims. Of these seventeen were transferred to the Court at Mongonui for hearing, and, I believe, have been adjudicated upon. One hundred and forty-three claims have been finally adjudicated upon by the Native Lands Court in this district, and the remaining sixty-three claims should be finally disposed of at the Courts to be held during the next two months.

The blocks of land for which orders have been given are for the most part from fifty acres to one thousand acres in area. There are, however, blocks of two, five, seven, and ten thousand acres. Between one-half and two-thirds of the above land has been secured to the Native owners inalienably, the remainder they have power to sell. The average value of the alienable land is, say about five shillings per acre, the average value of the inalienable land is, as compared to the value of the alienable, about five to one, or twenty-five shillings per acre; in fact, two pounds per acre has been, not long ago, refused for ten thousand acres of land, which is not nearly so good or valuable in any respect as the Whakatere Block of eleven thousand acres, and for which a certificate of title has been issued to the tribe, and not to individuals; but it is the intention of the Native owners to subdivide Whakatere into over a hundred individual holdings, according as they can raise the funds to pay the expense of doing so, and in many cases where three or four or more persons are named in grants, it is their intention ultimately to subdivide the lands, so that each man may hold his own share under a separate Crown Grant; and I have no doubt that the Natives in this district will carry out this intention to a very great extent, though it will take them some time to accomplish it fully.

The costs which Native owners of lands have had to pay per acre for surveys and fees in bringing their lands before the Court ranges from tenpence per acre to one pound per acre, according to the size of the blocks, small claims costing proportionately more than large ones; and it results from this that very many Natives have paid for their own inalienable lands at all the intermediate rates per acre between tenpence and one pound, which they do willingly merely for the privilege of holding their lands by grants from the Crown, and as individual property.

The land for which, as I have mentioned, two pounds per acre was on a late occasion refused is unimproved land near Kaikohe which has not yet been claimed in the Native Lands Court, but that it and every acre in the district will be claimed ultimately is certain.

It is a circumstance worthy of note, that during the last twenty or twenty-five years scarcely any first-rate land has been sold in this district, very little of that purchased either by the Government or settlers being nearly so valuable as the lands retained by the Natives for themselves. In one district of Hokianga where there are large and numerous tracts of the very richest alluvial soil, for instance at Waima, at Waimamaku, at Waihou, at Mangamuka, at Utakura, at Manganuiowe, at Omunia, at Whakarapa, and many other places, no block of really good land has ever been sold at all at any time, —certainly not to the extent of twenty acres of first-rate land has been sold; the consequence is, that there is not in the large and fertile district of Hokianga one settler engaged in farming, or who has land capable of being cultivated profitably, and the European inhabitants are therefore, all who have any capital at all, engaged in commercial pursuits, and the others—labourers chiefly—in the timber trade. Another consequence is, that the large tracts of fertile land which I have mentioned remain uncultivated, but there are signs appearing of a change for the better; and this brings me to that part of the subject which you have desired me also to report on, that is to say,—"The effects produced by the working of the Native Lands Act in this district."

As it is but fifteen months ago that the first Court under the Native Lands Act was held in this district, and as it is but quite lately that the Crown Grants have been issued here in any number, it is scarcely to be expected that in that time any very great progress would appear in a movement, the success of which would create to a certainty a completely new set of circumstances with regard to the Maori people—a revolution in fact—which must of necessity displace barbarism and bring civilization in its stead, for the difference between a people holding their country as commonage and holding it as individualized real property is, in effect, the difference between civilization and barbarism. Such changes are not rapid; but there are nevertheless evidences not to be mistaken, that the Natives are perfectly in earnest and alive to the benefits to be obtained by holding lands as individual property, and which benefits, if obtained by them, must reflect also upon the European population. In many places in the district the Natives are putting up substantial and expensive fences, chiefly done by European labourers. Indeed I think some Natives are trying to do more in this way than they can accomplish. Two farms in this part of the district, the Crown Grants for which were amongst the first issued, are already fenced round, the land cleared, and grass sown, and sheep (about 200) on them. I heard yesterday a Native agreeing with a European to put up two miles of fence on a fine piece of land which the Native feels sure he will get a title for. There are also many instances of Natives beginning to build better and more expensive houses than they have hitherto been accustomed to live in, and employing European carpenters for that purpose. The perceptible amount of progressive effect is certainly not yet very great, but it is sufficient to show that the Natives, especially the younger men, are moving in the right direction; and it is certain that they would never have gone to the expense which they have if the land had been held by them as formerly by the old Maori tenure. Everywhere Natives may be heard speaking of projected improvements, and I think that nothing but a want of sufficient capital prevents them from making a very rapid progress in bringing their lands into cultivation. The fact of the Natives in this district having for so many years kept back all the choice and richest of their lands under many temptations to part with it;—the fact of their having lately refused two pounds per acre for land good, but not the best, and the alacrity with which they have availed themselves of the Native Lands Act, would show, that in retaining their lands, they have been all along acting from a set and intelligent purpose, and with a not unenlightened view to their own future interests; and in this is the best hope for the eventual success of the Native Lands Act, already successful in a small degree, and which, in my opinion, holds out to the Maori people their last chance of temporal salvation.

