

Now as the bush along the coast between Urenui and the White Cliffs comes down to within a mile and a half of the sea, there is but little open land available: and whoever has the allocation of these 20,000 acres to make will have some trouble on his hands.

1866.

## XII. ABANDONMENTS OF CONFISCATED LAND.

1. The only formal abandonment ever made was that of the country between the Whanganui and Waitotara Rivers. By notice in the *Gazette* of 15th March, 1867, the Crown Agent announced that the Government had abandoned their right to take that part of the confiscated territory, which then ceased to be under the operation of the New Zealand Settlement Acts. But as will presently be seen, we do not think the abandonment was effectual.

Crown Agent,  
1867, *Gazette*, p.  
112.

There were two other informal restitutions made in 1866 of territory to the Natives: one, of the block between Stoney River and Waiweranui, about 18,000 acres, to the Ngamahanga *hapu*, which surrendered in 1865 and came in under the Governor's Proclamation of peace; the other, of the block between Moutoti and Taungatara, about 44,000 acres, to the Ngatihaumiti *hapu*, of which Wi Kingi Matakatea and Arama Karaka were the principal chiefs. They had remained loyal to the Queen all through the war. Speaking of Matakatea in 1866, Mr. Parris said that he had not only never been implicated in the war, but on the contrary had always been proverbial for his kindness to Europeans. In a telegram which the Prime Minister directed to be sent to an officer of the Land department last year, Sir George Grey placed on record more fully the reason for their land being restored to these chiefs: "They had been our firm friends through the war, and none of their land was consequently confiscated under the Proclamation; indeed Sir George Grey had during the war given to Matakatea and Arama Karaka personally, and by the advice of his Ministers, a solemn promise that none of their land should be taken: land which the Government had never confiscated, and solemnly undertook not to confiscate." It remains to be seen whether this chief, who is in gaol on the charge of being concerned in the ploughing, had ever anything to do with it himself.

Parris, Report,  
22nd March 1866,  
12th February  
1867: Evidence,  
Q. 717 to 719.

Hon. Mr. Rich-  
mond, 10th Sep-  
tember 1866:  
P.P. 1879, A.-8,  
No. 5.

Parris, Report,  
17th February  
1866.

Telegram by order  
of Sir G. Grey to  
Commissioner of  
Crown Lands,  
23rd June 1879.

Parris' Report,  
17th February  
1866.

But at the time that the Waitotara-Whanganui country and the Opunake and Stoney River blocks were restored, there certainly was no legal power in the Government to abandon the confiscation in that way. The only power then existing was the one contained in section 6 of the Settlements Amending Act of 1865, which said that "in every case of claim for compensation the Colonial Secretary on behalf of the Crown might, by notice to the claimant, abandon the right of the Crown to take the land in respect of which compensation was claimed." It is clear, as was pointed out by the Attorney-General in the case of the absentees to which we have already referred, that the Act of 1863 did not contemplate land being given to tribes or *hapus*: and, as the Confiscated Land Act of 1867, though it evidently was brought in to confer the necessary powers on the Governor, and did give power to make "reserves" for persons of the several *hapus* or tribes, prescribed that this should be done by formal Proclamation, the Act was of no use in Matakatea's case, because no Proclamation was ever issued to declare the abandonment of his land.

"New Zealand  
Settlements Act  
Amending Act,  
1865," section 6.

If we are right in our view of the law as it stood at the time we speak of, none of the abandonments which were then purported to be made were effectual to take the title out of the Crown and put it back in the Native: and as the New Zealand Settlements Acts from 1863 to 1866 and the Confiscated Lands Act of 1867 were all repealed in 1878, the powers given by them to the Governor have long ceased to have any force, so that the *laches* of 1867 cannot be cured now. The Natives have constantly made it a subject of complaint that their title to the land given back to Matakatea has never been confirmed. This complaint was brought before Mr. Sheehan, and was mentioned by Mr. Mackay in his reports; and it was the earliest grievance that was brought before ourselves at our first sitting at Oeo, the fear having arisen that because Matakatea was one of the prisoners charged with being concerned in the ploughing, his right to the block might be held to have been forfeited. We did not hesitate to assure the Natives that even if the accusation should be proved at the trial of the prisoners, the act

Hon. Mr. Shee-  
han, 1879:  
Mackay, tele-  
gram, 1879.