The only suggestion which I would make for any amendment or alteration of the Act of 1865, is that I think it would be advantageous if section fifty of that Act were amended so as to allow that less

than five persons who wish to subdivide their lands may do so, in the same manner that, according to that section, more than five now can. This would facilitate the subdivision of lands, a thing I believe desirable; and I am of opinion that before many years scarcely any two Natives will be content to hold a piece of land jointly. Indeed they are already wishing to subdivide, and in several cases have cut the subdivision lines on the land, and will no doubt soon apply to the Court to have the subdivision legally confirmed.

With respect to the Act of 1866, I have no suggestion to make. I can only say I think it were better entirely repealed, with perhaps the exception of the eleventh section—which section, however, I think hardly necessary.

I have, &c.,
F. E. MANING.

F. D. Fenton, Esq.,
Chief Judge, Native Lands Court, Auckland.

No. 3.

Copy of a Letter from Mr. MANING to Mr. FENTON.

SIR,— Hokianga, 28th June, 1867.

In addition to my report of the 24th instant, I have the honor to mention the following particulars illustrative of the working of the Native Lands Act in this district.

I have lately been applied to by the representatives of tribes here for direction as to the proper mode of procedure in procuring Crown titles for four different blocks of land, two of which I estimate at about 100,000 acres each, and the other two at about 30,000 acres each. The survey of one of the 30,000 acre blocks is now nearly completed, and the application to have the title investigated will soon be sent in. The survey of the second 30,000 acre block will, I believe, soon be commenced, arrangements having been made for that purpose.

The surveys of the two larger blocks may not be commenced for some time, as the expense will be very considerable, much forest line having to be cut, and the Native owners of the land will have to raise the money to meet the expense of survey previous to commencing the work, and also to come to an understanding as to exact boundaries with neighbouring Native landholders. The intention of the owners of the two larger blocks, which I estimate at about 100,000 acres each, is, in the first instance, to secure the whole tribal estate by a grant from the Crown to the tribe, and afterwards to subdivide the whole, giving each family its share, to be also secured by a grant from the Crown to individuals the heads of families.

The labour and expense incident to the first general survey and the subsequent division and subdivision, will be very great as compared to the means of the Natives for meeting it, and consequently I daresay it will be three or four years before the whole operation respecting these two blocks be completed.

The block of 30,000 acres, of which I have said the survey will probably be soon commenced, is a very valuable piece of land, and is intended to be offered for sale by the owners, who have already secured to themselves 14,000 acres of first-rate land by grants, inalienable, from the Crown, and have also about 25,000 more, which they wish to secure to themselves in the same manner, and of which the survey is now very nearly completed. Notwithstanding the heavy expense, and consequent delay which Natives are put to in establishing their claims and procuring Crown Grants for the same, I do not think it would be advisable, except in very exceptional cases, to give them any assistance under section seventy-seven, "Native Lands Act, 1865;" for if it was afforded in one case many applications would be made for the like, and difficulties would probably in many cases arise before the Government would be reimbursed the expense. Another reason which appears to me of weight against giving assistance as above is, that the progress hitherto made in the working of "The Native Lands Act" has arisen, and will arise from the *bona fide* exertions and expense gone to by the Natives themselves, and to which they have been prompted by a not unintelligent appreciation of the benefit of holding land as private property; and which progress, whatever it may be, will therefore present reliable data for political speculation; whereas under the circumstances of assistance being given, if to any considerable extent, the apparent progress made might be delusive.

I have, &c.,
F. E. MANING.

F. D. Fenton, Esq.,
Chief Judge, Native Land Court, Auckland.

No. 4.

Copy of a Letter from Mr. MONRO to Mr. FENTON.

SIR,— Auckland, 27th June, 1867.

I have the honor to acknowledge the receipt of your Circular of the 17th instant requesting a report as to the working of "The Native Lands Act, 1865."

Although always receiving the Act in a favourable light, I was unprepared for the very great success which has attended it. A large quantity of land has been passed through the Court at its various sittings throughout the Northern Island, and in scarcely a single instance has a decision been appealed against.

The Natives, wherever I have been, have repeatedly expressed their satisfaction at the mode of procedure, and appear generally to have the utmost confidence in the Court. Questions which a few years ago used to be decided by an appeal to arms, they are now content to leave to its peaceful arbitration.

My operations have extended principally over the Districts of Waikato, Coromandel, Hauraki. and the Province of Hawke's Bay. In the latter place certificates of title have been issued for upwards of

290,000 acres of land, and the Natives are still sending in applications as fast as they can find money to pay for the surveys. I may safely state that at no distant period every acre of land in that Province will be held under grant from the Crown.

In the majority of cases no restriction on alienability was imposed, the grantee having abundance of other land. Where such was found not to be the case, the land was made inalienable. Several long standing land disputes have been settled, which on more than one occasion had nearly led to bloodshed, and the bitter feeling engendered by such disputes is gradually dying out, by the removal, through the action of the Court, of the causes which gave rise to it.

Apart from the question of surveys, I cannot say that I have experienced any difficulty in the practical working of the Native Lands Act of 1865, except what may have arisen from clause twenty-three limiting the number of grantees to ten persons, but this difficulty has in each instance been easily overcome; and as one great object is to induce the Natives to individualize their titles as far as possible, I think it would be inadvisable to alter it.

In the districts above referred to the Natives have not as yet made any application for a subdivision of their lands in those cases where a grant has been issued to several, nor have they shown any inclination, as far as I am aware, to possess or cultivate individual farms. The lands passed through the Court in the Hawke's Bay Province have for the most part been leased in large blocks for sheep and cattle runs, from which the owners derive large yearly incomes. Having thus abundant means of purchasing whatever they require, they do not appear to devote much time to cultivation as a means of subsistence, and only grow what is requisite for their own consumption.

In the Coromandel District the most of the land passed through the Court has been sold to settlers in small blocks, as sites for shops, homesteads, and sawing stations.

The Natives never have cultivated extensively in this district, it being for the most part hilly and densely wooded. In agricultural districts, I think it will be found that they will endeavour to acquire individual farms.

I have, &c.,

HENRY MONRO,
Judge, Native Lands Court.

The Chief Judge, Native Lands Court.

No. 5.

Copy of a Letter from Mr. W. B. WHITE to Mr. FENTON.

SIR,— Native Lands Court, Mangonui, 5th July, 1867.

With reference to your letter of 10th June, 1867, No. 521, I have the honor to report that I have found little difficulty in the working of "The Land Act, 1865." During the many years I have been in this district I have had much to do with the Native lands, and had in a measure prepared the way by assisting to define the boundaries of the various Native claimants. The surveys have been generally backward, but the chief cause has been in the poverty of the Natives. They are in many instances unable to pay for the survey and the expenses of the Court, which has deterred them from bringing so many cases before the Court as they otherwise would have done.

Many of the grants issued have been avowedly obtained to enable the owners to sell to Europeans. Those which have been obtained for their own use the proprietors are living upon, but have not been subdivided as yet. The Act itself is simple and easily worked, but it appears to me that, taking into consideration the very great desirability of inducing the Natives as speedily as possible to hold their lands under title from the Crown, that every inducement ought to be held out to them by the Government to obtain grants.

I would, therefore, abolish all fees upon inalienable property, except the fee for the Crown Grant, and when the property is alienable an extra fee should be charged by the Treasurer on the transfer. When agreements to sell lands have been entered into before the survey, it is probable the purchasers have agreed with the sellers to pay the Court expenses. But the expenses deter the Natives from coming before the Court, unless they have previously agreed to sell the land. I would also suggest that the 74th clause should be altered so as to enable a conveyance to be made to a person on the attestation of a duly qualified interpreter, before a Judge or a Justice of the Peace, that the translation was correct, and was understood by the conveyor, instead of requiring all the parties to make the transfer in the presence of a Judge or Justice of the Peace. I have known persons to wait two months at Whangaroa before the necessary forms could be complied with,—no Justice being resident in the district, and the expense incurred by requiring a number of Natives to travel a considerable distance is looked upon as a hardship. In this district the Natives have shown great anxiety to place as many names on the grant as possible, which, of course, adds considerably to the expense when they are required to go to a distance to transfer their property.

I have, &c.,

W. B. WHITE,
Judge, Native Lands Court.

The Chief Judge, Native Lands Court.